

BLOODY SUNDAY INQUIRY

WEEK 119

**22 TO 23 NOVEMBER 2004
DAY 432 TO 433**



This week the Inquiry sat for Christopher Clarke QC, counsel to the Inquiry, to present a summary of his closing submissions. The full submissions appear in written form on the Inquiry website.

Summary

Monday	22 November 2004	Christopher Clarke QC's final submissions
Tuesday	23 November 2004	Christopher Clarke QC's final submissions

A full transcript of the proceedings is available at <http://www.bloody-sunday-inquiry.org>

[Numbers in square brackets refer to the code given to a particular document by the Inquiry.]

INTRODUCTION

The Inquiry last sat in June 2004 when the various interested parties were invited to clarify issues in their closing submissions (see Week 118). The Inquiry resumed hearings in Derry on 22 November 2004 for a final two days. This was to enable Christopher Clarke QC, counsel to the Inquiry, to present a summary of his closing submissions. On 23 November 2004 the Inquiry closed for the Tribunal to retire to consider the evidence and write their report.

Closing Submissions by counsel to the Inquiry

The four counsel to the Inquiry (Christopher Clarke QC, Alan Roxborough, Cathryne McGahey and Bilal Rawat) have compiled long and detailed submissions regarding the 400 days of witness and other evidence before the Inquiry. Those lengthy written submissions can be found on the Inquiry website. Christopher Clarke QC spoke for 2 days summarising and explaining those submissions. This report is a précis of his closing speech.

Opening Remarks

Mr. Clarke said that the task of the Tribunal had been to determine the truth of

what occurred on Bloody Sunday so far as humanly possible and however painful or unacceptable that truth might be to anyone. Since opening on 27 March 2000 the Inquiry has sat for 432 days, heard 921 witnesses and read another 1555 witness statements. 42 witnesses were screened from the public. Of the 921 witnesses: 506 were civilians, 245 military, 49 journalists and photographers, 39 politicians and civilian servants, 33 police officers, 33 former paramilitaries, 9 experts and 7 priests.

Counsel to the Inquiry (i.e. Mr. Clarke and his 3 colleagues) had now delivered their final submissions which complement the submissions of the interested parties delivered in June 2004. Mr. Clarke described his submissions as an aid to the Tribunal and a summary of rival considerations that arise from the evidence.

Why and How were 13 killed and 14 Wounded

Mr. Clarke said that it was not contested that, with a few possible exceptions, those who were shot were shot by soldiers. The military do however still contend that they did not shoot Peggy Deery, Patsy McDaid or Alexander Nash. Even where it is now agreed the dead and wounded were shot by soldiers saying who shot them is not at all clear. Damien Donaghy and John Johnston appear to have been shot by Soldier A or Soldier B. Michael Kelly appears to have been shot by Soldier F, Gerard McKinney by Soldier G, Gerard Donaghy by Soldier G and Kevin McElhinney by either Soldier K, L or M.

Mr. Clarke said no one has explained who shot Jackie Duddy, Michael Bridge or Michael Bradley in the Rossville Flats car park (Sector 2). No one has explained who shot dead Michael McDaid, John Young and William Nash at the rubble barricade (Sector 3). No one has explained the deaths of James Wray, William McKinney and the wounding of others in Glenfada Park North. No explanation at all has been offered for the deaths of Gerard McKinney and Gerard Donaghy in Abbey Park (Sector 4). No one has explained the deaths of Bernard McGuigan and Patrick Doherty and wounding of 2 others behind the Rossville Flats (Sector 5).

Mr. Clarke said the Tribunal may attach significance to the fact that so much remains unexplained and might conclude this means that no justifiable explanation could be given. He said on the other hand it might find that uncomfortable facts had been airbrushed out of history and the civilian evidence.

Events Before 30 January 1972

Commenting on submissions by Lord Gifford and Sir Louis Blom-Cooper that the 1972 ban on marches was itself unlawful (because it was simply a device used by the Stormont government to persuade the British government to permit Internment without trial) Mr. Clarke said, although important, the issue was perhaps not one for the Tribunal to decide. Mr. Clarke referred to attempts by the then Home Secretary in the summer of 1971 to create a role and participation for Nationalists in the Stormont Government. The Nationalists refused to participate until Internment was abolished and Mr. Faulkner refused to

work with anyone who believed in a united Ireland.

In August 1971 Operation Huntsmen was mounted to remove the barricades in Derry. This resulted in the arrest, amongst others, of John Hume MP. This resulted in the *R v Londonderry Justices* case where the arrests were ruled unlawful and the subsequent introduction of the Northern Ireland Act 1972 which retrospectively gave the army the power of arrest. Again Mr. Clarke said that the Tribunal was not an appellate court and might view the rights and wrongs of that matter academic.

Containment

From 20 August to 2 December 1971 a policy of containment was adopted in Derry whereby the security forces did not attempt to break up the 'no go' area. However the Prime Minister, Edward Heath, commented on the deteriorating security situation at a GEN 47 (Cabinet committee) meeting on 7 October 1971 and expressed the view that the first priority was to defeat the gunmen by military means whatever the political costs. This signalled a tougher approach itself geared towards keeping Mr. Faulkner in power in Stormont. A possible political initiative was discussed if and when security was under control. That possibility was being voiced by the end of the year.

At the Joint Security Committee Northern Ireland on 6 January 1972 the GOC (General Officer Commanding), General Tuzo, proposed a more positive approach by the army to preventing marches and undertook to meet the Derry Strand Road Traders in Derry. In the event it was General Ford who went to Derry and after the meeting he wrote his now famous memo.

The Ford Memorandum

In his memo of January 1972 [G48.300] General Ford said he was, "coming to the conclusion that the minimum force necessary to achieve a restoration of law and order is to shoot selected ring-leaders amongst the DYH (Derry Young Hooligans), after clear warnings have been issued." He also comments on the risk to innocent civilians, i.e. not rioters, from bullets passing through rioters who might be deliberately shot. To that end he said consideration should be given to adapting standard military SLR rifles to fire much smaller .22 ammunition to lessen this risk.

Mr. Clarke said it was difficult to escape the conclusion that what was being contemplated was shooting at ringleaders with the probability that at least some would be killed. He said however the view was expressed tentatively and that the only practical step taken was to adapt 30 rifles. According to INQ 1900, the deputy assistant adjutant and quartermaster general, 30 such rifles were adapted and delivered to Northern Ireland but this was after Bloody Sunday. These were apparently never deployed operationally. Colin Wallace did confirm there was discussion about shooting 'ring leaders' but Colonel Tugwell denied this. Mr. Clark said there was no evidence that anyone other than General Tuzo saw the Ford memo or that it played any part in the planning of Operation Forecast (i.e. the Bloody Sunday operation). But it was possible these were the

"certain measures under discussion" referred to by William Stout, the Stormont Government Security Advisor, at the Northern Ireland Cabinet on 11 January 1972.

January 1972

The Civil Rights march in Derry was originally scheduled for 16 January 1972 and the plan for how to deal with it [G49.302], drafted by Major Steele of 8 Brigade, referred to the Royal Ulster Constabulary (RUC) rather than the army taking the lead role. No mention was made of an arrest operation. Madden & Finucane solicitors, representing many of the families at the Inquiry, alleged General Ford subsequently took the decision to halt the march to demonstrate that the army could police Derry. In a briefing given by Sir Burke Trend to then Prime Minister, Sir Edward Heath, on 11 January 1972 it was said:

"The relatively gentle handling of the anti-internment march on Christmas Day was perhaps to be excused by the nature of the occasion. But, if we are putting our money on Mr Faulkner's survival, we cannot afford to expose him indefinitely to the accusation that he is using kid gloves to deal with provocation and intimidation." [G49B.306].

However Mr. Clark said any suggestion that there was a political desire to get tough was at odds with the minutes of the Cabinet Committee GEN 47, also on 11 January 1972, where the Prime Minister emphasised the importance of pursuing a political initiative and that:

"A military operation to re-impose law and order in Londonderry might in time become inevitable, but should not be undertaken while there still remained some prospect of a successful political initiative." [G50.308]

On 18 January 1972 the ban on marches was renewed by the Northern Ireland Cabinet at Stormont. Thereafter the army issued a directive [G59.361] that the ban was to be strictly enforced and what to do in the event of a breach. Mr. Clarke said this meant the army had no choice but to stop the NICRA march in Derry reaching the Guildhall.

The next issue Mr. Clarke referred to was the violence at Magilligan on 23 January 1972 when 1 Para was deployed to stop a Civil Rights march reaching the Internment Camp. He said there was evidence that the Paras used excessive violence and the Tribunal would have to consider what significance to attach to this and their deployment one week later in Derry.

On Sunday 23 January 1972 the British and Irish Premiers met in Brussels when the Irish Taoiseach is recorded as having expressed the view that the time was right for some sort of political initiative [G 70F.441.18]. The next day Chief Superintendent Lagan met Brigadier MacLellan, the officer commanding 8 Brigade, and expressed the view that the march should be allowed to proceed. He said organisers could be prosecuted later. Brigadier MacLellan denies that he agreed to this suggestion.

