

A P P E A R A N C E S

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His Honour Judge Peter Smithwick

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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 27TH OF JULY, 2011, AS FOLLOWS:**

2

3 MR. HAYES: The first witness we have for you today is Ray
4 Roche.

5

6 **RAY ROCHE, HAVING BEEN SWORN, WAS EXAMINED BY MR. HAYES**

7 **AS FOLLOWS:**

8

9 1 Q. MR. HAYES: Good morning, Mr. Roche. I think you are a
10 retired member of An Garda Siochana?

11 A. That's correct, Judge.

12 2 Q. I think you joined in 1976?

13 A. Yes.

14 3 Q. And I think initially having served in Dromad Station from
15 1976 to 1978, you were transferred to Dundalk Garda
16 Station?

17 A. That is correct, Judge.

18 4 Q. And I think you were there then from 1978 to 1986?

19 A. Correct, Judge.

20 5 Q. And at all times, was that as a uniform branch Garda?

21 A. Uniform branch Garda and Sergeant.

22 6 Q. And I think then, having been promoted in 1986 to the rank
23 of Sergeant, you served for three months in Enfield?

24 A. Correct, Judge.

25 7 Q. And then I think you were back to the Dundalk district, to
26 Hackballscross Station?

27 A. Correct.

28 8 Q. And I think that was April 1987?

29 A. That's right, Judge.

30 9 Q. And I think you were at Hackballscross then until 1993?

1 A. Correct, Judge, again.

2 10 Q. And, in 1993, you returned to Dundalk Garda Station as a
3 Sergeant?

4 A. That's correct.

5 11 Q. And I think then you served as a Unit Sergeant in Dundalk
6 until 2007, when you retired?

7 A. That is correct.

8 12 Q. I think you sustained an injury to your leg through an
9 assault in 1999?

10 A. That's correct, Judge.

11 13 Q. I think you are still bearing the consequences of that?

12 A. Sadly so.

13 14 Q. Do you recall, Mr. Roche, the 20th of March, 1989, the day
14 that the two RUC officers were murdered?

15 A. Yeah, I remember it being news headlines at the time, yes.

16 15 Q. Do you recall were you working that day?

17 A. No, I wasn't working that day.

18 16 Q. You weren't working that day. And at that time, obviously,
19 you were stationed in Hackballscross rather than Dundalk?

20 A. I was Sergeant in charge at Hackballscross at that time.

21 17 Q. Did you ever meet either of the two RUC officers who were
22 murdered?

23 A. I met Detective Superintendent Robert Buchanan on two
24 occasions.

25 18 Q. Yes. Had you ever met Chief Superintendent Breen?

26 A. No, I never met the Chief.

27 19 Q. And do you recall when you met Superintendent Buchanan?

28 A. I can't recall the exact date or year, Judge, at the
29 moment, but I met him whilst stationed in Hackballscross,
30 at a Garda conference at Dundalk Station in which there

1 were a number of other Gardai present.

2 20 Q. That would have been sometime between 1986 and 1989?

3 A. Yes, that's correct, Judge, yes.

4 21 Q. And it was at a conference in Dundalk?

5 A. At a conference in Dundalk attended by Superintendent
6 Buchanan, and there was a Detective Constable there that
7 day, a man called Dey, D-E-Y.

8 22 Q. I see. And do you recall who was there from the Garda side
9 that day?

10 A. Well, Superintendent McCabe, and I just cannot recollect,
11 because it was so many years later, but there was
12 inspectors, the detective -- local Detective Branch in
13 Dundalk plus the RUC men.

14 23 Q. Yes. And was it usual for you, as the Sergeant from
15 Hackballscross, to be brought to meetings such as this?

16 A. Not always, but the Superintendent would mostly require the
17 Sergeant in charge of the border stations to attend those
18 conferences.

19 24 Q. I see. And what impression, I suppose, if any, did you
20 form of Superintendent Buchanan at that time when you met
21 him?

22 A. Well, he seemed to be fairly knowledgeable about local
23 matters, which I am not going into, local subversives, and
24 that, in Dundalk.

25 25 Q. He had a good knowledge of the area?

26 A. Seemed to have, yeah.

27 26 Q. And then you told us that you had met him on another
28 occasion; do you recall that second occasion?

29 A. The second occasion was maybe some months, or whatever, I
30 can't recollect exactly, but some months after the district

1 conference meeting, I was on duty at Hackballscross Station
2 when he arrived at the station unannounced, spoke to a
3 Garda, who directed him to my office, and I spoke to him
4 there for just a couple of minutes.

