

A P P E A R A N C E S

The Sole Member:

His Honour Judge Peter Smithwick

For the Tribunal:

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

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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.

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1 THE TRIBUNAL RESUMED ON THE 21ST OF JUNE, 2011, AT 11 A.M.
2 AS FOLLOWS:

3

4 CHAIRMAN: Good morning, ladies and gentlemen, sorry you
5 have been kept waiting, there was a technical hitch with
6 the audio system. It's been cleared up now. Thank you
7 very much.

8

9 MR. DILLON: Thank you, Chairman. Two witnesses this
10 morning. The first is Detective Garda Seamus Nolan.

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D/GARDA SEAMUS NOLAN, HAVING BEEN SWORN, WAS EXAMINED BY
MR. DILLON AS FOLLOWS:

1 Q. MR. DILLON: Now, Detective Garda Nolan, I think that in
2 1989 you were attached to Unit A of the Garda station in
3 Dundalk, isn't that right?

4 A. That's correct.

5 Q. I think that is the unit that came on duty at 2 o'clock in
6 the afternoon?

7 A. Yes.

8 Q. Is it an eight hour tour of duty, is that it?

9 A. That's correct; it would have been 2:00 to 10:00 p.m.

10 Q. Yes. I think you were, on that occasion, assigned the task
11 of being the station orderly, is that right?

12 A. Yes, Judge.

13 Q. And could you explain what is the function of a station
14 orderly?

15 A. It's dealing with members of the public who would come with
16 various inquiries, looking after welfare of prisoners in
17 custody, answering any phone calls that came down for
18 general inquiries from other members working, or
19 vice versa, if people from the public are looking for a
20 specific member, try to track him down from -- basically,
21 you are in charge of the station.

22 Q. Now, I think that on the 20th March, you met up with your
23 colleague, Garda David Sheridan, is that right?

24 A. That's correct.

25 Q. And I think he told you a matter that had been mentioned to
26 him by Chief Superintendent Nolan?

27 A. Yes.

1 8 Q. What was that?

2 A. Garda Sheridan informed me that two visitors were expected
3 by Chief Superintendent Nolan and that they were to be
4 shown directly to his office.

5 9 Q. Now two visitors; anything more said about who these people
6 were?

7 A. No.

8 10 Q. How was it anticipated that you might recognise that they
9 were visitors looking for Chief Superintendent Nolan?

10 A. I have no recollection of that, save that that is the
11 information I was given, that there were two visitors.

12 11 Q. Very good.

13 A. And they were to be shown directly.

14 12 Q. So it was a bit of, sort of happenstance and luck that you
15 might recognise them?

16 A. I don't think Garda Sheridan had any details either.

17 13 Q. Right. In any event, I think you went into what is called
18 the Day Room?

19 A. That's correct.

20 14 Q. I think that is also known as the Public Office?

21 A. Yes, Judge.

22 15 Q. And it isn't really an office for the public but an office
23 where the public are dealt with?

24 A. That's correct. There is an annex to that office which is
25 a hatch area where you deal with the public, but the Public
26 Office itself would be where prisoners are brought for
27 processing, et cetera.

28 16 Q. And I think that from the Public Office you also had a view
29 of the lower half of the staircase leading up to the first
30 floor of the station?

1 A. That's correct.

2 17 Q. And I think you saw two men on the staircase, is that
3 right?

4 A. It would be fair to say, on recollection, that I saw the
5 two men while dealing with somebody at the front hatch and
6 I went around through the Public Office and met them as
7 they were at the lower steps, and that is where I first met
8 them.

9 18 Q. I think as it happens, and I don't think anything turns on
10 this, but somehow they managed to get through the front
11 door?

12 A. That's correct.

13 19 Q. The front door is normally locked?

14 A. My recollection, there is a key-pad on it. It's there now.
15 I think it was there back in '89.

16 20 Q. In any event, they managed to get through the front door?

17 A. Yes.

18 21 Q. Unannounced, as it were.

19 A. Yes.

20 22 Q. But you saw them there in the lower part of the staircase?

21 A. That's correct.

22 23 Q. And what did you do then?

23 A. Well I -- the two gentlemen were dressed in suits. I asked
24 them were they here to see the Chief Superintendent. They
25 told me they were. And then I went past them on the stairs
26 and I led them to Chief Superintendent Nolan's office,
27 knocked on the door. The chief beckoned me to come in and
28 I said, "There are two gentlemen here to see you, I believe
29 you are expecting them," and he said, "That is fine" and I
30 went back to my duties.

1 24 Q. A small detail which you may or may not remember, when you
2 went to see Chief Superintendent Nolan's door, was it open
3 or shut?

4 A. From recollection, it was shut. I knocked on the door.

5 25 Q. And when you were there, did you see your colleague, Garda
6 Vincent Rowan in the area by any chance?

7 A. I can't recall that, Judge.

8 26 Q. So, you went back down, then, to the Public Office?

9 A. Yes.

10 27 Q. And did you see the two gentlemen leave the station?

11 A. No.

12 28 Q. I think subsequent to that evening word came of a shooting
13 and I think there was general shock and I think the way you
14 put it was pandemonium with cars heading up to the border?

15 A. That's correct.

16 29 Q. You couldn't leave the station because of your job as
17 station orderly?

18 A. That's correct.

19 30 Q. Now, moving on to another matter. I think on the 21st
20 March, the day after, you were asked by Superintendent
21 Tierney to make a statement?

22 A. A report.

23 31 Q. Or a report, I beg your pardon.

24 A. Yes, Judge.

25 32 Q. Probably a better word. Now, Superintendent Tierney, what
26 function did he have in the station at that time?

27 A. He was the District Officer for Dundalk.

28 33 Q. And was he collecting statements from various people at the
29 time?

30 A. That's correct.

1 34 Q. And I think you were asked to provide, as you say, a
2 report?

3 A. That's correct.

4 35 Q. If that could be put up on the screen. Now, I think you
5 have a copy in front of you?

6 A. I do.

7 36 Q. Can you identify that document as being your report?

8 A. Yes, Judge.

9 37 Q. Very well. I am going to read it into the record now.

10 It's a report of official visitors at Dundalk Garda Station
11 on 20th of March '89. Seamus Nolan Garda.

12

13 *"On reporting for duty as station orderly at 2 p.m. on 20th*
14 *of March 1989, I was told by Garda D. Sheridan that two*
15 *official visitors were due to arrive at 2 p.m. Garda*
16 *Sheridan said that Chief Superintendent Nolan's*
17 *instructions were that these men were to be shown directly*
18 *to his office. I commenced duty as station orderly dealing*
19 *with the public and records. I kept a lookout for the two*
20 *men aforementioned. At one stage I remember looking at the*
21 *clock and noticing the time at 2:15 p.m. At this stage the*
22 *men had not arrived. A short time later, what seemed to be*
23 *five to ten minutes, two men walked past me at the public*
24 *counter as I was dealing with a member of the public. One*
25 *was stocky, thin hair. The other taller, thinner with hair*
26 *going grey, both aged about 50 to 60 years. I followed the*
27 *men who were at this stage halfway up the stairs. I*
28 *stopped them and asked them where they were going. The*
29 *shorter of the two men stated that they had an appointment*
30 *with the Chief Superintendent and that they were expected.*

1 I showed the two to the Chief Superintendent's office. On
2 returning to the Public Office I returned to a caller at
3 the counter and I was unable to deal with his inquiry.
4 Sergeant Colton arrived and I asked him to assist me as he
5 dealt with the caller. While the sergeant was attending to
6 the caller I saw inspector Murray enter the station. I
7 would estimate the time at 2:30 p.m. I continued with my
8 station orderly duties and I did not see the two men whom I
9 had shown upstairs leave the Garda station. Forwarded for
10 your information please."

11 This copy is not signed but you did sign the original, is
12 that correct?

13 A. That's correct.

14 38 Q. Is that in accordance with your recollection of events that
15 day?

16 A. Yes, Judge.

17 39 Q. And I think that it seems that you looked at the clock at
18 2:15 p.m. and the two gentlemen had not arrived, but it
19 could have been five to ten minutes later when they did
20 arrive, is that right?

21 A. That's correct.

22 40 Q. That was their arrival at about 2:20 to 2:25?

23 A. Yes.

24 41 Q. Now, I think subsequently you made a second statement to
25 Assistant Commissioner O'Dea?

26 A. That's correct.

27 42 Q. I don't know if this has been mentioned already but we will
28 deal with this in more detail later on but, following the
29 murders, I think the Assistant Commissioner O'Dea was sent
30 to Dundalk station to conduct an inquiry?

1 A. That's correct.

2 43 Q. And he interviewed a number of officers in Dundalk station,
3 including yourself?

4 A. That's correct.

5 44 Q. Now, can you describe to us the circumstances in which your
6 interview took place?

7 A. It was, from recollection, it was taken in a room in the
8 station which was referred to as the Doctor's Room. It's a
9 room where you would process drunk drivers. It's a small
10 room just off the back stairs on the ground floor.

11 45 Q. And how did the meeting come about? Were you summoned to
12 the office or did you volunteer to go?

13 A. I think anybody who submitted the reports when the reports
14 were requested were informed that you, that the
15 Commissioner would be formalising those into statements.

16 46 Q. Mm-hmm...

17 A. And that is what happened.

18 47 Q. When you went into the room, who was there, to the best of
19 your recollection?

20 A. To the best of my recollection, the Commissioner. There
21 may have been somebody else there. The only person I
22 really recall is Commissioner O'Dea.

23 48 Q. Just to clarify one point: I think in the Force, Assistant
24 Commissioners are also referred to as Commissioners, is
25 that right?

26 A. That's right.

27 49 Q. To be quite clear on that. Now, was the Assistant
28 Commissioner sitting at a table?

29 A. Yes.

30 50 Q. And was he equipped with paper and pencil, so to speak?

1 A. That's correct, and he wrote out the statement.

2 51 Q. Now, how did it come about that he wrote out your
3 statement?

4 A. We were just informed to go to the Commissioner, we were
5 given a time to go to him and he took the statement. I
6 didn't question his methods.

7 52 Q. Oh, I understand that. Just to understand what were his
8 methods?

9 A. Well, I presume he had taken on the task of
10 investigating --

11 53 Q. Yes.

12 A. -- the matter and he was, therefore, taking statements --

13 54 Q. All right.

14 A. -- in the normal manner.

15 55 Q. We will move on to the next thing, which is -- sorry,
16 Mr. Mills -- now, the next is a handwritten document.
17 Could I ask you just to go back to the back -- second page,
18 and you see there is a signature at the bottom?

19 A. Yes.

20 56 Q. "Seamus Nolan, Garda." Is that your signature?

21 A. That's correct.

22 57 Q. It's signed underneath that by the Assistant Commissioner
23 and dated 22nd March 1989. A typed copy of that was
24 produced as well. Do you have that in front of you?

25 A. I do.

26 58 Q. I am going to read the typed copy into the record.

27 "Statement of Garda Seamus Nolan, Dundalk Garda Station,
28 taken on Wednesday 22 March 1989 by Assistant Commissioner
29 O'Dea. I am a Garda stationed at Dundalk Unit A.

30 On Monday 29th March 1989 when I reported for duty at

1 Dundalk Garda, Dave Sheridan approached me and informed me
2 that Chief Superintendent Nolan was expecting two official
3 visitors and they were to be shown direct to Chief
4 Superintendent Nolan's office. I was engaged as station
5 orderly. At about 2:15 p.m. I looked at the station clock
6 and noted the time and the visitors had not arrived. At
7 about five minutes later I was working at the counter,
8 dealing with a member of the public, when I saw two
9 gentlemen walk in the front door. They opened the door
10 adjacent to the public counter and walked on through the
11 Day Room and commenced walking up the stairs. At this
12 stage I had turned and followed them and asked them where
13 they were going. They informed me they had an appointment
14 with Chief Superintendent Nolan. I did not know them and
15 they did not identify themselves but they said they were
16 expected. I came up part of the stairs and gave them
17 directions to Chief Superintendent Nolan's office. They
18 indicated that they were familiar with the route. I did
19 not see them enter the Chief's office. I then returned to
20 the Day Room. I did not see how they arrived at the
21 station nor did I see them leave. They may have used the
22 back stairway and if so, they would not have come through
23 the Day Room. They did not make any telephone calls from
24 the Day Room.

25 This statement has been read over to me by Assistant
26 Commissioner O'Dea and is correct."

27 And is signed by yourself and by the Assistant
28 Commissioner.

29
30 Now, first of all, could you help us with this: where did

1 the Assistant Commissioner get the information which he put
2 into your statement; where did that come from?

3 A. He would have asked me in a question-and-answer basis and
4 would have committed it then to writing.

5 59 Q. Do you know did he have a copy of the statement that you
6 had made for the purposes of Superintendent Tierney?

7 A. He may have had.

8 60 Q. Did you see --

9 A. I can't recall. He may well have had.

10 61 Q. Now, it's now clear, I think, that there is a difference
11 between your report to Superintendent Tierney and what
12 Assistant Commissioner O'Dea recorded, and the difference
13 being that when you reported to Superintendent Tierney you
14 showed the two to the Superintendent's office, and indeed
15 you told us in your evidence-in-chief, if I can put it that
16 way, that you brought them to the office, you knocked on
17 the door and said that there were two people here to see
18 the Chief Superintendent, isn't that right?

19 A. That's correct.

20 62 Q. Now, we don't find that in your statement to the Assistant
21 Commissioner, isn't that right?

22 A. That's correct.

23 63 Q. In fact, it seems that you said that you did not see them
24 enter the Chief's office. Can you explain this difference?

25 A. I can't. The initial report I made on this matter is more
26 in line with my recollection of what happened. When I say
27 I didn't see them enter the Chief's office, I would find
28 that not really credible because I walked as far as the
29 door with them, I knocked on the door, the Chief said --
30 answered, I told him there were two people there to meet

1 him and he said he was expecting them and in they walked
2 and I turned and went back downstairs, and that is more in
3 recollection what I recall.

4 64 Q. So, just to be quite clear on this matter: The correct
5 account of what happened is that you brought the two
6 gentlemen to Chief Superintendent Nolan's office?

7 A. Yes.

8 65 Q. Thank you.

9

10 **THE WITNESS WAS CROSS-EXAMINED BY MR. McGUINNESS**
11 **AS FOLLOWS:**

12

13 MR. McGUINNESS: I appear for An Garda Siochana in this
14 matter.

15 66 Q. Can I just ask you, Detective Garda, you came on duty at
16 2 p.m. --

17 A. That's correct.

18 67 Q. -- that day, on the 20th of March?

19 A. Yes.

20 68 Q. And part of your duties that day were to act as station
21 orderly?

22 A. Yes.

23 69 Q. And at that time you weren't aware of any appointment that
24 had been made by the Superintendents from the north to come
25 down?

26 A. No.

27 70 Q. And just to confirm this: there is no record of any such
28 appointments in any diary or occurrence book, that you are
29 aware of?

30 A. No.

1 71 Q. And the first you heard of an appointment that Chief
2 Superintendent Nolan had with anyone was when Garda
3 Sheridan told you?

4 A. That's correct. Garda Sheridan was the off-going station
5 orderly and I was coming on at 2 o'clock and he informed
6 me.

7 72 Q. So he was finishing his tour of duty at 2:00 and you were
8 coming on at 2:00?

9 A. That's correct.

10 73 Q. And presumably you might have arrived at the station a
11 couple of minutes before 2:00 for a timely hand-over?

12 A. That's correct.

13 74 Q. And he didn't tell you who these visitors were?

14 A. No.

15 75 Q. And you didn't ask?

16 A. No.

17 76 Q. And were you told at what time they were expected?

18 A. I can't recall, but again from recollection, going back
19 sometime, I feel that Garda Sheridan was surprised they
20 hadn't arrived already, so I think their arrival was
21 probably considered to be imminent.

22 77 Q. Yes. In your statement to -- in your report to
23 Superintendent Tierney and in your statement to the
24 Tribunal, I think you have said that Garda Sheridan told
25 you they were to arrive at around 2:00?

26 A. Yes.

27 78 Q. Would you accept that that is likely to be your best
28 recollection?

29 A. Yes, Judge.

30 79 Q. Now, as I understand it, you were in the reception area,

1 which is more or less the Public Office?

2 A. Yes.

3 80 Q. And obviously to get into the station, you have to come up
4 the steps towards the main front door?

5 A. Yes.

6 81 Q. That is normally open, then?

7 A. Yes.

8 82 Q. And then you go in through the front door and the Public
9 Office with the hatch at the reception area where you were
10 working is just on your right?

11 A. Yes.

12 83 Q. And there is a counter there and a glass panel, et cetera?

13 A. Public counter; it's slightly different now than it was
14 then but it's more or less the same layout, yes.

15 84 Q. And blocking your way into the station from that is a pair
16 of double doors?

17 A. That's correct.

18 85 Q. And they go into the corridor behind the double doors?

19 A. Yes.

20 86 Q. And when you go through the double doors, that doesn't take
21 you into the Day Room?

22 A. No, that is the main hall.

23 87 Q. Yes. And to be clear, the Superintendents didn't come in
24 through the reception area or through the Day Room?

25 A. No.

26 88 Q. Now you were dealing with somebody at the counter when they
27 arrived, is that correct?

28 A. That's correct.

29 89 Q. And it seems that you left whoever you were dealing with at
30 the counter and went after the Superintendent, as it were,

1 because you didn't know who they were?

2 A. That's correct. I saw two gentlemen going through the
3 double doors, whom I didn't know, I hadn't seen before. I
4 assumed that they were the two gentlemen referred to by
5 Garda Sheridan.

6 90 Q. Yes.

7 A. And I went through the Day Room and came out on to the
8 hallway from a side door, side-on to the stairwell.

9 91 Q. OK. But when they went through the double doors, they
10 opened them and then they were closed behind them?

11 A. That's correct.

12 92 Q. You didn't go out the door from the reception into the
13 public area?

14 A. No.

15 93 Q. You went back through the reception area back into the Day
16 Room?

17 A. Yes.

18 94 Q. And then out the door of the Day Room which faces the
19 stairway?

20 A. That's correct.

21 95 Q. And then did you go up the stairs, then, after them, as it
22 were?

23 A. They were on the -- halfway up the first flight of steps,
24 on the fourth or fifth step and I just asked them are
25 they -- are they expected by the Chief, they told me they
26 were and I said, "Hang on a sec" and I went past them and
27 led them to the Chief Superintendent's office.

28 96 Q. And you have said in your report to Superintendent Tierney
29 and in your statement to the Tribunal that you have a clear
30 recollection of knocking on the door?

1 A. That's correct.

2 97 Q. And showing them in, effectively?

3 A. Yes.

4 98 Q. Having spoken to the Chief?

5 A. Yes.

6 99 Q. There was nobody else in with Chief Superintendent Nolan?

7 A. Not that I can recall.

8 100 Q. And you then went downstairs?

9 A. That's correct.

10 101 Q. Back to the reception area. And did you go in through the
11 Day Room or through the doors out into the public area?

12 A. I came back the same way as I had went: I came back down
13 the stairwell, the stairs on to the hall and back into the
14 Public Office.

15 102 Q. And what query were you dealing with?

16 A. I can't recall at this time.

17 103 Q. You said, I think, in your report, that you were unable to
18 deal with the inquiry of the person at the public counter?

19 A. That's correct.

20 104 Q. And you asked, was it Sergeant Colton, to deal with it?

21 A. Sergeant Colton to deal with it, that's correct.

22 105 Q. And where was he at that point?

23 A. Again I would be surmising, but I would imagine he was in
24 the Parading Room, which is, again, on the ground floor,
25 off the hallway, it's a door underneath the stairs that
26 goes into an area where the units were paraded.

27 106 Q. That is towards the back of the station?

28 A. That's correct.

29 107 Q. In that you have to go to the end of the corridor outside
30 the Day Room and turn left?

1 A. Yes.

2 108 Q. Sort of under the stairs?

3 A. That's correct.

4 109 Q. Now, was there anyone else, any other member in the Public
5 Office/reception area while you were on duty there?

6 A. I can't recall that.

7 110 Q. And was there anyone else on duty in the Day Room?

8 A. I would have been the sole station orderly at that time.

9 111 Q. There is only one on each tour of duty?

10 A. There is only one, that's correct.

11 112 Q. Now, in terms of the rooms that the northern
12 Superintendents were in, having come through the front door
13 and the doors into the station, the locked double doors,
14 the only room you saw them go into was the Chief
15 Superintendent's room?

16 A. That's correct.

17 113 Q. The Chief Superintendent's room, that is not at the front
18 of the building?

19 A. That's correct.

20 114 Q. On the first floor at the front of the building there is
21 the Superintendent's clerk's room?

22 A. Yes.

23 115 Q. Which overlooks the forecourt, isn't that right?

24 A. That's correct.

25 116 Q. And then its counterpart on the left-hand side on the first
26 floor, looking at the Garda station from the outside, is
27 the Inspector's room, Inspector's office, isn't that right?

28 A. From recollection, yes.

29 117 Q. And then Chief Superintendent Nolan's room is a further
30 room behind that?

1 A. Yes.

2 118 Q. And that looks out on to the left-hand side yard, which is
3 on the left-hand side of the station as you look at it?

4 A. Yes.

5 119 Q. And you'd agree with me, there is a relatively small window
6 in that room?

7 A. I can't recall.

8 120 Q. You can't recall. It's not overlooked by any other
9 building, would you agree with that?

10 A. From recollection, yeah. As far as I know, the buildings
11 to the back of it at the time were probably disused, but
12 it's not -- I am not familiar with that room.

13 121 Q. Yes. There is an old bridewell at the back of that yard,
14 isn't that right?

15 A. That's correct.

16 122 Q. Which is still standing?

17 A. Yes.

18 123 Q. Thank you.

19

20 CHAIRMAN: Thank you very much. Any questions from anyone
21 else?

22

23 MR. COFFEY: If I may, Mr. Chairman.

24

25 **THE WITNESS WAS CROSS-EXAMINED BY MR. COFFEY AS FOLLOWS:**

26

27 124 Q. MR. COFFEY: I appear for retired Sergeant Leo Colton and I
28 just want to ask one or two questions if I may. In March
29 '89, were you a uniformed officer or a detective at that
30 time?

1 A. Uniformed.

2 125 Q. And you indicated in the course of your evidence that you
3 had occasion to request Sergeant Colton to assist a member
4 of the public, is that correct?

5 A. That is correct.

6 126 Q. And is it your recollection that at that point in time
7 Sergeant Colton may have been in the Parade Room?

8 A. I am surmising that, Judge. It's where Sergeant Colton
9 would normally be around the time of commencement of a
10 unit, where units needed to be paraded; Sergeant Colton
11 would normally have been in that room.

12 127 Q. And can you indicate to the Chairman whether your request
13 to Sergeant Colton was before or after the arrival of the
14 two senior RUC officers?

15 A. It was on my return to the Public Office, having seen the
16 two officers into the Chief Superintendent's office.

17 128 Q. And if someone was in the Parade Room at the time of the
18 two RUC officers arriving, would such a person see the two
19 RUC officers entering into the Garda station?

20 A. Not necessarily. Between the Parade Room and the hallway
21 there is a door, a normal-sized door, and depending on
22 where you were in the Parade Room, you may see the stairs,
23 you may not see the stairs; it depends on where you are in
24 that room.

25 129 Q. Is that depending on the door being open or closed or is
26 it --

27 A. The door would normally be open.

28 130 Q. Yes. And there was no certainty, certainly, that anybody
29 in the Parade Room would observe anybody coming and going?

30 A. That's correct.

1 131 Q. And with regard to the member of the public who you asked
2 Sergeant Colton to assist, was that a bona fide member of
3 the public? Was that a genuine query being raised by a
4 member of the public, as far as you can recollect?

5 A. My recollection, there was nothing sinister, it was merely
6 something I couldn't deal with. I can't recall at this
7 time what that inquiry was.

8 132 Q. And would that be a normal procedure for the station
9 orderly, on occasion, to call upon a colleague to render
10 assistance to members of the public?

11 A. Yes.

12 133 Q. It was a routine task you were asking Sergeant Colton to
13 carry out?

14 A. Yes. Plus the fact, just may I add, that I was only in
15 Dundalk a matter of months, having not served in that
16 station before, and therefore wouldn't have been that
17 familiar with the Dundalk area.

18 134 Q. Thank you.

19

20 CHAIRMAN: Thank you very much.

21

22 MS. O'SULLIVAN: A number of questions on behalf of Finbarr
23 Hickey

24

25 THE WITNESS WAS CROSS-EXAMINED BY MS. O'SULLIVAN

26 AS FOLLOWS:

27

28 135 Q. MS. O'SULLIVAN: I appear for Finbarr Hickey. I think you
29 have indicated that you were an ordinary uniformed member
30 at the time in March 1989?

