

## A P P E A R A N C E S

The Sole Member:

His Honour Judge Peter Smithwick

For the Tribunal:

Mary Laverty, SC  
Justin Dillon, SC  
Dara Hayes, BL  
Mr. Fintan Valentine, BL

Instructed by:

Jane McKevitt  
Solicitor

For An Garda Siochana:

Mr. Dermot McGuinness, SC  
Mr. Michael Durack, SC  
Mr. Gareth Baker, BL

Instructed by:

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For Owen Corrigan:

Mr. Jim O'Callaghan, SC  
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Ms. Nuala Butler, SC  
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**For Breen Family:**

Mr. John McBurney

**For Buchanan Family/  
Heather Currie:**

Ernie Waterworth  
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Solicitors

**NOTICE:**

A WORD INDEX IS PROVIDED AT THE BACK OF THIS TRANSCRIPT.  
THIS IS A USEFUL INDEXING SYSTEM, WHICH ALLOWS YOU TO QUICKLY SEE  
THE WORDS USED IN THE TRANSCRIPT, WHERE THEY OCCUR AND HOW OFTEN.

**EXAMPLE: - DOYLE [2] 30:28 45:17**

THE WORD "DOYLE" OCCURS TWICE  
PAGE 30, LINE 28  
PAGE 45, LINE 17

1                   **THE TRIBUNAL COMMENCED ON THE 7TH OF JUNE 2011 AS FOLLOWS:**

2

3                   CHAIRMAN: Morning ladies and gentlemen. Mrs. Lavery.

4

5                   MRS. LAVERTY: Morning, sir.

6

7                   **OPENING STATEMENT**

8

9                   **INTRODUCTION**

10

11                   **Deaths of Chief Superintendent Breen and Superintendent**  
12                   **Buchanan**

13

14                   On Monday, 20th March 1989, Chief Superintendent Harry  
15                   Breen and Superintendent Bob Buchanan were ambushed and  
16                   killed by the professional IRA on the Edenappa Road just  
17                   north of the boarder near Jonesboro, County Armagh. They  
18                   were returning from a meeting in Dundalk garda station. I  
19                   wish to take this opportunity on behalf of the Tribunal's  
20                   legal team to offer the families of the late Harry Breen  
21                   and the late Bob Buchanan, who are following this inquiry,  
22                   our deepest sympathy on their loss.

23

24                   Chief Superintendent Harry Breen joined the RUC on the 5th  
25                   May 1957. He was in the Force for nearly 32 years when he  
26                   died in 1989. He rose through the ranks to become  
27                   Divisional Commander of 'H' Division, which covered an area  
28                   taking in large parts of south Down and Co. Armagh. Harry  
29                   Breen was married to June and they had two children, David  
30                   and Gillian.

1  
2 Superintendent Bob Buchanan joined the RUC on the 13th  
3 August 1956 and had been a police officer for almost 33  
4 years. He rose through the ranks and was commended on six  
5 separate occasions. He was Border Superintendent for the  
6 border area within 'H' Division and was responsible for  
7 cross-border matters and in particular liaison between the  
8 RUC and An Garda Siochana. He was very active in his  
9 church and was married to Catherine and had two children,  
10 William and Heather.

11  
12 303 RUC and RUC Reserve Officers were murdered in Northern  
13 Ireland during the period that was known as "The Troubles".  
14 Chief Superintendent Harry Breen and Superintendent Bob  
15 Buchanan were the most senior officers to be killed during  
16 that period. Their deaths could have been become just  
17 another statistic in a long catalogue of tragic events.  
18 However, the killings of Harry Breen and Bob Buchanan,  
19 together with two other attacks near the border, gave rise  
20 to serious and persistent rumours that have ultimately led  
21 to the public hearings which are about to commence in this  
22 Inquiry, more than 20 years after the deaths of these two  
23 officers.

24  
25 **Events leading to the establishing of the Tribunal**

26  
27 The Good Friday Agreement was concluded on April 10, 1998  
28 and was subsequently endorsed by popular referenda held  
29 simultaneously in both Northern Ireland and in this  
30 jurisdiction. The public will be familiar with subsequent

1 issues surrounding the implementation of the Agreement of  
2 1998 and a series of further negotiations were required to  
3 secure the full implementation of that agreement. It is in  
4 this context that negotiations took place in 2001  
5 culminating in intensive negotiations at Weston Park in the  
6 summer of that year, from which emerged the Weston Park  
7 Agreement between the Irish and British governments on  
8 certain matters providing for the final implementation of  
9 the Good Friday Agreement. In the course of the  
10 negotiations leading up to the Weston Park, the question  
11 arose of examining a number of killings which occurred at  
12 the hands of paramilitary organisations and in respect of  
13 which there had been allegations of collusion by security  
14 forces.

15  
16 The parties to the Weston Park Agreement decided to appoint  
17 a retired judge of international standing, who ultimately  
18 turned out to be Peter Cory, a retired judge of the  
19 Canadian Supreme Court, to examine a number of specified  
20 killings and to make a recommendation as to whether there  
21 should be a public inquiry in respect of any of them.  
22 Included in the matters under Judge Cory's review were the  
23 killings at the hands of the Provisional IRA of Lord  
24 Justice and Lady Gibson in 1987 and Chief Superintendent  
25 Harry Breen and Superintendent Bob Buchanan in 1989.

26  
27 In due course, both in this opening statement and in  
28 evidence, the terms of Judge Cory's report will be analysed  
29 in more detail. For present purposes, it is sufficient to  
30 say that Judge Cory came to the conclusion that a number of

1 deaths which had occurred in Northern Ireland warranted a  
2 public inquiry in that jurisdiction and that, while the  
3 deaths of the two RUC officers, Breen and Buchanan,  
4 occurred in Northern Ireland, the allegation of collusion  
5 by a member of An Garda Siochana in those killings required  
6 that there be a public inquiry in the State to investigate  
7 the matter.

8  
9 Judge Cory did not recommend an inquiry into the deaths of  
10 Lord Justice and Lady Gibson as he believed that it would  
11 have been possible to establish Lord Justice Gibson's  
12 travel arrangements without the collusion of a member of An  
13 Garda Siochana. We are therefore mindful of the fact that  
14 the deaths of Lord Justice and Lady Gibson do not come  
15 within your remit, Chairman. I think it worth commenting  
16 that no further similar atrocities were committed in the  
17 aftermath of the Breen and Buchanan shootings, where  
18 collusion was alleged.

19  
20 In this report on the Breen and Buchanan killings, Judge  
21 Cory stated as follows:

22  
23 "During the Weston Park negotiations, which were an  
24 integral part of the implementation of the Good Friday  
25 Accord, six cases were selected to be reviewed to determine  
26 whether a public enquiry should be held with regard to any  
27 of them.

28  
29 This case, like that of Finucane, Hammill, Wright,  
30 Nelson and the Gibsons, was specifically selected as one of

1 those to be reviewed to determine if there was collusion,  
2 and, if so, to direct a public enquiry. In light of this  
3 provision in the agreement, failure to hold such inquiry as  
4 quickly as possible might be thought to be a denial of the  
5 original agreement, which appears to have been an important  
6 and integral part of the peace process. The failure to do  
7 so could be seen as a cynical breach of faith which could  
8 have unfortunate consequences for the Peace Accord.

9  
10 Further, if, as I have found there is in this case,  
11 evidence capable of constituting collusion, then members of  
12 the community would undoubtedly like to see the issue  
13 resolved quickly. Indeed, a speedy resolution is essential  
14 if the public confidence in the police and the  
15 administration of justice is to be restored. In this case  
16 only a public enquiry will suffice. Without public  
17 scrutiny, doubts based solely on myth and suspicion will  
18 linger long, fester and spread their malignant infection  
19 throughout the Republic and the Northern Ireland community.  
20 No prosecutions appear to be contemplated. Therefore the  
21 public enquiry should proceed as soon as it is reasonably  
22 possible to do so."

#### 23 24 **Terms of Reference**

25  
26 Pursuant to the agreement made between the Irish and  
27 British governments and in accordance with Judge Cory's  
28 recommendation that public inquiry be held, this Tribunal  
29 was established by Order of the Minister for Justice  
30 Equality and Law Reform, Michael McDowell TD, made on the

1 31st May, 2005. This order was made consequent on the  
2 adoption of resolutions by Dail Eireann and Seanad Eireann  
3 on 23rd March 2005 and 24th March 2005 respectively, that  
4 it was expedient that a tribunal be established under the  
5 Tribunals of Inquiry (Evidence) Acts 1922-2002 to inquire  
6 into "*suggestions that members of An Garda Siochana or*  
7 *other employees of the State colluded in the fatal*  
8 *shootings of RUC Chief Superintendent Harry Breen and*  
9 *Superintendent Robert Buchanan on 20th March 1989.*"

10 Further, the Tribunal is to report to the Clerk of Dail  
11 Eireann and to make such findings and recommendations as it  
12 sees fit.

13  
14 As already alluded to, the Tribunal is unique in that it is  
15 investigating events surrounding a killing which occurred  
16 in another jurisdiction. Much of the relevant evidence  
17 therefore lies outside the State and cannot be compelled.  
18 Such evidence can only be secured through voluntary  
19 cooperation. In this respect, you and your counsel have  
20 worked hard to establish trust and to maintain confidence  
21 in the independence and integrity of your Tribunal.

22  
23 You, Chairman, were appointed as the Sole Member of the  
24 Tribunal so established. It was not until February 2006,  
25 about a year later, that the Tribunal had a premises and  
26 that counsel were retained to advise it, and it was only in  
27 March 2006 that the Tribunal was in a position to commence  
28 its private investigation.

29  
30 Mr. Chairman, I take the liberty at this point of recalling



1           what you said on 3rd March 2006 when you sat in public for  
2           the first time, namely:

3

4           *"... the issue of the collusion will be examined in the*  
5           *broadest sense of the word. While it generally means the*  
6           *commission of an act, I am of the view that it should also*  
7           *be considered in terms of an omission or failure to act.*  
8           *In the active sense, collusion has, amongst its meanings,*  
9           *to conspire, connive or collaborate. In addition, I intend*  
10          *to examine whether anybody deliberately ignored a matter,*  
11          *turned a blind eye to it or pretended ignorance or*  
12          *unawareness of something one ought morally , legally or*  
13          *officially oppose. Judge Peter core defined the word*  
14          *'collusion' in similar terms when considering the evidence*  
15          *before him and considering whether or not the murders under*  
16          *review as part of the Weston Park Agreement merited further*  
17          *investigation."*

18

19          I understand that you do not consider it necessary to amend  
20          this interpretation of the terms of reference in any way.

21

22          As has already been stated, this Tribunal was established  
23          to examine suggestions that a member of An Garda Siochana  
24          or other State agency included with an unlawful  
25          organisation in the fatal shootings of she have  
26          Superintendent Breen and of Superintendent Buchanan. It is  
27          our intention, in the public hearings which commence today,  
28          to put before you all material we have uncovered which we  
29          consider relevant to this question. This includes  
30          intelligence material; and it includes material suggestive

1 of collusion and material which supports the alternative  
2 that the Provisional IRA carried out this operation without  
3 the assistance of a member of An Garda Siochana or any  
4 other agent of the State.

5  
6 **Not the Inquiry's Role to identify murderers**

7  
8 Mr. Chairman, I think it important to point out clearly at  
9 this stage that the terms of reference of your Tribunal of  
10 Inquiry do not require you to solve the killings of Chief  
11 Superintendent Breen and Superintendent Buchanan in a  
12 traditional sense; in other words, to identify the culprits  
13 involved. As of today, no person in either jurisdiction  
14 has been charged with participation in the killings of  
15 Superintendent Buchanan and Superintendent Breen. It is  
16 not the task of this Tribunal to carry out a criminal  
17 investigation with a view to identifying the members of the  
18 Provisional IRA who carried out the fatal shootings. This  
19 Tribunal's task is to ascertain whether or not the  
20 Provisional IRA received assistance from any member of An  
21 Garda Siochana or other State agent or assistance in the  
22 form of collusion coming within the definition which you  
23 set out in March 2006 and to which I have already referred  
24 above.

25  
26 **Tribunal Inquisitive rather than adversarial**

27  
28 In accordance with the provisions of the Tribunals of  
29 Inquiry Acts, although it has sat privately on a number of  
30 occasions and publicly twice until this point, your counsel

1 have to date primarily been carrying out their preliminary,  
2 private investigation. The purpose of that investigation  
3 was to gather together all information relevant to your  
4 terms of reference. We have submitted this information to  
5 you and you have determined that it is appropriate that  
6 there be a public hearing in the matter. It is now the  
7 intention to put that information before you, Mr. Chairman,  
8 and to do so, to the greatest extent possible, in public.  
9 As I will deal with presently, on occasion, particularly in  
10 relation to sensitive intelligence material, it may be  
11 necessary for this Tribunal to sit in private.

12  
13 I think it should be pointed out that you, of course, have  
14 reached no conclusions on the basis of the preliminary  
15 investigation and the information put before you. It was  
16 not the purpose of that investigation to prove or disprove  
17 anything but simply to gather all relevant information, to  
18 establish whether that material warranted a public hearing,  
19 and, if so, to process that information in such fashion  
20 that it can be put into evidence in the public hearing  
21 phase of the inquiry.

22  
23 I want there to be no doubt that this Tribunal regards  
24 itself as part of an inquisitorial rather than adversarial  
25 system. This means that it is not a prosecution of any  
26 person or theory; rather, it is an inquiry into all  
27 possible theories and an attempt to get to the truth of the  
28 matter. There should be no doubt then that there will be  
29 no such thing as a witness for or a witness against the  
30 Tribunal. Each person who has been called to give evidence

1 is a witness before the Tribunal. The Tribunal should not  
2 therefore be considered the adversary of any party.

3  
4 I emphasise that the terms of reference require the  
5 Tribunal to inquire into "suggestions" of collusion. As we  
6 will discuss presently, there are various suggestions and  
7 theories as to how the Provisional IRA carried out these  
8 shootings. One of the principal theories is that the  
9 Provisional IRA was able to carry out this operation on the  
10 basis of its own intelligence gathering and surveillance.  
11 Another specific suggestion is that the Provisional IRA had  
12 tapped the telephone exchange in Dundalk.

13  
14 There are, however, also specific suggestions that named  
15 individuals colluded in the commission of the attack. In  
16 that respect, it is inevitable that the Tribunal has had to  
17 inquire into certain individuals and into their conduct and  
18 career in An Garda Siochana. This is done to establish the  
19 truth of the suggestions made in relation to those  
20 individuals. The Tribunal is keenly aware that rumours  
21 have been circulating for more than 20 years. If anyone  
22 has been wrongly implicated in the fatal shootings of Chief  
23 Superintendent Breen and Superintendent Buchanan, that  
24 person is entitled to have his or other name cleared.

25  
26 There is no easy way of doing this. Allegations and  
27 rumours cannot be swept under the carpet any longer. The  
28 officers affected are entitled to deal with these  
29 allegations and rumours in public and so as to establish  
30 for once and for all whether there is any substance to

1           them. To suggest that a member of any police force  
2           colluded with a subversive organisation to facilitate the  
3           murder of a fellow officer must be the worst accusation  
4           that can be levelled against a law enforcement officer.

5  
6           At the opening public sitting of this Tribunal in March  
7           2006, counsel for one such named individual said that the  
8           allegation circulating in relation to his client was a  
9           "monstrous lie" and he wished to establish the falsehood of  
10          it. It is precisely in this context that the Tribunal has,  
11          at times, had to focus its investigations on specific named  
12          individuals. We emphasise at the outset that the fact of  
13          our inquiring into these individuals is no indication of  
14          their culpability and carries no suggestion that the  
15          Tribunal has made any conclusions in relation to these  
16          people.