5 27 Q. Do you know how he had arrived at your station?

6 A. He arrived in a red car. I believe it was his own private
7 car.

8 28 Q. Yes. And do you know, when he arrived, do you know where
9 he parked that day?

10 A. He parked at the front of the Garda station.

11 29 Q. Was there a facility in Hackballscross to park elsewhere?

12 A. Not really at that time, no. You could park at the side,
13 but your car would still be visible from the main road.

14 30 Q. I see. And he was then shown into your office and you
15 spoke to him?

16 A. That is correct.

17 31 Q. And do you recall were you talking to him for long? Was it
18 a --

19 A. No - well, I recognised him when he came into the station
20 and he even knew my first name. That would come about
21 because we would have been introduced at the district
22 conference some months earlier.

23 32 Q. Yes.

24 A. So he obviously noted my name. And so I sort of walked him
25 towards the door and I told him it was very dangerous
26 territory. I said, "This is very dangerous territory,
27 Superintendent." And I ordered him sort of to go, as
28 diplomatically as I could.

29 33 Q. I suppose was there any reason for you talking to him in
30 those terms?

1 A. Well, I mean, he hadn't -- I had no notification that he
2 was coming to the station. If I had, I'd say my
3 Superintendent or the local detectives at Dundalk would
4 have informed me in advance, and I had nothing to discuss
5 with him and it was unsafe for him to be there, in my
6 opinion, at the time.

7 34 Q. And it was an unarranged meeting, is that right?

8 A. An unarranged. He came in, unannounced, as I said.

9 35 Q. Do you recall was he in uniform or was he in his own
10 clothes?

11 A. He was in plain clothes.

12 36 Q. In plain clothes. In your experience - you were in
13 Hackballscross for seven years, is that correct, or six
14 years? - in your time in Hackballscross, was it usual for
15 RUC officers to call into the station?

16 A. No.

17 37 Q. Was this -- and was this the only time do you recall
18 Superintendent Buchanan calling to visit?

19 A. That's the only time I recall any RUC man at Hackballscross
20 Station.

21 38 Q. At Hackballscross. I see. When you were serving in
22 Dromad, you served in Dromad, I think, in your first two
23 years as a guard?

24 A. Two years in Dromad, yes.

25 39 Q. And that was in the mid to late 1970s?

26 A. That's correct, Judge.

27 40 Q. In your time in Dromad, do you recall was it any more usual
28 for RUC officers to call in to visit?

29 A. I am just trying to think, Judge, now. I am just trying to
30 think on that point. No, to my recollection, no, to my

1 recollection, no, unless maybe other arrangements with,
2 maybe, Detective Branch that I wouldn't be aware of, but my
3 knowledge, no.

4 41 Q. I see. And again in your time in Dromad, did you have any
5 experience of VIP escort hand-overs taking place at the
6 border?

7 A. Yes, yes, Judge.

8 42 Q. In general, did the guards in Dromad have any role in such
9 hand-overs?

10 A. Generally speaking, no. It would be members of the
11 Detective Branch either from Dundalk or the Special
12 Detective Unit in Dublin.

13 43 Q. I see. And again, in your experience, were the guards in
14 Dromad notified that hand-overs were due to take place?

15 A. Judge, it wouldn't be usual because a lot of them escorts
16 are done directly from Dublin and I am sure that the
17 Special Detective Unit would be notifying, probably, the
18 Detective Branch cars in Dundalk in advance of it, but, on
19 other occasions, we would be aware of hand-overs. Mostly
20 not.

21 44 Q. Mostly you wouldn't. I see. Thank you very much,
22 Mr. Roche. If you'd answer any questions that anybody else
23 might have for you.

24

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

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27 45 Q. MR. BAKER: Mr. Roche, I appear on behalf of An Garda
28 Siochana. Just a couple of brief questions for you. As I
29 understand your evidence, you were approximately eight
30 years in Dundalk Garda Station, is that right?

1 A. Eight years in the first instance in the rank of Garda.

2 46 Q. Yes. And I think there was about a three-year gap then
3 prior to the commission of the murders, is that right? You
4 would have left in about 1986 the first time around and the
5 murders occurring in 1989?

6 A. Yes, I was promoted in '86, I went to Enfield for a short
7 period and then I returned to Hackballscross Garda Station.

8 47 Q. Yes. In respect of occasions when you met Superintendent
9 Buchanan, the second occasion, you indicated that he
10 arrived by car, you think it was his own private car, you
11 described it as red?