On 25 January 1972 an informer for MI5, the Security Service, known to the Inquiry only as Observer B claims to have seen 40 people whom he assumed to be IRA

volunteers drilling in the Bogside. He telephoned an army Intelligence Officer, IO1, to say they had "got a problem on Sunday". There is no record of that telephone conversation and Observer B died before he could give evidence to the Inquiry. The only document the Inquiry does have is a 'Note for File' dated 1 February 1972 made by an MI 5 officer known to the Inquiry as 'Julian'. This refers to a meeting between Observer B and Julian on 27 January 1972 but other than the fact that Julian gave Observer B £10 ("expenses for his war bag") the note discloses nothing of what was said.

In a statement Observer B made to the Inquiry before he died Observer B said he had spoken to 2 men on 31 January 1972 who claimed to have seen men run from the Rossville Flats to Free Derry Corner where they threw 2 Thompson sub machine guns, a rifle and a pistol into a Ford Cortina and then drove off [KO2.6]. Again there is no record of this but instead there is a Special Branch record of arms being distributed behind the Rossville Flats [KJ4.75]. This appears to be repeated by the Director of Intelligence (known to the Inquiry as 'David') in a telegram to 'James' (another MI 5 officer) but now it is said to have come from Observer B. James is tasked to debrief Observer B in Manchester on 4 February 1972 [KO2.11].

On 25 January 1972 General Ford asked Brigadier MacLellan to prepare a plan to stop the march. Ford mentions 1 Para as an arrest force to "step up pressure against the hooligans". Ford at this time is envisaging 1 Para counter-attacking rioters and arresting up 300-400 of them. This therefore represents a major change from the plan for 16 January 1972. General Ford said the reason for the change was the understanding that the 30 January 1972 march would be much bigger than had been anticipated for 16 January 1972.

On 26 January 1972 General Ford received Brigadier MacLellan's outline plan and the march was discussed at the Director of Operations (DOps) committee at Head Quarters Northern Ireland (HQNI) but no mention was made there of any proposed arrest operation, only that the march should be prevented from entering the city [G75.459].

Military Planning for 30 January 1972

Mr. Clarke said the Tribunal would have to consider whether or not there was sufficient planning for the arrest operation on Bloody Sunday. General Ford said details of the plan were not a matter for him. No detailed discussion of the plan took place at the Brigade Coordinating Conference on 27 January 1972 on the basis that this was a matter for Colonel Wilford of 1 Para. Even Colonel Wilford's plans as expressed at his battalion orders group were very general. Madden & Finucane submit that separating the marchers from rioters was never considered and the issue of separation was only invented after the event to suggest a level of concern for ordinary civilians. Getting behind the rioters was crucial to the success of the arrest operation and the fact that the maximum number of rioters arrested before Bloody Sunday had been only 27 Mr. Clarke asked whether there was sufficient tactical planning to justify ever launching the operation.

On 27 January 1972 the Brigade order was issued. On the same day the Director of Intelligence sent a signal concerning information received from Observer C, the Joint Security Committee met in Lisburn, GEN 47 met in London and Sir Edward Heath met Mr. Faulkner.

Mr. Clarke asked whether the 'David' signal actually told Brigade anything it did not already know regarding the possibility of IRA activity. The Brigade order [G95.570] referred to a 'scoop-up' operation aimed at rioters in the William Street/Little Diamond and William Street/Little James Street areas. However the evidence of Major (now Lieutenant colonel) Steele was that no geographical limitation was placed on the area for the operation and that this was a matter for Colonel Wilford as the commander on the ground.

There was no mention at all of the arrest operation at the GEN 47 cabinet meeting in Westminster. Nor was there any suggestion of any specific risk of violence. Lord Gifford alleged ministers knew of but ignored the risk of a 'shooting war'. All the politicians and civil servants from whom the Inquiry had heard deny this. However at the JSC in Belfast reference was made to the possibility of a 'shooting war' developing because blocking the march was bound to result in rioting at the very least [G76.465]. The JSC met in Northern Ireland at the same time the GEN 47 met in London and Mr. Clarke said there is reason no evidence the JSC minutes reached the Ministry of Defence before 30 January 1972 or that the Prime Minister ever saw them. However Lord Balniel did refer to the JSC meeting when addressing the House of Commons on 1 February 1972. Lord Gifford submitted that minutes of such meetings should not simply be taken at face value. He argued that the risk of a shooting war would have been communicated to Lord Carver, Chief of the General Staff, and to the Home Office by the UK representative.

Brigadier MacLellan and Colonel Wilford met at the Brigade Order Group conference on 28 January 1972 but again it appears no detailed discussion of Colonel Wilford's plans took place. Lord Gifford submitted that the absence of evidence does not of itself prove there was no sinister plan. All that the Inquiry does have is Colonel Wilford's notes of his battalion orders group briefing where he refers to making the maximum number of arrests. He also says he will not give a detailed tactical plan but will give his view as to "how the battle will go" once units were at their forming up positions. There is no reference to separating rioters and marchers; no plan to cut off rioters' escape routes and no evidence the plan was communicated to Brigade. The Company orders groups took place in the afternoon on 29 January 1972 and the platoon briefings later the same evening. A question for the Tribunal is whether or not it accepts the evidence of Soldier 027 that Lieutenant 119 and/or another soldier in the anti tank platoon said "let's get some kills".

Mr. Clarke mentioned the planning done by the Northern Ireland Civil Rights Association and whether or not they had sufficient trained stewards. However he questioned whether or not any number of well organised stewards could have prevented the breakaway group from escaping across the William

Street/Little James Street waste ground.

Key questions for the Tribunal include: whether or not it was appropriate to have stopped the march from reaching the Guildhall, whether the arrest operation was planned properly, whether 1 Para were the appropriate arrest force and whether the arrest operation should have been launched in the circumstances. There was an obligation under Article 2 of the European Convention on Human Rights, to which the UK was a signatory at the time, to only use proportionate force and to minimise the risk to civilian life. Madden & Finucane allege both the Westminster and Stormont Governments perceived but ignored the risk to civilians. However Madden & Finucane do not argue that the arrest operation increased the risk of a shooting war rather than civilians were deliberately shot. They say General Ford knew there would be thousands of unarmed civilians present, he knew the Para's reputation for violence, he knew the confusion that was created by the reverberations of the sound of gunfire in the city of Derry and he knew controlling army gunfire once started was difficult.

The Tribunal had to decide whether or not General Ford's stated reasons for using 1 Para were true or whether, as Madden & Finucane suggest, they were chosen because he was dissatisfied with the performance of local regiments and wanted them to go in hard. The Aitken team have shown a local arrest force could have been used.

The Day Itself

The next question was whether or not Brigadier MacLellan was the right person to decide whether or not the arrest operation went ahead. He did not know the details of Colonel Wilford's plan and might he have made a different decision had he done so. Furthermore there is the issue of the change in Colonel Wilford's plan from originally intending to go in on foot via the Presbyterian Church to in fact driving in in vehicles through barrier 12. When was the change decided upon, was it as late as 16:00?

Did the use of the water cannon at barrier 14 diminish or increase the rioting there? What was the nature and timing of the rioting outside the Abbey Taxis building where machine gun platoon were deployed? Was it, as the Aitken team suggest, relatively late after rioters moved away from barrier 14? Was there separation between rioters and marchers at barriers 12 and 14 before the Paras went in? Here the Tribunal will have to consider the evidence of the radio transmissions and particularly the Porter tapes (recordings of army communications on the day made by an amateur radio ham James Porter).

The Order to Go In

Brigadier MacLellan's order for 1 Para to go in does not appear on the Porter tapes. This raises the question as to whether or not the order was given on the Bid 150 secure net, which Porter could not intercept, or not given at all. The 8 Brigade Log Book records an order at 16:09 in the following terms:

"1 Para – 1 sub-unit to do scoop up operation through barrier 14. Not to conduct running battles down Rossville Street" [W0047].

INQ 901, the watch keeper, says he heard the order given. The 1 Para Log records "move (call sign) 3 now through k14. Also c/s 1. No running battles" [W0090]. This might suggest therefore that an order was given but that it was breached in so far as the arrest operation was not limited to 1 sub-unit and did go down Rossville Street. When he gave evidence to the Inquiry however Major General MacLellan, as he was when he retired, said the fact that the order originally referred to only one sub-unit did not preclude Colonel Wilford from deploying both C and Support Companies. Mr. Clarke said there was a surprising lack of communication and coordination between Colonel Wilford, who made the plan, and Brigadier MacLellan, who gave the order. MacLellan was not told of the change of plan to go in in vehicles, nor was he told the 10 vehicles would go so far down Rossville Street. What is more the reports which came back from 1 Para's mobile Head Quarters were inaccurate in that it was reported that Support Company had gone in via the Presbyterian Church and only to the area of William Street/Rossville Street [W0129].

The Radio Logs

The various radio logs record 21 shots directed at various army positions, the majority of which remain unaccounted for. It is known non-Para soldiers: AD, Y, X, AC, AA, AB and Z all fired in response to those incidents and in approximately that order. These incidents all correlate approximately to the respective radio logs in contrast with the records of what the Paras did.

Major Loden says he heard the shot which hit the Presbyterian Church and then saw a nail bomber shot by machine gun platoon dragged away by civilians. He says the incident was reported to him by the machine gun platoon but neither this nor the drainpipe shot were reported to Brigade. The only other reports from 1 Para during the deployment are a recollection by Corporal 033, a signaller, that he made a 'contact' report of hearing a Thompson sub machine gun and the entry in the 1 Para log at 16:15: "gunman, pistol. Returned fire" [W0090]. The log is otherwise silent until serial 444 [W0132] "2 sub-units moved in and got involved in a fire fight, shots appearing to come from the Rossville Flats". Consequently there was very little information being communicated to the Gin Palace (1 Para HQ) and by them to Brigade. Even though many of the incidents occurred right in front of Major Loden's command vehicle not even the recovery of 3 bodies from the rubble barricade is accurately reported (there is a reference to 2 bodies from Chamberlain Street).