17  
18          Furthermore, the nature of the information to be put before  
19          you will, on occasion, involve suggestions that one or more  
20          persons may have engaged in improper behaviour. The public  
21          are asked to remember that any such information is only one  
22          aspect of the information to be given to this Tribunal and  
23          that, in due course, information to the contrary may be  
24          adduced. It is only at the end of the public hearings that  
25          you, Mr. Chairman, can weigh up all of the information  
26          presented before you as evidence and come to any  
27          conclusions. It is therefore essential that neither  
28          commentators nor the public come to any conclusions before  
29          these hearings have concluded and all the evidence has been  
30          heard.

1  
2 **THE NATURE OF THE TRIBUNAL'S PRIVATE INVESTIGATION**

3  
4 **Starting Point**

5  
6 The public will undoubtedly want to ask what your counsel  
7 have been doing in their private investigative stage and I  
8 will now attempt to answer the question as succinctly as  
9 possible.

10  
11 Where to begin was the big question facing this Tribunal.  
12 Other inquiries have proceeded from pre-existing files and  
13 documents. We commenced our task with nothing but the Dail  
14 resolution and our terms of reference. It must be said  
15 that at times we found the process of gathering information  
16 extremely frustrating due to delays caused by the  
17 bureaucracy with which we had to negotiate. Every request  
18 for information from outside the jurisdiction was subject  
19 to review not only by the organisation to which the request  
20 was made, but often by several other authorities as well.  
21 The cross-border element unquestionably adds a very  
22 different dimension to the work of this Tribunal. It has  
23 meant that the timeline for making progress in gathering  
24 relevant information has been, to a considerable extent,  
25 outside our control.

26  
27 I want to say from the very outset that we have been  
28 mindful of the fact that public inquiries, of necessity and  
29 because of their very nature, can have an intrusive effect  
30 on people's lives and reputations even when they are only

1           peripherally involved in the issues under examination. It  
2           is for that reason that we have taken the utmost care to  
3           maintain the confidentiality of our preliminary  
4           investigation and to keep all of our work to date  
5           completely secret. We have not spoken to the press, and we  
6           had hoped, Mr. Chairman, that our efforts to protect  
7           individuals from speculation would be appreciated by both  
8           the press and the public, but possibly our silence was  
9           misinterpreted by some.

10  
11          The logical starting point for the preliminary  
12          investigation was the report of Judge Peter Cory  
13          recommending its establishment. We were given by our  
14          Government a copy of the unredacted report of Judge Cory.  
15          The first documentation we sought were copies of the  
16          materials with which Judge Cory was provided and to which  
17          he refers in his report. One might have expected that this  
18          material would have been readily made available to us at  
19          the outset of our preliminary investigation. It is with  
20          some regret therefore that I have to report that a  
21          significant initial delay in the private investigation was  
22          caused by the fact that some months passed from March 2006  
23          before we had sight of the very material upon which Judge  
24          Cory relied to recommend the Tribunal's establishment.

25  
26          Nevertheless, that is now water under the bridge, and I can  
27          confirm that we sought and ultimately obtained the  
28          cooperation of public authorities in the State and in the  
29          United Kingdom in order to access materials which had been  
30          given to Judge Cory.

1

2

**Documentation**

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At the time we began our work, those of Judge Cory's papers which were the property of the British were held in storage in the Cabinet Office in London. They were ultimately moved to a secure location in Northern Ireland and the Tribunal's legal team was provided the facility to read all the papers at that location.

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19

Some of the papers upon which Judge Cory relied did, of course, originate from An Garda Siochana. These included documentation in relation to the investigation into the arrangements for the meeting held at Dundalk garda station on 20th March 1989, an investigation conducted by then Assistant Commissioner Edward O'Dea in the days following the killings. Such documentation was ultimately made directly available to the Tribunal by An Garda Siochana.

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On reviewing the papers that Judge Cory had been given, we were able to identify other areas where information and documentation should be sought. Where the Tribunal's counsel identified files which may have relevant information in them, we requested sight of those files. Some of those files ultimately turned out to have no material of relevance to our terms of reference. However, it was important for us to have had sight of them: even if these files did not have information of direct relevance, they did provide a useful immersion into the modus operandi of the PIRA during the relevant period; they painted a



1 picture of the nature of subversive activity in the  
2 relevant geographical area and the overall security  
3 situation along the border. Moreover, even if a file  
4 proved to have no relevant information whatsoever, it was  
5 nevertheless important for us to have had sight of same in  
6 order that we can assure you, Mr. Chairman, and the public,  
7 that we have requested and been given access to any  
8 document which we considered might be relevant.

9  
10 Against this broad base of information, we began to see a  
11 road map. Armed with the general knowledge in relation to  
12 the security situation at the time, by cross referencing  
13 files, and with the assistance of information supplied on a  
14 confidential basis by potential witnesses, we were able to  
15 request specific documents from the PSNI and An Garda  
16 Siochana which had not hitherto been deemed relevant by  
17 either security force. In this respect, on behalf of the  
18 Tribunal's legal team, I would like to thank both the PSNI  
19 and the An Garda Siochana for their cooperation and for the  
20 many hours they spent with us to ensure that our requests  
21 for information and the documentation were met.

22  
23 In terms of papers held by the British authorities, once we  
24 were satisfied that the process of identifying potentially  
25 relevant documentation was substantially complete, we  
26 carried out a full review of the documentation held for us  
27 at the secure location in Northern Ireland. We identified  
28 all those documents which we considered of relevance such  
29 that they may be needed for the purposes of public hearing.  
30 The PSNI, MOD, and Northern Ireland Office then made

1 voluntary discovery of those documents, redacted in certain  
2 cases to address the protection of life, privacy and  
3 national security.

4  
5 Information recently made available to us suggests that  
6 British authorities hold other relevant documents which we  
7 have not yet seen. A request for sight of those documents  
8 is currently outstanding.

9  
10 I want to emphasise two points.

11  
12 The first is that all of the documents held at the secure  
13 location in Northern Ireland were made available to the  
14 Tribunal in an unredacted form. Redactions were only made  
15 once we reached the stage of identifying those documents we  
16 may wish to use in public hearings.

17  
18 The second point I wish to make is that the process of  
19 redacting documents has, thus far, been a flexible and  
20 pragmatic one. The British authorities have proposed  
21 redactions. In circumstances where the Tribunal's team,  
22 having had sight of the documents in their unredacted form,  
23 felt that some relevant information or important nuance was  
24 lost by redaction, we were able to go back to the British  
25 authorities. We then engaged with them with a view to  
26 reaching an agreement which addressed their security  
27 concerns, our shared concerns as to the protection of life,  
28 and the Tribunal's concerns to put into evidence relevant  
29 material and to be fair to all parties. I am pleased to  
30 report that this pragmatic process, which is ongoing, has

1 proved satisfactory to date.

2  
3 I now want to turn to explain the processing of documents  
4 emanating from An Garda Siochana. An Garda Siochana  
5 delivered many hundreds of files to the Tribunal. For the  
6 most part, these were held by the Tribunal in our secure  
7 storage facility. However, many of the files and documents  
8 were highly sensitive and confidential and therefore  
9 custody and control of such files remained, at all times,  
10 with An Garda Siochana in the interests of security.  
11

12 At a private sitting of this Tribunal on the 29th April  
13 2010, you, Mr. Chairman, made a Consent Order to the effect  
14 that the Commissioner of An Garda Siochana make discovery  
15 of all documentation "*whatsoever relating to the issue*  
16 *under inquiry, or wherein any entry has been made relative*  
17 *to the said issue.*" An Affidavit of Discovery was  
18 subsequently sworn and delivered to the Tribunal. The  
19 Tribunal has agreed with the Commissioner's legal team  
20 arrangements for the processing of sensitive documents, the  
21 full public disclosure of which could give rise to risks in  
22 terms of State security or security of individuals.  
23

24 I know, Mr. Chairman, that you take very seriously the  
25 requirement that this be a public inquiry; however, I am  
26 also aware that, consistent with the Constitution, you will  
27 do your utmost to protect and vindicate the right to life  
28 of all persons. On occasion, therefore, you may deem it  
29 necessary to sit in private to deal with particularly  
30 sensitive documents or to hear evidence of a sensitive

1 nature. For the most part, however, it is anticipated that  
2 sensitive evidence can be put into the public domain in an  
3 agreed format which satisfies security concerns.  
4

#### 6 **Witnesses**

7 Having explained what we have been doing in terms of  
8 accessing relevant documentation, I want to turn briefly to  
9 the other main area of work during the preliminary  
10 investigation, the identification and interview of relevant  
11 witnesses. I will deal with this in more detail when I  
12 come to outline, later in this opening statement, the types  
13 of evidence which the Tribunal has gathered which were not  
14 before Judge Cory. Suffice it to say at this point that we  
15 made innumerable approaches to people and encouraged them  
16 to talk to us frankly and in confidence, in the belief that  
17 any information was better than none and may lead us to the  
18 truth of the matter. We were prepared to travel all over  
19 this island and elsewhere for the purpose of meeting the  
20 potential witnesses who may have relevant information. To  
21 date we have interviewed 214 potential witnesses: 107  
22 members or former members of An Garda Siochana; 42 retired  
23 RUC officers or serving PSNI officers; and 65 others,  
24 including politicians and telecoms personnel. A  
25 significant number of these were interviewed on more than  
26 one occasion. This work took up a considerable portion of  
27 the preliminary investigation, but such interviews often  
28 lead us into new lines of inquiry.  
29

#### 30 **Non-compellability of witnesses**

1  
2 Mr. Chairman, you will be aware that your powers, pursuant  
3 to the Tribunals of Inquiry (Evidence) Acts do not extend  
4 outside this jurisdiction for the purpose of compelling the  
5 attendance of any witness who you believe may have  
6 information of relevance to your inquiry. Such attendance  
7 has to be on a voluntary basis. Of necessity, it has taken  
8 some time to build up trust in the integrity and  
9 impartiality of the Tribunal so as to encourage witnesses  
10 from outside this jurisdiction -- and I think in  
11 particularly of former RUC colleagues of the late Chief  
12 Superintendent Breen and Superintendent Buchanan -- to come  
13 before you and assist you with your inquiry. We hope that  
14 in the coming weeks a significant number of those former  
15 colleagues who have spoken to us will respond positively to  
16 our request to attend these hearings and give their  
17 evidence to you, Mr. Chairman.

18  
19 I think it appropriate at this point to express our thanks  
20 to those members of both security forces who have spoken to  
21 us candidly and to express our admiration for these men and  
22 women who carried out their duties during very difficult  
23 times. Allegations of collusion are deeply hurtful to  
24 members of the security forces and impugn the integrity of  
25 all decent hard working policemen everywhere.

26  
27 Most of the witnesses interviewed have now made statements  
28 to the Tribunal and you have directed the attendances  
29 before you of such witnesses as you consider appropriate.  
30 It should be noted, Mr. Chairman, that at an earlier stage

1 in the inquiry we published notices in the paper inviting  
2 members of the public with relevant information to contact  
3 us. It should be emphasised that this process is ongoing  
4 and I would again, today, say to any member of the public  
5 who has information of relevance who has not yet spoken to  
6 the Tribunal, please to contact us immediately.

7  
8 **Protection of witnesses**

9  
10 Mr. Chairman, I think it important to recall here that any  
11 person who gives evidence before this Tribunal has  
12 protection under the Tribunals of Inquiry (Evidence) Acts.  
13 In this regard, I refer particularly to section 5 of the  
14 Tribunals of Inquiry (Evidence) Act 1979 which provides  
15 that evidence given by any witness before the Tribunal  
16 cannot be used against that witness in criminal proceedings  
17 in this State. The precise terms of section 5 are as  
18 follows:

19  
20 "A statement or admission made by a person before a  
21 Tribunal or when being examined in pursuance of a  
22 commission or request issued under subsection (1) of  
23 section 1 of the Principal Act shall not be admissible  
24 as evidence against that person in any criminal  
25 proceedings (other than proceedings in relation to an  
26 offence under subsection (2)(c) (as inserted by this  
27 Act) of that section)-- [and that, Mr. Chairman, is  
28 a reference to the offence of providing false testimony  
29 to the Tribunal] -- and subsection (3) of that section  
30 shall be construed and have effect accordingly."

1  
2 I am also pleased to report that the Tribunal has managed  
3 to secure from the British authorities undertakings that  
4 they too will not use evidence given by a witness before  
5 this Tribunal in criminal proceedings against that witness  
6 in their jurisdiction. In this regard, I wish to refer to  
7 a letter from the then Attorney General of England, Wales  
8 and Northern Ireland, the Right Honourable, the Baroness  
9 Scotland QC, to you of the 19th March 2009. This letter  
10 was in response to your request for an undertaking in  
11 similar terms to that which is found in the Tribunals of  
12 Inquiry (Evidence) Acts. In her reply to you, Baroness  
13 Scotland states as follows:

14  
15 *"I entirely understand and accept the reasoning behind*  
16 *your request. Whilst in practical terms it would*  
17 *always be difficult to seek to use evidence given to*  
18 *the Tribunal in a criminal trial I accept that an*  
19 *undertaking would reassure witnesses and, one hopes,*  
20 *lead to their giving the Tribunal every assistance in*  
21 *getting to the facts.*

22  
23 *[As an official from my office] explained in his*  
24 *letter, for reasons of consistency, I would like to*  
25 *provide and undertaking in the same terms as I*  
26 *provided to the Hamill and Nelson Inquiries. I have*  
27 *amended it very slightly from the version you have*  
28 *seen to make it clear on its face that the protection*  
29 *it gives extends only to Northern Ireland, England*  
30 *and Wales. I would not want Mr. Hamilton to think I*

1                   am trespassing on his jurisdiction. The undertaking  
2                   would read:-

3  
4                   An undertaking in respect of any person who  
5                   provides evidence to the Inquiry that no  
6                   evidence he or she may give before the Inquiry,  
7                   whether orally or by written statement, or any  
8                   written statement made preparatory to giving  
9                   evidence, nor any document or information  
10                  produced by that person to the Inquiry would be  
11                  used in evidence against him or her in any  
12                  criminal proceedings in England, Wales or  
13                  Northern Ireland except in proceedings where  
14                  he or she is charged with having given false  
15                  evidence in the course of this inquiry or  
16                  having conspired with or procured others to do  
17                  so."

18  
19                 Baroness Scotland went on to confirm that she was happy for  
20                 the Tribunal to make public the terms of this undertaking.

21  
22                 As you will be aware, Mr. Chairman, there has been a change  
23                 in government in the United Kingdom since Baroness Scotland  
24                 gave her undertaking therefore I also wish to refer to a  
25                 letter dated 21st September 2010 from the new Attorney  
26                 General for England and Wales, the Right Honourable Dominic  
27                 Grieve QC MP, to you, in which he states "it only remains  
28                 for me to confirm that in respect of any potential  
29                 prosecutions for England and Wales the undertaking given by  
30                 Baroness Scotland will continue in the same terms in which



1           *it was originally given."*

2

3           Mr. Grieve's office had already explained that in respect  
4           of Northern Ireland, pursuant to the Justice (Northern  
5           Ireland) Act 2002 and the devolution of policing and  
6           justice powers on the 12 April 2010, the Attorney General  
7           for England and Wales no longer also held the office of  
8           Attorney General for Northern Ireland. There is now a  
9           separate office-holder, the Attorney General for Northern  
10          Ireland, but the holder of this office has no prosecution  
11          discretion. The decision as to whether to prosecute is  
12          one for the Director of Public Prosecutions for Northern  
13          Ireland alone.