12 A. A red car.

13 48 Q. Can you remember was it a Vauxhall car?

14 A. I didn't, Judge, because I was just glad to see him just
15 drive away at that time.

16 49 Q. I see. And clearly, his presence caused you some concern.
17 Was it the lack of notification that caused you the greater
18 concern or his presence, full stop?

19 A. Well, if it was communicated to me, it would ordinarily be
20 done by the Detective Inspector or the Superintendent at
21 Dundalk, and there would have been a reason then, there
22 would probably be some reason to call other than a quick
23 chat. Sorry, what's your question there again?

24 50 Q. Was it the lack of notification that caused you the greater
25 concern or just simply the fact that he turned up at all?

26 A. The concern for his safety or an incident that could happen
27 around the station or that border area, and I was the
28 Sergeant in charge at the time and I would have had a lot
29 of questions to answer if I entertained that man and,
30 later, he was shot that evening going home.

1 51 Q. Well, can I take it you would have been -- preferred if you
2 had been given notification?

3 A. I would have been -- I would have preferred if -- if I was
4 given notification, that's fair enough, but I wasn't given
5 it, and, as far as I know, the Garda Siochana in Dundalk,
6 or Superintendent, wasn't aware of that visit, as far as I
7 know now.

8 52 Q. Well, would it be fair to say that even if you had been
9 notified, you still would have had concerns?

10 A. I would have had concerns, and, indeed, I might have
11 questioned my authorities about that arrangement.

12 53 Q. I see.

13 A. It didn't happen, so I probably would have questioned why
14 that station in that area, but I don't think my
15 Superintendent or my colleagues or superiors would be that
16 foolish as to have an arrangement to meet there rather than
17 at Dundalk Station or somewhere else.

18 54 Q. And would those concerns have been purely for the safety of
19 Superintendent Buchanan or would it have extended to your
20 own colleagues?

21 A. Both, both.

22 55 Q. I see. Now, in relation to the second occasion that you
23 met him, it was clearly a surprise to you, you didn't know
24 that he was arriving. You just simply saw his car in the
25 car park, is that how it came about?

26 A. I didn't even see his car because my office is sort of at
27 the back of the station, but I heard somebody talking at
28 the desk to the Garda that was on duty, and I don't know
29 what that Garda's name was now because it's only in the
30 last number of months when I gave my statement that I ever

1 knew that I was going to be -- that I'd ever be called as a
2 witness here. So he directed him into the office to me
3 then. So I didn't stay in the office talking to him; I
4 sort of walked with him to the door.

5 56 Q. I see. And did you have any idea of the route that he took
6 to arrive at the station in the first place?

7 A. I haven't an idea of the route, but he drove towards the
8 Castleblayney direction, which is also -- you could turn
9 off numerous roads to the Crossmaglen area.

10 57 Q. Now, to your recollection, you weren't yourself on duty the
11 day of the murders, the 20th of March?

12 A. Well, to my recollection, Judge, you know.

13 58 Q. There was evidence given to the Tribunal last Tuesday, I
14 think, by Detective Garda Terry Hynes, and I think his
15 recollection was that Superintendent Buchanan actually did
16 call to your Garda Station on the day of the murders. You
17 weren't on duty, but do you have any recollection of
18 hearing about a visit on that particular day?

19 A. No recollection whatsoever.

20 59 Q. I see. Had there been a visit, would you expect to have
21 been told about such a visit like that either before or
22 indeed after the event?

23 A. Well, I would expect, as Sergeant in charge, I would expect
24 to have been told.

25 60 Q. At some stage?

26 A. But I have no knowledge of that particular visit if it
27 happened.

28 61 Q. Thank you very much.

29

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

62 Q. MR. COFFEY: Mr. Roche, I appear for retired Sergeant Leo Colton. And in the course of your direct evidence, you indicated that, from 1993 to 2007, you were a Unit Sergeant in Dundalk, is that correct?

A. That's correct, yes.

63 Q. And were you the only Sergeant attached to that particular unit?

A. No, there is two unit sergeants in each unit in Dundalk, but sometimes, due to promotion, or whatever, there may be one sergeant just temporarily, but mostly two sergeants on each unit.

64 Q. And again, dealing with the period from '76 to '86 when you were an ordinary member, uniform member in Dundalk, can you recall what unit you were in?

A. I was in different -- in Dundalk Station itself?

65 Q. Yes.

A. Unit C for most of the period, anyway.

66 Q. And, again for that period, can you recall whether there was just a single sergeant or two sergeants presiding over that unit?