The Crucial Six Minutes

Mr. Clarke said it appeared that most of the deaths occurred in only 6 minutes between 16:12 and 16:18. Mr. Clarke said the paucity of information in the logs was surprising as was Major Loden's difficulty in accounting for any of what happened. Six people died in front of his vehicle but he did not see any of the shootings. Nor did he see his anti tank platoon run past him into Glenfada Park. Mr. Clarke said, "it is possible that he missed some of those events. It seems unlikely that he missed all of them."

SECTOR 1

Damien Donaghy was the first person to be shot. He and John Johnston were almost certainly shot by Soldier A or Soldier B, the two members of machine gun platoon who admit to having fired a total of five shots from the Abbey Taxis derelict building in William Street. OIRA 1 also admits to firing at about this time and questions remain as to whether or not the shot he fired was the one that struck the drainpipe of the Presbyterian Church and whether or not this was before or after Donaghy and Johnston were shot.

The Drainpipe Shot

OIRA 1 and OIRA 2 both say OIRA 1 fired only one shot. The military evidence regarding the drainpipe shot is also of a single shot. OIRA 2's evidence was that they were probably one and the same. OIRA 1 said he was firing further to the left and does not know how he missed so badly.

Who Fired First

Very few witnesses, military or civilian, heard both the drainpipe/OIRA 1 shot and the shots from machine gun platoon which injured Donaghy and Johnston. Major Loden, Captain 200 and Soldier A all say the drainpipe shot came first but in 1972 Soldier A made no mention of hearing incoming fire. The only civilian to have heard both is perhaps Frank Hone and his 1972 account suggests Soldier A and B fired first. OIRA 1 was involved with an altercation with PIRA 1 after he fired and PIRA 1 says OIRA 1 said he had fired after the army had done so. This was also confirmed by OIRA 7.

Mr. Clarke said little assistance could be gained from the Official IRA's stated policy of defence and retaliation since at least some of their command staff considered the policy entitled them to fire first. OIRA 1 and OIRA 2 claimed to have gone to Columbcille Court to collect a defective rifle rather than to take up a pre-planned sniping position. However this account is contradicted by the notes Sunday Times journalist John Barry made during a 1972 interview he said he had with OIRA 1 [AOIRA 1.1]. There OIRA 1 said he collected the rifle from a car in Glenfada Park after hearing Damien Donaghy shot. The location from which OIRA 1 admits he did fire is accurately recorded both here and in a Sunday Telegraph article by Gerard Kemp.

Damien Donaghy and John Johnston

Damien Donaghy was hit in the front right thigh by a bullet. John Johnston was hit in the left shoulder, right leg and the back of his right hand. The pathology evidence of Dr. Shepherd and Mr. O'Callaghan suggests Mr. Johnston was hit by fragments of bullets which ricocheted off the ground or a wall.

Damien Donaghy admitted to throwing stones at the derelict building even though he had first denied this in his statement to the Inquiry. He said he was going to pick up a rubber bullet as a souvenir when he was shot. He then recalled two more shots 10-20 seconds apart. He was not throwing a nail bomb and Mr. Johnston confirmed there were no nail bombs. Madden & Finucane

submit that machine gun platoon were not under attack from gunfire or nail bombs and that there was therefore no justification for the shooting of Damien Donaghy and John Johnston.

Soldier A and Soldier B claim to have heard or seen 2 nail bombs explode before shooting a man they both described as being about to throw a nail bomb. Three other soldiers in the machine gun platoon claim to have heard what could have been nail bombs and 3 claim to have heard Soldier A shout a warning about nail bombs. However platoon sergeant INQ 441 denies having given any order to fire. Only one member of the platoon, other than Soldiers A and B made a statement in 1972. Major Loden claims INQ 441 reported that his platoon had shot a nail bomber but this was never communicated to Brigade.

Mr. Clarke said it was perhaps understandable that people did not see John Johnston get hit, he himself did not notice at first, but if Soldiers A and B did shoot a nail bomber as well as Damien Donaghy, no one else saw this and they make no mention of having seen Donaghy.

SECTOR 2

Mr. Clarke said he had dealt with the lawfulness or otherwise of the arrests in this area in detail in his written submissions and did not intend to go into this orally. Instead he turned to the deployment of motor platoon and the first shots fired by Lieutenant N.

First Shots

Lieutenant N, Soldier 019 and INQ 1918 got out of the first pig (armoured car) when it stopped on the waste ground. They ran towards Eden Place where Lieutenant N claims he was confronted by around 100 people advancing towards him. He admits firing 3 shots over their heads and into buildings on Chamberlain Street. In his second RMP statement he admitted also ejecting a live round. Mr. Clarke said the Tribunal would have to decide whether or not Lieutenant N's firing was lawful and within the ambit of the Yellow Card (army rules of engagement). In notes taken by the Praxis team of journalists a soldier, possibly Soldier 019 although he denies this, says Lieutenant N was nervous and "lost it". The notes go on to say a lot of careers were ruined that day. Gilles Peres took a photograph down Eden Place looking towards the waste ground at about the time Lieutenant N fired. Peres says Lieutenant N fired just after he took P0274 and that the shot was aimed in his direction after he shouted "Press!" He says Lieutenant N was firing from the hip.

Alana Burke

Alana Burke was hit by Sergeant O's pig as it entered the mouth of the Rossville Flats car park. She said in her statement in 1972 that the pig stopped and a man, possibly William Doherty, was struck by a Para wielding a rifle before the pig moved again and she was knocked down by it. Thomas Harkin also says he was struck by a soldier from this pig.

Shootings in Rossville Flats Car Park

One person was killed (Jackie Duddy) and four were injured (Peggy Deery, Michael Bridge, Michael Bradley, Patrick McDaid) in the Rossville Flats car park yet none of the soldiers' accounts explain these casualties. Patrick McDaid may not have been struck by a live round but the others were presumably hit by some of the 32 rounds motor platoon admit firing. Excluding Lieutenant N's 3 shots in Eden Place and Soldier T's 2 shots high into block 1 of the Rossville Flats that leaves 27 bullets. The soldiers claim to have shot 3 nail bombers, 3 gunmen and a petrol bomber but none of these are known casualties.

The Lawton team representing Lieutenant N, Sergeant O, and Soldiers Q, R, S and V say it is impossible to determine which of them shot Jackie Duddy, Peggy Deery, Michael Bridge and Michael Bradley. They imply Lieutenant N may have killed Jackie Duddy and Soldier R or V may have shot Michael Bridge.

Jackie Duddy

Jackie Duddy was hit by a bullet which entered his right shoulder and exited his left chest. He fell forwards onto his face and was then dragged and turned over to the position where he is pictured in photograph EP25.6. He was shot at almost the same time as Peggy Deery, they were both shot during or immediately after William Doherty's arrest. The Lawton team claim Jackie Duddy was shot accidentally.

Peggy Deery

Ms. Deery was shot in the left thigh whilst standing close to the back corner of 36 Chamberlain Street. She says she saw the soldier who shot her but those representing the soldiers claim she must have been shot by a paramilitary. Mr. Clarke said it was difficult to imagine how anyone other than a soldier could have shot Ms. Deery in the front of her thigh as she stood facing the soldiers on the waste ground. He also said it was improbable she was hit by one of the shots OIRA 4 admits to having fired from the corner of Chamberlain Street towards Sergeant O's pig since this was clearly later given the absence of people in the car park in the photograph where he is shown.

Michael Bridge

Michael Bridge was also shot in the left thigh. He was standing in the Rossville Flats car park and was shot at about the time photographer Sam Gillespie took P0741. The Lawton team allege Michael Bridge had something in his hand and that his denial of this suggests he posed a "lethal threat" to the soldiers. However Mr. Clarke pointed out that they had previously conceded [Day 93/70] Michael Bridge was not armed. Mr. Bridge and Bishop Daly place the soldier who shot him at the north east corner of block 1 but others place the firer at Sergeant O's pig (William Harley) or at the corner of Chamberlain Street (Francis Dunne). However no soldier can be seen in these later positions in P0741. In any event whoever shot Mr. Bridge would appear to have been within 30 yards of him and it might therefore suggest he was deliberately shot in the leg.

Michael Bradley

Michael Bradley suffered injuries to both his arms and his chest and although the pathologists could not be certain as to what caused the injuries when looking at the medical records alone Mr. Clarke suggested other evidence might lead the Tribunal to conclude Mr. Bradley was injured by a single bullet passing through his left arm, across his chest and into his right arm. The larger wounds to the right arm resulting from the spinning of the bullet by the time it reached there. Mr. Bradley appears to have been shot after Michael Bridge (Derek Tucker [AD16.1]). No one has identified the soldier who shot Mr. Bradley and he himself does not know, although he was aware of two soldiers at Sergeant O's pig at the time he was shot. The Lawton team say it is not certain he was shot by a soldier but Mr. Clarke suggested it was unlikely a paramilitary would have fired in the direction where Mr. Bradley fell, i.e. at the back of the car park just below block 2.