14

15          I therefore wish to refer also to a letter from Sir  
16          Alistair Fraser, the Director of Public Prosecutions for  
17          Northern Ireland, of 16 September 2010, to you, in which he  
18          states:-

19

20                   *"In pursuance of the Justice (Northern Ireland) Act*  
21                   *2002 as Director of Public Prosecutions for Northern*  
22                   *Ireland I confirm that the undertaking given by*  
23                   *Baroness Scotland will continue to be honoured in*  
24                   *Northern Ireland."*

25

26          We wish to express our gratitude to the Right Honourable  
27          the Baroness Scotland, to the Right Honourable Dominic  
28          Grieve QC MP and to Sir Alistair Fraser for their  
29          assistance in ensuring that any evidence given by a witness  
30          before this Tribunal cannot be used in criminal proceedings

1           against that witness in England, Wales or Northern Ireland.  
2           It is to be hoped that this, together with the statutory  
3           protection provided in this jurisdiction, will go a long  
4           way to encouraging witnesses to appear before the Tribunal  
5           and to give their evidence without fear of adverse  
6           consequence.

7  
8           In the course of our preliminary investigation, no issue  
9           arose as to the possible need for an undertaking to be  
10          given in respect of criminal proceedings in Scotland.  
11          Therefore, to date, we have not thought it necessary to  
12          seek an undertaking from Her Majesty's Advocate in Scotland  
13          in similar terms to that which was originally given by  
14          Baroness Scotland. However, should any party to the  
15          proceedings feel that it is necessary for them to have such  
16          an undertaking, I invite them to contact the Tribunal and  
17          we will, of course, make such a request of Her Majesty's  
18          Advocate in Scotland.

19  
20          **Time a constraining factor**

21  
22          I think it worth mentioning, Mr. Chairman, that our private  
23          investigation has undoubtedly been constrained, to some  
24          extent, by the passage of time since the fatal shootings of  
25          Chief Superintendent Breen and Superintendent Buchanan.  
26          The Tribunal is inquiring into events of more than 21 years  
27          ago and in relation to some aspects of its evidence, is  
28          looking back even further than that.

29  
30          In many cases, documentation from that period has been

1           preserved. I think particularly of the investigation files  
2           from CID investigation into the killings which was  
3           conducted by the RUC, and the corresponding investigation  
4           file from south of the border. In other instances,  
5           documents which we think should exist or which we have been  
6           informed did exist, are no longer available. In some cases  
7           this will require you, Mr. Chairman, to make a  
8           determination based on the evidence before you as to  
9           whether a document existed and has been lost, mislaid or  
10          destroyed, or whether it simply did not exist in the first  
11          place.

12  
13          In terms of witnesses, the Tribunal entirely accepts that  
14          people's recollections can neither be perfect nor complete  
15          after such a long period of time. Having said that, as  
16          will become apparent during the course of the public  
17          hearings, we have in the course of our preliminary  
18          investigation, been impressed how clear a memory some  
19          individuals have of the events of the late 1980s. It may  
20          well be that the traumatic nature of so many of these  
21          events imprinted them on people's memories.

22  
23          **NATURE OF EVIDENCE TO BE PUT BEFORE TRIBUNAL: CHRONOLOGY**  
24          **FROM ANGLO IRISH AGREEMENT OF 1985 TO REPORT OF**  
25          **CAMON/KIRWAN IN 2000**

26  
27          **Anglo Irish Agreement**

28  
29          I now want to turn to outline in summary form the nature of  
30          the evidence which will be put before you, Mr. Chairman.

1 Before turning to information in relation to the events  
2 leading up to the shootings, I wish to say something about  
3 evidence as to the general context in which the events of  
4 the 20th March 1989 took place.

5  
6 I want to deal first with the context in terms of the  
7 relationship between the police forces north and south of  
8 the border. As will become apparent in the course of the  
9 public hearings, at local and informal level there was  
10 considerable liaison between An Garda Siochana and the RUC  
11 going back to the 1970s and certainly in the early 1980s.  
12 However, this local and informal cooperation was put on a  
13 much more formal and structured footing with the  
14 ratification in 1985 by the Irish and British governments  
15 of the Anglo Irish Agreement. This agreement provided for  
16 greater cooperation between the Irish and British  
17 governments in relation to Northern Ireland. One critical  
18 aspect of the agreement concerned greater cooperation in  
19 relation to security matters.

20  
21 The Anglo Irish Agreement provided for the drawing up of a  
22 protocol by the RUC and An Garda Siochana to provide for  
23 structured and regular cooperation. This protocol, which  
24 was primarily drafted by an Assistant Commissioner of An  
25 Garda Siochana and an Assistant Chief Constable of the RUC  
26 provided for regular bi-monthly meetings at senior level in  
27 the two police forces.

28  
29 It was also part of this protocol that a specific role of  
30 Border Superintendent was created within both police

1 forces. The Border Superintendent was to be located in  
2 border districts and to be additional to the District  
3 Superintendent who had operational responsibility in that  
4 district. There was a Border Superintendent in Dundalk  
5 garda station. There was a Border Superintendent within  
6 'H' division in the RUC with responsibility for the border  
7 from south Down westwards along to south Armagh. A  
8 separate superintendent was responsible for the southwest,  
9 Fermanagh and Tyrone regions, and a further Border  
10 Superintendent for the northwest, Derry/Donegal border.

11  
12 Bob Buchanan was a Border Superintendent within 'H'  
13 Division. His office was at Armagh RUC station. In his  
14 role as Border Superintendent, Bob Buchanan had regular  
15 contact with officers out of the border. In his role as  
16 Divisional Commander of 'H' Division, Chief Superintendent  
17 Breen also had such contact, although, as will emerge in  
18 evidence, probably less frequently than Superintendent  
19 Buchanan.

20  
21 **Gibson and Hanna Killings**

22  
23 During the course of hearings, we also intend to place the  
24 fatal shootings of Breen and Buchanan in a more specific  
25 factual context in terms of significant paramilitary  
26 operations carried out along the border. In the period  
27 from the mid to late 1980s Northern Ireland experienced  
28 what was possibly its worst period of violence. I wish to  
29 highlight to you, Mr. Chairman, that prior to the killings  
30 of Chief Superintendent Breen and Superintendent Buchanan

1 on 20th March 1989, there had been two very significant  
2 paramilitary operations within the previous two years.

3  
4 On 25th April 1987 Lord Justice Maurice Gibson and his wife  
5 Lady Cecily Gibson were killed by a 500lb IRA landmine at  
6 Killeen just north of the border on the main Dublin to  
7 Newry road. The Gibsons had returned from a holiday in  
8 Britain and had driven from the ferry in Dublin. They had  
9 just left their Garda escort and were crossing the border  
10 to pick up their RUC escort when the bomb exploded. The  
11 following year, on the 23rd July 1988, Robert James Hanna,  
12 his wife Maureen and seven-year-old son David were killed  
13 by an IRA landmine again at Killeen on the Dublin to  
14 Belfast road. The 1000lb bomb which killed them had been  
15 intended for a Northern Ireland High Court judge, Mr.  
16 Justice Higgins, who had travelled from the United States  
17 of America to Dublin on the same flight as the Hanna family  
18 but had been delayed at the airport. Both the Gibsons and  
19 Mr. Justice Higgins had been provided with a Garda escort  
20 boarder. Both the Gibson and Hanna bombings attracted the  
21 allegation of collusion.

22  
23 **How the meeting was arranged**

24  
25 Some evidence will be tendered in relation to the factual  
26 context which I have just discussed. The first main  
27 tranche of evidence before you in the public hearings will,  
28 however, address how the meeting between Chief  
29 Superintendent Breen and Superintendent Buchanan and Chief  
30 Superintendent Nolan of An Garda Siochana was arranged.

1 This meeting took place just after lunch on Monday 20th  
2 March 1989. The timing of the arrangement of the meeting  
3 is, of course, of potential relevance to various theories  
4 as to how the killings were set up and carried out.

5  
6 In respect of the arrangements, you, Mr. Chairman, will  
7 hear both oral evidence from Garda and RUC officers serving  
8 at that time and also some documentary evidence will be  
9 tendered. In relation to the latter, it is useful that the  
10 Tribunal is in possession of reports prepared almost  
11 immediately after the deaths of Chief Superintendent Breen  
12 and Superintendent Buchanan which will explain the sequence  
13 of events which lead to the meeting. It has to be said  
14 from our preliminary investigations, that not all of the  
15 evidence to be put to you in respect of the arrangement of  
16 the meeting, both oral and documentary, is fully  
17 consistent. This may simply be an aspect of the lapse of  
18 time since the meeting was arranged, and it will ultimately  
19 be a matter for you, Mr. Chairman, to resolve any factual  
20 issues which may arise in this regard.

21  
22 Without seeking in any way to pre-empt evidence that any  
23 witness may give, I can say that the late Chief  
24 Superintendent Breen's journal records that he attended an  
25 official function at Stormont Castle on the 6th March 1989.  
26 Further, on foot of our preliminary investigations, we  
27 understand that discussions at this function put in train a  
28 sequence of events which led to the two RUC officers  
29 travelling south of the border to discuss the possible  
30 cooperation of An Garda Siochana in a joint operation, by

1 authorities from both sides of the border, on lands owned  
2 by one Thomas Murphy of Ballybinaby, Hackballscross, County  
3 Louth.

4  
5 Bob Buchanan's journal indicates that on Thursday 16th  
6 March, he attended a meeting in Armagh with the Assistant  
7 Chief Constable for Rural East, at which, we understand,  
8 aspects of a possible joint operation were discussed. I  
9 think it fair to say that whereas it may have been apparent  
10 from this point that a discussion would have to take place  
11 very shortly thereafter with senior Gardai in Dundalk, the  
12 contemporaneous written reports suggest that it was not  
13 until the morning of Monday 20th March 1989 that the  
14 arrangements for the meeting which took place in Dundalk  
15 garda station that afternoon were made. However, as noted  
16 above, all the information we have gathered is not fully  
17 inconsistent in this respect; I present no conclusions and  
18 these factual issues are undoubtedly matters which you,  
19 Mr. Chairman, will have to explore further in the course of  
20 public hearings.

21  
22 **The timings on the day of the killings**

23  
24 We will also hear in the public phase of the Inquiry  
25 evidence as to the sequence of events on Monday 20th March  
26 1989. This will include evidence in relation to the  
27 arrival of the RUC officers at the garda station and what  
28 transpired when they left to head north of the border.  
29 Timings are of course potentially significant in relation  
30 to any allegation of collusion and the Tribunal has been



1 fastidious in its efforts to piece together a detailed and  
2 accurate sequence of events for the day in question. The  
3 information in respect of the timings will include evidence  
4 from those who were on or in the vicinity of the Edenappa  
5 Road at the time of the fatal shootings.

6 **Media Coverage**

7  
8 Having dealt with the arrangement for the meeting in  
9 Dundalk, the sequence of events on the day in question, the  
10 third matter to which the hearings will turn will relate to  
11 the immediate aftermath.

12  
13 First, in this regard evidence will be put before the  
14 Tribunal as to the fact that there was immediate  
15 speculation in the press as to how the IRA knew that Bob  
16 Buchanan and Harry Breen would be travelling on the  
17 Edenappa Road. In this regard, it is worth mentioning at  
18 this point that allegations of collusion by the southern  
19 security forces in the commission of the atrocities  
20 mentioned earlier on the border, in particular that of Lord  
21 Justice and Lady Gibson, had already been circulating in  
22 the media by March 1989.

23  
24 Media coverage in the immediate aftermath of the killings  
25 of Breen and Buchanan again raised the issue of collusion.  
26 The BBC, in its news bulletin on the night of the 20th  
27 March 1989 -- and this the be played before you,  
28 Mr. Chairman, in due course -- stated *inter alia* as  
29 follows:-

1                   *"It is understood that senior RUC officers closely*  
2                   *involved in anti-terrorist operations have been*  
3                   *concerned for some time about a possible leak of*  
4                   *information to republican paramilitaries from the*  
5                   *Irish police. Any such speculation in the past has*  
6                   *been firmly denied by the southern authorities but*  
7                   *after these latest murders it is understood that RUC*  
8                   *officers' concerns are growing."*

9  
10                  *"Mole fear in double killing"* was the banner headline in  
11                  the Irish Press the following day, 21st March 1989. The  
12                  Irish Times of the same date ran a full page headline:  
13                  *"Mole fear in double killing, Government to order inquiry*  
14                  *as IRA kill top level RUC men, Gardai to focus on breach of*  
15                  *security."* As I have already noted, examples of this press  
16                  coverage including the TV footage will in due course be put  
17                  into evidence to confirm that the question of Garda  
18                  collusion of very much a live issue in the aftermath of the  
19                  shootings and was definitely to the forefront of public  
20                  speculation in the wake of the deaths of Breen and  
21                  Buchanan.

### 22 23                  **Forensic Investigation**

24  
25                  On foot of the fatal shootings, a forensic murder  
26                  investigation was immediately opened by CID in Northern  
27                  Ireland. It is important to recall, because it may easily  
28                  be forgotten in the minutiae of all the evidence, that  
29                  Harry Breen and Bob Buchanan were killed outside this  
30                  jurisdiction, several hundred yards north of the border on

1 Edenappa Road. The killings occurred within the  
2 jurisdiction of Northern Ireland. Accordingly, a murder  
3 file of opened by RUC CID and remains open to this day. A  
4 corresponding police investigation was opened in this  
5 jurisdiction. This was carried out by the detective branch  
6 of An Garda Siochana in Dundalk was and headed up by  
7 Superintendent Tom Connolly. Fortunately, it would appear  
8 from our preliminary investigation that the investigation  
9 files on both sides of the border have largely been  
10 preserved and they will be put into evidence in due course.

11  
12 **Alan Mains' statement**

13  
14 As part of the investigation conducted in Northern Ireland,  
15 the then Staff Officer to the late Harry Breen, made a  
16 written statement in which he records that on the morning  
17 of Monday, 20th March, just prior to his departure from  
18 Dundalk, Chief Superintendent Breen expressed displeasure  
19 at having to travel south to Dundalk and expressed concern  
20 that a member of An Garda Siochana was in the pay of local  
21 republican Thomas 'Slab' Murphy. This statement was made  
22 by Chief Superintendent Breen's then Staff Officer, Alan  
23 Mains, on Tuesday, 21 st March 1989. The witness  
24 statements itself will be put into evidence and Mr. Mains  
25 will be a witness before this Tribunal.

26  
27 Although it's not recorded in his written statement, it is  
28 be Mr. Mains' evidence that on the morning of Monday, 20th  
29 March 1989, Harry Breen named the individual Garda about  
30 whom he was concerned and that he relayed this information

1 to senior RUC officers in the immediate aftermath of the  
2 killings. It appears, however, that the RUC did not pursue  
3 the matter further. As I will come to shortly, Mr. Mains  
4 provided an ancillary written witness statement in the year  
5 2000 which records the name of that Garda. This ancillary  
6 statement was provided at the request of An Garda Siochana.

7  
8 **Reaction of Commissioner Crowley and Chief Constable Hermon**

9  
10 The next aspect of the chronology of events is the official  
11 reaction given by both police forces in March 1989. The  
12 immediate response of both police forces to the speculation  
13 in the media, of which I have already spoken, was to reject  
14 unequivocally that speculation. The late Sir John Hermon  
15 gave a press conference on afternoon of the 21st March 1989  
16 during which stated as follows:-

17  
18 *"I have spoken twice today to the Commissioner and*  
19 *have been very concerned at these statements as to*  
20 *the possibility of a mole. We have each, within our*  
21 *own area of command, examined very carefully and I*  
22 *can say now, that categorically the evidence which*  
23 *we have formally confirms to us that there was no*  
24 *mole and we would ask that this be discounted very*  
25 *firmly and clearly."*

26  
27 The president of the RUC Superintendent's Association, the  
28 late Superintendent Patrick McCullough also dismissed the  
29 speculation about a mole as *"uninformed and at best*  
30 *mischievous"*.