A. As far as I know, for some of that time there was one sergeant, and then, at other times, two sergeants.

67 Q. Now, evidence was given here last Friday by Mary Clarke. I don't know if you can recall Mary Clarke? She, in 1989, was a *Ban Garda* in the District Office, she was working in the same office as Sergeant Rowan, then-Sergeant Rowan and Garda George Flynn. Can you remember --

A. Yeah, I can remember her, yeah.

1 68 Q. Yes. And she is now a current Sergeant in the Garda?

2 A. She is a current Sergeant, yes.

3 69 Q. And Ms. Clarke described a procedure whereby, when parading
4 was being conducted in the presence of two sergeants, two
5 uniform sergeants, there was a division of tasks: One
6 sergeant would read out the correspondence and the second
7 sergeant would deal with incidents which had taken place
8 over the previous watch. Does that accord with your own
9 experience?

10 A. Well, what happened over the previous watch, like, it would
11 be -- the sergeant reading out the correspondence would
12 also be briefing us on the past shifts, what happened in
13 the past shift. Both of them, I would say, but, at times,
14 yes, one sergeant would take the lead in the correspondence
15 and one might take a bit more a lead -- but, yeah, you are
16 basically right.

17 70 Q. That there would be an input from the two sergeants?

18 A. There would be an input from the two, yes. Usually, the
19 sergeant in charge of the unit, the more senior sergeant,
20 usually dealt with the correspondence and that aspect and
21 the general briefing, assisted by --

22 71 Q. But there would be an input from a second sergeant who was
23 present?

24 A. Yes, there would, yes.

25 72 Q. Thank you, Mr. Roche.

26

27 **THE WITNESS WAS RE-EXAMINED BY MR. HAYES AS FOLLOWS:**

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29 73 Q. MR. HAYES: I have just one question by way of
30 clarification, Mr. Roche. As Sergeant in charge in

1 Hackballscross, did that mean that you were the most senior
2 officer stationed in the station at any given time?

3 A. Well, not necessarily senior by date of appointment, but by
4 rank, yes.

5 74 Q. By rank. In other words --

6 A. Appointed by the Superintendent.

7 75 Q. Yes. There was no inspector stationed --

8 A. No inspector.

9 76 Q. You were the most senior rank stationed?

10 A. Most senior rank stationed, yes.

11 77 Q. Thank you very much, Mr. Roche.

12

13 CHAIRMAN: Thank you very much, Mr. Roche.

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15 **THE WITNESS THEN WITHDREW.**

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17 MRS. LAVERTY: Chairman, the next witness we have for you
18 is ex-Sergeant Gary Witherow.

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1 GARY WITHEROW, HAVING BEEN SWORN, WAS EXAMINED BY

2 MRS. LAVERTY AS FOLLOWS:

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4 78 Q. MRS. LAVERTY: Good morning, Mr. Witherow. My name is Mary
5 Laverty and I am counsel for the Tribunal. Now, I think
6 that you were in Dromad from 1986 to 1991?

7 A. That's correct, Judge, yes.

8 79 Q. And I think that, in fact, you were in Dromad Station when
9 Chief Justice Gibson was killed, is that so?

10 A. That's correct, Judge.

11 80 Q. And did the escort come into the station?

12 A. It did, yes.

13 81 Q. On that particular day?

14 A. It did, yes.

15 82 Q. And what was the procedure? What do you recall happening?

16 A. The known procedure was, it was Detective Unit from Dublin
17 and as I said, they would be leaving the VIP at the border
18 and then we had a two-way radio which we contacted the RUC
19 in Newry and I told them that the escort was about to --
20 that he was about to cross over, and that was it.

21 83 Q. And at the other side, then, I presume that the escort
22 met --

23 A. The procedure was that the RUC would come down and meet the
24 VIP on the northern side of the border.

25 84 Q. And am I correct in thinking that there was a -- part of on
26 the border was a no man's land, that nobody actually --

27 A. Well, the RUC didn't come down to the actual border, they
28 didn't come to the actual border per se. The Garda patrol
29 car went to the actual border and left the escort, left the
30 VIP there, and the RUC picked up the VIP some distance on

1 the far side of the border, I understand.

2 85 Q. And was that, in fact, the practice along the border?

3 A. It was. The RUC very rarely came to the border. If there
4 was a bad accident, they did not come down or -- if there
5 was a house break-in, they would not come down, either;
6 they just didn't come down that far.