Patrick McDaid

Mr. McDaid suffered a laceration to his left scapula suggesting he was hit a glancing blow as he ducked down. The expert opinion was that the wound was not consistent with a lead bullet but rather a flat object like an old penny or a plate from a U2 battery. This suggests he may have been struck by an illegally modified rubber bullet. Mr. Clarke said there was no evidence to suggest Mr. McDaid posed any threat or could have been perceived to be. He was apparently hit as he ducked down behind the low wall in front of block 2 and was captured in photograph EP25.7 just after he was shot. The photographic evidence suggests Mr. McDaid was injured after Michael Bridge and Michael Bradley were shot.

The Lawton team suggest Mr. McDaid was hit by a fragment from a nail bomb but there is no evidence of an explosion in the car park. Madden & Finucane submit it was a doctored rubber bullet. If so the likely firer is either Soldier 13 or 112 since both admit firing rubber bullets into the car park. However it was possible Mr. McDaid was hit by a fragment from a lead bullet fired by either Sergeant O, Soldier Q or Soldier R, all of whom admit firing a total of 5-6 rounds towards the corner of the car park.

Patrick Brolly

Patrick Brolly is one of those who was injured on Bloody Sunday but is not amongst the hitherto recognised 27 killed and wounded. He was hit by a projectile or flying glass whilst in the Rossville Flats. There is some discrepancy as to whether he was in block 1 or block 2 but it appears he was probably in block 1. Mr. Brolly was hit on the top of his head by something that came through the window. Soldier 13 admits firing rubber bullets at windows in the Rossville Flats to keep people back from the windows. No one in the flat where Mr. Brolly was injured found a rubber bullet but a lead bullet was found lodged in a wardrobe. This suggests Mr. Brolly was hit by one of the 2 live rounds fired by Soldier T into block 1.

Pius McCarron

Pius McCarron was also injured on Bloody Sunday but did not make a statement in 1972 and was too ill to provide a statement to the Inquiry. Patrick Clarke found

Mr. McCarron in the gap between Blocks 2 and 3 and Mr. McCarron told him he had been hit by a piece a masonry from a ricochet. Other witnesses (Eamonn Baker and James Deeny) describe bullets striking the retaining wall of Block 3 at the time Mr. McCarron was hit and Sergeant O, Soldier R and Soldier Q admit firing 6 rounds in this area. Mr. Clarke suggested therefore it was likely Mr. McCarron was hit by falling masonry and dismissed the Lawton team suggestion that it was "far more likely" to have been a nail bomb since other witnesses neither noticed nor suffered from such an explosion.

SECTOR 3

Arrests

Mr. Clarke said the ABC television footage [Video 48] showed Private 112 firing a baton round as he disembarked from Sergeant O's pig when it stopped in Rossville Street before turning into the Rossville Flats car park. Photographs P1117 and P1118 were taken as William Doherty was being arrested and at about the time a group surged forward from the rubble barricade. At the same time Privates 017 and 112 and Corporal 18 fired rubber bullets towards the rubble barricade. According to a contemporaneous account of 43 year old Shamus Liddy, interviewed by Sunday Times journalist Peter Pringle on 18 May 1972, Liddy ran into Glenfada Park North and turned to see a soldier at the north west corner of block 1. Liddy was then hit in the chest by a rubber bullet before he saw a group gathered around the body of Michael Kelly. Mr. Liddy was one of those arrested at the south east gable end of Glenfada Park North and he made a statement to Kathleen Keville stating that he was assaulted on arrest and at Fort George. Corporal E subsequently alleged he had arrested Mr. Liddy for throwing stones but there is no evidence to support this.

Mary Breslin (nee Smith) lost her sight for a week after being hit in the face by flying glass when Corporal 39 fired a baton round through the window of 2 Kells Walk. There was a still unidentified photographer in the flat trying to take photographs. Brian Power and Damien Friel independently recalled an officer or sergeant directing Corporal 039 to fire at the window although Corporal 039 insists it was his own decision to fire. In 1972 he alleged 2 women in the flat were throwing missiles.

Joseph Lynn was arrested in a derelict building after a soldier fired a warning shot towards him as he hid in the rafters. Soldier 229 says he arrested Lynn but Lynn says the soldier who arrested him was much taller. Soldier 229 says it was Soldier L who fired the warning shot but he denies this. Captain 200 recorded Soldier L as having fired into the rafters of a derelict building which would appear to be in breach of the Yellow Card.

Michael Kelly, Hugh Gilmore, Michael McDaid, William Nash, John Young, Alexander Nash and Kevin McElhinney

Seven people were shot at or around the rubble barricade and there are 34 shots which could account for these. However 17 are said to have been fired at targets above ground level. Seven of these were probably fired by Soldier F and

Soldier G into the window of 12 Garden Place where the photographer Fulvio Grimaldi was. His evidence and that of others in the flat suggests there was no gunman in the flat and that none of the 2 gunmen allegedly seen by Soldier F, nor the gunman allegedly seen by Soldier G ever existed. Soldiers C, D, E, INQ 449, David Longstaff and Soldier F (at a 3rd gunman) all also admit firing into block 1.

The Rubble Barricade

There are 17 shots admittedly fired at targets at ground level in this area. Michael Kelly is known to have been killed by a bullet from Soldier F's rifle. However Soldier F claims he shot a man throwing a nail bomb. Other soldiers claim to have hit at least five gunmen and another nail bomber but none of these matches any of the known casualties. Mr. Clarke said the Tribunal had to consider whether or not there were additional soldiers who fired in this area, possibly including Soldier H whose account of firing 19 shots into a window in Glenfada Park North cannot be accurate.

Michael Kelly

Michael Kelly was hit by a bullet which had probably already struck someone or something else since his injuries led Dr. Shepherd and Mr. O'Callaghan to conclude the bullet was unstable when it hit him. However the bullet, which was recovered from Mr. Kelly's body was almost pristine and therefore probably hit something soft or only glanced whatever it hit. In light of new evidence Mr. Clarke invited the Tribunal to reject the 1972 evidence of Dr. Martin regarding firearm residue suggesting Michael Kelly or someone near him was using a firearm. Soldier F claimed he shot at a man with a fizzing object he believed to be a nail bomb but no such nail bomber has ever been identified. Mr. Clarke commented on the unlikelihood of an unidentified casualty remaining completely undetected for 30 years.

Hugh Gilmore

Hugh Gilmore suffered 2 wounds to his left forearm and wounds on the left and right side of his chest. Dr. Shepherd and Mr. O'Callaghan were of the view that Hugh Gilmore was hit by 2 bullets, Dr. Carson believed it was only one. He was shot close to the rubble barricade and or when running south from it. P0662 shows Mr. Gilmore near the entrance to block 1 possibly after he has been hit. He was shot just before or at the same time William Nash, John Young and Michael McDaid were killed at the rubble barricade. Although he may have been throwing stones prior to being shot there was no evidence he was armed. Mr. Clarke said it was impossible to explain Hugh Gilmore's death on the soldiers' evidence.

William Nash, John Young, Michael McDaid

The evidence suggests all three young men died behind the western section of the rubble barricade. Michael McDaid was shot in the left cheek by a bullet which passed through his neck and chest before exiting his back. John Young suffered almost identical injuries and William Nash was hit in the right side of his chest. All suffered other minor abrasions consistent with impact on their collapse.

Again Mr. Clarke invited the Tribunal to reject Dr. Martin's evidence concerning their having handled firearms. All three were shot after Michael Kelly's body had been carried to Glenfada Park. If the soldiers' evidence is relied upon then Soldiers P and J are the most likely to have killed these three boys however Mr. Clarke said Soldier F, H and Q could not be discounted.

Alexander Nash

Suffered gunshot wounds to his left arm and a graze on the right side of his chest. Mr. Clarke said Mr. Bennett was of the view that the lack of muscle damage to Mr. Nash's arm suggested he may have been hit by a low velocity round however Dr. Shepherd and Mr. O'Callaghan were unable to form any opinion as to the cause of the injuries. Mr. Nash had run to the rubble barricade after seeing his son William shot, probably whilst the anti tank platoon were still at the Kells Walk low wall. Whilst at the barricade he waved at soldiers to try and stop them firing. Captain 021 said he saw an old man fall behind the rubble barricade after being hit by a baton round. He waved and then moved off into Glenfada Park. However Captain 21's account was that the baton round, which he said was fired from the west side of Rossville Street, hit the man in the cheek and shoulder.

Private U claimed in an RMP statement that he had seen a blood stained youth assisted by an older man behind the rubble barricade when a pistol emerged and was fired from the doorway to block 1 of the Rossville Flats. Private U's story was that a shot from the pistol struck the ground and then hit the older man in the right arm. A second shot was then fired and the boy's head slumped. Kieran Gill, a local journalist stringing for the Sunday Times claims to have spoken to an Official IRA man during the Widgery Tribunal and accused him of shooting Mr. Nash. Recently in May 2002 Mr. Gill returned to the address and spoke to the man again. This time he denied the shot or the earlier conversation. Peter Pringle, who was purportedly at the original meeting, said in evidence to this Inquiry that he had no recollection of it. OIRA 1 admits he was approached by Gill in 2002 but says they did not speak in 1972 and that he did not fire from the Rossville Flats on Bloody Sunday. OIRA 1's denial is supported by the notes of his disputed conversation with John Barry [AOIRA 1.1] which suggest he never crossed Rossville Street.