1  
2 In turn, speaking at the Association of Garda Sergeants and  
3 Inspectors Annual Conference on the evening of the fatal  
4 shootings, the 20th March 1989, Commissioner Eugene Crowley  
5 rejected the allegation that an IRA mole in the Garda had  
6 provided the information which led to Breen and Buchanan's  
7 deaths. George Maybury, General Secretary of the AGSI was  
8 quoted in the Irish News on the 22nd March 1989 as  
9 rejecting the theory that there was a mole in Dundalk garda  
10 station.

11  
12 It will be a matter for you, Mr. Chairman, in due course,  
13 to evaluate the basis on which these assertions were made.  
14 However, by way of preliminary comment, in all the  
15 circumstances, it is perhaps difficult to see how both  
16 police forces could categorically reject the possibility of  
17 collusion within 24 hours of the deaths and in the absence  
18 of any detailed investigation. It may be that this  
19 apparently co-ordinated approach of the two police forces  
20 was motivated in part by an element of political  
21 expediency, namely the desire to safeguard security  
22 cooperation and goodwill between the respective security  
23 forces. The coming into force of the 1985 Anglo Irish  
24 Agreement, bringing with it a new era of cooperation  
25 between the two police forces, may have been a factor in  
26 the brisk and firm rejection of the allegation of collusion  
27 without the matter having been fully investigated at that  
28 moment in time.

29  
30 **O'Dea Report**

1  
2 The killings were considered by the Government on 21st  
3 March 1989, and the then Minister for Justice, Gerry  
4 Collins, was directed to ask the Commissioner of An Garda  
5 Siochana to conduct an investigation into what was termed  
6 "the circumstances and arrangements of the meeting can".  
7 By Order dated 10th March 2008, the High Court ordered  
8 disclosure pursuant to Article 28.4.3 of the Constitution,  
9 of documentation generated by that discussion at Cabinet.  
10 The Government consented to the making of that Order. The  
11 Government's decision to require an investigation will be  
12 put into evidence in due course.

13  
14 The investigation was conducted by the then Assistant  
15 Commissioner Edward O'Dea and took two days to complete.  
16 It consisted of interviewing in the main the individual  
17 Gardai who were on duty in Dundalk station on the afternoon  
18 of the 20th March 1989 for the purpose of ascertaining  
19 their whereabouts and clarifying whether or not they had  
20 seen the RUC officers in the station. Also interviewed  
21 were Gardai who had apparently been involved in telephone  
22 calls that morning concerning Breen and Buchanan's  
23 appointment with Garda Chief Superintendent John Nolan of  
24 Dundalk garda station. No further investigation was  
25 carried out.

26  
27 Based on these interviews, Assistant Commissioner O'Dea  
28 concluded, and I quote, "*I am satisfied from the*  
29 *investigations I have carried out that no member of An*  
30 *Garda Siochana leaked or passed any information concerning*

1           *the visit of the RUC officers to Dundalk station to any*  
2           *person outside the force."* This finding was relayed to the  
3           Secretary of the Department of Justice by Commissioner  
4           Eugene Crowley in a report dated 17th April 1989, wherein  
5           Commissioner Crowley stated that he was satisfied that  
6           there was no leakage of information by the Gardai on the  
7           proposed visit of the two officers.

8  
9           The nature and extent of the inquiries initially carried  
10          out by An Garda Siochana will be explored further and in  
11          greater detail as the report of Assistant Commissioner  
12          O'Dea is put into evidence.

13  
14          By way of general comment at this stage, I think it fair to  
15          that any concern about a security leak of the nature  
16          alleged should be investigated as a matter of extreme  
17          urgency, and that such investigation should have been  
18          carried out rigorously using the extensive powers given to  
19          the Gardai for the protection of our citizens.

20  
21          If such a claim is well founded, the person against whom  
22          the claim is made should be dealt with in order to restore  
23          faith in the system. Equally, if the claim is unfounded,  
24          that conclusion needs to be made decisively and  
25          transparently in order to restore the good name of any  
26          member affected by unsubstantiated and unfounded  
27          allegations and in order to ensure continuing public  
28          confidence and support for the police.

29  
30          Mr. Chairman, any assessment of the investigations carried

1 out is a matter for you. On the basis of our preliminary  
2 investigation, however, there is certainly some indication  
3 of a resistance by police forces on both sides of the  
4 border to get to the heart of the issue of the alleged mole  
5 in Dundalk garda station and to deal with that issue once  
6 and for all. The public denials and rejections of such  
7 speculation seem not to have reflected fully the state of  
8 knowledge of each force at the time such denials were made.

9  
10 **Toby Harnden 'Bandit Country'**

11  
12 In effect, it seems to us that on foot of our preliminary  
13 investigations that the allegation of collusion has been  
14 allowed to fester and was not, until the establishment of  
15 this Tribunal, fully confronted and dealt with. Perhaps,  
16 had a more rigorous approach been adapted earlier and a  
17 more rigorous investigation of the allegation of collusion  
18 been carried out in the immediate aftermath of the  
19 killings, it is possible that the present inquiry would  
20 never have been required. However, that is something upon  
21 which only you, Sir, can reach a conclusion at the end of  
22 the public hearings.

23  
24 The issue of alleged collusion did die down some weeks  
25 after the killings and remained relatively dormant for a  
26 considerable number of years. However, the speculation was  
27 revived over the course of 1999 and 2000 by a number of  
28 events. The first of these events was the publication in  
29 1999 by 'Bandit Country' re by the journalist Toby Harnden.



1 Mr. Harnden den wrote in detail about the deaths of Breen  
2 and Buchanan. He stated:

3  
4 *"Senior RUC and Garda officers told the author they*  
5 *were certain that information passed by a Garda*  
6 *officer enabled the IRA to ambush them as they*  
7 *returned from a meeting with Chief Superintendent*  
8 *John Nolan at Dundalk garda station."*

9  
10 Harnden recites the information, already referred to in  
11 this opening statement, to the effect that Chief  
12 Superintendent Breen had expressed unease at travelling to  
13 Dundalk and confided to a sergeant, *"that he was concerned*  
14 *about one Garda officer, identified here as 'Garda X', whom*  
15 *RUC Special Branch believed might be working for the IRA."*

16  
17 The relevant passages of Mr. Harnden's book will be opened  
18 to you, Sir, in due course. However, the following extract  
19 represents a reasonable summary of Mr. Harnden's account:

20  
21 *"Within two days, RUC CID investigators had concluded*  
22 *that Buchanan's visits to Dundalk had been noted*  
23 *previously and an ambush planned with meticulous*  
24 *care. The 10 or 15 IRA men involved had almost*  
25 *certainly been placed on standby but it had not been*  
26 *known Buchanan was planning to travel that day and*  
27 *the volunteers who took up position at the derelict*  
28 *[house] would have needed at least an hour's notice*  
29 *to do so. Analysis of video footage from cameras*  
30 *outside Newry station and along the A1 all but ruled*

1 out the possibility that IRA dickers had monitored  
2 the car on its way to Dundalk. There was also  
3 technical information which confirmed that the IRA  
4 had been contacted by someone within Dundalk station.  
5 RUC Special Branch then received intelligence that a  
6 Garda officer had telephoned an IRA member to tip him  
7 off. This sequence of events was confirmed a  
8 Detective Inspector L., a former member of Garda  
9 Special Branch, who said: 'I am afraid the leak came  
10 from a guard. Bob Buchanan was a lovely, lovely man  
11 and those murders were an absolute tragedy. The  
12 fact that one of my colleagues was involved made the  
13 whole thing ten times worse'."

14  
15 Later in his book, Mr. Harnden also alleged that a second  
16 Garda officer based in Dundalk was assisting the IRA:

17  
18 "For the families of Chief Superintendent Harry Breen  
19 and Superintendent Buchanan the anguish of their  
20 loved ones' deaths was exacerbated by the revelation  
21 that they had been betrayed by Garda X. Although Sir  
22 Ronnie Flanagan, the RUC Chief Constable, mounted an  
23 internal inquiry into the June 1989 killings [this  
24 should actually read March] at the request of the  
25 families there was little hope of a prosecution ever  
26 being brought. It also emerged that a second Irish  
27 police officer, 'Garda Y', had been working for the  
28 IRA in the border area between 1985 and 1991.  
29 According to both RUC and Garda sources, Garda X and  
30 Garda Y were responsible for the deaths of at least

1                   12 people."

2

3                   The twelve people to whom this passage refers include,  
4                   according to Mr. Harnden, Lord Justice and Lady Gibson and  
5                   the Hanna family.

6

7                   I think it is appropriate at this stage, Mr. Chairman, to  
8                   caution both the public and the press not to accept the  
9                   allegations in Mr. Harnden's book at face value. It is the  
10                  function of your Tribunal to seek to establish what  
11                  evidence lies behind such suggestions, and it is not until  
12                  all relevant material has been placed before you, Sir, that  
13                  any conclusions can be drawn. In this respect, the  
14                  Tribunal has met with Mr. Harnden, who currently resides in  
15                  Washington D.C., and has asked him to give evidence. Just  
16                  last week Mr. Harnden indicated that, in principle, he is  
17                  willing to do so.

18

19                  The Tribunal has also been provided with notes made by both  
20                  Garda officers and RUC officers who interviewed Mr. Harnden  
21                  in order to establish the evidential basis for the  
22                  allegations contained in his book. It is proposed that  
23                  these notes of interview be put into evidence before you in  
24                  due course.

25

26                  **Kevin Myers, 'An Irishman's Diary'**

27

28                  On the 10th March 2002, Mr. Kevin Myers published and  
29                  article in the Irish Times in which he repeated the  
30                  allegation of collusion, not only in relation to the

1 matters under inquiry in this Tribunal, but also in  
2 relation to a number of other murders which had occurred.  
3 These included the murders of six RUC officers, the Hanna  
4 family and Tom Oliver. Mr. Myers stated that a single  
5 retired member of An Garda Siochana was responsible for  
6 these deaths. In reference to the murders of Harry Breen  
7 and Bob Buchanan, Mr. Myers wrote:

8  
9 *"Two years later RUC Chief Superintendent Harry Breen*  
10 *and Superintendent Buchanan were ambushed while*  
11 *returning from a liaison meeting with Dundalk gardai.*  
12 *In order to comply with the law in the Republic they*  
13 *were unarmed and, so, unarmed, went to their deaths*  
14 *in an IRA ambush set up by a garda mole."*

15  
16 The Tribunal has met with Mr. Myers. Mr. Myers has  
17 provided a statement to the Tribunal and the Tribunal will  
18 call Mr. Myers to give evidence before you, Mr. Chairman,  
19 in due course.

20  
21 It should also be noted that, as with Mr. Harnden, Mr.  
22 Myers was interviewed by both Garda and RUC officers in  
23 relation to the allegations contained in his article. It  
24 is proposed that notes of those interviews will be put in  
25 evidence before you.

26  
27 **David Trimble and Jeffrey Donaldson**

28  
29 Mr. Myers' article generated a reaction on a number of  
30 levels.

1

2

First, David Trimble MP, MLA, wrote to an Taoiseach, Mr.

3

Bertie Ahern TD, on 25th March 2000, calling for an inquiry

4

to be held into the general allegation of collusion. This

5

letter will be tendered in evidence in due course.

6

7

Secondly, on the 13th April 2000, in a committee of the

8

House of Commons, Geoffrey Donaldson, MP for Lagan Valley,

9

alleged that a retired member of the Force, who he named,

10

was responsible for passing information to the Provisional

11

IRA. Mr. Donaldson referred in his statement to evidence

12

"that the retired member of the Force had passed

13

information to the IRA." He too called for the

14

establishment of a Tribunal of Inquiry into the allegation.

15

The Tribunal has met Mr. Donaldson to ask him about the

16

evidence to which he was referring. Mr. Donaldson has

17

indicated a willingness to attend before you, Mr. Chairman,

18

as a witness.

19

20

It is worth noting that, as far as we can ascertain,

21

neither the Gardai nor the RUC/PSNI asked Mr. Donaldson for

22

an interview in relation to his statement in the House of

23

Commons.

24

25

#### **Parliamentary Questions in Dail Eireann**

26

27

Thirdly, Mr. Myers' article gave rise to two parliamentary

28

questions to the then Minister for Justice, Mr. John

29

O'Donoghue, TD, in this jurisdiction on 13th April 2000.

30

In response thereto, Mr. O' Donoghue announced that he had

1 asked the Garda Commissioner to investigate the allegation  
2 of collusion again. In the course of delivering a prepared  
3 reply to the question the then Minister also stated:-

4  
5 *"I am advised by the Garda authorities that during the*  
6 *terrorist incidents in the border area throughout the*  
7 *1980s and 1990s, no tangible evidence was uncovered*  
8 *to show that information was passed by a Garda*  
9 *informant to the Provisional IRA."*

10  
11 Later on, in the course of an exchange in Dail Eireann with  
12 an opposition Deputy, the then Minister stated:-

13  
14 *"I said no tangible evidence was uncovered to show*  
15 *that information was passed by a garda informant to*  
16 *the Provisional IRA, I did not say that no evidence*  
17 *was uncovered."*

18  
19 The Tribunal will explore, in the course of the public  
20 hearings, what the then Minister was trying to convey by  
21 the use of the phrase *"tangible evidence"*, and what he  
22 meant when he said *"I did not say no evidence was*  
23 *uncovered."*

24  
25 One of the TDs who had tabled one of the questions was Jim  
26 Higgins TD, who stated in the course of exchanges with the  
27 then Minister that the rank and file gardai could name the  
28 informant and he said that he would give the name to the  
29 gardai if the Minister so wished. Mr. Higgins repeated in  
30 substance what he had said in the Dail when interviewed the

1 next day on RTE radio. Mr. Higgins will be called to give  
2 evidence. Mr. Higgins was never interviewed by the Gardai.

3  
4  
5 **Camon/Kirwan Report**

6  
7 As I have said, in April 2000 the then Minister for  
8 Justice, John O'Donoghue TD, asked the Garda Commissioner  
9 to investigate the allegation of collusion again.

10  
11 Detective Chief Superintendent Sean Camon was given the  
12 task of carrying out these further investigations and he  
13 concluded in his report that he had come across no evidence  
14 of collusion. In the course of his investigation he  
15 interviewed the retired member named by Mr. Donaldson. The  
16 retired member refused to make a statement to the Gardai on  
17 the allegation.

18  
19 The Detective Chief Superintendent also interviewed a  
20 second member of the Force mentioned under an alias rather  
21 than by name in the book 'Bandit Country'. The second  
22 member of the Force made a statement in which he denied any  
23 involvement in the murders of Breen and Buchanan.

24  
25 The Camon/Kirwan report also makes reference to a third  
26 member of the Force who prior to 2000 had pleaded guilty to  
27 countersigning eight false passport application forms which  
28 had ended up in the hand of three active members of the  
29 Provisional IRA. He was sentenced in the Special Criminal  
30 Court to a term of three years imprisonment. In his

1 defence, when interviewed by An Garda Siochana, he said he  
2 did not receive any monetary reward nor was he aware that  
3 the passport application forms were for the Provisional  
4 IRA. He alleged that he only completed the forms at the  
5 request of a former colleague, the second retired member of  
6 the Force named in Toby Harnden's book and to whom I have  
7 already referred. No charges to date have been proffered  
8 against this second retired member nor was there an  
9 in-depth investigation carried out into his background as a  
10 result of the said allegation.