1 A. That's correct.

2 136 Q. And that you were a member of the A Unit?

3 A. Yes.

4 137 Q. And am I to understand that the way the shift worked in
5 Dundalk Garda Station, that the A Unit, the members of the
6 uniformed guards were part of the A Unit would all have
7 come on shift together at approximately 2 p.m.?

8 A. Yes.

9 138 Q. And I think Finbarr Hickey was not a member of the A Unit,
10 is that correct?

11 A. That's correct.

12 139 Q. And I think as station orderly, you would have been the
13 person who was effectively dealing with members of the
14 public coming in through the Public Office?

15 A. Yes.

16 140 Q. And so you would have been dealing with people who were
17 signing on, for example, as part of their bail conditions?

18 A. Yes, that's correct.

19 141 Q. And you would have been dealing with passport applications
20 and general queries?

21 A. Yes.

22 142 Q. And I think Dundalk Garda Station, at that time and still
23 is, a very busy Garda station, so you would have been
24 dealing with a number of queries at any given time?

25 A. Yes, it was normally quite busy, especially that time of
26 the afternoon.

27 143 Q. There would have been people coming and going?

28 A. Yes.

29 144 Q. I have no further questions.

30

1 CHAIRMAN: Thank you very much. Any questions in
2 re-examination? None. Thank you very much, Detective
3 Garda, thank you very much for coming.

4
5 THE WITNESS THEN WITHDREW.

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7 MR. DILLON: John Nolan, please.
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1 JOHN NOLAN, HAVING BEEN SWORN, WAS EXAMINED BY MR. DILLON
2 AS FOLLOWS:

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4 145 Q. MR. DILLON: Now, Mr. Nolan, can you hear me all right?

5 A. Yes.

6 146 Q. Very good. I think you were a member of An Garda Siochana
7 and you attained the rank of Chief Superintendent?

8 A. That's right.

9 147 Q. You joined the Force in 1957, and after a number of tours
10 of duty in various places and promotions you were
11 transferred to Dundalk in the 1988?

12 A. Yes, in May 1988.

13 148 Q. I think at the time the Commissioner was Commissioner
14 Doherty, is that right, Eamon Doherty?

15 A. That's correct.

16 149 Q. And I think your post was a new creation, is that right?

17 A. Yes.

18 150 Q. Can you explain that to us, please?

19 A. Well, Dundalk was in the Louth-Meath division and the
20 headquarters at that time was in Drogheda, but apparently
21 as an off-shoot of the Anglo Irish Agreement it was agreed
22 that the divisional headquarters should be transferred from
23 Drogheda to Dundalk, and initially when I was appointed
24 there, I was given the brief mainly for liaising with the
25 RUC and border security. My office remained in Drogheda
26 and I didn't have any personal support staff, as such, in
27 Dundalk. I didn't have any responsibility for the rest of
28 the division of the counties of Louth and Meath and north
29 County Dublin, and that was the position up until the
30 middle of 1989 when I received my support staff from

1 Drogheda and the office transferred to Dundalk.

2 151 Q. So, in a sense, you were working out of two stations, is
3 that the idea?

4 A. Well, I wasn't allowed, if I can put it this way, to go
5 back to Drogheda. I had to stay in Dundalk. So,
6 effectively, I was operating solely out of Dundalk.

7 152 Q. A one-man show, so to speak?

8 A. A one-man show using the resources of the District Office,
9 which would be the Superintendent's office and the
10 Detective Branch and all other resources in the border
11 stations.

12 153 Q. Very good. Did a Garda Josephine Fitzsimons work for you
13 at any stage?

14 A. Sorry?

15 154 Q. A Garda Josephine Fitzsimons, did she work for you at any
16 stage?

17 A. I don't recall the name but possibly she did.

18 155 Q. Very good. I think that you stayed in Dundalk for almost
19 three years, is that right?

20 A. Yes.

21 156 Q. You left in January of 1991?

22 A. That's correct.

23 157 Q. And you went back to Dublin and you left the Force about a
24 year-and-a-half later?

25 A. That's right.

26 158 Q. I think you took on a number of functions in the civilian
27 side, if I can put it that way?

28 A. I took up other employment for which I remained for ten
29 years.

30 159 Q. Now, if we could go back to the 20th March, 1989, how did

1 you learn that two RUC officers were intent or desirous to
2 have a meeting with you?

3 A. Well, I recall that morning. At 10:15 a.m., Chairman, I
4 was in my office when I received a telephone call on my
5 direct office line from Superintendent Bob Buchanan of the
6 RUC at Armagh. He was the Border Superintendent, he was
7 well-known to me.

8 160 Q. This is Bob Buchanan?

9 A. Bob Buchanan, yes. We exchanged a few pleasantries and I
10 recall him saying he would be moving on transfer to
11 Newtownards sometime in April, the following month. He
12 then said that Harry Breen, Chief Superintendent Harry
13 Breen and himself wanted to meet with me. Now, he must
14 have left the date open at the time because I recall saying
15 I wasn't available on Tuesday or Wednesday of that week, so
16 he said that day, that Monday if it suited and I said yes,
17 and we agreed 2 p.m. as the time. He then left the station
18 and -- sorry, we then concluded the conversation and I
19 think the next thing that I did was --

20 161 Q. Could I just stop you at this point, if you don't mind so?
21 This was the first that you had heard of the possibility
22 that you were going to have a visit by the two officers?

23 A. That was the very first.

24 162 Q. Right.

25

26 CHAIRMAN: What time was this?

27 A. 10:15 a.m., Chairman.

28

29 CHAIRMAN: Thank you very much.

30

1 163 Q. MR. DILLON: You were never made aware of a conversation
2 that Bob Buchanan may have had with a colleague in the RUC
3 over the weekend in which he said that he understood you
4 were going to Dundalk station?

5 A. No, I wasn't aware of that.

6 164 Q. Very well. I won't identify the colleague because he will
7 be dealt with under a cipher, and that is why I put it to
8 you that way.

9 A. Yes.

10 165 Q. Now, you have in front of you a document, which I
11 appreciate you have seen only for the first time today;
12 it's headed "HMG 50" and have you had an opportunity to
13 have a look at that this morning?

14 A. Yes.

15 166 Q. I am going to read out portions of it. It's a document
16 produced, we understand, within the RUC, contemporaneously
17 with the 20th March, precisely what date I can't tell you,
18 it's as contemporaneous as can be, and it is as follows:

19

20 *"Subject: Murder of Chief Superintendent H. Breen and*
21 *Superintendent Buchanan on 20th March 1989 at Edenappa*
22 *Road, Jonesboro."* And it's headed "ACC (Crime) Belfast."

23 The report is as follows:

24 *"On the morning of 20th March 1989 between 8:55 a.m. and*
25 *9:03 a.m. Superintendent Robert Buchanan sent two messages*
26 *by way of fax from the Control Room in Ardagh to the Garda*
27 *Siochana stations at Dundalk and Monaghan. These fax*
28 *messages set out agenda for a forthcoming RUC meeting in*
29 *April. These fax messages did not contain any details*
30 *relating to their visit to Dundalk on 20th March 1989."*

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The messages are attached and Appendix 1 and they are not relevant and I won't be opening them.

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"At approximately 9:30 a.m., Chief Superintendent Breen contacted Dundalk station by telephone to arrange a meeting with Chief Superintendent Nolan. Chief Superintendent Nolan was unavailable at that time and the call was returned by Chief Superintendent Nolan at approximately 10:30 a.m. when a meeting was arranged for 2 p.m. later that same day at Dundalk Garda Station. All telephone conversations were conducted on an open line. There was no compatible secure means of communication between the stations..."

15

16

17

And it goes on to deal with how the Chief Superintendent travelled to Newry, and so on. I will just stop at that point.

18

19

20

Now, does that accord at all with your recollection of how the meeting was set up?

21

22

A. I didn't make any telephone call to Chief Superintendent Breen.

23

167 Q. Very well.

24

25

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29

30

A. The only call I received was at 10:15 a.m. I didn't follow it up or had no reason to follow it up with a call to Chief Superintendent Breen. We had agreed the time at 10:15, and I am quite clear on that because on the following day when I made my statement to Assistant Commissioner O'Dea, I would have mentioned that fact, and I didn't. So I am quite surprised at that. I don't know how that came about.

1 168 Q. No doubt people have different recollections of how events
2 took place.

3 A. Possibly...

4 169 Q. But you are satisfied that --

5 A. I am satisfied that I didn't. In fact, I rarely made calls
6 to any of the stations northwards. These meetings were
7 arranged by others on my behalf.

8 170 Q. But that said, can we deal with "*All telephone*
9 *conversations were conducted on an open line,*" is that
10 fair?

11 A. That's correct. We had a scrambler system on our telephone
12 that worked internally with the State and to Headquarters
13 but they weren't compatible with the system in the north at
14 that time, which was the voice log system. I think prior
15 to my time they were compatible, but they changed their
16 system in the north and at that time they weren't
17 compatible.

18 171 Q. Very well. I will now carry on with the document.
19 "*Chief Superintendent Breen travelled to Newry RUC station*
20 *in his private car*" -- it gives the make and registration
21 number -- "*and there met Superintendent Buchanan who had*
22 *travelled to Newry RUC station in his own car*" -- and this
23 is known -- "*a Vauxhall Cavalier, registration number KIB*
24 *1204. Mr. Buchanan has owned this car from the 9th*
25 *December 1986 and had travelled in it frequently when*
26 *crossing the border for meetings with the Garda. He had*
27 *been awaiting delivery of a new car for the past month. At*
28 *Newry RUC station both officers spoke to the SDC*" --
29 Subdivisional Commander I believe that is, and the name is
30 given. "*They invited him to join them on their visit to*

1 Dundalk. The Superintendent declined the invitation due to
2 other duty commitments. At approximately 1:40 p.m. Chief
3 Superintendent Breen and Superintendent Buchanan left Newry
4 station en route for Dundalk. They travelled together in
5 Mr. Buchanan's car and" -- again it's described -- "They
6 arrived at Dundalk Garda station at approximately
7 2:20 p.m."

8 Now, is that as close as it may be to your recollection?

9 A. Yes, I thought 2:15, 2:20, perhaps.

10 172 Q. "They parked their vehicle at the front of the Garda
11 station which was open and on view to the public."

12 Were you aware of where Mr. Buchanan parked his car?

13 A. No.

14 173 Q. "At Dundalk station they had a meeting with Chief
15 Superintendent Nolan and Superintendent Tierney."

16 Was Superintendent Tierney present?

17 A. No.

18 174 Q. "There were no notes taken at the meeting."

19 A. No.

20 175 Q. Is that correct?

21 A. That's correct.

22 176 Q. "The meeting ended at approximately 3:15 p.m..." Is that
23 correct?

24 A. In or around that, yes. I thought they were about 55
25 minutes there.

26 177 Q. "... when both officers left to return north."

27 The precise details about the route travelled home, had you
28 any information about how they were going to head back?

29 A. No, we didn't discuss that.

30 178 Q. "It's assumed they travelled north via the main road from

1 *Dundalk through the townland of Neween through Faughart*
2 *crossing the border at Jonesboro bridge and then on to the*
3 *Edenappa Road."*

4 You are not aware of any of that?

5 A. No.

6 179 Q. Now, the -- having had this conversation with
7 Superintendent Buchanan, what did you do next?

8 A. At about 11 a.m., I met Inspector Murray.

9 180 Q. Yes.

10 A. And I am not sure whether it was in his office or in a
11 District Office, I think he was having coffee at the time
12 so I think it was in the District Office, and I told him
13 that Bob Buchanan and Harry Breen were coming down at
14 2 o'clock. I did that because Inspector Murray was the
15 Garda opposite of Bob Buchanan; in other words, that he was
16 the Border Inspector who liaised with Bob Buchanan on the
17 northern side.

18 181 Q. Yes.

19 A. And I thought it would be an opportunity for them to meet.

20 182 Q. I will just come back to that in a moment, if I may. So
21 you went to have a conversation with Frank Murray who, at
22 that time, was an inspector?

23 A. Yes.

24 183 Q. And you said that conversation took place in the District
25 Office?

26 A. I am not sure but it would be certainly either in the
27 District Office or his own office, but I have reason to
28 believe since then that it was in the District Office or in
29 the room where they were having their elevens', their
30 coffee break.

1 184 Q. I am going to ask Mr. Mills put up the floor plan. This is
2 the first plan, I think it's the third page. I appreciate
3 you don't have a copy there, but does this accord with your
4 recollection of the layout of the building?

5

6 (Document handed to the witness)

7

8 Now, I hope this is correct. Is the District Office on the
9 first floor?

10 A. It is.

11 185 Q. Which of those rooms is the District Office?

12 A. We will say the District Office actually, it is the
13 Superintendent's clerk's office, that is the District
14 Office.

15 186 Q. So that is the room at the bottom right of the plan?

16 A. Yes.

17 187 Q. So that is where you met Frank Murray?

18 A. It could be that, or there is an interconnecting door, as
19 you can see, to Superintendent Tierney's office, so it
20 could be anywhere within that area. I am not quite sure
21 whether they had a specific room in which they had their
22 coffee breaks but I know I did have coffee myself in some
23 of those rooms, so it is in one or other of those rooms.

24 188 Q. I think Frank Murray has sadly passed away?

25 A. I didn't know that.

26 189 Q. I hope I am right but I believe that is the case.

27 A. I read it since.

28 190 Q. We must rely on the statement that he made to the Assistant
29 Commissioner O'Dea in March of 1989, and I will put it to
30 you the following: *"At 11 a.m. I went to the District*

1 *Office for a cup of tea. Chief Superintendent Nolan,*
2 *Superintendent Pat Tierney, Sergeant Rowan, Gardai Flynn,*
3 *Dolan, Bean Garda Clarke were there. Chief Superintendent*
4 *Nolan informed me that Chief Superintendent Harry Breen and*
5 *Superintendent Bob Buchanan were coming down to see him at*
6 *2 p.m. The others present were not aware of what the Chief*
7 *said to me."*

8 Does that accord with your recollection?

9 A. Yes. Although I wasn't quite sure why I wouldn't have told
10 Superintendent Tierney if he was there because he was
11 Inspector Murray's superior officer, but maybe he was in
12 conversation with somebody else and I didn't want to speak
13 to anybody else, I thought it sufficient to speak to
14 Inspector Murray.

15 191 Q. Now, you are there having a chat with Inspector Murray.
16 You are in a room with a number of people. Might others
17 have heard that conversation?

18 A. I doubt it very much. It's quite a large room and I
19 imagine that with that number, that they were probably in
20 groups speaking, so it was a one-to-one conversation.

21 192 Q. And was Inspector Murray the only person you spoke to?

22 A. That is all.

23 193 Q. And this is because, you say, he was the officer in your --
24 in that station --

25 A. Yeah.

26 194 Q. -- who corresponded to Bob Buchanan?

27 A. I felt he was the only one who should know.

28 195 Q. Now, wasn't there a Border Superintendent in your station?

29 A. Not quite the same as the Border Superintendent in north.

30 He was a Detective Superintendent who was overall

1 responsible for the Detective Branch but he didn't have the
2 role of Border Superintendent at the time; it was, as I
3 said earlier, an inspector, Inspector Murray, who had that
4 role in Dundalk.

5 196 Q. We have here -- and I think you are referring to Tom
6 Connolly, isn't that right?

7 A. Yes.

8 197 Q. Because we have here Tom Connolly's statement to Assistant
9 Commissioner O'Dea, and it begins: "*I am Border*
10 *Superintendent attached to Dundalk station.*" Is he wrong?

11 A. I think you could describe him as that. Also, he was
12 Detective Superintendent in charge of border operations and
13 the Detective Branch. But Inspector Murray was a uniformed
14 officer. I think Bob Buchanan would have been a uniformed
15 officer in the north also. So the system was slightly
16 different in both jurisdictions in that the Detective
17 Branch, the plain clothes people really were a separate
18 organisation in Dundalk, where, in fact, in the north it's
19 probably -- it was driven more by the -- the border
20 operations were driven more by the Uniform Branch.

21 198 Q. So Uniform and Detective Branch don't talk to each other?

22 A. Well, I wouldn't say that, no.

23 199 Q. Well, so why shouldn't Tom Connolly know?

24 A. Again, because of the practice that it was the border, the
25 uniform Border Inspector who normally attended the meetings
26 with Bob Buchanan and Harry Breen and myself, where Tom
27 Connolly didn't on most occasions but did on some.

28 200 Q. Now, you said that you had a conversation with Frank
29 Murray. Did you have a conversation with anybody else
30 about the visit?

1 A. No, no.

2 201 Q. Well, just pause for a second here. Bob Buchanan was a
3 regular visitor to Dundalk station, isn't that right?

4 A. It seems so, although I didn't realise until I heard
5 Superintendent Tierney's evidence that he had come so
6 often. I knew he was a frequent visitor to stations all
7 along the border from Monaghan to Omeath, but I was
8 surprised when I heard there were occasions when I heard he
9 came twice a week to Dundalk, I mean he would be coming
10 there and I wouldn't know.

11 202 Q. He was a popular person with the guards?

12 A. He was well-known.

13 203 Q. He was liked?

14 A. He was liked, yes.

15 204 Q. And you knew that he had been transferred?

16 A. Yes.

17 205 Q. Did you not suggest to anybody it might be a nice thing to
18 congratulate him on his transfer?

19 A. No, that didn't arise.

20 206 Q. Just as a courtesy?

21 A. He hadn't been transferred. In any event, we would have
22 been meeting again before the transfer came about.

23 207 Q. But you couldn't be sure that he was going to come back to
24 Dundalk station before that?

25 A. But I was going north.

26 208 Q. That's my point; you couldn't be sure he was going back to
27 Dundalk station?

28 A. We didn't make presentations in those circumstances.

29 209 Q. Not even sort of nice words of congratulations, as simple
30 as that?

1 A. They would come, perhaps, at a later time but they didn't
2 happen at that time.

3 210 Q. The 20th March, when you came into work, was a perfectly
4 ordinary day?

5 A. Yes.

6 211 Q. There was no sense of what was -- of what was going to
7 happen later on that day, isn't that right?

8 A. No.

9 212 Q. So... And I think it's perfectly normal for colleagues to
10 talk amongst themselves about matters that are happening in
11 the station?

12 A. I am not quite sure of what point you are making.

13 213 Q. It would be inappropriate for a guard, let's say, to
14 discuss with a member of the public of an event that is
15 going to take place in the station but not inappropriate to
16 discuss with one of his colleagues the possibility that,
17 let's say, Bob Buchanan was coming and possibly for the
18 last time?

19 A. No.

20 214 Q. That would not have been an inappropriate conversation?

21 A. We didn't look at it like that at all. It was just another
22 visit, as far as I was concerned. As I said, the transfer
23 was just an afterthought.

24 215 Q. OK. It was just another visit. So it's something that
25 colleagues could discuss among themselves, could have a
26 chat about among themselves?

27 A. I think they would be more concerned about their own
28 transfers, really, than Bob Buchanan's.

29 216 Q. No, no, no, now let's just focus on the point which is,
30 that you've got Bob Buchanan coming. There is nothing

1 wrong with colleague A saying to B, "Oh, I hear Bob
2 Buchanan is coming down today."

3 A. Well, there is nothing wrong with it.

4 217 Q. That is the point --

5 A. That is, if he knew.

6 218 Q. Precisely, precisely.

7 A. Yes.

8 219 Q. So, therefore, it would not be inappropriate for a member
9 of the Force to have a conversation with another member of
10 the Force relating to the possibility of the visit by the
11 two officers?

12 A. It wouldn't be -- it wouldn't be unusual.

13 220 Q. Now, having had that conversation with Frank Murray, what
14 did you do next?

15 A. I think I remained in my office and the next action on my
16 part was at 2 o'clock or thereabouts when I found
17 downstairs to the Public Office and spoke to the guard that
18 answered the phone, I don't know who he was, said that I
19 was expecting two visitors at 2 o'clock and would he take
20 them to my office by the side door -- there is a private
21 entrance -- and...

22 221 Q. Just stop there for a second. Could you put the ground
23 floor plan up, please? Have you got the ground floor plan
24 there in front of you?

25 A. Yes.

26 222 Q. When you are referring to the side door, what are you
27 referring to?

28 A. Yes, just to the left of the main entrance.

29 223 Q. So we come in the main entrance, do we go through the front
30 door?

1 A. Yes.

2 224 Q. And then do we turn left towards "Lobby"?

3 A. Yes.

4 225 Q. And underneath "Lobby" it says, "*Private entrance to back*
5 *stairs*," is that what you are referring to?

6 A. Yes.

7 226 Q. And had it been your intention that your visitors should be
8 brought up that way?

9 A. Yes.

10 227 Q. Did you tell the guard you spoke to?

11 A. I did.

12 228 Q. Were you aware at the time his name was David Sheridan?

13 A. No.

14 229 Q. But you gave direction that they should be brought up that
15 way?

16 A. Yes.

17 230 Q. Now, is there -- is there a door at that point? It seems
18 to be open in that plan?

19 A. It's a locked door.

20 231 Q. A locked door. And who has the key to that locked door?

21 A. I had one and it would be -- another one would be kept in
22 the Public Office. I think the Inspectors would also have
23 one to go up to their office on that area, the next floor.

24 232 Q. But for the purpose of Garda Sheridan bringing them up
25 through that door, he'd need to get the key in the Public
26 Office, isn't that right?

27 A. As far as I can recall that is how he would have had to
28 allow them in.

29 233 Q. Now, did you tell the guard, we know it's Garda Sheridan,
30 who you were expecting?

1 A. No.

2 234 Q. How was he to know who you were expecting then?

3 A. Just two callers asking for the Chief Superintendent.

4 235 Q. Surely it would be helpful if he were to know who was
5 coming, to make sure that the right people were shown up to
6 your office?

7 A. Well, it's unlikely that any other two would be coming, so
8 I think -- and at the time, so I think it was a pretty
9 straightforward notice to him, just to meet two people who
10 would ask for me at 2 o'clock and bring them up to my
11 office.

12 236 Q. Now, as we know, Garda Sheridan had to leave and he passed
13 the message on to, as he then was, Garda Seamus Nolan?

14 A. Yes, that would be change of shift time, yes.

15 237 Q. Yes. You were here when, he is now Detective Garda Seamus
16 Nolan, gave evidence?

17 A. Yes.

18 238 Q. You heard what he had to say?

19 A. Yes.

20 239 Q. Very good. So, before the two officers arrived, what were
21 you doing?

22 A. Just I was in my office, perhaps attending to office work,
23 files and correspondence.

24 240 Q. Do you remember having a meeting with a guard called Val
25 Smith?

26 A. Yes, Val Smith was a recruit guard who apparently had made
27 an appointment to meet with me at 2 o'clock. It slipped my
28 mind and he arrived at 2 o'clock, and I am not sure what it
29 was about but I knew it wasn't something of great
30 importance, at least insofar as I was concerned, and I

1 spoke to him for about ten minutes and he left and there
2 was a gap between the time of he leaving and the arrival of
3 my two visitors.

4 241 Q. Mm-hmm.

5 A. Maybe five, ten minutes.

6 242 Q. When he left, did he leave the door open or did he close
7 it?

8 A. Oh, the door was closed. I always closed the door. People
9 leaving it closed it.

10 243 Q. So then the two officers arrived in your office?

11 A. The door opened and the two officers came in.

12 244 Q. By themselves?

13 A. Someone came, a guard presumably, I didn't pay much
14 attention because I was more concerned with who was coming
15 in than who was letting them in, and I know that somebody
16 opened the door and said my visitors had arrived. I think
17 simultaneously they came in. I couldn't be sure who that
18 person was but I have learned since that it was Garda
19 Seamus Nolan.

20 245 Q. Yes. So, Garda Seamus Nolan, as he then was, he was the
21 person, the member who brought them to your office?

22 A. Yes, it seems so.

23 246 Q. That is quite clear now?

24 A. Yes.

25 247 Q. Now, do you remember the visit by Assistant Commissioner
26 O'Dea?

27 A. Yes.

28 248 Q. How did that come about?

29 A. Well, the day after the murders Assistant Commissioner
30 O'Dea came to Dundalk, obviously he was given the brief to

1 carry out an initial investigation into the circumstances
2 of their presence -- of the presence of the two officers in
3 Dundalk and the subsequent events in Dundalk and until they
4 crossed the border when they were killed.

5 249 Q. You say the circumstances; what do you mean by that?

6 A. The telephone calls and the initiation of the telephone
7 calls and everything that led up to them coming, my meeting
8 with them, what transpired at the meeting and their
9 departure.

10 250 Q. Now, I think you know full well that the Assistant
11 Commissioner's investigation had another purpose?

12 A. Well, it was to establish, I suppose, if there was a leak
13 of information in relation to the holding of a meeting.

14 251 Q. Exactly.