Kevin McElhinney

Kevin McElhinney was shot in the left buttock as he crawled towards the entrance to block 1. The bullet exited and re-entered Mr. McElhinney's chest before exiting again at his left shoulder. Again Mr. Clarke invited the Tribunal to reject Dr. Martin's evidence of firearm residue. Mr. Clarke said there was no evidence anyone other than a soldier had shot Kevin McElhinney. Three members of Guinness Force admit firing at men crawling away from the rubble barricade; Sergeant K, Soldier L and Soldier M.

SECTOR 4 - Glenfada Park

Mr. Clarke said there was "an acute difficulty" with regard to the events of

Glenfada Park and Abbey Park since it was not possible to reconcile the civilian and military evidence at all. The anti tank platoon admit firing 29 shots in Glenfada Park North but 22 of these were fired by Soldier H of which he says 19 were at a window on the south side of the square. Since even he now seems to concede this did not happen 18 of those 19 shots are entirely unaccounted for. The 10 other shots, i.e. excluding Soldier H's 1 at a window and 18 unaccounted for, have to account for 4 dead and 5 wounded. However those who fired claim only to have shot 7 people, one of whom was inside the window Soldier H fired at. All 9 known victims were outside.

Whilst it is very possible the same bullet killed William McKinney and wounded Joe Mahon and the bullet which wounded Danny Gillespie could also have struck someone else the figures are hard to reconcile. Soldiers G and E claimed there were no other civilians in sight when they shot their alleged gunmen. Soldier F claimed there were only 3 people in the car park. No one admits firing in Abbey Park where Gerard McKinney and Gerard Donaghy were killed. It is known that Soldier G shot Gerard Donaghy because the bullet recovered from his body was traced to Soldier G's rifle. It is possible the same bullet killed also killed Gerard McKinney but another shot was fired at Evelyn Mahon (nee Lafferty) in Abbey Park so there were at least 2 if not three shots fired there. However the figures are juggled the admitted firing, alleged targets and known victims do not tally.

Corporal E admits firing to the south east side of Glenfada Park North where Patrick O'Donnell was hit. Soldier F, Soldier G and Soldier H all fired to the south and south west. None of the dead and wounded are said by anyone to have been engaged in unlawful activity therefore either the soldiers all missed their targets or they are lying about those targets. The suggestion that there may be missing casualties only increases the bullet count problems.

James Wray, William McKinney, Joe Mahon

James Wray and William McKinney were hit in the back. Joe Mahon was hit in the right hip. None of their injuries is consistent with the soldiers' accounts. The Lawton team suggest firm conclusions cannot be reached but that there is evidence that there were armed civilians in Glenfada Park North and there were additional casualties. However Mr. Clarke said the Tribunal would have to decide whether or not it could rely on the soldiers' evidence. Their admissions regarding firing make them more likely than others to have been responsible for the casualties but since Soldier H has 18 unaccounted for shots these alone could theoretically account for all the victims.

Ceasefire Order

Mr. Clarke said the Tribunal will have to consider why soldiers went into Glenfada Park and whether or not a ceasefire order had been given before they did so. Although Soldier 027's evidence has varied over the years he has always said there was a ceasefire order before the anti tank platoon left Kells Walk. Contradictory accounts have been given as to why the anti tank platoon went into Glenfada Park. Lieutenant 119 and Corporal E both claim to have given the

order to go to Glenfada Park, but Corporal E said it was to cut off rioters whereas 119 said it was to apprehend a man with a pistol. In a supplementary RMP statement Soldier F claimed to have seen someone with what looked like a rifle move there from the rubble barricade. Soldier H claimed to be pursuing a nail bomber. Mr. Clarke said it was for the Tribunal to decide whether or not these contradictions represent a retrospective attempt to justify going to Glenfada Park.

What Happened in Glenfada Park

Michael Kelly's body was carried from where he fell at the rubble barricade to the mouth of Glenfada Park North where Father Bradley gave the last rights. He was then carried across Glenfada Park North and through the alleyway to Abbey Park. Kieran Donnelly's photographs show people carrying Michael Kelly through Glenfada Park North and P0643 was taken immediately before the soldiers arrived in the car park. When they did so many of those carrying Michael Kelly fled and Joseph Donnelly was left with the body.

Mr. Clarke said there was some evidence of weapons and explosives in Glenfada Park North. OIRA 1 admits carrying his .303 rifle to a car in Glenfada Park North and Michael Quinn says he saw 2 youths with a nail bomb. But this does not corroborate the military accounts and the Tribunal will have to consider whether or not there was a wider military operation than has been admitted by the paramilitary witnesses. There is also Michael Quinn's evidence of a man who had been shot in the leg being in Glenfada Park North before the soldiers arrived.

The soldiers claim that when they arrived in Glenfada Park they were faced by: 2 gunmen running towards the rubble barricade at least one of whom was shot (Soldier G); 2 nail bombers, both of whom were shot (Soldier H, Soldier F); a crowd of 40-50 rioters including a man who threw both a nail bomb and petrol bomb and who was shot (Corporal E).

On the civilian evidence there were around 30 people at the entrance to Abbey Park, i.e. the south west corner of Glenfada Park North. These included Gregory Wilde, George Hillen, Donncha MacFicheallaigh and probably James Wray. Michael Quinn, Patrick McLaughlin and Don Boyle had run here from the eastern side of the car park. Then a small group tried to run across from east to west. These included William McKinney and Joe Mahon. Patrick McGinley was stopped by Barry Liddy and Patrick O'Donnell turned back when he saw William McKinney and Joe Mahon shot in front of him.

The movements of OIRA 1, OIRA 2 and OIRA 7 are not consistent with accounts given at the time to journalists John Barry and Gerard Kemp. Mr. Clarke said further uncertainty arose from photograph P0428. This is taken from block 1 of the Rossville Flats and shows the crowd at the south east corner/gable end in Glenfada Park North and also the crowd at the south west corner. Some figures can also be seen crossing the car park. The difficulty with the photograph is that the photographer has not been identified and it is not certain it was taken on

Bloody Sunday. Although it appears to show the scene in Glenfada Park North just before the Paras entered it also appears to show the knife rest barbed wire fence of the rubble barricade in the open position. This was clearly closed as is shown in the photographs of Michael Kelly lying at the rubble barricade. The photograph was found in the Sunday Times archive and Mr. Clarke cautioned basing any conclusion solely on it. However it does show a figure crossing the car park apparently carrying something which some suggest could be a weapon.

Shooting in Glenfada Park

On the soldiers' accounts Soldier F and Soldier G were the first to enter Glenfada Park North with Soldier G in the lead. Both opened fire: Soldier F towards the south and south west, Soldier G to the south west and west. Corporal E and Soldier H then arrived. Soldier H fired to the south west and Corporal E to the south east. Soldier J, Soldier 027 and Lieutenant 119 witnessed shooting in Glenfada Park, although Mr. Clarke said there was a question as to whether or not Soldier 027 arrived later.

Joe Friel

Joe Friel and Joe Mahon both independently refer to the first soldier coming in and immediately firing from the hip possibly in a fanning motion. All the soldiers deny this and some civilian evidence (William Kelly and William Ward) refers to soldiers taking firing positions behind a vehicle. Mr. Clarke submitted that it was likely Joe Friel was the first to be shot as he ran to the south west corner. He was struck across the chest. He stumbled out into Abbey Park assisted by Patrick Bradley and Eugene McGillan.

Michael Quinn

Michael Quinn and James Wray were probably shot next. Mr. Quinn was shot in the face as he entered the alleyway. He saw James Wray fall in front of him and to his right. William McKinney and Joe Mahon were shot shortly afterwards since they were not seen by Patrick Bradley and Don Boyle as they crossed the car park. Patrick O'Donnell was hit, possibly by a ricochet, after aborting his run across from the south east corner. Mr. Clarke said it was not possible to time Danny Gillespie's injury.

Mr. Clarke said it was possible Soldier G shot Joe Friel, James Wray and Michael Quinn firing in a fanning motion from the hip. Soldier F or Soldier H may have shot William McKinney and Joe Mahon and Corporal E Patrick O'Donnell. However Mr. Clarke outlined a number of other possibilities or questions such as: was James Wray hit whilst standing or shot twice on the ground after falling; was Michael Quinn hit by a ricochet or a bullet that passed through James Wray; how many shots did Soldier G really fire in Glenfada Park?

James Wray

James Wray was hit twice in the back. According to Dr. Shepherd the 'shoring' of the exit wound on Mr. Wray's left shoulder suggested his shoulder was in contact with a hard surface when he was shot. Dr. Carson says this effect could

simply have been caused by the tightening of his clothing. The other bullet appears to have gone through Mr. Wray's jacket twice before entering his body again possibly indicating he was on the ground and his jacket had folded [F4.3]. The tracks of the two bullets are similar suggesting they were both fired from approximately the same place. Dr. Shepherd and Mr. O'Callaghan conclude Mr. Wray was probably shot twice whilst on the ground but this was not possible to determine simply from the pathology. There are 8 civilian witnesses who refer to James Wray being shot whilst on the ground. No soldier admits shooting anyone on the ground. However Soldier G and Soldier H were the most likely candidates.