11  
12 Chief Superintendent Camon in his report confirmed the full  
13 cooperation of the RUC. In response to an inquiry from  
14 Chief Superintendent Camon, the then Chief Constable of the  
15 RUC, Sir Ronnie Flanagan, had appointed the late Chief  
16 Superintendent William McBurney to review RUC papers in  
17 relation to the matter. On foot of this investigation, the  
18 RUC informed Chief Superintendent Camon *"that no evidence*  
19 *exists nor can any documentation be located which evidences*  
20 *Garda collusion with subversives."* However, as will become  
21 clear when I refer to Mr. Justice Cory's report below, this  
22 statement by the RUC omitted reference to at least two  
23 intelligence documents of relevance which subsequently came  
24 to light. The statement must, accordingly, be reassessed  
25 in the light of those documents.

26  
27 Detective Chief Superintendent Camon, accompanied by  
28 another officer, interviewed both Toby Harnden and Kevin  
29 Myers in the course of his investigation. As I have  
30 already indicated, details of those interviews will be put



1 into evidence before you, Chairman, in due course. Suffice  
2 it to say for the purpose of this opening statement that in  
3 his conclusions, Detective Chief Superintendent Camon noted  
4 that "[Harnden] refers to some relevant parts of his  
5 allegations as being 'circumstantial, hypothesis, a belief  
6 rather than something definite, not specific or more from  
7 an overview perspective'." Of Mr. Myers, the Detective  
8 Chief Superintendent concluded as follows: "In response to  
9 questions he speaks of having information but no evidence.  
10 On another occasion in response to a query he stated 'I  
11 cannot corroborate it and I don't have anything that may be  
12 used in evidence'."

13  
14 The Camon report also included the second statement by Alan  
15 Mains, Harry Breen's Staff Officer, made by Mr. Mains on  
16 the 15th September 2000, in which he provides the name of  
17 the Garda officer referred to in his statement of the 21st  
18 March 1989 about whom, he says, Harry Breen expressed  
19 concern on the day of his death. It does not appear that  
20 any action was taken by the RUC on foot of Mr. Mains'  
21 second statement.

22  
23 Detective Chief Superintendent Camon concluded in his  
24 report that "there is no evidence to suggest collusion  
25 between members of the Garda Siochana and subversives in  
26 the murder of Chief Superintendent Breen and Superintendent  
27 Buchanan or in the other cases as outlined in Toby  
28 Harnden's book 'Bandit Country' or in Kevin Myers' Irish  
29 Times article." The Camon report will be put in evidence  
30 before this Tribunal in due course.

1

2

**The Byrne report**

3

4

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**What was known as of 2000: Three individual Gardai named in**

14

**Camon Report**

15

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30

In a sense, the Camon and Byrne reports were the last act in the chronology of the investigation into collusion before the Weston Park Agreement and the enquiries of Judge Cory. I want to pause at this point to state that the Camon report identified two former members of An Garda Siochana who were serving in Dundalk on the 20th March, 1989 as having been the focus of the allegations by Harnden and Myers. It also deals with a third officer from the Louth Meath division who, at the time of the Camon report, stood charged before the Special Criminal Court with offences related to the signing of application forms used to procure false passports for members of PIRA. That person was subsequently convicted by the Special Criminal Court.

1 I have already said at the outset of the opening statement  
2 that this Tribunal is inquisitorial rather than adversarial  
3 in nature. This is a prosecution of no one and at this  
4 stage the Tribunal has reached no conclusions in relation  
5 to suggestions of collusion. The fact that the Tribunal  
6 will present evidence in relation to named individuals is  
7 no indication of that person's guilt or innocence. It is  
8 simply a function of the Tribunal's inquisitive role and a  
9 reflection of the fact that, as early as 2000, there were  
10 three named people about whom suggestions were being made.  
11 These three people must be investigated, not least so that  
12 if they are innocent, their names can be cleared.

13  
14 These three former guards referred to in the Camon report  
15 have applied for and been given representation before this  
16 Tribunal. They are: retired Detective Sergeant Owen  
17 Corrigan, retired Sergeant Leo Colton and former Sergeant  
18 Finbar Hickey.

19  
20 Owen Corrigan is the person named by Alan Mains as having  
21 been the guard about whom Harry Breen expressed concern on  
22 the morning of the day of his murder. Mr. Corrigan is  
23 identified as Garda B in the publicly available version of  
24 the Cory report (and accordingly as 'Garda X' in the book  
25 of Toby Harnden) and is the retired member in the Force  
26 referred to by Jeffrey Donaldson MP in the House of  
27 Commons. Mr. Corrigan was granted full representation  
28 before this Tribunal by your Order of 16th October 2006,  
29 Mr. Chairman.

1 The Tribunal has interviewed Mr. Corrigan on a number of  
2 occasions and I wish to state clearly he completely rejects  
3 the allegation of collusion. I think that it should also  
4 be noted that Mr. Corrigan has litigated to protect his  
5 good name in respect of an allegation of collusion: the  
6 High Court proceedings entitled *Corrigan v Associated*  
7 *Newspapers Ireland Limited trading as Ireland on Sunday*,  
8 which were compromised on the 22nd July 2009. The  
9 following apology was read to the High Court by counsel on  
10 behalf of the newspaper:

11  
12 "An article in Ireland on Sunday dated 21st December  
13 2003 entitled '*Garda B, the Crooked Cop Blackmailed*  
14 *Into Betrayal by the IRA*' was illustrated with a  
15 photograph of retired Garda Detective Sergeant Owen  
16 Corrigan.

17  
18 The report stated that Mr. Corrigan had passed  
19 information to the IRA which led to the killings of  
20 two RUC officers. It also stated that Mr. Corrigan  
21 was involved in other criminal activity. These  
22 statements are false and Ireland on Sunday withdraws  
23 them in their entirety.

24  
25 We accept that Owen Corrigan was a member of An  
26 Garda Siochana who served his force and country with  
27 distinction.

28  
29 Ireland on Sunday wishes unreservedly to apologise to  
30 Mr. Corrigan and his family for the distress and

1                   embarrassment caused by the article."

2  
3           Mr. Corrigan served as a Detective Sergeant in Dundalk for  
4           a long time. In the period 1963 to 1983 he received eight  
5           favourable commendations, together with financial reward,  
6           from An Garda Siochana. In addition, the Tribunal has a  
7           note prepared by Mr. Corrigan of significant cases in which  
8           he was involved in the period 1986 to 1987, comprising 28  
9           operations. He was involved in a number of significant  
10          anti-subversive operations during his career, including a  
11          number of high profile extraditions.

12  
13          Retired Sergeant Leo Colton is identified as Garda A in the  
14          publicly available version of the Cory report (and  
15          accordingly as Garda Y in the book of Toby Harnden). He is  
16          the person who Finbar Hickey alleges asked him to sign  
17          passport application forms which subsequently came into the  
18          hands of active IRA members. It is important to note that  
19          no charges have been proffered against Mr. Colton in  
20          relation to the procurement of false passports. In the  
21          publicly available copy of the Cory report, the passport  
22          affair is referred to as "the matter that, if established,  
23          would have been a disciplinary offence of relevance."

24          Mr. Colton has been granted representation before this  
25          Tribunal by your Order of 25 October 2006, Mr. Chairman.  
26          There is an outstanding application for a variation of this  
27          Order, which I understand you intend to deal with later  
28          today.

29  
30          The Tribunal has interviewed Mr. Colton. He denies any

1 involvement in the procurement of false passports and he  
2 completely rejects any suggestion of his having colluded in  
3 the deaths of Chief Superintendent Breen and Superintendent  
4 Buchanan.

5  
6 Mr. Colton joined An Garda Siochana in 1958. He received  
7 five favourable mentions in the period 1960 to 1973,  
8 together with financial reward. He was promoted to the  
9 rank of sergeant in 1966.

10  
11 Former Sergeant Finbar Hickey is the third individual Garda  
12 given representation before this Tribunal. He is the  
13 person who was convicted of counter-signing eight passport  
14 applications which ended up in the hands of three active  
15 members of the Provisional IRA. Mr. Hickey was granted  
16 representation before this Tribunal by your Order of 17th  
17 May 2011, Mr. Chairman.

18  
19 The Tribunal has interviewed Mr. Hickey on a number of  
20 occasions and he too completely rejects any suggestion or  
21 allegation that he colluded in the deaths of Chief  
22 Superintendent Breen and Superintendent Buchanan.

23  
24 Mr. Hickey joined An Garda Siochana in late 1980; had a  
25 favourable commendation in 1984 and was promoted to the  
26 rank of sergeant in February 1992.

27  
28 Given that these three individuals were named in the  
29 Camon/Kirwan report and have been the subject of rumours  
30 and speculation, the Tribunal has inevitably conducted

1 inquiries in respect of them.

2

3 I want to stress again that the very fact of such inquiries  
4 being carried out should in no way be taken as indicative  
5 of any view having been formed in relation to these three  
6 former Garda officers. I should also add at this stage  
7 that no other Garda officer who served in Dundalk has  
8 attracted unfavourable attention or speculation.

9

10 **NATURE OF EVIDENCE TO BE PUT BEFORE TRIBUNAL: THE CORY**  
11 **REPORT**

12

13 **Review of allegations of Harnden and Myers**

14

15 This chronology then brings me to the reason for this  
16 Tribunal's establishment: the report of judge Peter Cory.  
17 That report will be adopted into the record of this Inquiry  
18 in full in due course.

19

20 In recommending the establishment of this Tribunal, Judge  
21 Cory made clear that he did not do so on the basis of the  
22 allegations of Mr. Harnden and Mr. Myers. Judge Cory  
23 reviewed police notes of interviews with the two  
24 journalists and at paragraphs 2.118 to 2.120 of his report  
25 Judge Cory noted as follows:

26

27 *"2.118 In summary, the investigations into the book*  
28 *'Bandit Country' and the article 'An Irishman's*  
29 *Diary' indicate that the authors' allegations that*  
30 *there was a Garda mole or that a Garda member*

1           *facilitated the murder of Officers Breen and*  
2           *Buchanan, appear to be based upon hypothesis,*  
3           *speculation and a source or sources of information*  
4           *that the authors refuse to disclose. Statements*  
5           *and allegations were put forward as matters of fact*  
6           *when in reality they were founded upon speculation*  
7           *and hypothesis. It would have been preferable if*  
8           *the book and the article had made this clear.*  
9           *Fairness to the victims' families demanded no less.*

10  
11           2.119   *Every opportunity was afforded to the two*  
12           *journalists to the assist the Gardai with regard to*  
13           *an important aspect 69 murders, not only of Breen*  
14           *and Buchanan, but of the Gibson once. Despite being*  
15           *given every opportunity, the authors failed to*  
16           *either disclose their sources of information or put*  
17           *forward any evidence.*

18  
19           2.120   *I find that I cannot base any finding of*  
20           *collusion, or possible collusion, on the contents of*  
21           *either Harnden's book 'Bandit Country' or Myers'*  
22           *Article 'An Irishman's Diary'."*

23  
24           **Review of intelligence material**

25  
26           Judge Cory then proceeded to review various intelligence  
27           reports with which he had been provided for the purpose of  
28           his inquiry. He refers to the following intelligence  
29           material:



1 (i) A report was received by the RUC a few years after the  
2 deaths of Chief Superintendent Breen and Superintendent  
3 Buchanan. This states that according to a source whose  
4 reliability could not be assessed, an unknown female in the  
5 Garda office at Dundalk was a PIRA contact who passed on  
6 information that facilitated the murder of the two  
7 officers. The publicly available version of the Cory  
8 report referred to "an identifiable contact" rather than  
9 an "unknown female"(paragraph 1.121. Judge Cory notes that  
10 it is unclear why the RUC did not refer to this report when  
11 responding to the request from An Garda Siochana for  
12 information for the purposes of the Camon/Kirwan  
13 investigation in 2000. As noted above, the RUC reported  
14 *"no evidence exists nor can any documentation be located*  
15 *which evidences Garda collusion with subversives."* The  
16 omission of any reference to the intelligence report  
17 referring to an "unknown female" is somewhat puzzling.  
18 Judge Cory suggests that, *"[it]may be that because the*  
19 *report was ungraded it was considered of such little value*  
20 *that no reference to it was needed"* (paragraph 2.129).

21  
22 Your legal team has had sight of this report and is  
23 currently engaging with the PSNI in relation to the  
24 preparation of a précis of the report which can be used in  
25 public hearings. The purpose of the précis is to preserve  
26 all of the essential and relevant elements of the  
27 intelligence whilst addressing the PSNI's concerns for the  
28 protection of the life and privacy of the source. This  
29 procedure has been followed in relation to other  
30 intelligence provided by the PSNI.

1  
2 (ii) The second report referred to by Judge Cory was  
3 received by the Gardai many years after the shooting. This  
4 indicates, by way of double hearsay, that there was a  
5 contact within the Gardai who had passed on information  
6 that "facilitated" the murder of Lord Justice Gibson and  
7 the two RUC officers after their visit to Dundalk garda  
8 station (paragraph 2.122). I can confirm that the  
9 Tribunal's lawyers have seen this report in full. It  
10 should be noted that contrary to what is stated at  
11 paragraph 2.122 of the Cory report, this intelligence was  
12 received in 1990.

13  
14 (iii) The third report referred to by Judge Cory was  
15 received by the RUC more than a decade after the murders.  
16 The source was graded 'high', indicating that the source  
17 was considered reliable and had provided reliable  
18 information in the past. The source reported that an  
19 administrator based in an unknown location in Ireland, who  
20 organised meetings between An Garda Síochána and the RUC in  
21 1989, was responsible for the leak that led to the deaths  
22 of Breen and Buchanan (paragraph 2.123).

23  
24 (iv) The fourth report was received by the Gardai a few  
25 weeks after the ambush. It was assessed as probably true  
26 and emanating from a previously reliable source. It  
27 indicated that on the day of the murders, the IRA had men  
28 in position on four roads, the largest concentration being  
29 on the Carrickastrick Road, the main Dundalk-Forkhill  
30 road. The report stated that over 20 IRA men were involved

1 in the operation which was in place for over one week  
2 before the killings. The report went on to provide details  
3 as to the identity of the planners and the participants,  
4 material which Judge Cory considered was not relevant to  
5 the issue of whether or not there is collusion (paragraph  
6 2.131).

7  
8 (v) The fifth report referred to by Judge Cory was  
9 received by the Gardai four days after the shootings and  
10 records an eye witness account (paragraph 2.132).

11  
12 (vi) The sixth report was prepared by a Garda  
13 Superintendent in Dundalk, based upon information received  
14 from a reliable source. It reported, *inter alia*, that over  
15 20 persons were involved in the operation; that the  
16 operation had continued each day for over a week; and that  
17 the aim of the operation was to abduct and interrogate the  
18 RUC officers (paragraphs 2.133 to 2.138).

19  
20 (vii) The seventh document referred to by Judge Cory was  
21 held by the British Ministry of Defence and was prepared by  
22 the 1st Battalion Royal Regiment of Fusiliers. This is a  
23 summary of the operation written on the 25th March 1989.  
24 It describes the location of the fatal shootings as  
25 "*excellent ambush position; it is 400m north of BCP [Border*  
26 *Check Point] 10; dead ground to OP [Observation Point],*  
27 *R21C, where the road hits a sharp rise but is covered from*  
28 *view from other areas by trees.*" The report then  
29 summarises eyewitness accounts from what transpired on the  
30 Edenappa Road (paragraphs 2.139 to 2.140). Judge Cory

1            comments that *"from this report it could be taken that the*  
2            *army was impressed with the suitability of the site for an*  
3            *ambush."*

4  
5            (viii) Judge Cory also refers, in summary form, to  
6            vehicle surveillance. He notes that one army vehicle  
7            surveillance report indicates that Superintendent  
8            Buchanan's car was being followed by a member of the  
9            Provisional IRA on the 15 March, five days before the  
10          murder (paragraph 2.147). The Tribunal's legal team has  
11          seen this report and will put it into evidence before you,  
12          Mr. Chairman.