15 A. Yes.

16 252 Q. What discussion did you have with the Assistant
17 Commissioner on that topic?

18 A. Well, he took a statement from me in writing to -- in which
19 I describe my personal involvement in the setting up of the
20 meeting and the holding of the meeting and that. My whole
21 involvement in the matter.

22 253 Q. I will come back to your statement in a moment, but you see
23 your statement does not assist us with that question: what
24 discussion did you have with the Assistant Commissioner on
25 the issue of a leak?

26 A. We didn't have much discussion about a leak because quite
27 frankly, we didn't know there was a leak, or did we suspect
28 that there was a leak? I think, even at that stage, my
29 belief, and I am sure it was shared by Assistant
30 Commissioner O'Dea, was that the officers were followed in

1 their car from Dundalk to the border and ambushed and
2 killed there. It wasn't a priority at that stage, or
3 indeed, as far as I am aware, soon afterwards either, that
4 any form of a leak or collusion, but nevertheless,
5 Assistant Commissioner O'Dea had been given the brief to
6 investigate the entire matter, and he started with me.

7 254 Q. Yes. And the entire matter included the possibility of
8 there having been a leak?

9 A. Yes, it would of course be something that he would have had
10 to look at.

11 255 Q. Yes. And so my question to you is: what discussion did he
12 have with you on that topic?

13 A. He didn't have much of a discussion with me. He wanted to
14 know who else knew of the visit and insofar as I was aware
15 of those, who else included, that would be Inspector Murray
16 and whoever took the initial calls in the District Office,
17 and I couldn't assist him beyond that. But I think in his
18 further investigations he interviewed absolutely everybody
19 who was in the station, and that took him a period of days,
20 then, to do that.

21 256 Q. I think two days, isn't that right?

22 A. Well, for the whole lot, I think it probably would have
23 taken more than two days but I know the first day he
24 interviewed me, and I don't really know where he went from
25 there but I know that he interviewed others.

26 257 Q. Now, I have to come back to this topic: what discussion
27 did you have with the Assistant Commissioner on the
28 question of a leak?

29 A. We didn't have much of a conversation --

30 258 Q. No, no, when you say "not much," that seems to suggest you

1 had a conversation?

2 A. In fact, I could say that we didn't have any really, other
3 than I couldn't say that there was a leak, nor could he say
4 that there was a leak. So if there was a question of a
5 discussion on a leak, it would merely be: do you think
6 there was a leak? It's not something that either of us, I
7 am quite sure, at the time gave much consideration to.
8 Quite frankly we didn't think there was a leak, or I didn't
9 anyhow.

10 259 Q. That is your opinion, but nonetheless the Assistant
11 Commissioner was tasked with the job of finding out whether
12 there was a leak?

13 A. Well, he would be looking at it in a different perspective
14 to me because, after all, he was investigating me also. So
15 I mean, while we were both senior officers, if he had been
16 given the task of investigating, as he perceived it, a
17 perceived leak, well he wouldn't have to confide in me all
18 his views on how he was going to approach it.

19 260 Q. He didn't so much as ask your opinion on the matter?

20 A. He possibly did but we didn't dwell on it. It was not
21 regarded as a priority at that stage.

22 261 Q. Well, how could it have been not a priority at that stage?
23 What other purpose did this investigation have?

24 A. To find out were they followed from the station. The
25 circumstances that --

26 262 Q. We have read the report. There is absolutely nothing about
27 that in the report.

28 A. It may not be in the report but I think that's a question
29 that, perhaps, Mr. O'Dea could answer better than I. I
30 mean, my --

1 263 Q. No, I am putting the point to you because I think you know
2 full well that the issue of a leak was very much alive and
3 a highly sensitive issue, particularly from a political
4 point of view?

5 A. I don't agree with you. The question of a leak was not
6 particularly high at that stage. And if I -- if you will
7 allow me to go even further on. When I met with the Chief
8 Constable on the following day and many of his senior RUC
9 officers in Newry, nobody touched on the question of a
10 leak. And we were all, and they in particular, shared my
11 view that the unfortunate officers had been followed.

12 264 Q. Well, now, just a second now. If there was no discussion
13 between yourself and, let's say, the Chief Constable --

14 A. Yes.

15 265 Q. -- about a leak, how do you know what his opinion was?

16 A. He expressed it.

17 266 Q. He what?

18 A. He expressed it.

19 267 Q. I see. So, the day after this appalling event took place,
20 he said, "Oh, there was no leak"?

21 A. He wouldn't have said there was no leak, but he put the
22 emphasis on the fact -- he didn't make any reference
23 directly to: well, we must investigate the leak in
24 Dundalk.

25 268 Q. Because, after all, if there had been a leak, it was going
26 to be in Dundalk station, isn't that right?

27 A. Yes.

28 269 Q. So the Chief Constable couldn't possibly know --

29 A. No, no, he couldn't.

30 270 Q. -- what had happened in Dundalk station at that stage?

1 A. No, he couldn't.

2 271 Q. And you think what he might have said on his part, at best,
3 was speculative?

4 A. Yes.

5 272 Q. Now, you were the first member to be interviewed by the
6 Assistant Commissioner, is that right?

7 A. Yes.

8 273 Q. And if you could put up the manuscript statement, please.
9 If I could just ask you -- you have in front of you a
10 manuscript statement. If could I ask you to go to the back
11 page, the last page, and if could you identify your
12 signature on the last page.

13 A. Yes.

14 274 Q. Is that your signature? The first thing we need to deal
15 with is, if you go to page one now and it says "*Taken on*
16 *21/3/1989.*"

17 A. Yes.

18 275 Q. Now, if you go to the back page, it seems that you signed
19 it on the 22nd --

20 A. Yes.

21 276 Q. -- of March 1989. How did that come about?

22 A. I can offer no explanation for that because, as far as I
23 can recall, the statement was commenced and concluded on
24 the same day. Now, it was either an error on my part in
25 putting the date the 22nd on it --

26 277 Q. Because the date is put in your handwriting, is that right?

27 A. It is, yes. Because on the 22nd, while with Mr. O'Dea, we
28 were not in Dundalk, I accompanied him to the funerals of
29 both officers in the north.

30 278 Q. Yes, could you just very briefly, how long did it take to

1 attend the two funerals?

2 A. I think we were there for most of the day because we would
3 have left -- he had come from Dublin, Mr. O'Dea had come
4 from Dublin and we had travelled up to Belfast initially
5 and we were picked up in Belfast and then taken to
6 Banbridge.

7 279 Q. If you just slow down for a second. He arrived in Dundalk
8 on the 21st, is that right?

9 A. First of all, yeah, to interview me he arrived the very
10 next day.

11 280 Q. That was the day he started the interview with you?

12 A. Yes, the day after.

13 281 Q. OK. But then you say on the 22nd you then went to?

14 A. North.

15 282 Q. Did you go to Newry first or straight to Belfast?

16 A. We went state to Belfast.

17 283 Q. Straight to Belfast. And who did you meet in Belfast?

18 A. We met the Chief Constable but not initially because we
19 went to headquarters where we were provided with transport
20 and taken to the two funerals.

21 284 Q. Very well. Did the two funerals take place in the morning
22 of that day or spaced out over the morning and afternoon?

23 A. They were morning, mid-morning and early afternoon, I
24 think. We were able to take in the two of them.

25 285 Q. Yes. And after the second funeral you returned back to
26 Dundalk station?

27 A. No, we went back to RUC Headquarters where we briefly met
28 the Chief Constable.

29 286 Q. So what time do you think you got back to Dundalk station,
30 yourself and the Assistant Commissioner?

1 A. It would be late afternoon, maybe 4:00, 5:00.

2 287 Q. And do you know did he resume his investigation at that
3 point?

4 A. He didn't -- no, he returned to Dublin. But I --

5 288 Q. You are clear in your mind about that, are you?

6 A. It may be quite possible that he concluded that statement
7 with me or that I signed it at that time, but I can't -

8 289 Q. The reason I ask is simply because, looking at the
9 collection of statements produced by the Assistant
10 Commissioner, the vast majority are dated 22nd March, when
11 apparently he was either in Belfast or at the funerals or
12 he went straight back to Dublin?

13 A. Well, he must have stayed on, maybe availed of the
14 opportunity -- because, I, again, would not have been with
15 him when he was carrying out that investigation.

16 290 Q. I appreciate that. I am merely focusing on the date and
17 where he was on the 22nd of March?

18 A. He must have stayed on.

19 291 Q. But you tell us, first of all, that yourself and he went to
20 Belfast?

21 A. Yes.

22 292 Q. And then you went to the two funerals and got back to the
23 station about 5 o'clock?

24 A. Well, I say it could be even earlier.

25 293 Q. All right, earlier. And then he went back to Dublin?

26 A. Well, again it could be later, I don't know. We separated.

27 294 Q. All right. Now, could you go to page 3 of that statement,
28 please. Now, before I deal with page 3, could you tell us
29 how did the Assistant Commissioner receive the information
30 that he put into this document, because it's in his

1 handwriting, isn't that right?

2 A. Yes.

3 295 Q. OK. So how did he know what to write down?

4 A. He asked me questions and I answered them and he wrote down
5 my answers, and maybe he gave me a little bit of freedom to
6 express how events developed.

7 296 Q. Well, surely that is only right because, after all, it has
8 to be your statement, not his statement?

9 A. Yes.

10 297 Q. So what you say is what is important, it's not what the
11 Assistant Commissioner thinks you should say?

12 A. Well, this was not a statement in the sense of one that
13 would be used in a prosecution. It was more or less -- I
14 mean, there are various ways Mr. O'Dea could have set
15 about, or anybody in those type of circumstances, could
16 have set about an investigation. He chose to take
17 statements, which I suppose is probably the best way of
18 doing it, from anybody, rather than just talking to them
19 and then making a report on the conversation.

20 298 Q. Because, is there any reason why, even if this is not for
21 the purpose of a criminal prosecution, there should be any
22 lowering of standard?

23 A. Well I am not sure that there was a lowering of standard.
24 Perhaps you would tell me how that is?

25 299 Q. I am just trying to follow the point. Maybe I
26 misunderstood. You said this wasn't a statement for the
27 purpose of a prosecution?

28 A. Yes.

29 300 Q. I am saying, equally, it wasn't any reason to be less
30 careful?

1 A. The point I wanted to make, probably there would be more
2 latitude allowed to the person making the statement by way
3 of contradiction or putting in something that might require
4 further clarification at a later point.

5 301 Q. But surely, just to pursue that point, a statement is not
6 the statement of the writer; it's the statement of the
7 maker. So it's the maker of the statement, in other words
8 yourself, who is in charge of what goes into it?

9 A. Not necessarily with this type of statement. Again, if
10 there was need for clarity that couldn't be given there at
11 that point, it would be -- it could be left open to follow
12 up, and there was a follow-up statement, in my
13 recollection, made by me to Detective Superintendent Carty.

14 302 Q. Yes. You have mentioned that, but you are certain about
15 the fact that there was a follow-up statement?

16 A. Well certainly he interviewed me, and it must be to tie up
17 loose ends.

18 303 Q. When you were interviewed by the Assistant Commissioner,
19 who else was present?

20 A. Nobody.

21 304 Q. Are you sure about that?

22 A. Certain.

23 305 Q. Because Mr. Carty says, "*I was present when John Nolan's*
24 *statement was taken.*" So he is mistaken, is he?

25 A. No.

26 306 Q. He also said, "*I was present when the Assistant*
27 *Commissioner took statements from the likes of John Nolan.*"

28 A. Well, that is generalising, I think.

29 307 Q. But he was quite clear he was present when John Nolan's
30 statement was taken?

1 A. No.

2 308 Q. So he is mistaken in that regard? That's all right.

3

4 MR. DURACK: I am a bit concerned, there appears to be a
5 statement put to this witness, that we haven't seen, who is
6 one of our officers, and is being relied on upon.

7 Mr. Carty, I understand. I would be concerned we should
8 have it.

9

10 CHAIRMAN: Do you say you don't have it already?

11

12 MR. DURACK: No.

13

14 MR. DILLON: I am surprised.

15

16 309 Q. Now, you say to us that you made a further statement --

17

18 MR. DURACK: I would like to have it, if I might.

19

20 CHAIRMAN: Do you want to have it before you continue with
21 this evidence, do you?

22

23 MR. DILLON: We can move on to another matter and come back
24 to that in a minute.

25

26 CHAIRMAN: In the meantime, efforts will be made to get it.

27

28 310 Q. MR. DILLON: Now, coming back to how this statement was put
29 together: question and answer, you say?

30 A. Yes.

1 311 Q. And it was the Assistant Commissioner who wrote it out?

2 A. Yes.

3 312 Q. And then you were, as it were, free to add or subtract?

4 A. Yes.

5 313 Q. Did any of that adding or subtracting take place?

6 A. Well it would have been read out, which is the standard
7 when all of these statements are taken, you read it over
8 and ask if that's correct or if there are any alterations
9 or additions you wish to make to it.

10 314 Q. Now, you have page 3 in front of you, do you?

11 A. Yes.

12 315 Q. You see there is a sentence has been crossed out?

13 A. Yes.

14 316 Q. And it seems to be the following: *"Garda Seamus Nolan,*
15 *Dundalk, came to my office and said that there were two*
16 *gentlemen to see me and he showed them in."*

17 A. Yes.

18 317 Q. Now, that's correct?

19 A. That's correct, yes.

20 318 Q. Why was it crossed out?

21 A. It can only -- it must only be because there was some
22 uncertainty on my part whether it was Seamus Nolan or not.
23 But, as it happened, when I said it, I was correct but I
24 may have had some doubt.

25 319 Q. Why not simply say "a guard"?

26 A. Well, maybe Mr. O'Dea must have felt -- it was he that
27 crossed it out -- well if you are not sure...

28 320 Q. Just a second here now. Did he cross it out in your
29 presence?

30 A. Oh, yes, he did.

1 321 Q. But you didn't initial?

2 A. No.

3 322 Q. But it was correct that a guard --

4 A. It was correct that it was Seamus Nolan.

5 323 Q. No, but let's go back to your state of knowledge in 1989.

6 It was correct that a guard, you didn't know that his name
7 was Seamus Nolan, you tell us?

8 A. I may have, because I happen to know Seamus Nolan. Now

9 there is a lot of guards there I didn't know but I did know
10 him.

11 324 Q. Well even more so --

12 A. But I wouldn't know him that well, so he probably just

13 knocked on the door and popped his head in the door and I

14 may have created a doubt in Mr. O'Dea's mind as to whether

15 it was Seamus Nolan or not, and he may have said, "Well, if
16 you are not sure, we won't put it in."

17 325 Q. But sure --

18 A. Bearing in mind that he was going to interview all of those

19 people anyhow and could establish or confirm that it was or
20 wasn't Seamus Nolan.

21 326 Q. I think you understand very well that if you get statements

22 from two people saying the same thing, that serves to

23 establish a particular fact, isn't that right?

24 A. Yes.

25 327 Q. So Seamus Nolan told Superintendent Tierney that he showed

26 the two officers to your office and, for reasons that are

27 still unknown, his statement to the Assistant Commissioner

28 makes no such reference; in fact points him quite the

29 opposite direction?

30 A. You mean my statement?

1 328 Q. No, no, Seamus Nolan's statement.

2 A. I see.

3 329 Q. You heard that evidence?

4 A. Yes.

5 330 Q. Now, you apparently told the Assistant Commissioner that
6 Garda Seamus Nolan showed these people to your office?

7 A. Yes.

8 331 Q. And that was crossed out?

9 A. Yes. As I said, it must be because I had some doubt and he
10 said, "Well, better leave it out."

11 332 Q. All right. You have a doubt -- you had no doubt but that
12 somebody showed them to your office?

13 A. Yes.

14 333 Q. So why not say that?

15 A. Well I didn't say that.

16 334 Q. Now, this brings me to the point. Isn't it the case that
17 an attempt was being made at this stage to create an aura
18 that this was just a very small handful of people who knew
19 about the visit of the two officers?

20 A. Oh, absolutely not. Absolutely not. I mean, there was
21 never a question -- I mean, in that instance, if I wanted
22 to pursue that line, I would have gone down and told nobody
23 but be down around the front door myself at 2 o'clock and
24 wait until ten past two and bring them up myself and nobody
25 would know.

26 335 Q. No, I am talking about after the event, rewriting history,
27 if I can put it that way; that after the event there is an
28 attempt to shut down the numbers of people who might have
29 known about this?

30 A. No, it wasn't approached at all in that manner.

1 336 Q. What other explanation is there?

2 A. Just a simple explanation in the interest of accuracy. If
3 I expressed a doubt as to whether it was or was not Seamus
4 Nolan, I think Mr. O'Dea said, "Well, we will leave it
5 out." And he would have done that on the basis he would
6 have been making further inquiries anyhow and he would have
7 established who it was and confirmed it.

8 337 Q. But, as we know, the Assistant Commissioner had a statement
9 from Seamus Nolan which did not establish that he showed
10 the two officers to your office?

11 A. You see, I was the very first person he interviewed, so at
12 that stage he didn't know.

13 338 Q. And he didn't come back to you later on to see if you
14 remembered who the officer was?

15 A. No, he didn't. But that might be one of the things that
16 Detective Superintendent Carty clarified when he came.

17 339 Q. Yes. Can you remember when you made that statement to
18 Detective Superintendent Carty?

19 A. In my office.

20 340 Q. Sorry, when did you make that statement?

21 A. Not terribly long afterwards. It could be maybe a week or
22 two.

23 341 Q. So he came back to Dundalk station?

24 A. Yes.

25 342 Q. And was it solely to talk to you?

26 A. I am not sure. But I think he would have assisted
27 Assistant Commissioner O'Dea in taking many of those
28 statements, I may be wrong. But that would give reason for
29 him being in Dundalk. He wouldn't have come up
30 specifically.

1 343 Q. I have no quarrel on that. What I am trying to establish
2 is, when did Kevin Carty come back to Dundalk?

3 A. Maybe a week or two afterwards.

4 344 Q. A week or two --

5 A. I couldn't be sure. All I can say is, he came back.

6 345 Q. And did you ask to see him or did he ask to see you?

7 A. Oh, I expect he came to see me because I had no reason to
8 see him.

9 346 Q. You see, in Assistant Commissioner O'Dea's report there is
10 no trace of your extra statement to Kevin Carty?

11 A. I can't comment on that. He certainly came back and we
12 spoke. Whether or not it was a second statement; whether
13 he produced my original statement or, whether we just had a
14 conversation, but we certainly -- he certainly did come
15 back and we spoke about aspects of the visit.

16 347 Q. The Assistant Commissioner's report appears to be dated 17
17 April 1989. There is a date stamp on my copy. That
18 suggests that that is the date of the report, isn't that
19 right?

20 A. Yes.

21 348 Q. So if Kevin Carty came back to talk to you, might it have
22 been after that date?

23 A. I wouldn't think so. I would say that it would be sometime
24 before the final report was done.

25 349 Q. Did you know a sergeant called Vincent Rowan?

26 A. Yes.

27 350 Q. Was he anywhere in the vicinity of your office on that day?

28 A. He was the district clerk, the Superintendent's clerk. The
29 Superintendent would have a sergeant clerk in Dundalk, not
30 in most districts now but in Dundalk they did have a

1 Sergeant Clerk and George Flynn would have been his
2 assistant and there may have been some other one.

3 351 Q. But did you see Sergeant Rowan at all that day?

4 A. Yes.

5 352 Q. Did you see him around about the time when the officers
6 arrived?

7 A. Shortly after they arrived.

8 353 Q. Shortly after they arrived. What was the sergeant doing?

9 A. I contacted him, I phoned the District Office and asked him
10 if he could bring in some tea and biscuits for my visitors
11 and myself and he arrived in the office at about 2:25.

12 354 Q. Mm-hmm.

13 A. And he came into the office. He knew the two officers and
14 they spoke briefly to each other and he knew them because
15 he was the notetaker at many of the formal meetings that we
16 attended, both north and south.

17 355 Q. Did he have any conversation with the two officers?

18 A. No.

19 356 Q. Did he nod to them or anything like that?

20 A. Just saluted and left the tray and left the office.

21 357 Q. Left the office then, yes. Now, I think the purpose of the
22 meeting was to discuss potential police operation,
23 police/army operation, isn't that right?

24 A. No.

25 358 Q. No?

26 A. No, we never discussed operations. We discussed activities
27 and security, generally, but we didn't discuss joint
28 operations ever at those things.

29 359 Q. Maybe I misread. You discussed the movement of trucks in
30 and out of a particular premises.

1 A. Yes.

2 360 Q. Anything else discussed?

3 A. Just discussed the security generally on the border,
4 smuggling activities. That specifically -- I think that
5 the purpose of the meeting was more or less about specific
6 incidents of smuggling and I recall telling them that
7 smuggling, as we saw it, was primarily -- anti-smuggling
8 was primarily a matter for Customs and Excise and I would
9 contact our Customs and Excise authorities, which I did
10 subsequently.

11 361 Q. Yes. Now --

12 A. And before they left then, Harry Breen asked me if I would
13 go north to meet them on a date in April, and he fixed a
14 date. I agreed that we would, that Superintendent Tierney
15 and myself would go north to meet them in Armagh and I
16 agreed that we would.

17 362 Q. Very good. Now, I think at some point towards the end of
18 the meeting Bob Buchanan left your office to try to talk to
19 some of your colleagues?

20 A. Yes, he left and he was absent -- he left to speak to
21 Superintendent Tierney and he was absent for about five
22 minutes and he returned. Now, I am not sure whether he met
23 Inspector Tierney or indeed Inspector Murray while he was
24 out but he was only gone for about five minutes, but he
25 returned and they then left.

26 363 Q. While he was out of the office what did you and Harry Breen
27 discuss?

28 A. I can't recall exactly but there was maybe an element of
29 small talk at that stage. I should also say that no
30 written notes were made by either of them nor by myself and

1 they didn't carry any briefcases or notebooks or written
2 material with them.

3 364 Q. Mm-hmm...

4 A. They were empty handed, as far as I could see.

5 365 Q. On that point of no notes, you didn't take any note, is
6 that right?

7 A. No.

8 366 Q. Why is that?

9 A. The gist of the conversation was it didn't require notes to
10 be taken. I knew exactly the kernel of what the problem
11 was and could be summarised in a sentence.

12 367 Q. Mm-hmm. And were you ever going to make a note?

13 A. I didn't have to make notes. I probably included it in
14 reports to Headquarters, yes.

15 368 Q. Now, following the murders you were -- you wrote two
16 reports to Headquarters, isn't that right? Do you have
17 those in front of you there?

18 A. Yes, I did one, I think, on the 22nd. I did one that
19 night, actually.

20 369 Q. Yes, that was the 24th March?

21 A. 24th and the 22nd.

22 370 Q. The 24th and the 22nd March, here we are, yes.

23

24 MR. DURACK: I wonder are these reports subject to a claim
25 of privilege on the part of the Commissioner? I think that
26 they were. Now, I am not a position to confirm that
27 absolutely, but certainly I was under that impression. You
28 see, it's rather unsatisfactory, sir, that things are being
29 put to witnesses which we are not told about in advance.
30 This issue wouldn't arise if I had known there was some

1 question of putting a report to this witness --

2

3 MR. DILLON: As far as I am aware, this is not a privileged
4 document, but however, I can leave the point over because
5 we will be hearing from Mr. Nolan again at a later date and
6 the matter can be clarified between now and then. I can
7 leave this over till a later date.

8

9 CHAIRMAN: Do you want to conclude his...

10

11 MR. DILLON: Oh, there are other matters I want to deal
12 with, yes.

13

14 CHAIRMAN: Is it all right until he gives evidence again?

15

16 MR. DURACK: Perhaps we will see what other area he is
17 going to go into. It seems unlikely we are going to
18 complete his cross-examination today, in any case.

19

20 371 Q. MR. DILLON: Just to deal very generally with this question
21 of a leak, just in very general terms you understand. I
22 think it's your view that the first you ever heard of a
23 mole or anything like that was after you left the Force?

24 A. Yes.

25 372 Q. Now, do you remember the newspapers at the time?

26 A. Yes.

27 373 Q. I wonder if Mr. Mills could put up -- You see, "*Mole fear*
28 *in double killing*"? Now, that is, I think, dated 21st, yes
29 March 21st. So it was very much a live issue then, wasn't
30 it?

1 A. Initially, yeah, I mean that was obviously a headline, a
2 newspaper headline that somebody just decided on at the
3 time. But I am sure it was done without any knowledge,
4 certainly without any inside knowledge.

5 374 Q. Surely it was precisely this concern that led to the
6 Assistant Commissioner's investigation, which was whether
7 or not there was a leak?

8 A. Yes, but it would be one of the things that would have to
9 be investigated from the outset, obviously.

10 375 Q. So, in fact the first you ever heard of a mole was when you
11 took up the evening paper?