Abbey Park

No soldier admits going into Abbey Park where Gerard McKinney and Gerard Donaghy were killed. Corporal E, Soldier F and David Longstaff all went to the south east. Soldier G went to the south west and was possibly accompanied by Soldier H. However the evidence suggests only one soldier went to Abbey Park.

Gerard McKinney and Gerard Donaghy

John O'Kane, Gerard McKinney's brother-in-law, describes seeing a youth on the ground, almost certainly James Wray, and moving away into Abbey Park with Gerard McKinney and Gerard Donaghy. It appears Mr. McKinney reached out to stop Gerard Donaghy going ahead before stopping and turning back towards Glenfada Park, possibly because he saw a soldier. He then raised his hands in the air and said "no, no" before being shot through the left armpit. He fell close to where he is pictured in P0693. Gerard Donaghy may have been behind Gerard McKinney on a higher level. He may or may not have had his hands raised. He was hit in the stomach by a bullet which lodged in his spine. No military evidence explains these deaths and Mr. Clarke said the Tribunal might conclude this is because the deaths cannot be justified. Soldier G was seen in the alleyway by Lieutenant 119 and the bullet recovered from Gerard Donaghy's body was traced to his rifle. He never admitted even going into Abbey Park let alone firing or killing anyone there. Joe Mahon also saw a blond soldier go into Abbey Park.

Mr. Clarke said it was possible Gerard McKinney and Gerard Donaghy were hit by the same bullet. The civilian evidence suggests they were hit by separate rounds but the fact that a damaged bullet was found in Gerard Donaghy's body suggests it might have been slowed and distorted before it hit him. This would accord with Joe Mahon's recollection of the blond soldier returning and saying "got another one".

People then ran to the aid of the victims. Some say a shot was fired at Evelyn Lafferty and Leo Young in Abbey Park and if so this was without any justification and suggests Soldier G fired more rounds than he has admitted. At first it was believed Gerard McKinney had had a heart attack since no wound was apparent. Ms. Lafferty then ran to Glenfada Park where she tended to Joe Mahon. She says another shot was fired at her in Glenfada Park North but others do not recall this. At this time the anti tank platoon was withdrawing with those

arrested at the south east corner. James Wray, William McKinney and Joe Mahon were carried to Abbey Park. The Lawton and Aitken teams list unaccounted for casualties but these may simply be confused accounts. If they were unidentified paramilitary casualties then this creates difficulties with the soldiers' evidence of how much ammunition they fired.

Nail Bombs 'found' on Gerard Donaghy

Mr. Clarke then commented on the evidence concerning the nail bombs allegedly found on Gerard Donaghy's body whilst at the Royal Anglian Regiment Regimental Aid Post. Dr. Swords examined Gerard Donaghy whilst he was in Abbey Park. He opened his trousers and lifted his shirt. Several others also say they searched Gerard Donaghy. Undoubtedly a number of people touched or were very close to him. None refer to seeing nail bombs. Gerard Donaghy was taken in Mr. Rogan's car to Altnagelvin hospital but the car, also containing Hugh Leo Young, was stopped at barrier 20 by soldiers of 7 platoon, B Company 1st battalion Royal Anglian Regiment. Soldier 150, Soldier 135 and Soldier 145 all looked at Gerard Donaghy in the car, as did RUC sergeant Keyes, but none saw any nail bombs. Soldier 104 does claim to have seen nail bombs but did not mention them to the Soldier 150 who drove the car away. Soldier 104 has refused to give evidence to the Inquiry. He lives abroad and cannot therefore be subpoenaed.

Soldier 150 drove the car to the Regimental Aid Post, via Company HQ. Soldier 150 checked for a pulse before the Medical Officer arrived. He still did not notice any nail bombs. The Medical Officer quickly checked for signs of life and then went to attend to others. He did not see nail bombs. Soldier 150 then moved the car and only when the Medical Officer returned to establish the cause of death was there any mention of nail bombs. This is the Medical Officer's account to the RMP but in evidence to Lord Widgery he said he was not told of the nail bombs until 5 minutes after his second examination. Mr. Clarke said there was conflicting evidence as to who first found the nail bombs and the Tribunal would have to consider whether or not a member of the Royal Anglian Regiment, Royal Ulster Constabulary or someone else planted the 4 nail bombs on Gerard Donaghy's body. At 16:50 the Army Technical Officer was called to deal with the bombs. Soldier 127 arrived and removed 4 nail bombs from Gerard Donaghy's clothing. There was also the evidence of the bullet hole in the jacket pocket from which one of the nail bombs was removed. Mr. Clarke said it was difficult to believe everyone could have missed the nail bombs but it was also difficult to see how they could have been planted in the short time the car was at the Regimental Aid Post prior to the ATO being called.

SECTOR 5

Four people were shot behind block 2 of the Rossville Flats. Bernard McGuigan and Patrick Doherty were killed, Patrick Campbell and Danny McGowan were wounded.

Soldier F is the only soldier who admits to firing in Sector 5, i.e. to the south of

block 2 of the Rossville Flats. He claims to have fired 2 shots at a man with a pistol at the south east corner of block 2 in front of the Fahan Street steps. The Lawton team submit that their client is not responsible for shooting all 4 people in this area. They only accept that Soldier F may have hit one or two of the four. Since Soldier F only admits firing two shots in this area either he is lying or other soldiers are lying about not firing here at all.

Patrick Campbell, Danny McGowan, Patrick Doherty, Bernard McGuigan

Mr. Clarke said it was generally agreed that Patrick Campbell was the first to be shot, he was assisted by Danny McGowan who was himself then shot, then Patrick Doherty was killed and finally Bernard McGuigan. Mr. Campbell was shot in the left buttock whilst standing in the gap between block 2 and Joseph Place. The bullet lodged in his abdomen as seen in his X-ray but it was never recovered. It appeared to be a distorted but intact 7.62mm round. Danny McGowan was shot in the right calf as he assisted Mr. Campbell towards Joseph Place. The bullet fractured his tibia and fibula. He died on 28 January 2004 and was never fit enough to give evidence to the Inquiry. Patrick Doherty was shot whilst crawling behind block 2 towards the back of Joseph Place. Bernard McGuigan was shot in the back of the head when he stepped out from the lee of the south gable end of block 1.

Fulvio Grimaldi came out of the Rossville Flats car park to the gap between blocks 2 and 3 and saw Patrick Doherty already turned on his back. He then saw Mr. McGuigan fall. He took photograph EP26.18 just after McGuigan fell. No one, soldier or civilian is visible in Glenfada Park in the background. The civilian evidence is agreed that Bernard McGuigan was waving a white handkerchief, or at least had his hands in the air as he was shot.

Lance Corporal F

Soldier F first admitted firing behind block 1 when he made a statement to Colonel Overbury on 19 February 1972. Soldier F claimed to have heard pistol shots coming from the retaining "wall at the far end of the Rossville Flats". His statement to the Widgery Tribunal simply referred to shots coming from the Rossville Flats. He fired from just south of the south gable end of the east block of Glenfada Park North, i.e. the south east corner of the Glenfada Park North car park. He claims he saw a man, shouted "there's a gunman" to Soldier G and shot him. He fired 2 shots at the man who was crouched. He claims the man fell. He fired as the group of civilians at the south east corner of Glenfada Park North were being arrested. Only when he gave evidence to Lord Widgery did Soldier F first mention that he saw the man fire the pistol. None of the other soldiers in Glenfada Park North (Corporal E, Soldier G, Soldier H, Soldier J, Lieutenant 119, Soldier 027 and INQ 23) described hearing a pistol. Soldier G however told Lord Widgery that he had heard Soldier F shout a warning and had seen him fire two shots in an easterly direction from a kneeling position.

Soldiers on the City Walls

Lieutenant 227 from the 22 Light Air Defence Regiment stationed at observation post Charlie on the city walls gave an account to the Royal Military Police on 2

February 1972 of seeing Paratroopers in the south east corner of Glenfada Park North. He saw three Paras, 2 of whom arrested a group of civilians, the third knelt and fired two shots. He also says he heard pistol shots. He then saw Bernard McGuigan fall near the south gable end of block 1. Although in 1972 he linked hearing the pistol shots to the Para firing Lieutenant 227 said in evidence to this Inquiry that he was no longer sure the two were linked. The only description he gave as to the location of the sound of pistol shots was "the Rossville Flats" and "to my low and right". A further question arises from an answer Lieutenant 227 gave to counsel for the families at the Widgery Tribunal when he is recorded as having said the Para was firing "at the man with the rifle to my low and to the right". He had never previously said he saw a man with a pistol, let alone a rifle but was not questioned further. In evidence to this Inquiry he failed to confirm whether or not he meant a man with a pistol or that the answer at the Widgery Tribunal referred to the pistol shots he heard.

Mr. Clarke said if Lieutenant 227 did hear pistol shots then the Tribunal had to consider whether or not his evidence as to the timing and location of those shots is compatible with the evidence of Soldier F regarding the man he claims to have shot at. If these were not compatible Mr. Clarke said the Tribunal would have to consider whether or not the shots Lieutenant 227 heard were those fired earlier by OIRA 4 (Father Daly's gunman) or those Private U claims to have seen from the door way to block 1.

No member of the anti tank platoon, other than Soldier G, corroborates Soldier F's account. None mentions hearing pistol shots, hearing Soldier F shout a warning or even knowing Soldier F fired in that location. None of them admits knowing anything about who fired behind block 2. Mr. Clarke said it would appear to follow that members of the anti tank platoon had cover-up what happened in Sector 5.