13  
14          (ix) Judge Cory also refers to a traffic analysis  
15          conducted by army intelligence after the murders (paragraph  
16          2.148). Your legal team has had sight of this traffic  
17          analysis in full. The analysis, dated 6 June 1989,  
18          determined that a total of four vehicles had been regularly  
19          sighted within the vicinity of Superintendent Buchanan's  
20          car. Two were eliminated as likely being due to other than  
21          terrorist reasons. One was linked to PIRA and had been  
22          seen travelling in the same direction as Buchanan's car,  
23          within a short space of time, on at least three occasions.  
24          The fourth vehicle was spotted on three separate occasions  
25          at a permanent vehicle checkpoint in the vicinity of Bob  
26          Buchanan's car and travelling in the same direction as it.  
27          In one instance, the vehicles were separated by only one  
28          minute and the report concluded that the odds against this  
29          happening at random are very high.

1 An agreed version of the analysis will be put into evidence  
2 before you. The agreed version omits the specific car  
3 registration numbers and the names of owners. This is to  
4 protect the privacy of the owners of the many cars which  
5 were innocently in the vicinity of Superintendent  
6 Buchanan's car.

7  
8 (x) Finally, towards the end of his report Judge Cory  
9 referred to a further intelligence report recently provided  
10 to him by the PSNI. This report contains information  
11 received from an agent, graded fairly reliable, in 1985.  
12 The agent reported that he or she had heard that Garda B,  
13 as described in the publicly available version of the  
14 report, was passing on information to the Provisional IRA  
15 (paragraph 2.151). As I have already noted above, Garda B  
16 is retired Sergeant Owen Corrigan. It is somewhat strange  
17 that no mention was made of this report when the RUC  
18 informed An Garda Siochana, in 2000, that *"no evidence  
19 exists nor can any documentation be located which evidences  
20 Garda collusion with subversives."* Moreover, it's not  
21 entirely clear why this report was only given to Judge Cory  
22 late in the day, so to speak, in his investigation. I  
23 shall return to this 1985 intelligence in due course.

24  
25 **Kevin Fulton Statement**

26  
27 The paragraph 2.149 of his report, Judge Cory noted that on  
28 9 September 2003, Kevin Fulton delivered to him the  
29 following statement:  
30

1                   *"In 1979, I enlisted in the British Army. Within*  
2                   *months of my posting I was recruited by a British*  
3                   *Intelligence agency to act as an agent. In this*  
4                   *capacity, I became a member of the Provisional IRA.*

5  
6  
7                   *On one occasion in the late 1980s, I was with my*  
8                   *senior IRA commander and another individual in my*  
9                   *car. I knew the other individual to be Sergeant*  
10                  *Owen Corrigan. I was introduced to Owen Corrigan.*  
11                  *I knew that Owen Corrigan, who was stationed at*  
12                  *Dundalk, was passing information to the Provisional*  
13                  *IRA.*

14  
15                  *I was in Dundalk on the day of the ambush of*  
16                  *Superintendent Buchanan and Chief Superintendent*  
17                  *Breen. I am aware that, after the ambush took place,*  
18                  *my senior IRA commander was told by a member of PIRA*  
19                  *that Owen Corrigan had telephoned the Provisional IRA*  
20                  *to tell them that Officers Breen and Buchanan were at*  
21                  *Dundalk station.*

22  
23                  *I should add that I know nothing about the murder of*  
24                  *Lord Justice and Lady Gibson.*

25  
26                  *I have read this statement and its consents are true*  
27                  *And accurate."*

28  
29                  *Assessment of Kevin Fulton Statement*  
30

1 I have cited the Fulton statement in full as it proved to  
2 be significant, if not a determinative, factor in Judge  
3 Cory's conclusions and in the subsequent establishment this  
4 Tribunal, Mr. Chairman. Judge Cory noted that *"in*  
5 *delivering his statement to me Fulton knowingly placed*  
6 *himself in a dangerous position. He had reasonable ground*  
7 *to believe that by doing so he made himself a threat to and*  
8 *a target of some organisations. Those charged with making*  
9 *findings of fact may conclude that this adds to the*  
10 *credibility of the document."*

11  
12 Judge Cory went on to note that the 1985 intelligence also  
13 suggesting that Owen Corrigan was passing information to  
14 the Provisional IRA *"could be taken as providing some*  
15 *independent confirmation of Kevin Fulton's statement."* In  
16 so doing, he stated that the agent who had provided the  
17 1985 information was not Kevin Fulton. I should add that  
18 the Tribunal's legal team has independently verified that  
19 this is the case. He also noted that Owen Corrigan had  
20 been on duty at Dundalk station on the day of the ambush.

21  
22 **Recommendation of Judge Cory**

23  
24 That the Kevin Fulton statement and the 1985 intelligence  
25 tipped the balance towards recommending that a tribunal be  
26 established is clear from paragraphs 2.159 to 2.162. To  
27 refresh your memory as to Judge Cory's reasoning, Mr.  
28 Chairman, it is worth citing those three paragraphs in  
29 full.

1                   *"2.159 The factors and the intelligence reports*  
2                   *received shortly after the murder considered by*  
3                   *themselves might be thought to point to a conclusion*  
4                   *that PIRA did not need any information from or*  
5                   *collusion by the Gardai to set up the ambush and*  
6                   *carry out the murders.*

7  
8                   *2.160 The statement of be Kevin Fulton must now be*  
9                   *added to the mix and carefully considered. Standing*  
10                  *alone it could be found to constitute evidence of*  
11                  *collusion on the part of a Garda officer. It would*  
12                  *explain the great precision of the timing of the*  
13                  *ambush. It would as well add credence to the second*  
14                  *of the recent intelligence reports which spoke of a*  
15                  *Garda source in Dundalk station and, perhaps to a*  
16                  *lesser extent, the third report which also spoke of a*  
17                  *Garda leak.*

18  
19                  *2.161 The intelligence report received from the PSNI*  
20                  *on the 22 September 2003 must also be considered. It*  
21                  *will be remembered that this report was received by*  
22                  *the RUC in the mid-1980s from a person they*  
23                  *considered to be a "fairly reliable" source. It*  
24                  *indicated that Owen Corrigan [Garda B in the publicly*  
25                  *available version of the report] a Sergeant in the*  
26                  *Garda was passing information to PIRA. This might be*  
27                  *found to constitute support for or confirmation of*  
28                  *the statement of Kevin Fulton.*

29  
30                  *2.162 I have carefully considered all the relevant*



1           *material, the relevant factors, the intelligence*  
2           *reports and the Fulton statement. I have concluded*  
3           *that the documents reveal evidence that, if accepted,*  
4           *could be found to constitute collusion. As a result,*  
5           *there must be a public inquiry. That inquiry might*  
6           *well be limited considering the activities of Owen*  
7           *Corrigan from 1987 through 1992."*

8  
9           The final line of paragraph 2.162, which I have just read,  
10          was omitted from the publicly available version of the Cory  
11          report. In the event, the terms of reference proposed by  
12          the Minister of Justice and adopted by resolutions of the  
13          Oireachtas were broader than that suggested by Judge Cory.  
14          However, the judge's express reference to the activities of  
15          one Garda serves to highlight why it has been necessary  
16          to this Tribunal, in its private investigation, to  
17          explore in detail the careers of members of the Force  
18          around who suspicion has circulated. The inquiry cannot be  
19          conducted otherwise.

20  
21          However, it is also important to note that, in recommending  
22          an inquiry and in suggesting that it look at the activities  
23          of one named Garda, Judge Cory made no findings of fact.  
24          Indeed, he stated that many of the circumstances of the  
25          ambush, and some of the intelligence reports, tended to  
26          suggest that there was no collusion. However, other  
27          material reveals evidence that -- and I emphasise the  
28          following words of Judge Cory -- "if accepted," could be  
29          found to constitute collusion. The judge did not,  
30          therefore, accept or reject the evidence of Kevin Fulton or

1 the contents of the 1985 intelligence. Such findings of  
2 fact are for this Tribunal to make, and, as I have  
3 emphasised now on a number of occasions, are to be made  
4 only after the totality of the evidence has been heard.

5  
6 **NATURE OF EVIDENCE TO BE PUT BEFORE TRIBUNAL: ADDITIONAL**  
7 **MATERIAL UNCOVERED BY THE TRIBUNAL IN PRIVATE INVESTIGATION**

8  
9 **Introduction**

10  
11 I now want to turn to consider what new material, in  
12 addition to that which was put before Judge Cory, we have  
13 uncovered in the course of our private investigation.

14  
15 Given their centrality to Judge Cory's recommendations, I  
16 propose to address first the 1985 intelligence and the  
17 statement of Kevin Fulton.

18  
19 **1985 Intelligence**

20  
21 The Tribunal has seen in their original form each of the  
22 PSNI/MOD intelligence reports referred to by Judge Cory and  
23 which I have already summarised. This includes the 1985  
24 intelligence alleging that Mr. Corrigan was passing  
25 information to Provisional IRA.

26  
27 With the assistance of the PSNI, the Tribunal's legal team  
28 has spoken to the RUC officer who received the information  
29 contained in the 1985 intelligence. As I have already  
30 stated, we were able to verify with that officer that, as

1           stated by Judge Cory, Kevin Fulton was not the source of  
2           the 1985 intelligence.

3  
4           In the preliminary investigation, the Tribunal has gone to  
5           great lengths to establish what action was carried out on  
6           foot of the receipt of this intelligence in 1985. We have  
7           sought to establish in particular, to whom this information  
8           was disseminated, and whether the information contained  
9           therein was communicated to An Garda Siochana in any shape  
10          or form. To this end, we have requested both the PSNI and  
11          An Garda Siochana to carry out extensive searches to  
12          uncover any documentation relating to the 1985  
13          intelligence. Other than the intelligence itself, those  
14          searches have yielded no such material. The PSNI has  
15          confirmed that there is no written record of the  
16          intelligence having been passed to An Garda Siochana.  
17          While the absence of any documentation surrounding such a  
18          serious allegation does seem surprising, it has been  
19          emphasised to us that very sensitive matters were sometimes  
20          communicated on an oral basis only. It is for that reason  
21          that the PSNI is not in a position to confirm whether or  
22          not this information was in fact passed to An Garda  
23          Siochana.

24  
25          In addition to requesting documentation searches, the  
26          Tribunal has spoken to a number of former RUC officers who  
27          served in senior Special Branch positions in 1985,  
28          including those who served at Special Branch Headquarters  
29          at RUC Headquarters in Knock Road in 1985. It was to  
30          Special Branch Headquarters that, we understand, the 1985

1 intelligence report was first submitted by the officer who  
2 received the information contained therein. In speaking to  
3 these officers, we have sought to establish first, whether  
4 they recall receiving or being aware of the intelligence in  
5 1985, and, secondly, how such intelligence would be  
6 processed, disseminated and acted upon in the normal  
7 course.

8  
9 Similarly, we have spoken to retired Gardai who held senior  
10 positions in Garda Crime and Security branch in 1985 to  
11 establish whether they were made aware of this  
12 intelligence.

13  
14 We expect to hear evidence from both the RUC Special Branch  
15 personnel and the Garda Crime and Security personnel to  
16 whom I have referred.

17  
18 Unfortunately, some of the key participants serving both  
19 RUC Special Branch and Garda Crime and Security at the  
20 relevant time are now deceased; and I must caution that  
21 this may mean that it may ultimately prove impossible to  
22 establish with any degree of certainty whether the 1985  
23 intelligence was disseminated, or to what action it led.

24  
25 **Evidence of Kevin Fulton**

26  
27 Kevin Fulton is originally from Newry in County Down. As  
28 set out in his statement to Judge Cory, his evidence will  
29 be that several months after his joining the British Army  
30 in 1979, he was recruited by Army Intelligence to be a

1 British agent. He was encouraged to infiltrate the  
2 Provisional IRA in his native community.

3  
4 I have already quoted in full Kevin Fulton's statement to  
5 Judge Cory. The essence of that statement is that he was  
6 once in a car with a senior IRA commander in Dundalk and  
7 then Sergeant Owen Corrigan. He knew Owen Corrigan to be  
8 passing on information to the Provisional IRA. He also  
9 states that after the ambush took place, his senior IRA  
10 commander was told by a member of the Provisional IRA that  
11 Owen Corrigan had telephoned a member of the organisation  
12 from Dundalk garda station to inform that person of the  
13 presence of the two RUC officers in the station.

14  
15 Kevin Fulton was granted full legal representation by order  
16 of this Tribunal dated 16th October 2006. The Tribunal's  
17 legal team has met with Kevin Fulton, in the presence of  
18 his solicitor, on a number of occasions from 2006 onwards.  
19 Mr. Fulton has elaborated on and expanded the statement he  
20 provided Judge Cory. He has also provided a detailed  
21 account of his career in the British Army and how he came  
22 to be associated with the Provisional IRA. He has provided  
23 considerably more detail in relation to the alleged meeting  
24 in his car between his Provisional IRA commander and Owen  
25 Corrigan, and has also expanded upon the circumstances in  
26 which he was told, after the ambush, that Owen Corrigan had  
27 passed on information in relation to the presence of the  
28 two RUC officers in Dundalk. Mr. Fulton does not claim to  
29 have had any part or role in the operation leading to the  
30 events of the 20th March 1989, but has given information in

1 relation to certain other subversive activities in the  
2 Newry/Armagh/Louth area.

3  
4 Kevin Fulton has indicated a willingness to give evidence  
5 before this Tribunal.

6  
7 I can also confirm that the Tribunal has interviewed the  
8 person who Mr. Fulton alleges was his senior IRA commander  
9 in Dundalk. This person denies that the meeting described  
10 by Mr. Fulton ever took place and refutes Mr. Fulton's  
11 evidence.

12  
13 **Interviews with Garda and RUC officers**

14  
15 Assistant Commissioner O'Dea interviewed Garda officers on  
16 duty from 2 p.m. on Monday 20th March 1989, and who were  
17 working in Dundalk station that morning and who had some  
18 involvement in the arrangements for the meeting between the  
19 two RUC officers and Chief Superintendent John Nolan. The  
20 statements provided to the O'Dea investigation were quite  
21 brief setting out what duties were carried out by the  
22 person concerned during the day, whether they had seen the  
23 RUC officers or were aware they were in the station.

24  
25 Much of the initial phase of the Tribunal's private  
26 investigation involved the re-interview of all of those who  
27 had been interviewed by Assistant Commissioner O'Dea.  
28 Given the lapse of time, quite understandably, many of  
29 these officers could not elaborate on their statement to  
30 O'Dea and relied heavily on that statement in terms of

1           their evidence to this Tribunal; indeed a surprising number  
2           had no recollection of even making a statement to the then  
3           Assistant Chief Commissioner.

4  
5           We then considered it appropriate to cast the net in terms  
6           of potential interviewees more widely; while Commissioner  
7           O'Dea had interviewed only those on the morning shift who  
8           had a role in arranging the meeting, we sought to interview  
9           every Garda officer and civilian serving in Dundalk garda  
10          station on the day of the fatal shootings.