12 A. With respect, I wouldn't have paid much attention to a
13 headline on any newspaper the day after an event because I
14 knew at that time I had greater insight into events than a
15 newspaper columnist.

16 376 Q. Even though the Assistant Commissioner had been sent up to
17 investigate the very point which was in the headline?

18 A. At that stage I don't think anybody had really commenced
19 it. Was that headline the day after the event?

20 377 Q. Yes.

21 A. The Commissioner hadn't arrived at all at the scene; he was
22 just there that day, perhaps.

23 378 Q. But he was tasked with the job of investigating the very
24 point that was raised in the headline, isn't that right?

25 A. Not necessarily with that task alone. He was tasked with
26 investigating the entire events that led to the --

27 379 Q. And this is one component?

28 A. One of many things.

29 380 Q. Yes.

30 A. Because, bear in mind, I am sure, also, he was looking at

1 how the murder was carried out. Was part of it committed
2 within our jurisdiction? We didn't know.

3 381 Q. Yes.

4 A. If the pursuit commenced in our jurisdiction, we don't
5 know, were they followed from the station.

6 382 Q. That is not dealt with by his report. His report was on
7 the question of whether or not there was a leak, isn't that
8 right?

9 A. It was primarily to find that out, yeah.

10 383 Q. Exactly. So, the first you ever heard of the question of a
11 mole was when the Assistant Commissioner came to the
12 station or when you saw the newspaper?

13 A. I am not sure that it's correct to say the first I heard of
14 a mole. I mean, that would have been one of the things, a
15 mole or collusion, it would be one of the things that would
16 be considered, amongst many other things, but it wasn't a
17 priority that the first thing we must go about is finding
18 the mole, because we didn't believe there was a mole
19 initially.

20 384 Q. I am sorry to keep on this point but it is the core point.
21 You say it wasn't a priority. Yet, that is the reason the
22 Assistant Commissioner was dispatched to Dundalk station,
23 was to investigate this matter?

24 A. Yes.

25

26 MR. DURACK: Sorry, I don't think that is a fair question
27 to put to this witness. If he wants to ask Mr. O'Dea about
28 it, very well, but I mean, what the man's function was and
29 what he was asked to do is headed in the report, which is
30 to look at the circumstances of the meeting at the request

1 of the Government. "Subject" is: *"The circumstances and*
2 *arrangements relating to a meeting at Dundalk Garda Station*
3 *between Chief Superintendent John Nolan of An Garda*
4 *Siochana and Chief Superintendent Harry Breen and*
5 *Superintendent Bob Buchanan of the Royal Ulster*
6 *Constabulary, both deceased, on Monday, 20th March 1989."*

7 That was the task given to the Assistant Commissioner at
8 the request of the Government. There is no mention at all
9 of looking for a mole in it. And if this is a thesis which
10 Mr. Dillon wishes to pursue, it isn't mentioned in his
11 opening.

12
13 MR. DILLON: It is now quite clear, Chairman, from the
14 evidence, that the title of the report is a cover. The
15 purpose of the report, amongst other matters I accept, but
16 the purpose of the report was to investigate whether there
17 was a leak, and that is brought out very clearly -- just
18 bear with me a second -- at page 26 of the report,
19 paragraph (vii), in which the Assistant Commissioner
20 writes: *"I am satisfied from the investigations I have*
21 *carried out that no member of An Garda Siochana leaked or*
22 *passed any information concerning the visit of the two RUC*
23 *officers in Dundalk on 20th March to any persons outside*
24 *the Force."* And that is the crucial paragraph.

25
26 CHAIRMAN: Yes.

27
28 MR. DILLON: And I think Mr. Nolan understands full well
29 what I am getting at and he is well able to deal with the
30 point.

1

2

MR. DURACK: This is one of many paragraphs in a summary,

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it's the seventh paragraph of the summary and there are

4

conclusions thereafter. I am suggesting that Mr. Dillon is

5

pursuing a thesis which he has not laid the grounds for.

6

7

385 Q. MR. DILLON: Mr. Nolan, when the Assistant Commissioner

8

came to Dundalk, when he sat down with you and discussed

9

what his task was, it was clear -- was it clear to you that

10

his task included the question of investigating whether or

11

not there was a leak?

12

A. We didn't have any discussion about what his task was. He

13

came to me to take a statement from me. I don't know what

14

his brief was and what he was told by others what he should

15

do, but I would presume it would have included everything

16

to do with the events leading up to the murders, and that

17

would have included the possibility of a leak, collusion,

18

assistance, or any other thing that helped those who

19

carried out the crime.

20

386 Q. Do you remember signing a statement for the purpose of the

21

Tribunal's inquiry?

22

A. Yes.

23

387 Q. Do you remember the sentence, "*My understanding was that*

24

the purpose of Assistant Commissioner O'Dea's report was to

25

see whether there had been any leakage of information"?

26

A. Yes.

27

388 Q. Are you resiling from that now?

28

A. No, I am not, but I am saying that was my understanding,

29

and that was my understanding to a reply to a question

30

perhaps put by you. I would stand by what I have always

1 thought, and that is that Mr. O'Dea came to take a
2 statement from me and all the others to find out the entire
3 circumstances of the events in Dundalk and that led up to
4 the killings.

5 389 Q. Surely, that is something which should be carried out by
6 the personnel in the station, in any event?

7 A. No.

8 390 Q. Why not?

9 A. That this was an internal investigation where any one of us
10 or all of us could be suspect, so it was --

11 391 Q. That is the point, isn't it?

12 A. Sorry?

13 392 Q. That is the point, any one of you could be a suspect?

14 A. Yes.

15 393 Q. A suspect in relation to --

16 A. In any way, I mean --

17 394 Q. In relation to?

18 A. One approached this as an investigator, and I presume this
19 is the way Mr. O'Dea approached it, he didn't know what
20 happened, so his task was to interview all of the people
21 concerned to establish what happened, and the logical way
22 of going about that was to interview the key people who
23 were involved in the setting-up of this meeting, who met
24 with those people, who saw them, and me, who spoke to them.

25 395 Q. But your station had a Detective Branch, didn't it?

26 A. Yes.

27 396 Q. Why couldn't it have carried out this investigation?

28 A. That was not their function because they were part of the
29 system that was being investigated.

30 397 Q. Why was that investigation taking place?

1 A. Because the two officers had been in Dundalk station and in
2 the events that followed that led to their killing.

3 398 Q. Well, it was necessary to send an Assistant Commissioner
4 solely to establish when they arrived, when they left, who
5 they saw, who they didn't see?

6 A. Yes, yes, because this was a unique situation, that, to my
7 knowledge, nothing similar had happened on the border. It
8 was unique in every respect. In fact, I wouldn't be
9 surprised if they had sent more than one Commissioner.

10 399 Q. Was the allegation of collusion unique at that point?

11 A. Yes. I never heard that word bandied along amongst us or
12 anybody else along the border at that time.

13 400 Q. What about the killings of the Gibsons, Lord Justice and
14 Lady Gibson?

15 A. Yes, that was before my time, but, again, there would have
16 been headlines, but anything to do with collusion, as I can
17 recall, always came from the media.

18 401 Q. And the Force never investigated it?

19 A. I am talking in a general way. I mean, there was no
20 specifics. I am sure, when there were investigations
21 carried out into the Gibsons and all of those border
22 murders, that all of those elements were examined.

23 402 Q. Now, I think after you left the Force, in your next job, a
24 colleague pointed out to you that your name had appeared in
25 a book, is that right?

26 A. Yes.

27 403 Q. I think it's a book called *Bandit Country* by the author
28 Toby Harnden?

29 A. Yes.

30 404 Q. I think in that book, the allegation is made that there was

1 collusion?

2 A. Yes.

3 405 Q. You also read an article by the journalist Kevin Myers?

4 A. Yes, I read that and I read the extract -- I didn't read
5 the book, but I read the extract where that reference was
6 made.

7 406 Q. And you say this was the first time you heard any
8 suggestion of a mole?

9 A. The first time I heard anything to do -- I moved to
10 Dundalk, it was -- granted, I was two years there after the
11 murders and I never heard any word of a leak or a collusion
12 by any member of the Force in Dundalk at that time.

13 407 Q. I think on the question of collusion, the first line of
14 inquiry was never to eliminate any member of the Force from
15 involvement, isn't that right?

16 A. Yes.

17 408 Q. Which was -- also believe that you were very fortunate was
18 not a line of inquiry that had to be pursued?

19 A. In most investigations, you certainly wouldn't start
20 investigating your own before you started to investigate
21 the other suspects.

22 409 Q. And that is what happened in this case, because the
23 Assistant Commissioner came up to investigate his own, so
24 to speak?

25 A. Well, yes.

26 410 Q. I think that is it your view that you might have been
27 distracted from the informer line because of the report of
28 a car having driven through the station yard?

29 A. That was -- that was at the very, very early stages and it
30 seemed a very likely possibility that a car -- well, that a

1 car did drive through and that car was surveying the area
2 and observing the car parked in front of the station and
3 confirming that it was there. I think that, as you know,
4 was clarified afterwards, that it was an innocent car.

5 411 Q. Now, is it also your view that the issue of collusion was
6 obviously alive at Government level and at Commissioner
7 level?

8 A. Could you repeat?

9 412 Q. Sorry. Was it your view that the issue of collusion was
10 obviously alive at Government level and at Commissioner
11 level?

12 A. It was a possibility, I suppose, that it couldn't be ruled
13 out.

14 413 Q. Again, do you remember the statement you made to the
15 Tribunal in the context of the private inquiry?

16 A. No.

17 414 Q. What you said was, "*Now, the issue of collusion was*
18 *obviously alive at Government level and at Commissioner*
19 *level.*"

20 A. Was that in the early stages?

21 415 Q. Well, I am asking you, or is that following the publication
22 of *Bandit Country*?

23 A. I'd say it was after the publication, because I don't think
24 in either jurisdiction, certainly in my time in Dundalk
25 after the killings, and I went north and attended many
26 meetings, formal and informal, with the RUC at that time,
27 and the question of collusion never arose or was discussed.

28 416 Q. I have to ask you whether that is correct, because you went
29 on to say, "*It was not a priority on my level for reasons*
30 *that I have mentioned.*" Now, *Bandit Country* was published

1 after you left the Force?

2 A. Yes, ten years.

3 417 Q. That's right?

4 A. Or eight years, eight years.

5 418 Q. But you say that it was not a priority for you, given your
6 level, as it were?

7 A. No. Well, I wasn't involved in the investigations, so it
8 may be that others had that view, but it didn't concern me
9 directly. As I say, I had no further involvement in that
10 matter.

11 419 Q. What was your -- can you explain what your function was in
12 the station if it didn't encompass this sort of matter,
13 particularly as you had been interviewed by the Assistant
14 Commissioner?

15 A. I moved down after that --

16 420 Q. I am going back to 1989?

17 A. I am going to that time. Shortly after that, I assumed the
18 role for which I originally was intended, and that was
19 divisional officer for the Louth/Meath division. I think
20 there were about 45 stations in that and maybe 500
21 personnel of all ranks, and, as part of my ordinary duties,
22 I would visit all the stations and carry out the functions
23 that any Chief Superintendent would do in any normal
24 non-border division, at the same time attending to my
25 cross-border duties. So it's really -- there wasn't as
26 much emphasis put on events as there was when I went there
27 initially.

28 421 Q. Well, can you just help with us this. In 1989, were you
29 the senior officer in Dundalk?

30 A. Yes.

1 422 Q. So, if collusion is not a priority at your level and you
2 are the senior officer in Dundalk, where does
3 responsibility for this question lie, then?

4 A. At that time, Assistant Commissioner O'Dea had completed
5 his report, and I presume that the RUC had carried out
6 their investigation insofar as they could go, and, arising
7 from either of those reports, nobody told me that I should
8 be aware or that there was a mole or that there was
9 collusion, so, for all intents and purposes, the matter
10 rested at that.

11 423 Q. Now, just help us with a few general points. When you
12 joined the Force - well, when one joins the Force, I think
13 a background check is carried out, is that right?

14 A. Yes.

15 424 Q. And what is the nature of that background check?

16 A. That check is carried out by the local force of the area in
17 which you are born and it would include when you give your
18 addresses throughout your earlier life before you joined,
19 background checks with the Gardai, or, if you were abroad,
20 with the police in the UK, or elsewhere, of your period in
21 that jurisdiction, and, if everything was satisfactory,
22 then you could be considered, subject to passing a medical
23 test and a written examination and interview.

24 425 Q. And is there any updating of that assessment during a
25 guard's career?

26 A. Could you clarify that?

27 426 Q. Sorry, are there further assessments and further background
28 checks on a guard as he passes through his career?

29 A. Not unless he became involved in something that would
30 require any further checking, by virtue of, maybe, somebody

1 reporting him, he having undesirable associations or some
2 events that would justify searching back on his previous
3 history.

4 427 Q. Associating with undesirable elements, is that right?

5 A. Yes.

6 428 Q. What, members of the criminal classes?

7 A. Criminal classes, more than likely, yes, it would be the
8 criminal classes.

9 429 Q. Now, I think you -- your view is that, at the time in 1989,
10 the focus was on how the killings were carried out by the
11 Provisional IRA?

12 A. Yes.

13 430 Q. And everything was focused in the direction of how did they
14 do this?

15 A. Yes.

16 431 Q. There wasn't the possibility of having some assistance from
17 somebody in the Garda station, not an element of how they
18 might have done it?

19 A. It would have been, but, as I said, I wasn't personally
20 involved in the investigation. While we did have an
21 incident room set up in Dundalk to assist with the
22 investigation, the main investigation was being conducted
23 by the RUC, I think in Newry or Armagh, and we were
24 assisting.

25 432 Q. I think it's your opinion that the murders of Chief
26 Superintendent Breen and Superintendent Buchanan was the
27 work of a well-executed operation by the Provisional IRA,
28 is that right?

29 A. I held that view then, and I still hold.

30 433 Q. Now, just one last matter, and I think this will take us up

1 to lunchtime, Chairman. The following day, that is to say
2 on 21 March, you went to Newry RUC Station, is that right?

3 A. Yes.

4 434 Q. And I think you met the Chief Constable?

5 A. Yes.

6 435 Q. And some other members of the then RUC, isn't that right?

7 A. Yes.

8 436 Q. Now, I should explain to you that these people have
9 ciphers, so we will not mention names, if you don't mind,
10 but can you just give us an outline of your meeting with
11 the Chief Constable?

12 A. Needless to say, all the officers were quite shocked at the
13 events that occurred and they wanted to get my views on the
14 meeting because I was the -- at that stage, the last person
15 to have seen Harry Breen and Bob alive, except for those
16 who murdered them perhaps, and I explained the meeting, how
17 it was set up and what we talked about and we didn't -- the
18 conversation didn't last very long. I think they just
19 wanted to meet me -- I told them that we were setting up an
20 incident room in Dundalk, put a Detective Superintendent in
21 charge of it and the whole resources of our force were
22 available to them to assist them in the investigation and
23 that any assistance that they required from us would be
24 forthcoming, and they were pleased with that, and we agreed
25 that the Detective Superintendent would cross the border to
26 meet with them, and he did.

27 437 Q. What did you tell them about the meeting you had with Breen
28 and Buchanan?

29 A. I told them what I have told here, of what the meeting was
30 about and how it was initiated and the conclusion and how

1 they left the station, and, while I didn't see them
2 leaving, but I described the events in my office and up to
3 the point where they left.

4 438 Q. There is actually just one final matter which I have been
5 reminded of. I think, sometime after, you received a visit
6 from a brother of Harry Breen, isn't that right?

7 A. Yes.

8 439 Q. Could you tell us about that, please?

9 A. A couple of weeks after the murders, I got a phone call
10 from, as far as I can recall the name, of Winston Breen. I
11 think he told me that he was a teacher and that he was a
12 brother of Harry Breen and he asked me if I would go north
13 to meet with him, and I told him at that point that I would
14 get back to him on it, and, in the interval, I contacted a
15 source in the RUC just to get his views on the wisdom of me
16 going north in the circumstances, and the advice given to
17 me was that I shouldn't go, and I didn't go. In August of
18 1989, Winston Breen came to my office and we had a short
19 conversation in which I described the meeting and the
20 events of that time.

21 440 Q. And how long did this meeting last?

22 A. Not very long, maybe 10 or 15 minutes.

23 441 Q. And had he any comment to make?

24 A. No.

25 442 Q. Did you have any further contact with him?

26 A. No, no.

27 443 Q. Thank you. It's now 1 o'clock, Chairman.

28

29 CHAIRMAN: Yes, it is just 1 o'clock. Will you
30 cross-examine then at 2 o'clock?

1

2

MR. DURACK: I will. I wonder, is it intended that the

3

witness listed for the afternoon will be taken at

4

2 o'clock?

5

6

MR. DILLON: I don't have the answer to that yet.

7

8

CHAIRMAN: There is a witness for 2 o'clock --

9

10

MR. DILLON: -- who is travelling to be here. I appreciate

11

Mr. Nolan has made something of a journey, as well. I

12

don't want to minimise that.

13

14

CHAIRMAN: I think that Mr. Nolan should be cross-examined

15

first, I think, and then we take the witness. Does he have

16

a cipher or is he under his own name?

17

18

MR. DILLON: He doesn't have a cipher, no. It's Alan

19

Mains.

20

21

CHAIRMAN: Yes.

22

23

MR. DILLON: This witness is Mrs. Laverty's witness and we

24

will just ask Mrs. Laverty what the position is.

25

26

CHAIRMAN: How long, Mr. Durack, is your cross-examination

27

likely to take?

28

29

MR. DURACK: I don't know, but I imagine I will be 20

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minutes, half an hour, anyway.

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CHAIRMAN: Would any other counsel have questions for this witness?

MR. LEHANE: I'll have very few questions.

MS. O'SULLIVAN: Very few questions.

MR. COFFEY: I will have some questions for the witness.

MR. DILLON: I understand it will be in order to proceed with the cross-examination at 2 o'clock.

CHAIRMAN: 2 o'clock, then.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

1 THE TRIBUNAL CONTINUED AFTER LUNCH AS FOLLOWS:

2

3 CONTINUATION OF EXAMINATION OF JOHN NOLAN BY MR. DILLON

4 AS FOLLOWS:

5

6 MR. DILLON: Now, Chairman, there was a point that arose
7 during the course of the morning, as to whether two
8 documents I was going to put to the witness were documents
9 in respect of which the Garda Commissioner claimed
10 privilege. The affidavit discovery discloses them in the
11 non-privileged part of the affidavit, so, certainly no
12 claim of privilege is being made. But I propose dealing
13 with the documents in this fashion.

14

15 CHAIRMAN: Are you happy with that, Mr. Durack?

16

17 MR. DURACK: I don't believe that is so. Certainly, the
18 documents I have seen has matters that should not be
19 disclosed.

20

21 MR. DILLON: If My Friend would let me finish. I propose
22 dealing with the documents in the following manner, and,
23 Mr. Nolan, if you have them in front of you. Take your
24 time.

25

A. Yes.

26

444 Q. Now, I think it's the case that on the 22nd of March, 1989,
27 you sent a preliminary report on the fatal shootings of
28 Chief Superintendent Harry Breen and Superintendent Bob
29 Buchanan, that that report went to Headquarters?

30

A. Yes.

1 445 Q. I think it's the case that on -- two days later, you sent a
2 second report, dated 24th March, on the same topic, and
3 that was also sent to Headquarters?

4 A. Yes.

5 446 Q. And I think both those reports set out the knowledge that
6 you or your colleagues had as to how these horrible murders
7 took place, is that right?

8 A. Yes, at that time.

9 447 Q. And neither of these reports touches on the question of
10 collusion, isn't that right?

11 A. No.

12 448 Q. Thank you.

13

14 THE WITNESS WAS CROSS-EXAMINED BY MR. DURACK AS FOLLOWS:

15

16 449 Q. MR. DURACK: Mr. Nolan, I think you went to Dundalk in May
17 of 1988?

18 A. That's correct.

19 450 Q. You were there until January of '91?

20 A. Yes.

21 451 Q. And your function as Chief Superintendent there, was?

22 A. Initially?

23 452 Q. Yeah, I mean, what were you sent there to do?

24 A. It was principally focused on border security and liaising
25 with the RUC. I think to give a higher status to what
26 already existed by way of cooperation. As I said earlier,
27 there wasn't a chief superintendent or anyone of that rank
28 on the border as such, and certainly not in Dundalk prior
29 to my arrival there.

30 453 Q. And that your function there, I take it, was to deal with

1 cross-border issues?

2 A. Yes.

3 454 Q. And to liaise with your colleagues of similar rank on the
4 other side of the border?

5 A. Yes.

6 455 Q. And did it involve you much with ordinary policing in the
7 south?

8 A. At that point, I had no involvement at all with ordinary
9 policing. I had been relieved of that responsibility,
10 which remained with the Superintendent at Drogheda, who was
11 acting divisional officer.

12 456 Q. And the divisional officer is a uniformed member by the
13 looks of it?

14 A. Yes, he is the senior officer in any Garda, or, indeed, or
15 RUC position.

16 457 Q. And it's a senior administrative post rather than an
17 investigative post?

18 A. Yes.

19 458 Q. And in your particular position as Border Chief
20 Superintendent, was to liaise with the north, exchange
21 information and, by and large, keep one another in the
22 loop?

23 A. Yes.

24 459 Q. Now, just to clarify the issue in relation to the phone
25 contact. As I understand it, there had been secure phone
26 contact between Dundalk and Newry at one stage but that the
27 northern authorities had changed the type of phone they
28 were using?

29 A. That's as I understood it, yes.

30 460 Q. The system?

1 A. Before I arrived there, that was the case.

2 461 Q. But I think that there was a secure phone attached to the
3 communications room in Dundalk?

4 A. Possibly. I cannot say now.

5 462 Q. But in either case -- anyway, neither you nor
6 Superintendent Buchanan used it for the purpose of this
7 connection?

8 A. That's correct.

9 463 Q. Now, it's been suggested to you that, in fact, you rang, I
10 think, Chief Superintendent Breen?

11 A. I am clear on that, that I didn't ring. I had no reason to
12 ring.

13 464 Q. And that your contact, your call was from Superintendent
14 Buchanan at 10:15?

15 A. Yes.

16 465 Q. Now, when you spoke to him then, you told us that you told
17 him you couldn't meet on either, was it Wednesday, Tuesday
18 or Wednesday, because you had problems?

19 A. Yes.

20 466 Q. So that if he wanted a meeting, and I take it that that was
21 the first time a meeting was discussed, you had heard
22 nothing about a meeting prior to that?

23 A. No, the first I heard was when Bob rang.

24 467 Q. And then the question arose, that because you couldn't do
25 it on Tuesday or Wednesday, that the immediate option was
26 to do it straight away that afternoon?

27 A. Exactly.

28 468 Q. Now, I think you told us then that Inspector Murray's
29 function was to correspond with the Border Superintendent
30 on the other side?

1 A. Yes.

2 469 Q. And again, that, I presume, would have involved him dealing
3 with border activities, terrorism mainly?

4 A. That was his official function, but, actually, Bob, as it
5 transpired, liaised, it seems now, quite a lot more with
6 Superintendent Tierney, who was the district officer,
7 uniform district officer, but that didn't mean that he
8 didn't communicate with Frank Murray also, but it did seem
9 that he communicated quite a lot with the Superintendent.

10 470 Q. And he was communicating with, I suppose, anybody who came
11 across?

12 A. Indeed, he was communicating with practically everybody
13 because he was likely to drop in to any station along the
14 border. Indeed, I met him once myself after a serious
15 incident on the main road, I met in him Dromad station.

16 471 Q. When you say "the main road," that's the Killeen Road?

17 A. The main Dublin to Belfast, the A1.

18

19 MR. DILLON: Could Mr. Nolan perhaps bring the microphone
20 over towards him.

21

22 472 Q. MR. DURACK: Did he often make unannounced visits to police
23 stations, to Garda stations?

24 A. He rarely contacted me, but, again, with the benefit of
25 hindsight now, it seems he was coming down, up and down on
26 a regular basis, not alone to Dundalk, but to many of the
27 border stations the whole way across the border to
28 Monaghan, which apparently border on his division or his
29 area of responsibility.

30 473 Q. It appears that -- just, it appears that, in January, he

1 travelled five times to Dundalk and five times to Monaghan?

2 A. I met him in February, Harry Breen and himself came down to
3 me on the 2nd of February, and I went to Armagh on the 13th
4 of February with Superintendent Tierney.

5 474 Q. And I think you had had a previous meeting in December '88
6 and again in November '88?

7 A. We went -- quite a large group of us went to Armagh on the
8 15th of December, 1988; that was Detective Superintendent
9 Connolly and Superintendent Culhane and myself and
10 Inspector Murray.