Bernard McGuigan and Patrick Doherty

Three soldiers stationed close to Lieutenant 227 said in 1972 that they saw a Para fire. Soldier 40 was in the attic of 3 Magazine Street with Soldier 134. Soldier 40 said he saw a Para fire a shot at a man who he variously described as "waving his arms" or "holding his arms over his shoulders with his fists clenched". He saw the man fall. He then saw a body on the ground where Patrick Doherty was shot. In some of his accounts Soldier 040 says the Para was not alone in Glenfada Park.

Soldier 134 saw civilians arrested in the south east corner of Glenfada Park North and then saw a kneeling Para fire in his direction. He did not see anyone shot but did see a body which appears to be that of Patrick Doherty. He then heard more shots, he did not know from where, and saw another man fall close to the gap between blocks 1 and 2. He also saw a second body in this area, probably Bernard McGuigan and Hugh Gilmore. He therefore saw a Para fire in the direction where Patrick Doherty died and then saw Bernard McGuigan fall.

Soldier 030 was stationed on the Platform on the city walls. He did not refer to

seeing civilians arrested but did see a Para fire a single round in his direction. He said he had already seen the same Para fire 3 rounds towards the south west corner of Glenfada Park North. He placed the Para in the centre of the Glenfada Park North car park when he fired all 4 of these shots. He also saw a body which appears to have been that of Patrick Doherty. Mr. Clarke said none of these four soldiers saw all of what occurred but they all saw a Para fire east from Glenfada Park. It was for the Tribunal to determine whether or not they are all referring to Soldier F.

Seven civilians saw a Para shoot Bernard McGuigan. Another, Mary Quigley, apparently saw a Para shoot Patrick Doherty. However they all only refer to a single soldier firing.

Para Firing From Hip South from Glenfada Park

A few witnesses in Glenfada Park North refer to seeing another soldier fire in the south east corner. Denis Bradley was arrested at the south gable wall in Glenfada Park and was pushed off the pavement. As he regained his balance he found himself standing next to a soldier who was firing from the hip. He described the soldier firing 4 to 8 shots in an elevated trajectory just to the east of the Glenfada Park South pram way (i.e. roughly south and not towards where Bernard McGuigan and Patrick Doherty died). These were not aimed shots. He was not amongst the first soldiers to have arrived at the gable end.

Most of those arrested at the gable wall do not refer to this incident suggesting it occurred after most of them had been led away. George Irwin appears to have seen the same soldier. He was also arrested in Glenfada Park North and his 1972 NICRA statement suggests he and Father Bradley were the last in the line of those led away. Mr. Irwin described a tall soldier firing 3 shots from the hip. Mr. Clarke said either the soldier in question was out of sight of those stationed on the city walls or they have concealed this aspect of what they saw. If he was out of sight then he could not have fired behind block 2.

Simon Winchester was near the top of the Fahan Street steps when he looked along block 2 to Glenfada Park where he saw a soldier "in front of Glenfada Park" fire 4 to 6 shots towards the middle of the two Joseph Place blocks. He would have had the same but a less elevated a view as those on the walls. If he saw Denis Bradley's Para then he was visible from the walls. RM2 also referred to a tall Para firing from the hip in Glenfada Park. RM2 was at the block 2 shops when he saw a soldier in a beret fire two elevated shots in a casual manner. These were fired from the hip and in the direction of the north block of Joseph Place. Since Soldier F claims to have joined in making arrests after he fired his shots the soldier firing from the hip may have been firing after Bernard McGuigan had been killed. Soldier H described his height as "six foot almost" and effectively conceded he does not know where he fired 18 of his 22 rounds. He was wearing a respirator.

John Porter a quartermaster sergeant in the Irish Army watched from a window in Abbey Park as groups of Paras fired. He made three statements in 1972 and

gave evidence to Lord Widgery. Mr. Clarke said his evidence was complicated and not easy to summarise. He refers to 2 incidents when he saw groups of Paras firing. The second incident occurred as arrestees were being led away from the gable wall in Glenfada Park North. Others at the window in 7 Abbey Park did not see the firing Mr. Porter described.

Soldier F Admits Killing Bernard McGuigan

On Day 376 of the Inquiry Soldier F admitted that he fired the shot that killed Bernard McGuigan. The Lawton team says this was "equivocal" and Desmond Doherty & Co. say it was not. The Lawton team also speculate that Bernard McGuigan could have been shot by a soldier out of sight of Lieutenant 227. Mr. Clarke commented that their submission did not explain how this could have happened without Lieutenant 227 having either seen or heard the shot.

Mr. Clarke went on to suggest the Tribunal had to decide whether or not Soldier F shot Bernard McGuigan intentionally. The question he said, was whether Mr. McGuigan walked into the path of a bullet Soldier F aimed at a gunman or was unlawfully targeted when he was clearly unarmed and waving a white handkerchief.

Patrick Doherty

Paddy Doherty was hit in the buttock by a bullet that exited his chest. The question arises as to where the bullet was fired from and the parties submit this is answered by the direction of Mr. Doherty's travel. The Lawton team suggest Patrick Doherty was moving south from the gap between blocks 2 and 3 towards Joseph Place. Therefore, they say, he could not have been shot from Glenfada Park. However Barr & Co., representing the Doherty family, contend Mr. Doherty first crawled west under the canopy of block 2 and then turned to cross over to Joseph Place from where he was shot from Glenfada Park. Thirty witnesses saw Patrick Doherty before he was shot and their evidence is analysed in the interested parties' and counsel to the Inquiry's closing submissions.

If he was not shot by Soldier F the question arises as to who did shoot Patrick Doherty. He was shot on the south side of block 2 and the expert evidence says he could not have been shot from the city walls or hit by a ricochet. The probability therefore was that the shot had to have come from Glenfada Park. The Lawton team suggest it may have been a low velocity bullet but the fact that the bullet passed right through Mr. Doherty's body having fractured bone suggests it was a high velocity SLR round.

Mr. Clarke said that since it appears Mr. McGuigan went to assist Mr. Doherty after he was shot and since Lieutenant 227 described a Para firing 2 shots in quick succession it is possible Soldier F killed both men. Geraldine McBride was sheltering with Mr. McGuigan at the south gable end of block 1 and recalls a man calling out that he did not want to die. She says Mr. McGuigan then said "I'm not going to let him die by himself. If I take my white hankie they'll not shoot me." Donna Harkin also heard Patrick Doherty's calls but did not say this in her 1972 account. Mr. Clarke said the Tribunal had to decide if Patrick Doherty was

shot by Soldier F and if so whether or not this was a deliberate shot or if Mr. Doherty crawled across the line of fire.

Mr. Clarke said Patrick Campbell may have been hit by a ricochet, since the bullet lodged in his abdomen. The witness evidence suggests he was shot by an unidentified soldier in Glenfada Park North. Madden & Finucane submit he may have been hit by one of the 12 rounds fired by Soldier S from the Rossville Flats car park and passing between blocks 1 and 2. Mr. Clarke said it was probable Danny McGowan was shot from Glenfada Park North. The Tribunal had to decide whether or not Soldier F shot either Patrick Campbell or Danny McGowan or whether this was done by an unidentified soldier.

Soldier F's Evolving Story

Soldier F had already made 4 statements to the Royal Military Police and another statement to the Royal Ulster Constabulary before mentioning the pistol man he claims to have shot. This he refers to for the first time during an interview with Lieutenant Colonel Overbury on 19 February 1972. When asked why this was so he told Lord Widgery he had not remembered shooting the man with the pistol until he was shown aerial photographs of the Bogside. Soldier G did not mention Soldier F having fired east from Glenfada Park until he made his Widgery statement. When Soldier F made his statement to Overbury on 19 February he redistributed the 13 rounds he had already accounted for in his earlier statements so as to now account for killing Michael Kelly at the rubble barricade and firing 2 rounds at the alleged pistol man behind block 2. Madden & Finucane and Barr & Co. say Soldier F's evidence is not credible and that he fired more than 2 shots behind block 2. Mr. Clarke said the Tribunal had to decide whether or not Soldier F had lied about the alleged gunman and whether or not Soldier G had invented a corroborative account. He said it had to consider whether or not Soldier F could have unintentionally killed an innocent man, forgotten to mention doing so when each of his five previous statements was taken and only remembered when he was shown aerial photographs. In that context they also had to decide whether or not his lack of any current recollection is genuine.

The IRA

Mr. Clarke said in 1999 the Inquiry started to try and trace people who were members of the IRA in 1972. Seven such people responded during 1999. In early 2001 5 Official IRA members approached the Inquiry. There was then a delay whilst the Inquiry conducted a lengthy antecedents investigation but by the summer of 2003 the Inquiry had identified 82 individuals from the Provisional IRA, Official IRA or Fianna. Fifty-one of these people cooperated with the Inquiry; 2 refused to make statements, 14 could not be found, 17 were unfit and one failed to cooperate for personal reasons. Seven refused to assist and one of these, PIRA 9 was held in contempt. Two were outside the jurisdiction and the Tribunal took the view the remaining 4 were not significant witnesses.

Seventeen former members of the Provisional IRA made statements to the Inquiry

of which 14 gave evidence. The 3 most senior Provos; the officer commanding (PIRA 24), the second in command (Martin McGuinness) and the quartermaster (PIRA 17) all gave evidence. The Inquiry also heard from PIRA 23 who was commanding the Creggan unit and PIRA 8 who was on patrol in the Brandywell.