11  
12          We also then sought to interview RUC officers who might  
13          have been involved in or have knowledge of the arrangements  
14          for the meeting on the 20th March 1989. We interviewed  
15          Chief Superintendent Breen's Staff Officer, to whose  
16          statements I have already referred. We also interviewed a  
17          retired senior RUC officer with knowledge of events leading  
18          up to the meeting. This officer approached the Tribunal  
19          voluntarily. Both he and Chief Superintendent Breen's  
20          Staff Officer were able to identify other former RUC  
21          officers who may have relevant information; those officers  
22          in turn pointed us towards others; and through this  
23          iterative process, we were able to make contact with many  
24          of the RUC officers who served during the appropriate  
25          period and who had information of relevance. I must say  
26          that we were most grateful to Chief Superintendent Breen's  
27          Staff Officer and to the senior officer who approached us  
28          at an early stage in our preliminary investigation for  
29          their assistance in pointing us in very helpful directions.

1 At this juncture, I wish to make the following comment. As  
2 has already been stated, the Tribunal has no powers to  
3 compel witnesses outside the jurisdiction. We relied  
4 exclusively on the voluntary cooperation of former RUC  
5 officers in order to be able to talk to those officers.  
6 Unfortunately, some of the former RUC officers we wrote to  
7 chose never to reply to our requests for a meeting, and  
8 there was, in truth, nothing to be done about that.

9  
10 Others, a large number I am pleased to say, did agree to  
11 meet with us, and have been most cooperative. To those  
12 individuals, I wish to express our sincere gratitude.

13  
14 Much of the information received from the former RUC  
15 officers related to the events leading up to and  
16 immediately after the deaths of Chief Superintendent Breen  
17 and Superintendent Buchanan. This is precisely the type of  
18 evidence which will be presented, for the most part in a  
19 chronological fashion, in the first few days of the public  
20 hearings, commencing on Thursday of this week, 9 June. I  
21 do not propose to anticipate what the evidence of  
22 individual witnesses will be in this opening statement.

23  
24 However, I do wish to identify here a second aspect to the  
25 information provided to us by former RUC officers, and it  
26 is this: during the course of our meetings with such  
27 officers, we were told repeatedly that there was in RUC  
28 circles in the 1980s a widely held concern in relation to  
29 Dundalk station. For some this was general: there was a  
30 general wariness about travelling to Dundalk given the



1 location of the station, both in terms of the town being  
2 perceived as a subversive heartland and of the station  
3 itself being in an open and visible situation. For others,  
4 the wariness extended to one's dealings with Garda  
5 officers, and in some instances, particular named officers.  
6 Some said they were put on their guard by RUC colleagues;  
7 others that they were put on their guard by members of An  
8 Garda Siochana with whom they had dealings. In the course  
9 of the public hearings, we shall explore this issue further  
10 and will endeavour to identify precisely what gave rise to  
11 this widespread wariness; whether it arose from rumour and  
12 caution, or emanated from something more tangible.

13  
14 As I said earlier, identifying potential witnesses,  
15 locating them, contacting them and interviewing them took  
16 up a significant portion of the private investigation. In  
17 addition to former RUC officers and Garda officers, we have  
18 also interviewed Irish and British politicians as to their  
19 knowledge of alleged collusion. These included former  
20 Ministers For Justice in the State; former Secretaries of  
21 State for Northern Ireland, and politicians from Northern  
22 Ireland who were on record as having made comments in  
23 relation to matters relevant to our terms of reference. We  
24 have also interviewed civilians, including civilian  
25 witnesses to the events of the 20th March 1989, journalists  
26 and former employees of the British military.

27  
28 **Additional Intelligence Material**

29  
30 A significant amount of time was also spent in the course

1 of the private investigation in identifying and seeking  
2 relevant documentation, including intelligence material. I  
3 have described the intelligence material referred to by  
4 Judge Cory in his report and explained how each of these  
5 intelligence documents is to be dealt with in Tribunal  
6 hearings.

7  
8 In addition to this material, the Tribunal has uncovered a  
9 number of intelligence reports coming from a variety of  
10 sources which were not before Judge Cory. Indeed, four  
11 such relevant intelligence reports were furnished to the  
12 Tribunal by Northern Irish authorities as recently as  
13 Thursday of last week, 2 June 2011.

14  
15 I would like to make a general comment about how this new  
16 material will be handled. These additional intelligence  
17 reports, or precis of them will, to the greatest extent  
18 possible, consistent with the protection of life and  
19 security, be put into evidence before this Tribunal. Where  
20 the reports are deemed so sensitive that the agencies from  
21 which they originate will not give consent for the use of  
22 the reports in a public hearing, the Tribunal may consider  
23 holding a private hearing so as to ensure protection of any  
24 sources.

25  
26 I do not intend to provide an exhaustive list of the  
27 additional intelligence material here today because the  
28 manner in which certain of these reports can be put into  
29 evidence is still being discussed with the agencies which  
30 furnished these reports.

1

2

I am in a position to refer to one intelligence report.

3

4

5

6

7

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27

#### **Discovery in relation to three named former Gardai**

28

29

30

Having set out the context in which the three named individuals have come to particular attention, I now wish

1 to summarise for the public the nature of our inquiries in  
2 relation to those individuals.

3

4 In this regard, it should be noted that at a private  
5 hearing on 28 May 2010, the Commissioner of An Garda  
6 Siochana consented to the making of an Order For Discovery  
7 by the Tribunal of *"all files, pertaining to the service*  
8 *in, of Owen Corrigan, Leo Colton, Finbar Hickey, retained*  
9 *by An Garda Siochana as part of the personnel records of*  
10 *the said individuals including their pay records."*

11 Relevant material from the discovered documents will be put  
12 into evidence in due course.

13

14 Also, I wish to inform the public that, at your direction,  
15 the Tribunal has obtained discovery of certain personal  
16 financial records from Mr. Corrigan and Mr. Colton.

17

18 The documents discovered, insofar as they are relevant,  
19 will be put before this Tribunal and the relevant  
20 individuals will have an opportunity to comment upon same  
21 when they appear as witnesses before the Tribunal.

22

23 **Noteworthy incidences in careers of three named former**  
24 **Gardai**

25

26 In addition to seeking discovery of personnel files and  
27 personal financial records, the Tribunal has carried out  
28 investigations in relation to specific aspects of the  
29 conduct of the three named individuals about whom I have  
30 already spoken.

1

2

Indeed, it seems to us, from our preliminary

3

investigations, that specific incidences in the careers of

4

these three individuals may have been among the reasons why

5

their names were linked with rumours or suggestions of

6

collusion.

7

8

In this regard, evidence will be submitted in respect of

9

the Garda investigation into the procurement of false

10

passports in the early 1990s and the subsequent prosecution

11

and conviction of Finbarr Hickey. The Garda discovery

12

includes the investigation file. As I have already stated,

13

Mr. Hickey's position is that he signed the passport

14

application forms at the request of Mr. Colton. Mr. Hickey

15

stated this in his original interview with An Garda

16

Siochana and has reiterated this when interviewed by the

17

Tribunal's legal team on a number of occasions.

18

19

Mr. Colton denies this allegation. He denied it when

20

interviewed by An Garda Siochana at the time of its

21

investigation into the matter, and he has denied it when

22

interviewed by the Tribunal as part of its preliminary,

23

private investigation.

24

25

In respect of Mr. Corrigan, An Garda Siochana has made

26

discovery of documents in relation to two potentially

27

significant incidences. The first of these was a criminal

28

prosecution against Mr. Corrigan for seeking to obtain

29

money by false pretences. The prosecution related to a

30

compensation claim made by Mr. Corrigan on foot of a road

1 traffic accident. The matter was listed for hearing in the  
2 District Court but did not proceed when a central witness  
3 for the prosecution did not turn up. In the course of its  
4 preliminary investigation, the Tribunal has reviewed all  
5 relevant documentation, including Garda reports, as to why  
6 the witness failed to turn up, and has interviewed a number  
7 of persons. Evidence in relation to this incident will be  
8 tendered during the course of the public hearings and the  
9 central witness from the original prosecution will give  
10 evidence.

11  
12 The second significant incident was the abduction of Mr.  
13 Corrigan by persons suspected to be members of the  
14 Provisional IRA in 1996. Mr. Corrigan was abducted from  
15 outside the Boyne Valley Hotel, Drogheda, together with a  
16 person who was regarded by An Garda Siochana as an  
17 associate of subversives. Two days later, Mr. Corrigan was  
18 admitted to Our Lady of Lourdes Hospital, Drogheda with  
19 injuries. He declined to make a statement to An Garda  
20 Siochana in respect of the abduction. The four new  
21 intelligence reports furnished to the Tribunal on Thursday  
22 last, to which I have already referred, relate to this  
23 incident.

24  
25 Mr. Corrigan subsequently brought a claim for compensation  
26 on the basis that his abduction came about as a result of  
27 his service in An Garda Siochana. Mr. Corrigan has  
28 reiterated this belief to the Tribunal when interviewed in  
29 the course of the Tribunal's private investigation. An  
30 Garda Siochana was of the different view that the abduction

1 was unrelated to Mr. Corrigan's service as a Garda officer,  
2 and opposed any award of compensation. The relevant  
3 documentation concerning this matter, including Garda  
4 reports on the incident, will be put into evidence before  
5 you, Mr. Chairman.

6  
7 **Evidence of Ian Hurst**

8  
9 A number of years ago, the Tribunal was contacted by a man  
10 named Ian Hurst who indicated that he had information  
11 relevant to the Tribunal's terms of reference. Mr. Hurst  
12 is also known as Martin Ingram. Mr. Hurst stated that he  
13 had formerly served as an army intelligence officer with  
14 the British Army, based at one time in Northern Ireland.  
15 He indicated that he was an agent handler with the Force  
16 Research Unit, FRU. Mr. Hurst also indicated that he was  
17 not at liberty to divulge his information of relevance to  
18 the Tribunal as he was prevented from doing so by order of  
19 the High Court of England and Wales. In effect, Mr. Hurst  
20 was subject to what was commonly known as a 'gagging order'  
21 which prevents him from divulging information relating to  
22 his service in the British military.

23  
24 Over a period of years, this Tribunal has been engaged in  
25 ongoing correspondence with Mr. Hurst, two different firms  
26 of solicitors nominated by him at different times, the  
27 Treasury Solicitor of England and Wales, the Northern  
28 Ireland Office and the Ministry of Defence, in an effort to  
29 arrange for Mr. Hurst to meet with the Tribunal's legal  
30 team in the course of the Tribunal's private investigation

1 for the purposes of providing information relevant to the  
2 Tribunal's terms of reference.

3  
4 I am pleased to inform you, Mr. Chairman, that in or about  
5 4 January 2011 we had a significant development in that,  
6 after consultation between the various interested parties,  
7 a Consent Order was made by the High Court sitting in  
8 London which had the effect of carrying the order  
9 restraining Mr. Hurst from speaking of matters relating to  
10 his employment with the British military. The variation  
11 permitted Mr. Hurst to meet with members of the Tribunal's  
12 legal team nominated by you for the purpose of providing  
13 them with information relevant to the terms of reference of  
14 this Tribunal. It was a condition of the variation that  
15 there would be no further dissemination of information so  
16 provide by Mr. Hurst, other than to the Sole Member of this  
17 Tribunal.

18  
19 Three members of the Tribunal's legal team met with  
20 Mr. Hurst outside the jurisdiction for the first time on 20  
21 January 2011. We reported the detail of that meeting to  
22 you, Mr. Chairman, and you determined that Mr. Hurst was  
23 indeed a person who had information of relevance to your  
24 Tribunal.

25  
26 Accordingly, the Tribunal wrote again to the Treasury  
27 Solicitor to seek a further variation of the High Court  
28 Order so as to allow the Tribunal to record information  
29 from Mr. Hurst and use that information to pursue relevant  
30 lines of inquiry.



1  
2 Further correspondence and consultation between the various  
3 interested parties ensued, and I am pleased to report that,  
4 by consent a further order varying the original order  
5 retaining Mr. Hurst from divulging information in relation  
6 to his employment by the British military was made in early  
7 April of this year. This variation permitted Mr. Hurst to  
8 provide a written statement to the Tribunal, and for the  
9 Tribunal to pursue lines of inquiry based on the content of  
10 same.

11  
12 Two members of the Tribunal's legal team met Mr. Hurst  
13 again outside the jurisdiction in the second half of April  
14 of this year. Mr. Hurst provided a written statement. On  
15 the basis of that statement, the Tribunal has sought to  
16 interview two persons outside the jurisdiction of the  
17 Tribunal and has also sought certain documentation from the  
18 British Ministry of Defence. We were currently pursuing  
19 these requests. On Thursday of last week, 2 June 2011, we  
20 were told that one of the two persons to whom I have  
21 referred to is willing to speak to us. This will have to  
22 be done at some point during the course of the next few  
23 weeks.

24  
25 By correspondence dated 31 May 2011, the Northern Ireland  
26 Office, which has been in consultation with the British  
27 Ministry of Defence and the British Treasury Solicitor,  
28 indicated to the Tribunal that a further Variation Order  
29 will be applied for to allow Mr. Hurst to give evidence.

1 Given the nature of the evidence, relating as it does to  
2 Mr. Hurst's time as an agent handler in the Force Research  
3 Unit, the British authorities have expressed a concern in  
4 relation to national security and the protection of life.  
5 In the light of those concerns, the British authorities may  
6 request that Mr. Hurst's evidence be heard in a private  
7 sitting. If such is the case, it does not follow that  
8 Mr. Hurst's evidence will not be put into the public  
9 domain.

10  
11 **Concerns expressed by Bob Buchanan and evidence of threat**  
12 **to Bob Buchanan**

13  
14 There is one aspect of new evidence uncovered by the  
15 Tribunal to which I wish to draw particular attention at  
16 this opening. I have already described the statement made  
17 by the then Sergeant Alan Mains in the immediate aftermath  
18 of the death of his superior officer, Chief Superintendent  
19 Harry Breen, and the further statement made by him in 2000.  
20 Since 1989, there has therefore been evidence that Harry  
21 Breen had expressed concern about the reliability, from an  
22 RUC security perspective, of Dundalk garda station.

23  
24 In the course of our preliminary investigation, we have  
25 uncovered evidence that Superintendent Bob Buchanan  
26 expressed concern about the presence of a particular  
27 officer in Dundalk garda station. This concern relates to  
28 one of the three individuals to whom we have already  
29 referred. Bob Buchanan expressed this concern to a Garda  
30 officer of a rank equivalent to his own a year prior to his

1 death and asked him to relay the concern to the Garda  
2 Commissioner. The Garda officer in question informed us  
3 that he then relayed those concerns to a senior Garda  
4 officer in Garda Headquarters in Phoenix Park in Dublin.

5  
6 The same Garda officer also informed us that he  
7 subsequently received intelligence of a threat to Bob  
8 Buchanan's life and that he also relayed this information  
9 to Garda Headquarters. He received this intelligence in or  
10 around six months before Bob Buchanan's death.

11  
12 On foot of this information, the Tribunal has requested  
13 that certain searches be carried out for documentation  
14 within An Garda Siochana and has also reviewed certain  
15 documents held by the PSNI in Northern Ireland. These  
16 include Bob Buchanan's personnel file. The result of the  
17 searches and any relevant documentation will be placed in  
18 evidence. The Garda officer who furnished this information  
19 to the Tribunal will, of course, be called to give evidence  
20 in the public hearing.

21  
22 **Investigations in relation to allegations of telephone**  
23 **tapping**

24  
25 In or about the 22 March 1989, an article appeared in the  
26 Cork Examiner suggesting that the Provisional IRA had used  
27 a 'hi-tec bug' in planning the ambush of two days earlier.  
28 On 3<sup>rd</sup> June 2005, an article appeared in Phoenix magazine  
29 stating that Provisional IRA learned of the movements of  
30 Harry Breen and Bob Buchanan because they had tapped the

1 telephones going into Dundalk garda station. It was  
2 suggested in this article that the tapping had been carried  
3 out at the Ramparts telephone exchange in Dundalk.