11 475 Q. What were the nature of these meetings? Were they formal
12 meetings that were chaired, and notes taken?

13 A. The formal meetings, they were known as B7. They had been
14 discontinued in November of '88 and it was agreed then that
15 contact would be maintained informally, and it was left to
16 the individual chief superintendent to arrange those
17 meetings, so usually they were on the basis of every --
18 alternating between Armagh and Dundalk every other month.
19 But, informally, they could -- I recall, I think, that we
20 had no meeting apart from the time I went to Dundalk, or to
21 Armagh, in December, we didn't have any other meeting in
22 December, and I don't think we had one in January, but then
23 I had three meetings in February.

24 476 Q. I see. And you mentioned at one stage that one of the men
25 in Dundalk station had been the notetaker at previous
26 meetings?

27 A. Yes, he was the district clerk, Sergeant -- oh, Vincent
28 Rowan.

29 477 Q. And again, I take it that there would be notes taken only
30 at the formal meetings?

1 A. That's right, they wouldn't be -- he wouldn't be present at
2 the informals.

3 478 Q. Now, so it isn't until the 10:15 phone call, in any case,
4 that you get from Mr. Buchanan that you realise that it is
5 decided there is going to be a meeting that afternoon?

6 A. That's right. That was the first intimation I had of it.

7 479 Q. And then at 11 o'clock, you say, you told Inspector Murray?

8 A. Yes.

9 480 Q. Because that was something he might want to know, that they
10 were coming down, if he had anything he needed to say to
11 them?

12 A. Well, I felt that he would probably be even more used to
13 them than I would, because he was more on the ground than I
14 was and he would have probably had more information for
15 them.

16 481 Q. And we know that Inspector Murray and Superintendent
17 Tierney say that Superintendent Tierney was told at twenty
18 to two, about --

19 A. Yes.

20 482 Q. Twenty minutes before they were due to come?

21 A. Yes.

22 483 Q. Would it have been unusual that Superintendent Tierney
23 wasn't in the loop earlier in the day?

24 A. I often think back on it myself, if Superintendent Tierney
25 was present when they were having the tea break, if he was,
26 as is stated, in the room, why I didn't tell him, but it
27 was either that he wasn't there or that he wasn't within my
28 sight and I just settled for Inspector Murray, maybe,
29 again, because I felt, again, that he and Buchanan would
30 have more in common than Superintendent Tierney and Bob

1 Buchanan, because Superintendent Tierney was the district
2 officer who was responsible for ordinary policing in the
3 district, and --

4 484 Q. Everything from road traffic to ordinary crime?

5 A. Yes.

6 485 Q. And I take it might equally be so that, in fact,
7 Superintendent Tierney happened to be in a different group
8 in the room or talking to different people at the time you
9 mentioned it to Inspector Murray, if that was so?

10 A. Yes.

11 486 Q. We know, then, that they arrived at twenty past two, and
12 they left, you say, at 3:15?

13 A. There or thereabouts. I think they were there about 55
14 minutes.

15 487 Q. You did a lot of travelling north and south; what were your
16 options, in fact, in going to Newry?

17 A. I didn't go to Newry that much as Armagh.

18 488 Q. Or Armagh, I beg your pardon?

19 A. But as regards the planning for those journeys, they were
20 left entirely to each side to make their own arrangements.
21 In my case, I usually travelled the main Newry -- Dundalk
22 road, Belfast-Dublin Road. I never asked either Bob or
23 Harry how they travelled or what route. I think it was
24 left to each side to choose their own means of travel and
25 the routes they would take, and I think both sides were
26 happy with that. It's not that they distrusted each other,
27 or anything like that, but probably they felt, "well, the
28 least known about my travel arrangements, the better".

29 489 Q. They were left to their own options?

30 A. Yes, left to their own options.

1 490 Q. So they could do as they will?

2 A. Yeah.

3 491 Q. And you say you normally used the main road. Was there a
4 particular reason for that or --

5 A. I always felt safer on the main road, but, statistically,
6 there would probably be more incidents on the main roads
7 than the secondary roads. In fact, some of the worst
8 atrocities were committed on the main road.

9 492 Q. I suppose one would have the, I suppose, an ease of escape
10 on the main road, perhaps, that you wouldn't have on a back
11 road?

12 A. Yes.

13 493 Q. As one went from the Garda station to the Newry road, was
14 that a complicated journey or a simple one?

15 A. There are a few routes they could take. They could go down
16 into the centre of the town, I think probably the route
17 they did take, although they could have taken an
18 alternative route that would bring them through some
19 housing areas. Now, my knowledge of the town of Dundalk at
20 this point, is vague enough, but I would have a rough idea
21 that they would have a choice of routes that they could
22 take.

23 494 Q. I take it this was before the bypass was built, so,
24 presumably, there was a lot of traffic --

25 A. Well, I mean, even with or without the bypass, it would
26 be -- they would be going out of their way to get onto the
27 bypass, they would have to go south and get onto it further
28 south and then circle the town.

29 495 Q. But I take it that central Dundalk would have been very
30 busy with traffic at this stage?

1 A. It would. All the north/south traffic going through the
2 town.

3 496 Q. And therefore, it would be, of course, easy --

4 A. Although there was part of a bypass in existence at that
5 point, all right. It wasn't the -- it didn't cover the
6 full extent between the two roads, but there was some area
7 of bypass.

8 497 Q. But it would have been open to anybody within the town --

9 A. Yes.

10 498 Q. -- to see them go to the station or leave it, as the case
11 may be?

12 A. Yes.

13 499 Q. Now, just in relation to phone calls on that morning, did
14 you have any contact at all with Sergeant Mains,
15 Mr. Breen's Staff Officer?

16 A. No, not then. He may have been present at meetings, but I
17 never knew of him.

18 500 Q. But not on this day?

19 A. Not on that day, no, no. The only person that I spoke to
20 that day was Bob Buchanan.

21 501 Q. And you didn't receive any messages that Sergeant Mains had
22 rang, or anything like that?

23 A. No. There were calls before I came on the scene with
24 others, but --

25 502 Q. Yes, we know that Superintendent Tierney was sort of
26 telephoned --

27 A. Yes, and I think he returned the call.

28 503 Q. But, as far as you are aware anyway, Sergeant Mains had
29 nothing to do with the arranging of the meeting?

30 A. No.

1 504 Q. You didn't receive any information that he might have
2 phoned anybody that day?

3 A. No, there was nothing exceptional about what happened in
4 the earlier part of the day. It was just another meeting
5 that was requested, and arrangements made.

6 505 Q. Now, at any of these meetings, was there ever any
7 discussion about collusion or a mole in Dundalk Garda
8 Station?

9 A. Never, never. And even subsequently when I continued to go
10 north and meet officers in Armagh, the question never
11 arose, or was it ever discussed.

12 506 Q. And I take it that your relations with your colleagues
13 across the border and they with you, from what we have
14 heard so far, always appeared to have been cordial and free
15 and open?

16 A. Always was.

17 507 Q. And I take it if you knew of such a thing, you'd be anxious
18 that they know about it and, equally, you'd expect them to
19 tell you?

20 A. Absolutely. In fact, if it was coming as, again, now, with
21 the benefit of what I have heard so far and what I have
22 read, if there was a person that was a suspect, that
23 person's identity should have been, if not passed directly
24 to me, it should have been passed up along the line and it
25 would have filtered down to me in due course and I would
26 probably then take whatever action I considered necessary,
27 but that information, if it existed, was kept very tight,
28 and I don't think it was known, or certainly if it was
29 known to senior officers, including the Chief Constable,
30 they had an opportunity to tell me, and they didn't.

1 508 Q. Yes. You were telling us that you were talking to the
2 Chief Constable the following day?

3 A. Yes. In fact, the Chief Constable called to my office on a
4 trip from Dublin when there was an incident on the border
5 and he was delayed and he called to my office about a
6 fortnight or three weeks before this incident, and, again,
7 it would have been an opportunity where he and his Staff
8 Officer, I think he was a Chief Superintendent Wilson,
9 maybe, there were only the three of us there, and he would
10 have had an opportunity to bring up that subject if he
11 wished, but --

12 509 Q. And equally, I would expect that you would have expected
13 that it would have been brought up immediately following
14 the murders if it was considered relevant?

15 A. First thing I thought, yeah, but that's not to say, of
16 course, that they didn't think that and just didn't choose
17 to tell me.

18 510 Q. But would it not be dereliction of duty, if one had any
19 evidence at all, not to tell somebody?

20 A. You mean on their part?

21 511 Q. Yes.

22 A. Well --

23 512 Q. I mean, on any policeman's part, if you knew of somebody
24 who was perhaps putting lives in danger?

25 A. It may be like many of the allegations that would be made
26 in this inquiry, that it may be no more than a suspicion,
27 unfounded, perhaps, or without supporting evidence.

28 513 Q. One of the sources of suspicion, we know, is the book by
29 Toby Harnden and the article written by Kevin Myers. What
30 did you think of those?

1 A. Well, as far as the reader of -- a regular reader at that
2 time of what Kevin Myers wrote, it was obvious to me that
3 what he wrote was just a copy of what he took from Toby
4 Harnden's book; that he didn't have anything fresh of his
5 own to add to what had already been said and written.

6 514 Q. And of what you read of Harnden's book, what did you think
7 of it?

8 A. I wasn't impressed with it, quite frankly, because, again,
9 I thought that, well, much of what he said has been
10 clarified since. At the time, I just had to wonder how he
11 had so much information after so long a period and why
12 nothing had been done about it. I was a little bit
13 sceptical of, as I would be, of reports and books of that
14 nature after the event.

15 515 Q. And this was coming some ten years after the event?

16 A. Yes, ten years after the event.

17 516 Q. Did either of them ever speak to you?

18 A. No.

19 517 Q. As the man on the ground who would have known what was
20 happening?

21 A. No.

22 518 Q. And I think you were aware that they were subsequently
23 interviewed by various investigations and had no further
24 information to provide?

25 A. That's correct.

26 519 Q. And, in fact, had no evidence to provide?

27 A. Nothing, yeah, nothing.

28 520 Q. Now, you were interviewed by the Tribunal in the course of
29 its investigative phase and you were asked about the
30 statement that you made to Assistant Commissioner O'Dea and

1 you -- again, the various things have been put to you in
2 relation to that, particularly concerning things that were
3 struck out of the statement in relation to the reference to
4 Garda Nolan?

5 A. Yes.

6 521 Q. Was it ever suggested to you, during the course of your
7 Tribunal interviews, that you were a party to any collusion
8 or any attempt to create an aura that few persons knew of
9 the policemen's presence in the Garda station?

10 A. No, it was never put to me, although it might have been
11 said by someone that maybe I had a reason for not naming
12 the guard, but I think I explained here today the reason I
13 didn't name him was because I possibly wasn't sure, and it
14 might have been better, say, well, if you are not sure,
15 don't put it in.

16 522 Q. In fact, as it turns out --

17 A. It was correct.

18 523 Q. It was correct, and, in fact, the guard himself said so?

19 A. As happened, he was one of the few guards that I would have
20 known.

21 524 Q. And he was interviewed subsequent to you?

22 A. And he was interviewed.

23 525 Q. You have told us that you were never told anything by the
24 northern officers in relation to suspicions, or otherwise.
25 Did you ever learn anything yourself from anybody down
26 here?

27 A. About?

28 526 Q. About suspicions of collusion, or otherwise?

29 A. No. As I said, the first I ever heard the word "collusion"
30 used in relation to this investigation was when I read that

1 extract from Toby Harnden's book.

2 527 Q. And I think you described it, in the course of your
3 interview with the Tribunal, as being hypothesis and
4 speculation?

5 A. I think those terms were used broadly, indeed, by most
6 people that read those articles, and nearly conceded, I
7 think, by the writers themselves, and afterwards.

8 528 Q. You said they were able to portray events as being
9 factual --

10 A. When they weren't.

11 529 Q. In terms of using the Edenappa Road, we know that, in fact,
12 Superintendent Buchanan uses the majority of times that he
13 had been previously down in Dundalk. Had you any
14 intelligence about that road or were you -- did you have a
15 view about the road?

16 A. Not particularly about that road. I mean, every road had
17 the potential of risk. As I said, the main road possibly
18 held the most incidents, and yet I think Buchanan chose to
19 take the other road, the Edenappa Road, in preference, most
20 of the time.

21 530 Q. As an area, was it an area where there was much IRA
22 intelligence-gathering?

23 A. Difficult to quantify that because, I mean, the IRA were
24 well-organised and they were many years in existence and
25 gathering intelligence along the entire border, I'd say
26 from Derry down to Omeath they were at it. So, really,
27 they very much controlled all that area, not alone in south
28 Armagh, but extending into quite a portion of north County
29 Louth.

30 531 Q. And did you know were they monitoring senior policemen

1 along the border?

2 A. I suspect that they were. I mean, our intelligence would
3 have, I think, confirmed that not alone were they recording
4 the movements and descriptions and numbers of vehicles, of
5 security services in the north, but they were doing it of
6 the Garda in the south, also.

7 532 Q. And we know, of course, that the unfortunate Superintendent
8 Buchanan's car, he had been driving it for some years and
9 it was well known?

10 A. Yes.

11 533 Q. Thank you very much.

12

13 **THE WITNESS WAS CROSS-EXAMINED BY MR. LEHANE AS FOLLOWS:**

14

15 534 Q. MR. LEHANE: Good afternoon, Sir. I appear for retired
16 Detective Sergeant Owen Corrigan. I have just got a couple
17 of questions. You were in charge of -- you were the Border
18 Superintendent in charge of liaison with the RUC, amongst
19 other duties, at this time in 1989?

20 A. Chief Superintendent.

21 535 Q. Or Chief Superintendent, I apologise. And did you organise
22 your own meetings with members of the RUC?

23 A. Usually when a meeting, a formal meeting was held, we'll
24 say, for example, in Armagh, the date of the next meeting
25 was set, and it alternated between the two, so I didn't
26 have to organise the formal meetings. And again, most of
27 the arrangements were made through the north, at the
28 northern meetings, unless, as in this instance, they
29 decided, in an informal way, just to contact me. But I
30 never contacted anybody in the north to notify an informal,

1 or to request an informal meeting.

2 536 Q. Just in relation to informal or *ad hoc* meeting of the type
3 which occurred on the day in question here, would you have
4 been the person that the RUC people spoke to in organising
5 that meeting?

6 A. Generally, yes, but there weren't that many of them that
7 had to be notified in that fashion. As I said, when you
8 were at one, you picked the date of the next one, as in
9 this case, before Harry Breen left my office, he said,
10 "Will you come up to Armagh?" And he had picked the 4th of
11 April, I think the 4th or the 14th of April. So there
12 would be no need for a further notification. I had made a
13 note of it.

14 537 Q. The only reason I ask you is, last week I think
15 Superintendent Tierney gave evidence that he had a number
16 of telephone conversations with Superintendent Buchanan
17 that morning in relation to, you know, I think coming down,
18 and that he suggested that he speak to you -- or, sorry, he
19 basically said that it would be you who would arrange your
20 own meetings rather than him?

21 A. But I think the request was, I think, to meet with me.
22 When he came down to meet anybody else, they made their own
23 arrangements. In this case, he specifically, or Harry
24 Breen wanted to meet with me.

25 538 Q. Very good. Thank you, Sir.

26

27 **THE WITNESS WAS CROSS-EXAMINED BY MR. COFFEY AS FOLLOWS:**

28

29 539 Q. MR. COFFEY: Mr. Nolan, I appear for retired Sergeant Leo
30 Colton. And I don't know if you recall my client when you

1 were in Dundalk or not, but Sergeant Colton was a uniformed
2 member of the Gardai, and I take it from your earlier
3 evidence, he would not normally have come under your
4 jurisdiction, if you like, on a day-to-day basis?

5 A. No, I had very little contact with him.

6 540 Q. And you have also stated that your primary, if not sole,
7 function, was to focus on subversive crime and to liaise
8 with your counterparts in the RUC?

9 A. At that time.

10 541 Q. And I take it that, in order to liaise with the RUC, you
11 would be kept informed of any intelligence relative to
12 subversive activities both within your division and any
13 intelligence with regard to IRA activities in the north?

14 A. Yes.

15 542 Q. And with that level of information and intelligence, had
16 you any reason or basis for having any suspicions about any
17 of your own personnel?

18 A. Would you repeat the question?

19 543 Q. Given the level of information and intelligence that you
20 were privy to and was necessary for you to carry out your
21 duties, had you any evidence or any information which gave
22 rise to any concern about any of your own personnel?

23 A. No, I had certainly no evidence nor no intimation.

24 544 Q. Now, during the period, you were approximately ten months
25 in Dundalk, from May '88 to March '89?

26 A. Yes.

27 545 Q. And I take it you would have been on top of your brief by
28 that point in time?

29 A. Yes, pretty much.

30 546 Q. And in that period of time, had you occasion to hold

1 briefings with your own detective officers?

2 A. Yes.

3 547 Q. And in such briefings, would the police officers be
4 confined to the plain-clothes men?

5 A. Yes.

6 548 Q. There would be no occasion where you would invite uniformed
7 ordinary members of the Gardai to such briefings?

8 A. No.

9 549 Q. And is it fair to say that uniformed Gardai were not
10 involved on a day-to-day basis with subversive crime?

11 A. Oh, it wouldn't be fair to say that, because uniform Gardai
12 operated border patrols, check-points, and they would be
13 expected to report anything unusual in relation to
14 suspects, suspects' movements, suspect vehicles.

15 550 Q. Of course, but, I mean, in those situations, I take it with
16 the border patrols or, indeed, check-points, quite often
17 they would be accompanied by armed plain-clothes officers?

18 A. Not always.

19 551 Q. But sometimes?

20 A. If there was an incident, yes.

21 552 Q. And would it be fair to say that the plain-clothes officers
22 would be more informed as to the background of any
23 particular operation, rather than the uniformed officers?

24 A. It would depend on the nature of the occurrence or the
25 incident. If it was a sort of an immediate reaction to an
26 incident, usually it would be something that happened on
27 the border, or north of the border. They would merely be
28 sent out to try to intercept a vehicle or suspects and they
29 might not know an awful lot about the event that they were
30 actually participating.

1 553 Q. That would be an emergency-type situation?

2 A. Yes, yes.

3 554 Q. But if there was a planned operation, say the Gardai wanted
4 to arrest an IRA suspect or there was some such operation
5 where there was a briefing prior to the exercise being
6 carried out, would that be confined to the plain-clothes
7 men?

8 A. It would depend on the nature and the extent of the
9 operation and the necessity for everybody involved in it to
10 be briefed to the full extent. If it was felt that -- if
11 it was a big operation, it might be just essential to tell
12 the sergeants or the inspector and let them brief the men,
13 or, on the other hand, just leave it with the sergeant or
14 the inspector and give the others instruction in relation
15 to what aspect of the operation they were involved.

16 555 Q. And then moving on to intelligence issues, if there was
17 intelligence of a particularly sensitive nature, would that
18 be kept confined to a very small group on a need-to-know
19 basis?

20 A. Yes.

21 556 Q. And I take it, then, that uniformed, ordinary rank-and-file
22 Gardai or sergeants wouldn't be privy to that type of
23 sensitive information?

24 A. No.

25 557 Q. And with regard to the movement in and out of the Garda
26 station in Dundalk, how would you describe that? Was it an
27 open, visible location?

28 A. Very prominent location.

29 558 Q. And you have indicated that you considered that the IRA
30 were, in this particular area, were highly organised?

1 A. Yes.

2 559 Q. And does your opinion extend to the level of sophisticated
3 surveillance that the IRA were capable of?

4 A. Yes.

5 560 Q. And had they the capacity to intercept phone lines or to
6 mount such an operation if they so desired?

7 A. I am sure they had.

8 561 Q. And you have indicated that, due to unfortunate
9 circumstances, there was no compatible scrambler phone
10 lines available at that time?

11 A. That's correct.

12 562 Q. And can I take it, then, that it was within the capacity of
13 the IRA, as of March '89, to so intercept phone lines, open
14 phone lines if they were to determined to do?

15 A. Well, I cannot say what was within their capacity, but I
16 imagine that, even at that time, that the technology was
17 there. Indeed, maybe a simpler way might have been, rather
18 than using that type of technology, was just to tap into a
19 telephone line.

20 563 Q. Yes. And, I mean, they, sadly, through explosive devices
21 and so forth, they were displaying ongoing levels of
22 sophistication?

23 A. Yes.

24 564 Q. They seemed to be improving their resources or their
25 technical abilities?

26 A. Yes.

27 565 Q. They were ever searching out to increase their ability to
28 carry out surveillance and to mount murderous attacks on
29 both Gardai and the RUC and the British Army?

30 A. Yes.

1 566 Q. And with regard to the issue of, that was put to you, that
2 there was a, if you like, a deliberate attempt to put
3 forward a suggestion that only a few people knew about the
4 meeting with yourself and the two senior RUC officers,
5 quite apart from anything else, for security reasons,
6 wouldn't that be a commonsense approach, in order to
7 protect the safe movement of senior officers, or indeed any
8 officer, from the RUC, coming and going to Dundalk?

9 A. Yes, of course.

10 567 Q. That it was, if you like, standard measure of protection
11 and security that the less people knew about such meetings
12 or their timings and locations, the more secure such
13 meetings would be?

14 A. Yes.

15 568 Q. And I take it that that was the state of mind that
16 exercised you on this morning, that to keep it confined to
17 as few people as possible?

18 A. Well, there was no need to tell anybody else.

19 569 Q. But, again, apart from anything else, for security reasons,
20 it was a good reason?

21 A. Yes.

22 570 Q. And just on the question, then, of the people who might
23 have known about the meeting in the North of Ireland, do
24 you know how many people knew or didn't know about this
25 meeting?

26 A. You mean in Dundalk?

27 571 Q. No, in Armagh or Newry or...

28 A. Normally, only those who would be required to attend would
29 know.

30 572 Q. Yes.

1 A. So it depends on the size of the meeting as to the numbers
2 who would be privy to that information. On our side, I
3 suppose there would be three or four, and possibly more on
4 the northern side.

5 573 Q. And with regard to the investigation carried out by
6 Assistant Commissioner O'Dea, again, the Tribunal
7 questioning seemed to indicate that the sole purpose or
8 focus of that investigation was the question, or possible
9 question, of a mole or a collusion, but weren't there
10 several lines of investigation that would be required to be
11 carried out by someone such as Commissioner O'Dea?

12 A. As I said earlier, it was --

13
14 CHAIRMAN: That question was asked earlier.

15
16 MR. COFFEY: I have to put it, Mr. Chairman, just to
17 clarify it from --

18
19 CHAIRMAN: Well, I don't think it clarifies it very much.
20 I think that it already has been clarified that the
21 investigation covered all aspects of the murders.

22
23 574 Q. MR. COFFEY: With regard to the -- there were several other
24 lines of investigation, yes?

25 A. Yes.

26 575 Q. Were you, from what you knew of the Commissioner's
27 investigation, satisfied that there was a thorough
28 investigation? Had you any cause or reason to think that
29 it was less than a thorough investigation into the issues?

30 A. I haven't, really. I was quite satisfied. It was not for

1 me to decide, one way or the other, whether it was thorough
2 or not. I am sure, knowing Mr. O'Dea, that it was
3 thorough.

4 576 Q. And from your expertise as a very senior police officer
5 with many years of service, you are satisfied as to its
6 thoroughness?

7 A. Yes.

8 577 Q. Have you any reason to doubt that, since your retirement?

9 A. No.

10 578 Q. Thank you very much.

11

12 **THE WITNESS WAS CROSS-EXAMINED BY MS. O'SULLIVAN**

13 **AS FOLLOWS:**

14

15 579 Q. MS. O'SULLIVAN: Good afternoon, Mr. Nolan. I appear for
16 Mr. Finbarr Hickey. I have only a couple of questions for
17 you. Just in relation to the telephone line, I think you
18 have indicated that you were aware that the system used by
19 An Garda Siochana with the scrambler that you had attached
20 to your phone, wasn't compatible to the system in the RUC,
21 isn't that right?

22 A. That's correct.

23

24 CHAIRMAN: That's already been said.

25

26 580 Q. MS. O'SULLIVAN: I think you indicated when you gave your
27 statement to Commissioner O'Dea, that as a result of
28 knowing of that compatibility, you said, "... *Consequently,*
29 *I did not use the scrambler.*" Is that to suggest that had
30 the systems been compatible, you would have used the

1 scrambler?

2 A. Yes.

3 581 Q. Is that because you would have had concerns about the
4 telephone line?

5 A. It would be, I suppose. That's -- if you had them, that's
6 what they were there for.

7 582 Q. Exactly. And I think you indicated also in the statement
8 that you gave to Assistant Commissioner O'Dea, that you
9 recognised Superintendent Buchanan because you had spoken
10 to him on many occasions, both personally and on the
11 telephone. Would you have spoken to him on that particular
12 line, i.e. your private line in Dundalk Garda station?