All members of the Official IRA command staff in Derry made statements (OIRA 1, 2, 3, 4, 5 and Reg Tester). Five others also gave evidence.

Six witnesses from the Fianna gave evidence, two of whom each claimed to be the officer commanding (Paddy Ward and Gerry O'hEara).

Mr. Clarke said it had been alleged that the IRA's cooperation was late and limited so as to prevent the full truth from emerging. However since the antecedent exercise was only completed in August 2003 approaches could not have been made earlier. It was true many did not come forward of their own accord but the Tribunal had to consider whether or not this was because they had something to hide or because of the perception that the Inquiry was a British Tribunal.

Provisional IRA

The Inquiry was told there were 30-40 Provisional IRA volunteers at the time of Bloody Sunday. Martin McGuinness, Ivan Cooper and Brendan Duddy say the Provisional IRA gave assurances that there would be no military action on the march but PIRA 24 said no assurances were sought or given. Volunteers were instructed to do nothing on Bloody Sunday. Sean Keenan, the explosives officer said explosives were difficult to obtain. PIRA 17 was the only other volunteer who knew the location of the explosives dump. They say no nail bombs were made or handed out. Paddy Ward, who claimed to be officer commanding the Provisional Fianna said Colm Keenan assisted in making nail bombs. This is disputed by all Provisional IRA witnesses.

The Provisional IRA units in the Creggan and Brandywell had weapons but these were outside the Bogside. Other weapons were in a dump controlled by PIRA 17. The Provisional IRA evidence is that none of their volunteers fired a weapon, aside from the 'symbolic shots' described by Martin McGuinness. In an interview with Peter Pringle and Philip Jacobson, Martin McGuinness had said arms were not withdrawn on Bloody Sunday.

Infliction, an unidentified MI5 informer, claims Martin McGuinness told him he had fired the first shots on Bloody Sunday from a Thompson sub machine gun in the Rossville Flats. In a disputed interview with John Barry, Ivan Cooper allegedly said Martin McGuinness, PIRA 17 and George McEvoy were in an house in William Street intending to fire on troops. An RUC intelligence document [INT1.74] also refers to Martin McGuinness with a machine gun under his coat.

The Lawton team submit that the Provisional IRA did fire and they point to the presence of a number of senior IRA men at the rubble barricade (Colm Keenan, PIRA 14 and PIRA 26) and the fact that PIRA 1 was arrested in Glenfada Park. Mr.

Clarke commented that their presence did not itself prove they were armed. Sean Keenan and other Provisional IRA men are seen in photograph EP5.1 close to barrier 14. The photograph of Hugh Gilmore at the moment he was shot [P0662] also shows Colm Keenan and PIRA 26 at the Rossville Flats doorway. P0837 shows Pat Harkin with PIRA 26.

Official IRA

There were 20-30 Official IRA volunteers in Derry at the time of Bloody Sunday. There was a command staff of 6. OIRA 9, the officer commanding, was arrested on 28 January 1972 and OIRA 3 took over as OC. OIRA 9 and Malachy McCurran are said to have given assurances that there would be no Official IRA operation on Bloody Sunday. Michael Havord and Anthony Martin were told guns would be removed from the Bogside. OIRA 3 and other members of the command staff did not know of these assurances. Ivan Cooper said he spoke to OIRA 1 and 'Red' Mickey Doherty but that they told him they could not give any assurances.

The Official IRA had a policy of only using weapons in defence or retaliation however this policy was interpreted differently by various members of the command staff in Derry and at least some believed they were entitled to retaliate long after an event at a soldier who was just walking down the street. Reg Tester told Philip Jacobson on 3 February 1972 that they could only open fire if they were first shot at by the army and then not in a crowd situation [ED20.30]. Reg Tester, quartermaster, was one of the first former paramilitaries to come forward. He said the Official IRA had no explosives on Bloody Sunday and no nail bombs were prepared. He also said there were more volunteers than weapons. At first he said all the weapons, save a pistol and .303 rifle, were placed in cars in the Creggan but in evidence he said the Bogside unit had its own weapons which were not under his control. Mr. Clarke said the Official IRA evidence suggested the location of their weapons dumps was not restricted to one or two volunteers.

The Inquiry knows that OIRA 1, OIRA 4 and 'Red' Mickey all fired on Bloody Sunday. The Observer Galley proofs, an article dated 6 February 1972 that was never published for fear of contempt of Lord Widgery's inquiry, quote OIRA 3 as saying they had marksmen at the junction of William Street and Rossville Street, at the Little Diamond and covering Bishops Street and Bligh's Lane. In that article OIRA 3 is recorded as having said the Official IRA fired only one shot and this was fired by "our man covering Rossville Street". Mr. Clarke suggested this could have been a reference to Reg Tester who admits he may have fired a shot although his recollection was that his gun jammed.

Murray Sayle and Derek Humphrey of the Sunday Times also wrote an article in February 1972 that was never published. They refer to an Official IRA man armed with a .38 pistol stationed in a derelict building opposite the Richardson factory firing a shot at soldiers on the GPO roof after Damien Donaghy was shot [M71.26]. A similar account attributed to Reg Tester appears in the 3 February 1972 Jacobson/Pringle interview [ED20.31].

Vincent Browne published an article in the Sunday Press on 6 February 1972 [L171] reporting that several Official IRA volunteers were armed and that "some of them" returned fire after one man had been killed and three wounded. It also said the removal of weapons from the Bogside was "only partly true". He also referred to an Official IRA volunteer firing at a soldier in William Street before the Paras went in. Mr. Browne told the Inquiry he could not remember who his source was but he presumed he had talked to members of both the Official and Provisional IRA.

The editor of the Sunday Times Insight Team, John Barry, says he interviewed OIRA 1 in 1972. OIRA 1 disputes the interview. Gerard Kemp also says he interviewed OIRA 1 on 23 April 1972 and this corroborates some of what John Barry noted. Tony Martin told the Sunday Times in 1972 that an IRA man had told him there were two rifles in a green Avenger car in Glenfada Park North. OIRA 7 said he was probably the man who had spoken to Tony Martin but he denied there was more than one rifle in the car.

John Barry also made notes of a conversation he says he had with Ivan Cooper. The note records Cooper as saying OIRA 6 had fired a revolver in Glenfada Park and had been "running around mad with a pistol all afternoon" and had fired very early on. Ivan Cooper denied having said this and OIRA 6 and George McEvoy denied telling this to Ivan Cooper. In the notes of Peter Pringle and Philip Jacobson's interview with Reg Tester [S37] there is reference to a man having fired 2 shots from the alley behind Joseph Place towards the Walker observation post on the city walls. Reg Tester denied any knowledge of this. Mr. Clarke said there was a substantial amount of evidence that suggested an armed Official IRA unit arrived in Westland Street from the Creggan after the shootings.

'Red' Mickey Doherty died in 2003 without making a statement to the Inquiry. Efforts were made to obtain evidence from him. It is not suggested by anyone that the shots he fired outside the Bogside had any influence on the actions of the Paras however his being armed does raise the question as to who else was armed and may have been in the Bogside. 'Red' Mickey had a weapon that was not issued by Reg Tester. Whether or not he was where he was to defend the Brandywell, as the Official IRA claim, was unclear. PIRA 8, who was patrolling the Brandywell for the Provisional IRA, said in evidence that Barrack Street, where Red Mickey was, was one of the routes from which troops often tried to raid the Brandywell. Mickey Doherty fired at about 16:40 after the firing in the Bogside.

In his article [L171] Vincent Browne said that the Official IRA had said they had fired when in fact they had not because they were trying to improve their prestige after releasing unharmed a British soldier they had kidnapped 12 days before Bloody Sunday.

Unaccounted for Casualties

Mr. Clarke said counsel to the Inquiry had prepared a schedule of sightings of unaccounted for gunmen and casualties as had many of the interested parties.

He said in many cases sightings can be related but it was for the Tribunal to consider whether or not there were gunmen or nail bombers where the soldiers say they fired and whether or not they hit them. Mr. Clarke said the Tribunal may find the soldiers did not hit who they claimed but one of the known casualties in which case the Tribunal had to determine whether or not the alleged target was ever there. He also referred to the evidence of INQ 2225, a military intelligence officer, who said soldiers often reported they had hit people when they had not and that they then assumed, when no body was found, that the body had been spirited away across the border. Mr. Clarke said there was no evidence that unidentified casualties had been treated at Letterkenny or anywhere else and although it was alleged that there had been secret burials Bishop Daly's evidence was that this could not have happened.

Inquiry Closed

Finally Mr. Clarke took the opportunity to thank the people of Derry for welcoming the Inquiry staff and paid tribute to those members of the media who had followed the proceedings throughout. He mentioned in particular Paul McCauley of the BBC who had been present for all 430 days of the public hearings. He also paid tribute to the families of the deceased and wounded for enduring the pain of what happened, for pushing for the Inquiry and baring the frustration inherent in such a process. He said he hoped and believed the process of holding to account those whose actions and decisions contributed to what happened had already played a part in enabling people to come to terms with the events of the day.

Lord Saville closed the Inquiry by associating the Tribunal with Mr. Clarke's closing remarks and himself thanking all the legal representatives, the LiveNote transcription staff and the technical staff.