4  
5 This is one possible theory as to how the Provisional IRA  
6 were able to carry out the operation to ambush Harry Breen  
7 and Bob Buchanan. It is therefore being fully and  
8 comprehensively investigated by the Tribunal in the course  
9 of its preliminary investigation. The Tribunal has spoken  
10 to 17 witnesses from the employment of Telecom Eireann.

11  
12 The Tribunal's investigation in this regard has been  
13 carried out in parallel with a separate investigation of An  
14 Garda Siochana. The Garda Siochana investigation was  
15 commenced on foot of the publication of the Phoenix article  
16 to which I have already referred. The Garda investigation  
17 involved the interview of 100 witnesses, and the result of  
18 that investigation has been furnished to the Tribunal.

19 Both the content of the Tribunal's preliminary  
20 investigation and that of An Garda Siochana will be put  
21 before you, Mr. Chairman, in evidence and we envisage that  
22 a significant number of the witnesses from Telecom Eireann  
23 will be called to give evidence before you so that the  
24 possibility of the Provisional IRA having obtained the  
25 relevant information in the fashion alleged can be fully  
26 and properly evaluated.

27  
28 **Contact with former personnel of the Provisional IRA**

29  
30 The Tribunal is charged with inquiring into suggestions

1           that members of An Garda Siochana colluded with the IRA in  
2           the murders of Chief Superintendent Breen and  
3           Superintendent Buchanan. Central to our inquiry,  
4           therefore, is the question of whether the Provisional IRA  
5           were capable of carrying out this operation without outside  
6           help, and whether the organisation in fact did so.

7  
8           It will come as no surprise to the public that at an early  
9           stage in our investigation we sought contact with former  
10          personnel of the Provisional IRA so as to ask them how this  
11          operation was carried out.

12  
13          The Tribunal can confirm that it approached former  
14          personnel through an intermediary and, after a period of  
15          time, was furnished with a statement in which former  
16          personnel, who we understand were involved in the operation  
17          on Monday 20th March 1989, provided their account of that  
18          operation. In due course, this account will be put in  
19          evidence before the Tribunal.

20  
21          The Tribunal's legal team wanted clarification in respect  
22          of a number of aspects of the statement provided and,  
23          through an intermediary, posed a number of written  
24          questions to the authors of the statement. To those  
25          written questions, after a considerable period of time, we  
26          received written replies. They too will be put in evidence  
27          before the Tribunal.

28  
29          The Tribunal's legal team has sought to explore the extent  
30          to which the version of events provided by the former

1 personnel of the Provisional IRA, both in the original  
2 statement furnished and in the written replies to our  
3 questions, can be corroborated by other evidence and  
4 documentation. It became clear that there were aspects  
5 where insufficient detail had been provided to allow for  
6 corroboration. Accordingly, acting on your direction,  
7 Chairman, we requested, through our intermediary, the  
8 authors of the statement to meet with members of the  
9 Tribunal's legal team. We sought to progress this request  
10 over a considerable period of time. There was of course  
11 initial reluctance on the part of the former personnel  
12 concerned, and in particular, a concern as to the possible  
13 adverse consequences in terms of criminal prosecution which  
14 may ensue. In this respect, through our intermediary, we  
15 brought to the attention of the persons concerned the  
16 protection afforded under section 5 of the Tribunals of  
17 Inquiry (Evidence)(Amendment) Act 1979 and pursuant to the  
18 undertakings of the Attorney General for England and Wales  
19 and the Director of Public Prosecutions for Northern  
20 Ireland.

21  
22 I am pleased to report that, in what was a very significant  
23 development in our private investigation, in recent weeks  
24 three members of the Tribunal's legal team, in the presence  
25 of our intermediary, had a face-to-face meeting with three  
26 former personnel of the Provisional IRA. Those former  
27 members included former leadership at both national and  
28 local (south Armagh) level. One of the three former  
29 personnel had first hand knowledge of the Provisional IRA  
30 operation of 20th March 1989, and had a command role in

1           that operation. The former personnel gave a detailed  
2           account of the events leading to the deaths of Chief  
3           Superintendent Breen and Superintendent Buchanan and  
4           replied to questions posed by the three members of the  
5           Tribunal's legal team.

6  
7           A note of what was said at this meeting has been prepared  
8           by the intermediary, in consultation with the Tribunal,  
9           over the past few weeks, and will be put into evidence  
10          before you, Mr. Chairman. This note will supplement and  
11          expand upon the original statement and written answers.  
12          Obviously, this evidence will have to be tested in the  
13          normal way, with reference to relevant established facts,  
14          documentation and other evidence. At the end of that  
15          process, it will be a matter for you, Mr. Chairman, to  
16          assess the weight to be given to that written account.

17  
18          To the best of our knowledge, this recent meeting is an  
19          unprecedented development, and the Tribunal's legal team  
20          wishes to express our appreciation to those who facilitated  
21          it, and in particular, to the three former personnel who  
22          agreed to meet us face to face and provide us directly with  
23          information as to how the operation of 20th March 1989 was  
24          carried out. This Tribunal was established as part of the  
25          Peace Process and recognition must be given to the  
26          willingness of the former personnel to take the significant  
27          step of participating in a Tribunal of Inquiry  
28          investigating an operation carried out by the Provisional  
29          IRA.

1 As the Tribunal received the finalised note of our face to  
2 face meeting yesterday, it would be premature and  
3 inappropriate to say anything further about the contents of  
4 the account given by former Provisional IRA personnel at  
5 this stage.

6  
7 **CONCLUSION**

8  
9 **Grants of representation**

10  
11 Before I conclude this opening statement, I wish to confirm  
12 for the record that to date the following persons or bodies  
13 have been granted representation before this Tribunal:

- 14  
15 • Mrs. June Breen, the widow of the late Harry Breen;  
16 • Mr. William Buchanan and Mrs. Heather Currie, the  
17 children of the late Bob Buchanan;  
18 • the Commissioner of An Garda Siochana;  
19 • the Chief Constable of the Police Service of  
20 Northern Ireland;  
21 • Mr. Owen Corrigan;  
22 • Mr. Kevin Fulton;  
23 • Mr. Leo Colton;  
24 • Mr. Finbarr Hickey;  
25 • Mr. Freddie Scappaticci; and  
26 • the Attorney General of Ireland, representing the  
27 Public Interest.

28  
29 Any other party who seeks representation may, of course,  
30 make an application to you, Mr. Chairman, during the course



1 of public hearings.

2

3

4 **Broad structure of public hearings**

5

6 I also want to outline the broad structure of public  
7 hearings.

8

9 To a large extent , the Tribunal will organise for evidence  
10 to be given in a chronological sequence, from events prior  
11 to the meeting of 20th March 1989, through the ambush  
12 itself and immediate aftermath, and chronologically through  
13 the various investigations that have been conducted since  
14 that day. Such sequencing will, of course, not always be  
15 possible due to non available of witnesses and the fact  
16 that certain witnesses have evidence relevant to different  
17 parts of the chronology. Thus, the chronological approach  
18 should be regarded as a general, guiding principle rather  
19 than a hard and fast rule. I also wish to emphasise that  
20 the Tribunal will do its utmost to accommodate witnesses in  
21 terms of convenient dates for them to give their evidence.

22

23 The initial phase of public hearings will be structured as  
24 follows: On Thursday of this week, 9 June, the Tribunal  
25 will hear evidence from a number of witnesses concerning  
26 events prior to the meet of 20 March 1989. On the  
27 subsequent day, there will be a number of civilian  
28 witnesses who were present in or around the scene on the  
29 afternoon of Monday, 20 March 1989. On the following  
30 Tuesday, 14 June, there will be a number of Garda witnesses

1 dealing with arrangements for the meeting of the 20 March  
2 1989. The Tribunal will continue with an aspect of its  
3 private investigation which has recently arisen for the  
4 remainder of that week and then will resume public sitting  
5 on Tuesday 21 June.

6  
7 **Concluding remarks**

8  
9 Finally, Mr. Chairman, I want to emphasise that in  
10 everything we have done to date, we have been motivated by  
11 an overriding purpose: to get to the truth of the matter.  
12 For too long, the families of the late Harry Breen and the  
13 late Bob Buchanan have had to deal with speculation as to  
14 the events that led to the death of their loved ones  
15 without knowing what in fact transpired. We can only guess  
16 at how difficult that has been.

17  
18 For too long also, the allegation of collusion has lingered  
19 around Dundalk garda station without that allegation having  
20 been properly dealt with or fully investigated so that fact  
21 might take the place of rumour. Allegations of collusion  
22 by a police officer with subversive organisation are very  
23 serious indeed. Such allegations threaten to undermine  
24 trust and confidence in the whole police force, and thus,  
25 in the rule of law. They need to be investigated  
26 rigorously, not only so that wrongful acts are exposed, but  
27 equally so that those whose very good names have been  
28 wrongly besmirched are vindicated.

29  
30 I know, Mr. Chairman, that it's your intention to proceed

1 in that vein: to conduct a rigorous inquiry with no agenda  
2 or pre-conceptions; to conduct a public inquiry, but to do  
3 so in a manner consistent with the protection of life,  
4 privy and national security; to be respectful and fair to  
5 all parties, and independent from all of them; to observe  
6 and uphold the constitutional rights of those whose good  
7 names are at risk; and to use all of the statutory powers  
8 at the disposal of this Tribunal to try and uncover the  
9 truth so that the Breen and Buchanan families might no  
10 longer have to live with unanswered questions.

11  
12 For our part, the Tribunal's legal team will do our utmost  
13 to assist the Tribunal in achieving that aim.

14  
15 CHAIRMAN: Thank you very much Mrs. Lavery for that  
16 comprehensive opening statement. May I add a word to it:  
17 that I would appeal to members of the public, including of  
18 course members of the press, to listen to all aspects of  
19 the evidence as they will come before the Tribunal in  
20 public hearings and to reserve expressing their view on it  
21 until it comes to the end of the evidence. I will do so.  
22 I have not formed any predetermined conclusion. I will  
23 listen to all the evidence and I would strongly suggest to  
24 the public that they should do the same and not to jump to  
25 a conclusion when they have heard part of the evidence, but  
26 to listen to all of it before they reach a conclusion.

27  
28 And, I, of course, make an appeal to everyone who still has  
29 information about the subject matter of the Tribunal to  
30 come forward if they can help us in any way or if they wish

1 to give evidence. As you have heard, quite substantial  
2 strides have been made in the last few weeks when fresh  
3 evidence came to light. It is true that there must still  
4 -- there may still be some people out there with further  
5 information. It's not too late by any means for them to  
6 come forward during the public sittings and my legal team  
7 will be available to deal with any fresh evidence that  
8 comes forward.

9  
10 So, that is all I think I need to say at the moment.

11  
12 Now, we are just at one o'clock, and so I think I'll rise  
13 now and the Tribunal will sit again at two o'clock or very  
14 shortly afterwards so that there can be rulings on various  
15 applications that have been made. Thank you.

16  
17 THE TRIBUNAL ADJOURNED FOR LUNCH.

1                   **THE TRIBUNAL CONTINUED AFTER LUNCH AS FOLLOWS:**

2

3                   CHAIRMAN: Now, all of these oral applications were made on  
4                   the 17th May on behalf of Finbarr Hickey, Leo Colton, the  
5                   Garda commissioner, the Police Service of Northern Ireland  
6                   and Owen Corrigan respectively for overnight transcripts of  
7                   the public hearings.

8

9                   I was informed at the time that the view was that the  
10                  transcripts were not going to be made available. However,  
11                  in light of the multiplicity of requests I agreed to look  
12                  at the matter again. The Tribunal has also received a  
13                  letter dated 18th May 2011 from MacGuill & Co on the  
14                  matter, as well as a letter dated 20th May from Dermot  
15                  Lavery & Co, and a submission dated 23rd May from Michael  
16                  Flanagan & Co.

17

18                  Taking into account the oral submissions and the content of  
19                  the said written submissions, I have come to the following  
20                  view:

21

22                  Each of the parties having made the application has also  
23                  been granted representation. Having been granted  
24                  representation, I am now told, amongst other matters, that  
25                  it may not be possible to ensure an attendance each day  
26                  either at all or by the designated solicitor dealing with  
27                  the client. Accepting a grant of representation carries  
28                  with it an undertaking to give the Tribunal full attention.  
29                  I do not seek to determine whether a particular party  
30                  should have a particular solicitor, but I am entitled to

1 expect that whatever firm acts for a party given  
2 representation, to apply itself fully to the matter.

3  
4 There is a further consideration. I had received advice to  
5 the effect that the cost of an overnight transcript will  
6 amount to in or about €3,223, and that the daily cost of  
7 providing an overnight transcript to five parties over a  
8 period of 60 days, and the Tribunal may sit for more days  
9 than that, will amount to in or about €180,000. As I could  
10 not discriminate between the five applicants and the other  
11 five parties with representation, any order would have to  
12 cater for ten parties at even greater cost. In the current  
13 financial situation, I cannot and will not commit the State  
14 so such expenditure which is wholly avoidable by giving due  
15 attention to the Tribunal's work.

16  
17 MR. COFFEY: Mr. Chairman, Eamon Coffey, junior counsel,  
18 the Tribunal, by letter dated 24th May addressed to Mr.  
19 Lavery, indicated that full representation would be  
20 granted, and on foot of that letter Mr. Lavery has asked  
21 Mr. Paul Callan SC to come into the case, and Mr. Callan is  
22 in court, or in the Tribunal now, subject to formal  
23 approval by yourself, Mr. Chairman.

24  
25 CHAIRMAN: Thank you very much, Mr. Coffey. When Leo  
26 Colton was granted representation before this Tribunal, it  
27 was on the grounds that it was alleged in a publication  
28 that he had passed information to the Provisional IRA  
29 relating to the visit of the two RUC officers in question  
30 to Dundalk Garda Station on the 20th March 1989. Given

1           that the said reference was all that Leo Colton had to deal  
2           with at the time, it was appropriate to limit  
3           representation to one counsel. Since that time, it has  
4           become clear that Leo Colton will have to deal with more  
5           weighty matters which the Tribunal has come across in the  
6           course of its private investigation. That being so, I  
7           accede to the application for a second counsel.

8  
9           No, to the question of witness anonymity.

10  
11          From time to time it will be necessary for a particular  
12          witness to give his or her evidence in a manner which  
13          conceals the identity of that person. In such a case, it  
14          should be noted that the reason for this procedure is that  
15          the witness concerned has expressed a concern for personal  
16          safety in the event of his or her identity being revealed.  
17          In the circumstances of renewed subversive violence, I am  
18          satisfied that these concerns are justified.

19  
20          The choice is between either granting a witness anonymity  
21          and the evidence being heard in public session or hearing  
22          the evidence in private session. Given that this is a  
23          public inquiry, it is clearly preferable that evidence be  
24          given in public, insofar as it may be possible, even if  
25          this means granting anonymity. I hope that the public will  
26          understand the position. The position of legal  
27          representatives dealing with a witness granted anonymity is  
28          governed by a protocol.

29  
30          The next item to be dealt with it is that I should comment

1 on an understanding by some people that there has been a  
2 grant of representation to Eilish Morley. For the  
3 avoidance of doubt and to counteract any incorrect  
4 information in the media, Ms. Eilish Morley has not been  
5 granted representation before this Tribunal.

6  
7 I think that's all the matters and I will rise from the  
8 public sitting and I will resume in a few minutes to deal  
9 with a matter that was raised in a private closed sitting.

10  
11 **THE TRIBUNAL THEN ADJOURNED.**



|              |   |   |  |  |
|--------------|---|---|--|--|
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