13 A. Yes.

14 583 Q. Thank you very much.

15

16 **THE WITNESS WAS RE-EXAMINED BY MR. DILLON AS FOLLOWS:**

17

18 584 Q. MR. DILLON: Just a couple of matters arise out of that.
19 The first is this: On this question about the correlation
20 between Frank Murphy and Buchanan, you mentioned, that you
21 told -- Frank Murray, I beg your pardon, Frank Murray, that
22 you spoke to him because he was, in a sense, the opposite
23 number to Bob Buchanan, is that right?

24 A. Yes.

25 585 Q. When Bob Buchanan left your office to go out and talk to
26 people, do you remember who he went to see?

27 A. It was Superintendent Tierney. I am not sure if he did
28 meet him.

29 586 Q. But it seems to be that in Bob Buchanan's mind, his
30 opposite number was, in fact, Superintendent Tierney. He

1 didn't ask to see Frank Murray?

2 A. It seems then, and from what I learned since, that he was
3 more drawn to Superintendent Tierney.

4 587 Q. Now, when Bob Buchanan rang you in the morning, did he
5 give -- did he convey any sense that it was urgent that
6 this meeting should take place?

7 A. I suppose an inference could be drawn from the fact that
8 when I said I wasn't available on Tuesday and Wednesday,
9 that they wanted it fairly soon, but he didn't give a sense
10 of urgency, but I think it was certainly something that
11 wouldn't be put down the line, that they wanted it fairly
12 soon.

13 588 Q. Given that Monday was the day you were available -- sorry,
14 that day was the day you were available?

15 A. Put forward rather than back.

16 589 Q. Exactly. Now, the question of discussion between police
17 forces on collusion, this event followed the coming into
18 force of the Anglo Irish Agreement, isn't that right?

19 A. Yes.

20 590 Q. And the Anglo Irish Agreement put the relationship between
21 the two forces on a new established footing, isn't that
22 right?

23 A. Yes.

24 591 Q. And cooperation between the police forces was now the order
25 of the day?

26 A. It always had been, I think, to a great extent. This might
27 have put it on a better footing, yes.

28 592 Q. I am not suggesting that it wasn't, but, now, it was put on
29 a formal footing, as it were?

30 A. Yes.

1 593 Q. And clearly, the suggestion that there might be a colluder
2 would be very upsetting to that cooperation?

3 A. Well, it would have been if either side knew it.
4 Certainly, I imagine that they would have exchanged that
5 information.

6 594 Q. But in a manner which might be in -- how shall I say? --
7 which was -- would not jeopardise the new-found rapport
8 between the two forces?

9 A. Yes.

10 595 Q. Now, I think you told My Friend that you were aware that
11 Toby Harnden and Kevin Myers had been interviewed, is that
12 right?

13 A. Yes.

14 596 Q. By that, you mean interviewed by the relevant authorities.
15 How do you know that?

16 A. I read the report, the earlier inquiry into the murders.

17 597 Q. So it was from reading the report, is that right?

18 A. Yes.

19 598 Q. I see. Very good. Now, the last matter is this: You were
20 asked about whether you were aware of who might, within the
21 RUC, have known about the arrangements of the meetings. I
22 take it that whatever information you have, is of the
23 nature of speculation? You don't have any knowledge -- or
24 do you have any knowledge?

25 A. No, I don't know.

26 599 Q. Thank you.

27

28 CHAIRMAN: Thank you very much, Mr. Nolan. You have been
29 very help.

30 A. Thank you, Chairman.

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THE WITNESS THEN WITHDREW.

CHAIRMAN: Mrs. Lavery, you are taking the next witness, I think?

MRS. LAVERY: Indeed, Chairman.

ALAN MAINS, HAVING BEEN SWORN, WAS EXAMINED BY MRS. LAVERTY
AS FOLLOWS:

600 Q. MRS. LAVERTY: Mr. Mains, I am Mary Lavery, and I am
counsel for the Tribunal. And firstly, thank you for
travelling voluntarily to give evidence before the
Chairman.

I think that in 1989 you were Staff Officer to Chief
Superintendent Breen, is that correct?

A. That's correct, Mr. Chairman.

601 Q. And had you worked for him previously, and how long did you
maintain that position?

A. I would have worked with the late Chief Constable Harry
Breen for three years, but just on that particular role as
a Staff Officer, I would have been three or four months.

602 Q. And can you tell us a little bit about Chief Superintendent
Breen, because we didn't have the good fortune to know him?
You might just tell us a little bit about him, what sort of
man was he?

A. My very first experience of Mr. Breen, going back all those
years, was when I first got promoted into the division and
I was called to see him, and right from the word go, and
bear in mind that probably subsequently became a bit of a
practice, he came from behind his desk and sat beside me
and chatted to me, and in the police, going back those
number of years, that was very important for a senior
officer to address a junior officer in such an engaging
way, and that really set the tone for what I and other
people thought of Mr. Breen, and that was nothing but

1 respect. He was a gentleman, but never lost the seniority
2 that he had or the experience in terms of being a very good
3 police officer.

4 603 Q. And did you know Superintendent Buchanan?

5 A. I knew Mr. Buchanan very well, as well. Mr. Buchanan was
6 the Border Superintendent. And in my role as a uniform
7 Sergeant initially in Forkhill Police Station, we depended
8 very heavily on Mr. Buchanan. His ability to disseminate
9 information to the people that were on the front line, and
10 that was myself, with my colleagues in both Forkhill and
11 Crossmaglen, the role that Mr. Buchanan carried out, I
12 guess, was very, very important to the organisation, both
13 in the RUC and the Gardai. He was a very quiet, unassuming
14 gentleman. Sometimes, you know, to get a conversation out
15 of him was, perhaps, difficult, but that's the sort of
16 person he was, and we respected that.

17 604 Q. Now, in the course of their duties, from your experience of
18 working with Chief Superintendent Breen and being his Staff
19 Officer for the preceding three months, did they often have
20 occasion to cross the border, both of the officers?

21 A. Well, I mean, it's very, very clear that -- I am trying to,
22 maybe, put this in a way that perhaps people will
23 understand. Back in 1989, I mean, you know, that area, and
24 prior to that, was a very -- probably the most dangerous
25 area that you could serve in, and it was very much
26 dependent at that time on intelligence flow both from
27 north-south, south to north, and a lot of that information
28 would have been carried out on face-value meetings between
29 myself, perhaps, and another officer of equal rank, or
30 whatever, and certainly Mr. Buchanan would have been the

1 vehicle for that information to come back to us, and vice
2 versa. So, yes, we depended on Mr. Buchanan, you know,
3 making those appointments, making those meetings, whether
4 it be official or *ad hoc*. He had to build a rapport up, he
5 had to build trust up, and that just doesn't happen, you
6 know, with -- sitting at the other end of a phone.

7 605 Q. And did you have occasion to travel south with either of
8 the officers on any occasion?

9 A. Yes. Mr. Breen and I would have, at times, travelled all
10 over south Armagh, and Mr. Buchanan and I would have
11 attended meetings with Mr. Buchanan when I first got
12 promoted into Forkhill. I remember and recall, very
13 clearly, him taking me down to introduce to me to Dundalk
14 personnel that I would have occasion to deal with in the
15 course of my future role as a uniformed Sergeant in
16 Forkhill.

17 606 Q. I see. Now, can you -- I am sure you won't forget, the
18 20th of March, 1989. Can you recall that particular
19 morning? Were you on duty or were you away from the
20 office? Was Chief Superintendent Breen stationed in Armagh
21 the same day?

22 A. Yes, I do recall it very clearly, actually. It was quite a
23 day, really, as it turned out. The previous week, Mr.
24 Breen had been off on leave. He was, I think, just doing
25 things around the house, and I would have been in contact
26 with him periodically during that week, and he encouraged
27 that, for me to -- if there was anything of importance. I
28 didn't like to do it, but I did have contact with him the
29 week before. I would have been very much conscious of
30 stuff that I had to collate for him for that -- on his

1 return on the Monday, and, as I said, if there was anything
2 of urgent nature, I would have informed him. So, on the
3 morning, I would have come in quite early, especially on
4 that day because he was off for the previous week and we
5 had a lot of stuff to discuss.

6 607 Q. Can I just stop you there for a moment. Did you meet him
7 in the week before? In particular, did he have any
8 occasion to call into the office during his week's break?

9 A. No. In fact, Mr. Breen would have been very, you know,
10 conscious of, if he was on leave, the only people that
11 could really disturb him was probably something like a
12 staff officer or somebody of higher rank, maybe, than
13 himself. I remember having to go to the house to talk to
14 him about a very important issue, and he was cutting his
15 hedge, you know, down the garden, so I think he had quite a
16 lot of chores to do that week.

17 608 Q. Because there has been evidence that there was a meeting on
18 the Thursday before the murders, which would have been
19 March 16th, and there seems to be some difference of
20 opinion as to whether Mr. Breen attended that meeting or
21 not?

22 A. I can only say, in the evidence that I will give to the
23 Tribunal, that the conversation I had with Mr. Breen was
24 certainly not that he had been already at a meeting the
25 previous week; in fact, to the contrary. As I said to you,
26 anything that had to be discussed was discussed down at his
27 house, not anywhere else.

28 609 Q. So if there had, in fact -- if he had been called in
29 unexpectedly for a brief meeting, would you have expected
30 him to let you know about it?

1 A. I would have most definitely known about it insofar as
2 either I would have had to research what the subject would
3 have been or I would have been called to maybe take notes
4 and make sure that we had some sort of plan coming out of
5 that. That was the very nature of my job at that time.

6 610 Q. Last week, there was evidence from, I think it was Witness
7 18, the ACC, that he thought that you might have been
8 present at a meeting around 5:00 to 5:30 on Thursday the
9 16th. I'll clarify that: You weren't physically in the
10 meeting, but he thought you might have been around, perhaps
11 getting a cup of coffee or doing other jobs outside that
12 meeting. Do you recall that?

13 A. Can you clarify where the location of that?

14 611 Q. It was in Newry, I think.

15 A. No, definitely not. My job would have been very much based
16 in Armagh and that was my --

17 612 Q. Was there a meeting -- I might be wrong in that -- was
18 there a meeting in Armagh? Do you recall a meeting in
19 Armagh on the 16th?

20 A. No, and I am focusing, perhaps, on the point where I would
21 have been around, you know, that was my station, I could
22 well have been in my office working at that stage, but
23 certainly I don't recall that at all.

24 613 Q. And if such a meeting had taken place, Mr. Breen -- Chief
25 Superintendent Breen had been at it under normal
26 circumstances, he would have called upon you to assist him?

27 A. Perhaps, Mr. Chairman, it might be worthwhile just to spend
28 a couple of seconds in defining what a staff officer's job
29 was at that particular time.

30

1 We had just moved from Inspector rank down to a Sergeant
2 rank to take on this role, which, you know, was, basically,
3 on selection of the commander himself, I suppose to get
4 that, and I wasn't his first choice, by the way, so he had
5 somebody else in mind, but he eventually did ask me would I
6 take the role on and it was very good for future
7 development within the organisation, provided you could do
8 it, but you become very much a person who Mr. Breen, or any
9 commander, would trust, and the trust was reciprocal.
10 There was issues at -- intelligence, personnel issues you
11 were privy to, so the job itself, I would imagine the
12 reason why anybody would want somebody as a staff officer,
13 there was probably a bit more to picking that person than
14 just being a police officer. So I guess to sum all of that
15 up, it was a very close role that you would have had with
16 your senior officer, and, in that, he would have trusted
17 you with a lot of information and you were expected to hold
18 that information and not let it go.

19 614 Q. On the Monday following his week's leave, can you recall
20 what was the first thing that happened?

21 A. On that Monday -- like, every day was routine, in a sense.
22 You know, you started your job in the morning and you got
23 in early to brief, get the information that maybe happened
24 that previous weekend, anything maybe of a detrimental
25 nature, anything you think that Mr. Breen should have
26 known. You would have taken that into his office. My
27 office was beside him, an adjoining door. You would have
28 then -- maybe one of the secretaries would have come in
29 with a cup of tea, or whatever, and you would have chatted
30 through previous events.

1 615 Q. And what happened on this particular day?

2 A. On that particular day, we had quite a lot to talk about,
3 both previous and future events. At that particular time,
4 the division, as was the force at that stage, came through
5 what we call promotions, and the Chief Superintendent had a
6 very important role to play in those promotions, so we
7 talked about that for a while and how we were going to, I
8 suppose, put a meeting together between him and I to go
9 forward and for him to do a selection process and for me to
10 probably just ensure that everything was done in accordance
11 with the regulations at that time. So that was quite an
12 important meeting, for obvious reasons.

13 616 Q. And what other matters did you discuss?

14 A. We discussed some other personnel issues. We also
15 discussed any previous incidents, which would have been
16 anything from incidents that may involve the police, the
17 public. Anything that I felt Mr. Breen should have known,
18 he would have been briefed on. Mr. Breen would have then
19 informed me of what his intentions would have been for that
20 coming week. We would have checked diaries and made sure
21 that all his appointments, you know, that he was aware of
22 them, and nothing had been put in that he wasn't aware of,
23 so that he could confirm all of his appointments. We then
24 discussed the report that had come down from the senior
25 officers in relation to 'Slab' Thomas Murphy, and he was
26 quite into some detail about it, giving me the background,
27 because I knew nothing about it at that stage, and he goes
28 on to explain, or did go on to explain --

29 617 Q. Sorry, can I just interrupt you. Did you actually see this
30 report or did he recount to you what the report said?

1 A. I would have probably had that report on my desk and then
2 Mr. Breen would have talked about it in relation to what he
3 wanted to do about it.

4 618 Q. And what did he tell you?

5 A. Well, first of all, he went into detail how the
6 conversation came round, and that was that there was a
7 dinner with the Secretary of State; at that time, it was
8 Mr. King, MP. The dinner was designed, I guess, between
9 divisional commanders and army senior officers. I think
10 the purpose of it was to sort of have a bit of a chat and
11 for their opposite numbers to discuss and meet each other,
12 and vice versa. He then went on to say that some colonel,
13 or a colonel, who would have been based at Bessbrook, I
14 think, at that stage, engaged with the Secretary of State
15 to talk about the number of vehicles that were going past
16 in Murphy's land, on his road, and that this was an obvious
17 smuggling exercise, and the Secretary of State, I guess,
18 probably just quickly, rightly sort of thought, this
19 shouldn't be happening and why is this happening? And
20 Harry was quite annoyed about the fact that this
21 conversation had taken place without any consultation to
22 him. It was a straightforward conversation between the
23 colonel and the Secretary of State.

24 619 Q. And as a result of that conversation, was he directed to do
25 something in particular?

26 A. Yes. As a direct result of the conversation - I have seen
27 it so often, you know, somebody makes a comment in that
28 environment, then it escalates up and then percolates
29 down - and on this occasion I think it went up to the Chief
30 Constable and then it came down and it invariably ends up

1 with the person who can do something about it, and that was
2 Chief Superintendent Harry Breen. He clearly felt at that
3 stage that, you know -- again, I think it's probably worth
4 putting into context, the operational issues around south
5 Armagh at that particular time required a lot of thought, a
6 lot of planning and a lot of preparation.

7 620 Q. As a result of the conversation, was he directed
8 specifically to -- what was he specifically directed to do,
9 did he tell you?

10 A. Yeah, he was specifically directed to speak with the guards
11 and the army, to come up with some sort of reply for the
12 Chief Constable, Secretary of State, and again, with a
13 strategy in place, to sort of look at it and do something
14 about it.

15 621 Q. And when did he propose to do this?

16 A. Time was not really on the side because he had been off the
17 previous week. The call-up date, I believe, was the next
18 day, and he had to have the report in, so he was pretty
19 well rushed, as he felt, at that point, to get this report
20 in.

21 622 Q. Had he decided he would travel south on that day?

22 A. Yeah, we discussed the possibility, and I think if I go
23 back to what I said early on about the description of
24 Mr. Breen, he was very much a guy, a gentleman with manners
25 probably like I have never seen before in any police
26 officer then or since. He felt that because he was
27 requesting that meeting, he had to go down to the guards
28 and not ask the guards to come up to him because it was he
29 that was asking for the meeting.

30 623 Q. Had he been down to meetings before with the guards?

1 A. Had Mr. Breen been down?

2 624 Q. Yes.

3 A. Mr. Breen was -- probably the best way I could describe
4 that: a lot of things that Mr. Breen would have done would
5 have been, you know, he would have built up relationships
6 with people. He may have met somebody on the border, he
7 may have met somebody somewhere else, you know. It was all
8 very much -- he thought out a lot of what he actually did.
9 So, the norm might be for him to ask to go to -- or want to
10 speak to somebody in the guards. He would either task
11 Mr. Buchanan with that, if he felt it was appropriate, or,
12 if he felt it was a wee bit more, maybe, intimate, in a
13 sense, he might have asked somebody to come and speak with
14 him and meet them half-way, or whatever. So to say
15 definitively would Mr. Breen have been over the border, I
16 can't say that the answer, within the three months that I
17 had been there, not much, if at all.

18 625 Q. Not much?

19 A. If at all.

20 626 Q. Now, at what time did this conversation take place with
21 Chief Superintendent Breen?

22 A. This conversation would have taken place roughly about,
23 sort of, just after 9 o'clock, maybe 9:15, whatever.

24 627 Q. And how long did the briefing and the general discussion
25 take place?

26 A. In total, it would have lasted probably just over an hour.

27 628 Q. And did he ask you to do something for him?

28 A. First of all, he asked me, you know, being in Forkhill,
29 being in that area, I know we talked about the way, I
30 guess, smuggling would have appeared at that time, you

1 know, what would have happened and what type of stuff was
2 being smuggled, but, more importantly, he asked me to check
3 with the army to see whether or not the number of vehicles
4 that were recorded, and in conversation with the Secretary
5 of State, in actual fact just to check how many there
6 actually were. And I remember going out and -- nipping out
7 to make a phone call, and I phoned Bessbrook Mill, and
8 coming back with an answer which, you know, there was
9 nowhere near what was suggested at the meeting with the
10 Secretary of State.

11 629 Q. So you were able to get that answer at the time --

12 A. Yeah, it was pretty --

13 630 Q. -- to pass on to Chief Superintendent Breen?

14 A. Yes.

15 631 Q. And then did he ask you to make any other arrangements for
16 him?

17 A. Yeah, he basically -- we went through the course of the
18 day, which was not, you know, was not in any way abnormal.
19 His plan would have been that we would have made -- I would
20 have came out and had a chat with Dundalk, set up a
21 meeting, see if the Chief Constable in Dundalk was
22 available, or speak to one of his staff, and thereafter,
23 then, depending on what came out of that, we would have set
24 off on course for the meeting. But I remember very clearly
25 that day. It was a bit of a full day insofar as having to
26 go to Dundalk, then going back to Armagh -- sorry,
27 Bessbrook Mill, where the army would have been based, and
28 then, that particular night, we were coming back to Armagh
29 police station to do the, what we would have called our
30 eighteen threes, which were promotion sort of forms, I

1 suppose is the best way to describe it. So that was the
2 day planned as far as Mr. Breen was concerned. And I
3 clearly remember asking him, which was very difficult, I
4 think, to sort of ask could I be excused that meeting as I
5 had to go and play rugby that evening. Mr. Breen was very
6 good about it, and suggested then that Mr. Buchanan,
7 because he was being transferred to Newtownards as the
8 Deputy Divisional Commander, might want to say his cheerios
9 to the guards, and he suggested that I phone -- went out
10 and phoned him and see if he was available to go down to
11 the meeting with him. This, I did, and Mr. Buchanan said
12 that he was happy enough to do that, and they were to meet
13 in Newry prior to going down.

14 632 Q. Did you contact anybody else? Did you make any other phone
15 calls?

16 A. I remember going out and having to phone Dundalk to see
17 if -- to see if that was -- to see if Harry's opposite
18 number would have been available. From memory, I don't
19 believe that I actually got an answer. I think he either
20 wasn't there or he was out in the car, or something. But I
21 also recall speaking to a female and just asking, you know,
22 can we check his availability and see what was going on in
23 terms of his diary, and going back into the meeting with
24 Mr. Breen to discuss other issues, and it came back to the
25 smuggling again, and to say, look, I have left a message
26 with Dundalk to say, you know, can the meeting be
27 facilitated that afternoon.

28 633 Q. What time do you think that was?

29 A. Probably, I feel it was probably before their second cup of
30 tea, and the reason why it becomes important is because

1 everything was, sort of, you know, ten o'clock you got
2 another cup of tea, and I remember clearly doing that
3 before then.

4 634 Q. Unfortunately, phone records for the time haven't been
5 retained, and there seemed to be several versions of how
6 the appointment was made, depending on the recollection of
7 the party who made it. I understand that there was some
8 evidence that, at 9:30 on that morning, Superintendent
9 Buchanan telephoned the Superintendent in Dundalk to
10 arrange a meeting, and he wasn't in, but he returned his
11 call at 10:15, and then a message was passed that Chief
12 Superintendent Breen wanted to meet Chief Superintendent
13 Nolan at two o'clock, and Breen met Buchanan at Newry
14 station at approximately 13:49 hours and both left Newry at
15 1:40 in Bob Buchanan's car. They arrived at about ten past
16 ten. That's one version.

17

18 On another -- another witness, whom I don't want to refer
19 to by name, but he is Witness 27, and you would know him as
20 the Chief Superintendent and Deputy to the ACC border zone,
21 he will say that, on that day, Harry Breen rang him at
22 twenty-five past nine to tell him that arrangements had
23 been made to travel to Dundalk, leaving Newry at 11:45, and
24 the Chief Superintendent agreed to meet him and Bob
25 Buchanan at Newry station. However, in the absence of the
26 Assistant Chief Constable, the Deputy became involved in
27 the monthly brigade meeting which had been brought forward
28 to the 20th March, and, at twenty-nine minutes past nine,
29 the Chief Superintendent rang Harry Breen to tell him of
30 this development, and he wasn't able to attend at the time.

1 Do you recall any of that? Do you recall...

2 A. I think maybe the best way to describe what I have just
3 listened to is that -- I mean, it's very easy for me to say
4 that, no, I have no recollection of that. It's equally
5 important to stress, had that have been the case, I think I
6 would have been made aware of it.

7 635 Q. Well, you said that somebody was delegated to go instead of
8 you, which would have been Superintendent Buchanan. Was
9 there anybody else that might have been invited to travel?

10 A. Again, I go back to the conversation that Mr. Breen and I
11 had that morning. It was a very clear, and I have to make
12 this very clear, a very clear strategy that him and myself
13 would have travelled down. We would have met, I'd have
14 taken notes at the meeting. We would have gone to the
15 military base to discuss the allegations of the smuggling
16 across Murphy's land. We would have then came back and
17 done the promotions. At that point, at that point, that's
18 what was on Mr. Breen's agenda, nothing else.

19 636 Q. It's quite possible, though, isn't it, that Bob Buchanan,
20 once he had been notified that he was going on this trip,
21 could have been making his own phone calls to Dundalk
22 station?

23 A. Well, that actually does make sense because, you know, I
24 phoned Mr. Buchanan at home, told him the request by the
25 commander, and Mr. Buchanan could have easily turned around
26 and said, "look, I cannot do it today, I am off," or
27 whatever else, but he didn't. The fact was that he did go
28 down. He agreed to go down. Now, did he make his own
29 phone calls? Well, I can't account for that, you know,
30 it's quite simple. It's logical that he did, and that

1 version sits very easily with me.

2 637 Q. And I think the fact that he was at home at the time is
3 verified by one of the witnesses, who said that they tried
4 to contact him in the station, but he wasn't there, and, of
5 course, he travelled from his own home that day, isn't that
6 so?

7 A. Mr. Chairman, when somebody takes your place in a vehicle,
8 I think you are very clear in terms of knowing, you know,
9 the recount of the actual sequence of events.

10 638 Q. Now, at what time then did Harry Breen link up with
11 Superintendent Buchanan?

12 A. We discussed other issues before we left the office, for
13 Mr. Breen to get very clear as to what he wanted to get out
14 of this meeting and what we were going to do about it the
15 following day. At that point, we were to talk about
16 organising Customs and Excise, but we had difficulties
17 doing that in the area that we operated in and were
18 responsible for. We had to talk to key individuals within
19 Customs to ensure the secrecy and protection of the
20 personnel that we were going to deploy on the ground.

21 639 Q. And did you escort Chief Superintendent Breen out to meet
22 Bob Buchanan, or did he just leave the office?

23 A. No, he didn't. He came in to me again and said, "Look,
24 would you come down to the canteen and keep me company
25 whilst I am having a sandwich," or his lunch. And I said
26 I'd follow him down in a few minutes, as I had a couple of
27 things to deal with. The reason for that, Mr. Chairman,
28 was quite simple: the Chief Superintendent would have gone
29 down to the canteen and think that people were afraid to
30 sit with him because of his rank, and Mr. Breen didn't like

1 that but understood it. I followed him down, and,
2 ironically, he had several people around him when I got
3 into the canteen. We sat, we chatted and in a group. The
4 both of us left then together. I was going upstairs to my
5 office and I clearly recall looking out the window, and it
6 was very, very sunny, it was a good day, and I was a very
7 young police officer at the time and hated being stuck in
8 an office, and Mr. Breen said, "Are you sure you don't want
9 to go down? I can guarantee you you'll be back before the
10 rugby starts that evening." And I said that I, you know, I
11 had made the plans and I didn't go and that was it. So
12 Mr. Breen then left the police station in his own vehicle
13 to go down to Newry to meet up with Bob Buchanan, as
14 explained.

15 640 Q. Did he express any concerns to you prior to travelling
16 south?

17 A. Yeah, Mr. Breen had mentioned, whilst we were talking about
18 'Slab' Murphy, that he was concerned that members of the
19 Gardai were on his payroll. He also mentioned Owen
20 Corrigan as the Detective Sergeant that he didn't trust.
21 He stated that he had been investigated for his connection
22 and involvement with the Provisional IRA previously.

23 641 Q. How do you recall the name?

24 A. How do I recall that name?

25 642 Q. Yes.

26 A. Well, I have to say, it was sort of news to me for him to
27 be so specific about an officer. I clearly recall it at
28 that time because that's what was said.

29 643 Q. Had you ever, or did you know there was a Detective
30 Sergeant in Dundalk called Corrigan?

1 A. There had been talk previously about, you know, not
2 trusting certain guards down in the Dundalk area. Again,
3 you probably have to bear in mind that we wouldn't have
4 been privy to that sort of information, in uniform; we
5 would have been just been told to be wary of them. I was
6 probably that bit more privileged, being a Staff Officer,
7 for Mr. Breen to say that. He wouldn't have said that to
8 just anybody.

9 644 Q. And was it an unusual sharing of confidence, that
10 particular one?

11 A. Oh, no, not at all. We would have discussed other things
12 of more sensitive issues, I guess, but that one
13 particularly was specific to that day in terms of where he
14 was going and his uneasiness about making that journey,
15 about the uneasiness of the connection with Murphy and the
16 guards.

17 645 Q. Did he explain to you where his information had come from
18 or how he had received this information which, in effect,
19 made him uneasy?

20 A. No.

21 646 Q. Did he give you any directions as to maybe taking the
22 matter further, or was it something he was --

23 A. No, it was in conversation --

24 647 Q. Dealing with himself?

25 A. And when he said it, I didn't question it, either; I just
26 accepted it as coming from a senior police officer.

27 648 Q. Had you ever had any dealings with Owen Corrigan?

28 A. Not at that time.

29 649 Q. Would you even recognise him if you saw the man?

30 A. No.

1 650 Q. I think we'll come back to another reference to him later.
2 You said that you saw Mr. Breen, Chief Superintendent
3 Breen, going off, and then, unfortunately, the next news
4 you would have got would have been really bad news, isn't
5 that so?

6 A. Yes. That afternoon, I was contacted by a Chief Inspector
7 in Newry and the first phone call was quite sort of vague,
8 in a sense. It was, "Can you get Mr. Breen urgently." I
9 asked what the problem was or what was the issue, and he
10 just said, "I can't tell you now, but just get him, or try
11 and get him." I then was aware that Mr. Breen would have
12 had a pager. I then asked our control room to page
13 Mr. Breen, to no avail, and then I got a second phone call
14 from the Chief Inspector to say, I think, it's the worst
15 news that we could possibly expect, there was two bodies on
16 the border.

17 651 Q. I think you had enormous respect for Chief Superintendent
18 Breen, Mr. Mains, and for Superintendent Buchanan?

19 A. Yes.

20 652 Q. Now, subsequently, I think that during that -- obviously,
21 things were very, very difficult that particular evening,
22 with various inquiries going on and confirmation that it
23 was the two officers who had been murdered, and what did
24 you do later on that evening?

25 A. I was asked to brief the Chief Constable, which I tried to
26 do after getting the phone call. As soon as I got through
27 to somebody of importance within the Chief's office, I was
28 asked what was so important that I had to speak to the
29 Chief Constable, and I explained that we had two police
30 officers ambushed, shot, whatever. The circumstances were

1 not particularly clear at that point, but it was not good
2 news. I was then phoned back by the Senior Assistant Chief
3 Constable, Mr. Cushley, and he asked me what was going on,
4 and I basically told him, and he said that he would meet me
5 down in Newry police station. I left Armagh, because I
6 felt I could be probably more use in the Newry vicinity
7 than sitting in Armagh. And that night, the Gardai were
8 excellent in terms of what they did that night in terms of,
9 you know, being proactive. We, in the RUC, were less
10 proactive, because of the ability or unavailability of
11 getting flights to fly out, and it was completely two
12 different scenarios, north and south of the border. South
13 could proactively drive to a person's house, where we had
14 to fly. Therefore, there was an understanding that had to
15 be given to the senior police officers who came from
16 Headquarters as to why we were not doing certain things.

17 653 Q. I think the weather was very bad, as well?

18 A. Yes. I mean, the contrast of lunch time, seeing the sun
19 coming through the windows, to that night, driving home in
20 snows, just completely a reverse of --

21 654 Q. Now, the following day, on Tuesday the 21st of March, were
22 you asked to attend Newry police station for a briefing?

23 A. Yes. The very next day, then, of course, it was all about,
24 you know, the recovery and the scene of our two police
25 colleagues. I was having something to do with that in
26 relation to organising things in Armagh. I was taking
27 phone calls of people phoning in, members of the public,
28 saying that how perturbed they were that two senior police
29 officers had been shot, and how ridiculous it was by, you
30 know, the Provisional IRA to attack two people without a

1 gun. We were getting a lot of these conversations going on
2 with colleagues and part-time reserves. I was then asked
3 to go to Newry to brief Sir John Hermon.

4 655 Q. What time was that?

5 A. I can recall going down in the morning, because it was
6 specific to me that he had to make a press statement that
7 afternoon and that he wanted to talk to me about my
8 conversation with, then, the late Chief Superintendent
9 Harry Breen.

10 656 Q. I think in your statement to the Tribunal, you said it was
11 approximately 10:30. Was that when the request came in?

12 A. My recollection of that would be very clearly about 11
13 o'clock-ish.

14 657 Q. I see. Who was present at the meeting? And bear in mind
15 that -- if you could just address people by their titles,
16 thank you.

17 A. Sir John Hermon would have been at the meeting, Witness 18,
18 and then the Sub-Divisional Commander.

19 658 Q. And what was discussed at this meeting?

20 A. First of all, the reason for me going to the meeting in the
21 first instance was to brief the Chief Constable in relation
22 to the conversation I had had the previous day with
23 Mr. Breen. When I walked into the room, the Chief
24 Constable himself obviously set the agenda for the meeting,
25 and asked me -- he offered his condolences, which took me
26 back a bit, and he said that he was very sad at the loss of
27 two very senior police officers. We then went into
28 conversation as to why they were actually there. He asked
29 me the question: Why were they down there? And I clearly
30 remember and recall looking to my left at Witness 18, who

1 had his head in his hands and, to me, looked completely and
2 utterly under pressure. I remember saying to the Chief
3 that that's the reason why they were down there, that man
4 sent them. He then asked me -- he moved on quickly from
5 that conversation and asked me why -- sorry, the
6 conversation that I had had with Mr. Breen. I then told
7 him that Mr. Breen had mentioned Owen Corrigan as a person
8 that he was uneasy with and went on to say why he felt that
9 way. The Chief Constable was very dismissive of me making
10 that remark and said that that was rubbish, or he
11 disagreed, and he quickly said that that man had been
12 investigated and he had been cleared. At that point, I
13 became quite, I don't know the right word to use here in
14 terms of frustrated, annoyed, anxious, that clearly this
15 was a contradiction of what Mr. Breen had told me the
16 previous day. I remember making my point in a raised voice
17 to the Chief Constable about the fact that it was his
18 commander, who was in charge of H Division, the previous
19 day had told me, and it's his words, not my words. It was
20 sensed by the Sub-Divisional Commander at that point that
21 the two of us were, you know -- I don't think you'd talk to
22 a Chief Constable like that ordinarily, but I did.

23 659 Q. Now, did you make a statement subsequently then in relation
24 to this matter?

25 A. Yes. I was --

26 660 Q. Sorry, can we go back a little bit here? Witness 18 has
27 said -- you weren't here for the evidence, but his evidence
28 was that he specifically instructed Harry Breen and Bob
29 Buchanan not to cross the border and not to travel south,
30 and he, in cross-examination, stated that they had

1 disobeyed his orders. Now, I just want to ask you, would
2 you think that Chief Superintendent Breen would be the sort
3 of person who would disobey orders in a chain of command?

4 A. Probably the best way I could answer this without offending
5 anybody is to say that, to suggest either Mr. Breen or
6 Mr. Buchanan would do that is really a nonsense, to be
7 quite honest. I am sorry I have to be as frank as that,
8 but it's just nonsense. Mr. Breen was certainly very much
9 the Divisional Commander, the Chief Superintendent. It was
10 his division and he ran it. Mr. Buchanan was very much in
11 support of Mr. Breen doing that. At no time, and I mean no
12 time, was I told or informed that they were told not to go
13 down. In fact, I would say to the contrary.

14 661 Q. Mr. Mains, I think that you made statements in the wake of
15 this, Mr. Mains, and they are actually referred to in the
16 PSNI discovery as "HMG 27," but, for the convenience, I
17 have photocopied them. Now there is a statement there
18 dated 22nd March, 1989. Where did you -- and it says:
19 *"Police Sergeant, care of RUC station, Newry Road, Armagh."*
20 Now, do you recall where you made that statement?

21 A. I would have made that statement in Armagh, probably.

22 662 Q. And would you have typed it out yourself or did somebody do
23 it for you?

24 A. No, somebody would have recorded it, one of the murder
25 investigation team.

26 663 Q. And I think that in that statement, you say:

27 *"I am a Sergeant of the Royal Ulster Constabulary presently*
28 *stationed as Staff Officer to Divisional Commander,*
29 *H Division. On Monday 20th March, 1989, at 9:20 a.m., I*
30 *attended a meeting with Chief Superintendent Breen to brief*

1 him on the previous week's events as he was on annual leave
2 for that period. Mr. Breen discussed matters regarding
3 promotions and transfers. He then went on to give me his
4 appointments for that day. He informed me that he had to
5 attend a meeting in Dundalk that afternoon with the Border
6 Superintendent, Superintendent Buchanan, along with Chief
7 Superintendent Nolan, Garda. The reason for the meeting
8 was in connection with cross-border smuggling in relation
9 to 'Slab' Murphy, Crossmaglen. Mr. Breen highlighted the
10 fact that he was uneasy about travelling down to Dundalk,
11 but stated that he had to have reports submitted to
12 Headquarters the following day at lunch time. He then
13 asked me to contact" -- a person -- "out of Customs and
14 Excise to arrange a meeting first thing on Tuesday, 21
15 March, 1989, and this I did. Mr. Breen also stated to me
16 that he felt 'Slab' Murphy had contacts within the Garda,
17 and, to this end, he felt that he could not trust certain
18 Garda Siochana members. To use his own words, he felt that
19 certain members of the Garda were on Murphy as payroll.
20 This meeting ended at approximately 11 a.m. I later spoke
21 with Mr. Breen at approximately 12:25 p.m., just prior to
22 him leaving for Dundalk. He informed me that he might be
23 back later but was unsure how long the meeting with the
24 Garda would take."

25
26 Now, there is no mention of the name of any particular
27 Garda in that statement, and perhaps you'd explain or
28 clarify why that's not the case, since your evidence today
29 is that it was Owen Corrigan that you were referring to, or
30 that, sorry, not you, but that Chief Superintendent Breen

1 was referring to

2 A. Well, first of all, that statement was made on the 22nd.

3 It would have been recorded for what they call a murder

4 investigation. It would have been factually in the sense

5 of sequence of events. I would have been advised, and I

6 would probably, in hindsight, agree with it now in terms of

7 the action that was decided at that time, not to mention

8 Mr. Corrigan for his own, you know, safety. This would

9 have gone before an inquest and it would have become

10 public. At that stage, I think we had to do, or the murder

11 investigation team, I assumed, would have been doing their

12 own inquiries into that information, and I didn't feel --

13 or I was advised not to put it in at that point.

14 664 Q. Well, presumably you were advised by somebody who knew that

15 you had a name that had been quoted to you by Chief

16 Superintendent Breen?

17 A. Yes.

18 665 Q. And do you think that this is information that was within

19 the knowledge subsequently of the investigation, the murder

20 investigation team?

21 A. I have absolutely no doubt. I mean, bearing in mind that I

22 mentioned it to the Chief Constable the very next day and

23 also to the senior investigating officer at the time.

24 666 Q. Now, if you move on, the next statement that you should

25 have before you here was one -- was the deposition, or a

26 draft deposition of a witness pursuant to the Coroner's Act

27 in Northern Ireland, 1959, and this, presumably, was for

28 the inquest, for the purpose of the inquest. Now, the one

29 I have here is undated, and it's typed, "*The Deposition of*

30 *Alan Mains of RUC station, Armagh.*" And I note that in

1 that statement, without going back again, that part of it
2 has been taken out already, that is the reference to
3 Mr. Breen highlighting the fact that he was uneasy
4 travelling to Dundalk, and also your quotation, "*Mr. Breen*
5 *also stated to me he felt 'Slab' Murphy had contacts within*
6 *the Garda, and, to this end, he felt he could not trust*
7 *certain Garda members. To use his own words, he felt that*
8 *certain members of the Garda were on Murphy's payroll.*"

9
10 Now, they seem to have been deleted out of this draft, and,
11 in addition, there is a line drawn through "*Mr. Breen*
12 *highlighted the fact that he was uneasy with travelling*
13 *down to Dundalk.*" So that seems to have been penciled out
14 in addition to the other redactions that have been carried
15 out. Did you do that?

16 A. Mr. Chairman, no. In fact, I was not present when that
17 deposition was taken.

18 667 Q. Now, the next, then, is, if you like, another document
19 which, again, is a draft deposition including all the
20 redactions. It's not signed.

21 A. Again, I was not present when that was done.

22 668 Q. And then, finally, there is a written statement in the
23 inquest, which is similar to the previous one, dated 22nd
24 March, 1989. Now, you would have presumably have had to
25 sign that?

26 A. It's not signed by me on this particular copy, but I
27 assumed I would have had to, although I notice that it's
28 been certified to the left, in the left-hand column.

29 669 Q. Well, what do you think -- who do you think prepared the
30 other unsigned draft depositions if you didn't?

1 A. What I think may have happened at the coroner's inquest, my
2 original statement would have been read out and then noted
3 down by the person who was taking the information. In
4 theory, I should be there to sign it off, but I wasn't, and
5 I didn't, so that's probably what has happened on a
6 deposition format.

7 670 Q. But why -- presumably, all the information about a murder
8 and an inquest are relevant to the coroner as regards the
9 information he gets in statements, so why would anybody
10 want to redact a statement going to the coroner?

11 A. I am honestly not sure why that would have been, or
12 decision would have been taken, but it was taken, and not
13 by me, obviously, but by somebody else.

14 671 Q. I think the next statement here, then, is a statement that
15 you made on the 15th of September, 2000?

16 A. Yes.

17 672 Q. And perhaps you could explain to us how did that come
18 about, or who requested this statement from you?

19 A. Mr. Chairman, that statement came around from the then late
20 Chief Superintendent Maynard McBurney. I was asked to make
21 a statement in relation to the incident going back to the
22 day in question, and any other information I would have
23 had, and this was on behalf of the Gardai.

24 673 Q. Did anybody interview you at the time in relation to your
25 first statement?

26 A. No. I can recall making myself available for this
27 particular statement, and the reason for making this
28 statement, I remember clearly making myself available to
29 the guards to say I would either travel down or they could
30 come up and interview me, and I did take exception to the

1 fact that Chief Superintendent, not personally to Chief
2 Superintendent Maynard McBurney, but the fact that he was
3 asked to do this. At that point, I would have been a
4 senior investigator myself, and I think it was nothing but
5 good practice, especially in light of what the nature of
6 this particular inquiry was, that I should have been, in my
7 opinion, interviewed by the senior investigating officer in
8 the Gardai and not -- and not asked somebody else to take a
9 statement, and I felt very strongly about that.

10 674 Q. What happened in the intervening years, Mr. Mains? I mean,
11 you gave -- you made this statement the day after the
12 murders, the 22nd of March, 1989, suggesting -- not
13 suggesting, stating that Mr. Breen said that he felt that
14 there was a connection between the Garda and some -- some
15 members of the Garda and subversives. Did anybody question
16 you subsequently?

17 A. No.

18 675 Q. Were you interviewed by the investigation team, the murder
19 team in relation to this statement?

20 A. No.

21 676 Q. Do you know if this statement was passed on to anybody
22 else?

23 A. No.

24 677 Q. What happened to you subsequently? What happened to your
25 job? Your job, obviously, presumably, with Chief
26 Superintendent Breen now would have ceased, so where did
27 you move on to?

28 A. I accepted the job purely because it was Mr. Breen, and I
29 would have been, in my opinion at that stage, too young to
30 take an office job on nine to five, so when Mr. Breen was

1 fatally wounded, I asked to move to Belfast, and that
2 request was reciprocated, I think, and granted six to eight
3 weeks later.

4 678 Q. So you are telling the Chairman that, the day of the
5 murders, Chief Superintendent Breen expressed concern; he
6 mentioned a particular named Garda to you and said he was
7 on the payroll of a subversive. You say that you told the
8 Chief Constable that the following day. You said that you
9 also said it in the company of the ACC. You made a
10 statement, not mentioning the name of the guard, but
11 mentioning a summation of the evidence that you said -- a
12 statement that you said Mr. Breen gave to you, and you say
13 nobody ever followed that up?

14 A. No. I was aware, of course, that there was a couple of
15 inquiries within the Garda Siochana itself, and this was
16 one of them, as I was referring to, whenever I was asked to
17 make a further statement. So I was aware that they
18 themselves were asked to do something about it and they did
19 do their own inquiries.

20 679 Q. But you were never asked about the evidence that you
21 gave --

22 A. No.

23 680 Q. -- following the death of your boss, effectively?

24 A. No.

25 681 Q. Now, I think, subsequently, you had a, if you like, brief
26 link with Owen Corrigan, but not personally, is that
27 correct, or his name came up?

28 A. Yes, I was further --

29 682 Q. If you could just speak very generally now, because -- and
30 carefully.

1 A. Yes. I was Detective Inspector at the time, based in
2 Newry, and I received a phone call at home from one of the
3 Detective Superintendents in the border Gardai asking me
4 could I do a search in a house in south Armagh. I remember
5 it, I think, clearly, in the sense that it was a Saturday,
6 because I was at home, and he told me that Owen Corrigan
7 had been taken from, I think it was a pub, outside a pub,
8 and that it wasn't looking particularly good. There was
9 blood, hair, and I think he said teeth, so it was evident
10 that there was a very violent struggle. I tried most of
11 the day to react to the information that I had got, but
12 unfortunately, again, we could not react in the way that
13 the Superintendent had asked us to, and the day came and it
14 went with no action from ourselves.

15 683 Q. I think he was subsequently restored to his family, in any
16 event?

17 A. Yes. I was asked -- sorry, I was phoned and told that he
18 had been restored, as you say, or found, or whatever, and
19 that he was, thankfully, alive.

20 684 Q. In your second statement, Mr. Mains, you spell Corrigan,
21 Carrigan; is that how you heard it from Mr. Breen, or did
22 you think that was his name?

23 A. I thought that was his name.

24 685 Q. Thank you, Mr. Mains.

25
26 MR. PARK: Chairman, before My Learned Friends
27 cross-examine, could I just announce my appearance. I am
28 Jonathan Park, counsel on behalf of Mr. Mains, instructed
29 by Trevor Ringland of Macaulay & Ritchie. I am sorry I
30 didn't announce that earlier.

1

2

CHAIRMAN: Not at all. Thank you very much. I didn't quite catch your name.

4

5

MR. PARK: Jonathan Park, P-A-R-K.

6

7

CHAIRMAN: Thank you very much.

8

9

THE WITNESS WAS CROSS-EXAMINED BY MR. MCGUINNESS

10

AS FOLLOWS:

11

12

686 Q. MR. MCGUINNESS: Good afternoon, Mr. Mains. My name is

13

Diarmuid McGuinness and I appear for the Garda Siochana.

14

A. Good afternoon.

15

687 Q. Can I ask you this, I think you are a retired Detective Superintendent?

16

17

A. That's correct.

18

688 Q. And can I ask you what year you retired in?

19

A. 2007.

20

689 Q. Were you asked to provide a statement after you had retired, as well?

21

22

A. When I retired in relation to this particular issue?

23

690 Q. Yes.

24

A. I was aware that there was a statement required at some point for the Tribunal.

25

26

691 Q. And did you provide the Tribunal with a statement other than the one which was distributed today?

27

28

A. I think we sort of chatted through some notes, but to actually say that a statement was provided that I signed, the answer is no.

29

30

1 692 Q. So, the only statement you provided to the Tribunal is the
2 one - was it signed today?

3 A. Signed, yeah, you can see the date on it.

4 693 Q. And can I ask you this: The week previous to the murder,
5 did you hear Mr. Breen being given an order that he should
6 not cross the border under any circumstances?

7 A. As I stated before, I don't think I have ever heard anybody
8 give Mr. Breen an order not -- and specifically the week
9 before, no, the answer is definitely no.

10 694 Q. He never told you that he had been given such an order?

11 A. No.

12 695 Q. Did he ever tell you that an assurance had been sought from
13 him, which he gave, that he wouldn't cross the border?

14 A. Absolutely not.

15 696 Q. Did he ever tell you that he had crossed the border -- he
16 had been ordered not to, but that order had been
17 countermanded by somebody else?

18 A. No, he didn't. And I can say that it would have taken a
19 very brave individual to tell the divisional commander in
20 H Division not to cross the border.

21 697 Q. Now, you met him on the Monday morning after he had been
22 off for the whole of the previous week, is that right?

23 A. That's right.

24 698 Q. And as I understand it, you have told the Tribunal that you
25 would brief him about anything that you felt that he needed
26 to know; that was your job?

27 A. That would be correct, yes.

28 699 Q. Now, just on that morning, did you know whether the
29 Edenappa Road had been ruled out of bounds at some stage?

30 A. I would have had -- anything that would have been relevant

1 to the division, as we would have referred to it, anything
2 of importance, I would have been informed or should have
3 been informed.

4 700 Q. Well, can I ask you, were you informed that the Edenappa
5 Road had been out of bounds for some period on that day, in
6 the morning?

7 A. No.

8 701 Q. So were you in a position to say anything to Chief
9 Superintendent Breen about the Edenappa Road?

10 A. No.

11 702 Q. And may the Tribunal take it that you said nothing to him
12 about the Edenappa Road, one way or the other?

13 A. Well, I wouldn't have known to say anything about it.

14 Sometimes, you know, places go in and out of bounds on the
15 same day.

16 703 Q. And do you know or did you find out when it had gone out of
17 bounds and when it had come back in, or did you know about
18 that at all?

19 A. Certainly not prior to anything, and I certainly didn't
20 afterwards.

21 704 Q. Now, in the various statements that Mrs. Lavery has put to
22 you, I think it's correct to say that nowhere do you
23 suggest that you were asked to go down to Dundalk with the
24 Chief Superintendent, am I right about that?

25 A. I mean, what relevance would that have been to a statement
26 recorded for a murder inquiry?

27 705 Q. Well, as I understand it, you were telling the Tribunal
28 today that the reason Superintendent Buchanan went down was
29 because, effectively, you roped him in to go on the
30 morning?

1 A. I certainly didn't rope anybody in to do anything, and I
2 take exception to that. No, I think that's very -- 'rope'
3 is not what was done.

4 706 Q. May I withdraw that?

5 A. It was sensitive the way that we should be talking about
6 this, and 'rope' is not the way it should be described.

7 707 Q. What I am asking you is this: Did you not think it proper
8 to explain that the reason Superintendent Buchanan had gone
9 down was because you had phoned him that morning?

10 A. I thought that that would have been, at that point,
11 whenever this happened and subsequent to the murders, I
12 myself was coming very much to terms with what had happened
13 and I stuck very factually to the facts and I didn't see
14 the relevance, nor I think would it have been relevant.

15 708 Q. Okay. So I just want to be clear: You left it out of the
16 statements that you made, about you being asked to go down
17 by Chief Superintendent Breen, because you didn't think it
18 was relevant?

19 A. Not that I didn't think it was relevant; I didn't think in
20 the context, in the context of this particular statement,
21 no, I didn't, but it was very clearly known by the
22 investigation team and the Chief Constable that that's what
23 had happened, and you can see that my subsequent statement
24 signed today was in greater detail.

25 709 Q. Now, will you agree with me also that in none of the
26 statements that you previously provided do you mention the
27 fact that you phoned Superintendent Buchanan?

28 A. Well, you have just read the statement, or heard the
29 statement, so, yeah.

30 710 Q. That is correct, isn't it?

1 A. That's right.

2 711 Q. And, in fact, the first statement Mrs. Lavery opened to
3 you said that you were informed by Chief Superintendent
4 Breen that he was going down with Superintendent Buchanan?

5 A. That was said in the context of what happened that day and
6 not with the detail behind it.

7 712 Q. Well, it's a question of just whether that's accurate. Did
8 Chief Superintendent Breen tell you that he was attending a
9 meeting in Dundalk that afternoon with the Border
10 Superintendent, Superintendent Buchanan?

11 A. No.

12 713 Q. He didn't say that?

13 A. No.

14 714 Q. So that statement, if it's there in that statement of yours
15 and replicated in others, is wrong?

16 A. Well, in theory, that's exactly what he said, but not in
17 the same context of what I just explained and how it came
18 about, the methodology, what I had done in terms of
19 arranging it. So that's, if you want to try and put a
20 slant on it...

21 715 Q. Well, Mr. Mains, I am only asking you whether something you
22 have said in your own statement is right or wrong, and you
23 have agreed that it's wrong?

24 A. No, I didn't say it was wrong; I said it wasn't in the
25 context.

26 716 Q. Now, why did you not include in any of the statements, what
27 you have told the Tribunal today, that you phoned
28 Superintendent Buchanan that morning?

29 A. Clearly, going back to the time, whenever the investigation
30 team had come to me and asked for a statement, I thought

1 just keep it very factually correct and not put hearsay in,
2 or whatever.

3 717 Q. Well, what you do is not hearsay, isn't that correct? You
4 could say, I phoned Superintendent Buchanan to ask him to
5 go down?

6 A. On that specific point, it's not hearsay, you are right.

7 718 Q. Okay. So why is that not in any of the earlier statements?

8 A. The reason for making the statement the way it was, as read
9 out, was to stick to the facts as they were at the time and
10 probably didn't go into the detail behind it, and I think
11 probably at the time, from memory, I was advised just to
12 stick to the facts, you know, as it happened.

13 719 Q. Well, your statement doesn't reveal that fact as such,
14 or -- nor any of them?

15 A. There is quite a lot of things that the statement doesn't
16 reveal.

17 720 Q. Perhaps we'll hear more. But can I ask you this: Were you
18 in Armagh at this point in time with Chief Superintendent
19 Breen on the morning of the 20th?

20 A. That's right.

21 721 Q. And you phoned Superintendent Buchanan?

22 A. That's right.

23 722 Q. And was that over an open line?

24 A. I have to say this open line business, and I did note the
25 previous line of questioning with your previous witness,
26 right up to this very day, we consider lines to be open.
27 We are always very conscious of what we say on the phone.
28 So, your definition of an open line is what?

29 723 Q. Well, you seem to understand it.

30 A. I am asking you, you know...

1 724 Q. It was a secure means of communication with --

2 A. No, it wasn't, and that was the evidence that was given,
3 no, it wasn't, and we were conscious of that fact.

4 725 Q. So certainly from sometime, approximately around half nine,
5 with the phone call to Superintendent Buchanan over an
6 unsecured line, the arrangement to go down to Dundalk was
7 discussed?

8 A. That would be correct, and I think that we would prefer to
9 ask them, what would be your definition of a secure line?

10 726 Q. Well, I am just trying to establish what you did and
11 whether that's correct, do you understand that?

12 A. Yes, I have just said we were always very cautious about
13 what we said on the phone.

14 727 Q. You have, I think, said also in your statement that it may
15 have been the case that Mr. Breen had already arranged the
16 meeting; do you recall saying that in your statement?

17 A. In what statement?

18 728 Q. Well, today's statement?

19 A. I don't think I did say that.

20 729 Q. Okay. Could I ask you to look at the second page of it?

21 A. Yeah. Whereabouts?

22 730 Q. Do you see the third paragraph down in the middle of the
23 page, it starts: *"I then called Dundalk Garda Station to*
24 *arrange this meeting and agree a suitable time."* And then
25 three lines in the bottom of -- at the end of the third
26 line says: *"It may have been the case that Mr. Breen had*
27 *already arranged the meeting..."*

28 A. It may have been. I wasn't sure.

29 731 Q. *"... and I was calling to confirm the time."*

30 A. Yeah.

1 732 Q. Okay. Did Mr. Breen not tell you that he had arranged to
2 go down himself?

3 A. No. I think perhaps the way that probably reads, the fact
4 that I went in and made a phone call, could not make
5 contact with the person but left a message, maybe Mr. Breen
6 then decided upon himself or maybe spoke to Mr. Buchanan to
7 do that, as it hasn't been firmed up.

8 733 Q. You see, that's what I am just trying to clarify,
9 Mr. Mains. Had Superintendent Breen not already told you
10 that he had arranged the meeting?

11 A. No. Chief Superintendent Breen had, as I explained, came
12 in that morning and gave me what was happening, and at no
13 point did he say it had already been arranged.

14 734 Q. Had you phoned Superintendent Buchanan before this phone
15 call to the Garda station?

16 A. From memory, Mr. Buchanan would have been the first phone
17 call.

18 735 Q. And did he tell you to ring Dundalk Garda Station or did he
19 say that he would do it?

20 A. He didn't say that he would do it, nor did he tell me to do
21 it.

22 736 Q. So is it possible that he might have phoned Dundalk Garda
23 Station from his own phone at home?

24 A. I have absolutely no idea. I mean, I had no account or
25 presence with Mr. Buchanan at that point.

26 737 Q. I just wanted to confirm that point. You didn't see him at
27 any stage on the 20th, the morning of the 20th, in Armagh?

28 A. No.

29 738 Q. And you did see him in Newry?

30 A. No.

1 739 Q. You didn't see him in Newry at all?

2 A. No.

3 740 Q. And did he not arrive in your presence before Chief
4 Superintendent Breen went off?

5 A. No.

6 741 Q. So, you don't know where or from what phone he may have
7 phoned Dundalk Garda Station?

8 A. Well, if you take the time line when I phoned him at home
9 and got him at home, one would assume, in those days, with
10 no mobile phones, that the phone call was made from home.

11 742 Q. But he didn't ask you to phone?

12 A. I just said that I don't think he asked me, nor did he
13 instruct me to make an appointment on his behalf.

14 743 Q. But, you see, that's what you seem to have then gone on to
15 do, to try and make an appointment on his behalf?

16 A. It wasn't on his behalf; it was Mr. Breen's. I was his
17 Staff Officer, not Mr. Buchanan's.

18 744 Q. Well, obviously you did understand they were going to go
19 down together?

20 A. Well, that was the purpose of the call.

21 745 Q. But did Chief Superintendent Breen ask you to make the
22 call?

23 A. Yes.

24 746 Q. He did?

25 A. Yes.

26 747 Q. And is that recorded in any of your statements?

27 A. To what end?

28 748 Q. Is it recorded in any of your statements that Chief
29 Superintendent Breen asked you to phone Dundalk Garda
30 Station?

1 A. Make the appointment. If it wasn't and it's not recorded,
2 it should have been, or perhaps it's an oversight.

3 749 Q. Okay. So it's not included in any of the statements, and
4 it's perhaps an oversight?

5 A. I didn't say that. I said it's perhaps not. I have to
6 read them again.

7 750 Q. Perhaps?

8 A. I have to read them again to see.

9 751 Q. Of course.

10 A. Not in my original statement, no.

11 752 Q. And not in today's one?

12 A. I then called Dundalk Garda Station, on the second page,
13 fourth paragraph up from the bottom.

14 753 Q. Yes, but do you agree with me, it doesn't, in fact, record
15 at any point that Chief Superintendent Breen asked you to
16 phone Dundalk Garda Station?

17 A. I don't really see the point. It was -- that's my job,
18 that's what I did at the time, so, yeah, it was pretty
19 obvious that that's what I was doing it for, at the request
20 of Mr. Breen.

21 754 Q. Well, have you a recollection of such a request?

22 A. I have a very clear recollection in terms of what happened
23 that day, and, yeah, that's the way I see it.

24 755 Q. Well, can I just ask you to be a little more specific. Do
25 you recollect him making such a request?

26 A. Well, as I said in that statement there, "*I then called*
27 *Dundalk Garda Station to arrange this meeting and had*
28 *agreed a suitable time.*"

29 756 Q. You see, as I say, two sentences on, you appear to be,
30 yourself, speculating that, in fact, Chief Superintendent

1 Breen had already arranged the meeting?

2 A. It may have been the case that Mr. Breen had already
3 arranged the meeting and I was calling to confirm the time.
4 Now, I think what has since happened there; a lot of
5 different versions, whatever else, seem to have come into
6 play, and I am trying to give what I think is a very
7 measured recall. I think you do have to put into context
8 the event on that day. And, you know, to go in now, 21
9 years later, and start going into sentences, you know, I
10 think -- I understand why you would do it, but I also think
11 that you have to understand how even to recall this is
12 fairly traumatic in my life and certainly that of the
13 families.

14 757 Q. In any event, can I pass on from this topic by asking you
15 this: You certainly seem to be leaving open the
16 possibility that Superintendent Breen may have phoned and
17 that you also phoned?

18 A. I simply would say, to try and help you understand the
19 situation, ten out of ten times asked to do something in
20 terms of arranging meetings, it would be me that would do
21 it. Maybe, when I was out contacting Mr. Buchanan,
22 Mr. Breen would have done something, you know, made a phone
23 call. I can't account for that. It's not like I was
24 sitting with him for the whole period during that time.
25 Therefore, I can't account for what he did. And if he did
26 phone, if he did phone, then, you know, I am leaving that
27 open, that he did it. I was not aware of it.

28 758 Q. All right. So you can't assist us in positively sort of
29 asserting that he did or didn't?

30 A. Had I have been with him for the duration of that period

1 from nine o'clock, or thereabouts, afterwards, to the
2 conclusion of my meeting, and he hasn't made a phone call,
3 then I could care or say otherwise. I wasn't. I went out
4 a couple of times to make my phone calls, to check on
5 information that he had asked me to do, and please bear in
6 mind that this was one of many subjects that was discussed
7 at that morning.

8 759 Q. Can I just pass on and go to this possibility: You clearly
9 saw it as your job to do things for Chief Superintendent
10 Breen that he needed to have done for him, and do you think
11 that you believe that you phoned Dundalk Garda Station or
12 do you know that you phoned it?

13 A. I would have contacted the Garda police station.

14 760 Q. And do you know what number you would have had for them or
15 where you got that?

16 A. I would have had the numbers on my desk.

17 761 Q. On your desk. And this is still in your office in Armagh?

18 A. That is correct.

19 762 Q. And approximately what time?

20 A. I would have phoned Mr. Buchanan to see if he could go as
21 requested and then I would have probably phoned then the
22 guards to establish a time for the meeting.

23 763 Q. And was this from the same phone that you would have phoned
24 Superintendent Buchanan on?

25 A. Yes.

26 764 Q. And can you say what time that was at?

27 A. The time line would have been just hard to pinpoint. I can
28 say what it was between, but probably, probably before ten
29 o'clock.

30 765 Q. Now, in relation to phone records, would there be phone

1 records available in relation to phone calls made from
2 Newry, from Armagh?

3 A. Well, I would imagine that -- do you mean now available?

4 766 Q. Yes.

5 A. I don't know. If they were asked for at the time, I would
6 say that they would have been.

7 767 Q. Do you know who you spoke to when you phoned?

8 A. My recollection of speaking was, I think to ask for the
9 Chief Superintendent, and, from my recollection, he wasn't
10 there and I don't even think his clerk was there so I think
11 I spoke to somebody in the admin office, a girl.

12 768 Q. And did you set up the meeting with her?

13 A. No, I had suggested what it was about, and that's why I
14 think, leaving it open, that Mr. Breen may have phoned back
15 because I hadn't concluded the, you know, the availability
16 of the Chief Superintendent in the guards.

17 769 Q. But can I be clear about this: Did you tell this lady who
18 answered your phone call that you were anxious to set up a
19 meeting that day between Chief Superintendent Breen,
20 Superintendent Buchanan and the Chief Superintendent in
21 Dundalk?

22 A. I have to say that I was not anxious at any point. I was
23 merely making an appointment.

24 770 Q. Yes, but what I am asking you is: Did you convey to
25 whoever you were speaking to over the phone that you were
26 setting up an appointment for the two superintendents and
27 the Chief Super in Dundalk?

28 A. I wouldn't have mentioned, I don't think I would have
29 mentioned Mr. Buchanan. I would have probably just
30 mentioned Mr. Breen.

1 771 Q. And you are putting that in a conditional sort of way, you
2 think you would have done that, but did you set up a firm
3 appointment with this lady?

4 A. No, I don't believe I did.

5 772 Q. You see, in that same paragraph, you say, "*I spoke to a*
6 *female at the station and set up the meeting for between*
7 *2 p.m. and 3 p.m.*"

8 A. Yeah, but firm. I mean, that's not firm.

9 773 Q. But all I asked you was, did you set up the meeting?

10 A. And I have just said it's not firm. You asked me did I set
11 up a firm meeting.

12 774 Q. Can I just ask you the question one more time so there is
13 no error on my part.

14 A. Okay.

15 775 Q. Did you set up the meeting for that afternoon?

16 A. I would have set up the fact that there was availability
17 for Mr. Breen to go down and speak, but probably didn't go
18 down in terms of specific time.

19 776 Q. Well, were you asking the lady to make an appointment or
20 were you just saying --

21 A. The lady couldn't make an appointment because the Chief
22 Superintendent wasn't there.

23 777 Q. So what message did you leave?

24 A. For contact to be made with myself or Mr. Breen probably to
25 set it up.

26 778 Q. And were you phoned back by anyone?

27 A. I don't think I was. I think Mr. Breen maybe was
28 contacted, or -- I can't say that he either made the phone
29 call or was phoned back, I just don't know.

30 779 Q. Okay. Certainly just from your own point of view, you

1 weren't phoned back and it's speculation as to whether
2 Superintendent Breen was phoned back?

3 A. You see, once I made that call, I would have went back into
4 the meeting with Mr. Breen, so my phone could have well
5 rang out, but it would have taken a message for me.

6 780 Q. Would you have driven Chief Superintendent Breen to Newry,
7 then?

8 A. No.

9 781 Q. Pardon?

10 A. No.

11 782 Q. But you went to Newry with him?

12 A. No.

13 783 Q. You went to Newry separately?

14 A. No.

15 784 Q. You didn't go to Newry at all?

16 A. That's correct.

17 785 Q. So what time did he leave the station?

18 A. I'd say about roughly 12:00, 12:20, whatever, after his
19 lunch.

20 786 Q. Did you see him driving out?

21 A. No. I said just earlier in my evidence that the last time
22 I spoke to Mr. Breen was at the stairs, the foot of the
23 stairs as he was going out and I was going up the stairs to
24 my office.

25 787 Q. And do you know that he drove out in his own car or...

26 A. I think I talked earlier about taking his own car, but he
27 was meeting Mr. Buchanan down in Newry and, you know, I
28 don't think he decided whose car he was taking at that
29 point.

30 788 Q. Now, in relation to mentioning a guard, is it correct to

1 say that until you made your statement in the year 2000,
2 you hadn't made a statement naming any particular guard?

3 A. Yeah, I was quite conscious that it's, you know, a very
4 serious allegation, and it was an opinion of a senior
5 officer and not my statement.

6 789 Q. Yes, but, as I understand it, you were advised in some form
7 or fashion not to put his name in, is that right, in your
8 first statement?

9 A. Yeah.

10 790 Q. And who advised you to do that?

11 A. I think, from memory, it was one of the CID police
12 officers, I can't recall the name at this point, but it was
13 somebody, maybe, and I would be speculating at this point
14 to say who it was.

15 791 Q. But leaving aside any particular name, just looking at the
16 substance of the issue, here was your Chief Superintendent
17 going down to Dundalk, apparently to discuss this alleged
18 smuggler and his activities, and he was telling you that he
19 thought there were some members of the guards that he had
20 contacts with and that he couldn't trust some of them. Did
21 you not see that immediately as a potential for danger,
22 perhaps?

23 A. I really don't understand your line of questioning.

24 792 Q. Well, to put it bluntly, you are saying that he told you
25 and named a guard in Dundalk who was in the pay of X and he
26 have going down to have a meeting in the station about X's
27 activities?

28 A. Sorry, who is X?

29 793 Q. Well, the alleged smuggler?

30 A. Mr. Murphy?

1 794 Q. Well, I think you referred to him already as Mr. Murphy?

2 A. That's right, yeah.

3 795 Q. Did you not caution him not to do that, perhaps?

4 A. You must be joking. The Chief Superintendent at that stage
5 and a Sergeant and tell him not to go down?

6 796 Q. Well, he told you something unusual, apparently. He had
7 never said anything like this before, perhaps, to you?

8 A. Yeah, but, again, you need to understand the context that
9 was said. That was Mr. Breen's opinion. And if you take
10 it on naturally to the next day, for example, if Mr. Breen
11 had have come back, maybe that was a conversation we would
12 have had in a more relaxed fashion and I might have been
13 more inquisitive, but I do go back and say on that
14 particular day we were extremely busy.

15 797 Q. All right.

16 A. You know, we are very much labouring this particular
17 conversation, but it wasn't laboured at the time; it was
18 very much in context with an overall briefing.

19 798 Q. Right. Okay. Now, what you don't say in your first
20 statement is that he told you that this person, Detective
21 Sergeant Corrigan, apparently, had been previously
22 investigated?

23 A. That's right.

24 799 Q. Now, why didn't you record that in your first statement?

25 A. By the fact that I didn't record the person's name, I think
26 was probably obvious why I didn't.

27 800 Q. Right. And were you advised to keep that out, as well?

28 A. I did tell the Chief Constable, who, in my world, was the
29 ultimate person you could tell.

30 801 Q. But are you saying that the Chief Constable replied to you

1 something you already knew, that that man had been
2 investigated and cleared?

3 A. No. Again, to put that into context, it was something that
4 I was told the previous day.

5 802 Q. Well, can I just ask you, I am not sure I understand the
6 rationale for excluding the fact that Chief Superintendent
7 Breen had told you that this officer had been investigated
8 already. Firstly, do you have a clear recollection that he
9 did tell you that?

10 A. Absolutely.

11 803 Q. Well, why leave it out from the statement?

12 A. I think I have already covered that.

13 804 Q. Now, in terms of the Chief Superintendent's movements,
14 would he normally inform some authorities in the north, for
15 safety reasons or security reasons, that he was crossing
16 the border?

17 A. Not necessarily, no.

18 805 Q. Okay. Do you know whether he did so on this occasion?

19 A. I don't believe he did.

20 806 Q. And from the point of view of your state of knowledge, do
21 you know whether any security forces became aware that he
22 had crossed the border?

23 A. He would have had vehicle check-points, observation tours.
24 I can't answer that.

25 807 Q. Well, would you expect them to have become aware of that?

26 A. Not necessarily. Sometimes, to do something unannounced is
27 equally as important, you know, to do it as announced.
28 Again, I think, to again put it into some sort of context
29 and understanding for maybe somebody like yourself who was
30 not there 21 years ago --

1 808 Q. Yes.

2 A. -- the way that H Division operated, and I do go back to
3 say that was a very dangerous division to be in, could not
4 have operated with, you know, following what everybody
5 says, if you had have done this or done that. It was very
6 much down to how police officers read the security
7 situation as it was, and there would have been no better
8 two police officers to read that than Mr. Breen and
9 Mr. Buchanan, with their experience. Therefore, yes, we
10 did take, you know, obvious, I suppose, risks, but that was
11 the very nature of our job and that's how the job was done.

12 809 Q. Well, when you met Sir John Hermon on the 22nd -- is that
13 the correct date? --

14 A. The very next day, yes.

15 810 Q. -- did he raise any issue himself as to why the men, the
16 two, the Chief Superintendent and the Superintendent, had
17 countermanded any order?

18 A. No, he asked me why they were there, and I told him, and I
19 said to the Inquiry that they were told to sort out the
20 issue of, in your words, the alleged smuggler.

21 811 Q. And Witness 18, did he say that he had conveyed an order to
22 them not to go down?

23 A. He said that, at that time, "I didn't send them down."

24 812 Q. So he didn't, obviously, say that --

25 A. I'll tell you what he said, "I didn't send them down."

26 813 Q. He said, "I didn't send them down"?

27 A. Yeah.

28 814 Q. Okay. Did you have any knowledge of Superintendent
29 Buchanan's sort of travel patterns or practices or security
30 practices at all, other than in a general way, perhaps?

1 A. I don't think anybody would have had that detailed account
2 unless they retrospectively looked at his journal, or
3 whatever, but Mr. Buchanan's brief was very simple. He had
4 his own mandate. He operated from the instructions as laid
5 down within the guidelines, but there was a certain amount
6 of leeway and latitude that he had, obviously, for that
7 job. So, to ask me had he any particular pattern, he
8 certainly wasn't accountable to me nor I to him. So the
9 answer would be no.

10 815 Q. Okay. Thank you, Mr. Mains.

11
12 MR. O'CALLAGHAN: I should point out, obviously Mr. Mains
13 is a very important witness from my client's point of view.
14 I think I'll be the best part of an hour with him, Sir, and
15 I am just conscious the witness has been in the box quite a
16 while, and, also, it is a quarter past four.

17
18 CHAIRMAN: Do you want me to have a short break?

19
20 MR. O'CALLAGHAN: I am in the hands of the Tribunal,
21 whatever is convenient for the Tribunal and the witness.

22
23 MRS. LAVERTY: Chairman, I assume that it won't just be
24 Mr. O' Callaghan who'll be cross-examining this witness,
25 and I think that if he is going to take at least an hour,
26 and there could be other ones, I think that perhaps it
27 might be better for all concerned to resume tomorrow, if
28 Mr. Mains can be here tomorrow.

29
30 CHAIRMAN: That depends on Mr. Mains.

1 A. Well, Mr. Chairman, I am in your hands. I mean, I am quite
2 prepared to sit on and whatever questions the gentleman
3 would like to do, maybe with a light refreshment break.

4
5 CHAIRMAN: I think we'll continue on with a slight break.
6 Now, it needn't be very long, but, I mean, I think about
7 five minutes would be sufficient, wouldn't it?

8
9 MR. O'CALLAGHAN: That's fine. Thank you, Chairman.

10
11 **THE TRIBUNAL ADJOURNED FOR A SHORT BREAK AND RESUMED**
12 **AS FOLLOWS:**

13
14 CHAIRMAN: Mr. O'Callaghan, this is obviously a very
15 important witness for you and I can appreciate your
16 cross-examination will take some time and it looks as if it
17 will go into tomorrow. I could, perhaps -- sitting until
18 half past five wouldn't deal fairly with you and your
19 cross-examination and the witness. I'd suggest maybe five
20 o'clock and then you could go and have it adjourned, then,
21 until tomorrow. What do you think of that?

22
23 MR. O'CALLAGHAN: That, certainly, is one option, Chairman.
24 I would think, though, Chairman, I am inevitably going to
25 go into tomorrow, in any event, and I just think, from the
26 point of view of expediency and, ultimately, time
27 efficiency, I think I'll probably be trying to catch up on
28 things in the morning, and my submission, and I know
29 Mr. Mains may or may not agree with this, my submission is
30 that I would start my cross-examination in the morning.

1 I'd be available to be here earlier if the Tribunal
2 required that, if you wished me to start at ten o'clock or
3 half past ten, I could do that for the Tribunal.

4

5 CHAIRMAN: What's your view on that, Mrs. Lavery? What
6 about half past ten?

7

8 MRS. LAVERY: I am sure, Chairman, that will be fine.

9

10 CHAIRMAN: Yes, I can appreciate you want to do it as one
11 unit of cross-examination with this witness. Would that be
12 all right with you, Mr. Mains?

13 A. Yes, Mr. Chairman.

14

15 CHAIRMAN: Good. Very well, then. Half past ten tomorrow.

16

17 MR. O'CALLAGHAN: Thank you, Chairman.

18

19 THE TRIBUNAL ADJOURNED UNTIL THE FOLLOWING DAY, WEDNESDAY,
20 22ND OF JUNE, 2011, AT 10:30 A.M.

21

22

23

24

25

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