7 86 Q. And can I ask you, you are aware of the Breen and Buchanan
8 murders, and a question has just occurred to me, that if
9 Chief Superintendent Breen and Superintendent Bob Buchanan
10 had requested an escort on the day in question, would there
11 be -- how far towards the border would the RUC escort have
12 picked them up?

13 A. Oh, it would probably be a half mile on the far side, or
14 probably a mile, I'd imagine. They wouldn't...

15 87 Q. So there would be a certain distance that the officers, in
16 any event, whether they were escorted or not, would have to
17 travel --

18 A. On their own, yes. I'd imagine so, yeah.

19 88 Q. And I think, as you are aware, this murder happened about,
20 I think, less than half a mile over the border, the Breen
21 and Buchanan murders?

22 A. It happened on the southern side of Jonesboro village. It
23 didn't happen on the northern side. Jonesboro village is
24 directly behind Dromad Garda Station and you can see the
25 church from the station, it's in close proximity to the
26 village, the station.

27 89 Q. So how far from the actual border in those days was that,
28 distance-wise, where the murders took place?

29 A. Well, Johnson's Lane would be the nearest border crossing
30 point, and I'd say it was a couple of miles further in as

1 you go to Jonesboro, I'd imagine. It was on the outskirts
2 of the village, I understand, where the murder took place.

3 90 Q. Yes. And do you know where McGeough's is on the border?

4 A. I do.

5 91 Q. I think it sort of happened at a dip in the road north of
6 McGeough's?

7 A. North of McGeough's.

8 92 Q. Would that be a mile or would it be a half a mile?

9 A. I'd say a mile. I am not too sure.

10 93 Q. Sorry, just questions that occurred to me. Now, did many
11 RUC call in to your station when you were there in Dromad?

12 A. No. Mr. Buchanan was the only one that called to the
13 station, to my knowledge, yeah.

14 94 Q. And did you know him well?

15 A. He arrived one day unexpectedly, I had never seen him
16 before, I didn't know who he was, and I gathered he had
17 been in the station previously. It was my first time
18 meeting him.

19 95 Q. And how did he strike you as --

20 A. He was very, very friendly and he insisted that you called
21 him 'Bob' and you didn't call him -- you had to call him
22 'Bob' and that's the way.

23 96 Q. And in the conversations that you had with him, did he
24 appear to be a knowledgeable man about the area?

25 A. Oh, he did. He knew what was going on, yeah.

26

27 CHAIRMAN: Did he have any particular message to convey to
28 you?

29 A. Oh, no. He just came in on spec. He didn't -- he had no
30 message, no, no.

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97 Q. MRS. LAVERTY: And did you ever have any other dignitaries calling in to you at the time? Did Chief Nolan call in to you?

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A. One particular day, Mr. Buchanan and another gentleman arrived at the station and they were to meet the Chief, it was in the early afternoon, and he arrived with this particular gentleman, Mr. Buchanan, and I asked him where was his car and he said he had parked it in the front of the station, and I asked him did he want to park it at the back of the station, and there was ample parking. And when Chief Nolan arrived, he wanted to know where Mr. Buchanan's car was, and I said it's there in the front of the station and that I asked him to park it in at the back but he had declined the invitation.

16

17

98 Q. And did Chief Nolan park his car in the front of the station?

18

A. Oh, I am sure he did, yeah.

19

20

99 Q. So is that the only time you recall a meeting in Dromad between Chief Nolan --

21

A. That's the only time, yeah.

22

100 Q. And before the meeting took place, did you get any directions from Chief Nolan or indeed any other members in Dundalk?

23

24

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A. I don't recall getting any direction out of that. I just can't recall. I am not a hundred percent sure.

26

27

101 Q. And did you have occasion to travel north?

28

29

A. I had. Inspector Murray asked me would I deliver some post to a checkpoint in Clough and where they had some difficulty with post and I went up in my own private car

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1 and I put a civvy coat over me, and that's a thing I
2 wouldn't do too often, I shouldn't have done it at all, by
3 right, but anyway, I done it, anyway, so...

4 102 Q. So you travelled in your own car at that stage?

5 A. That's right.

6 103 Q. And I presume that was not to draw attention to yourself?

7 A. Sorry?

8 104 Q. You --

9 A. Well, you wouldn't be going up in a patrol car, anyway.

10 105 Q. And similarly, I think when the RUC travelled, mostly they
11 travelled in their own cars?

12 A. In their own vehicles, yeah.

13 106 Q. Did you get the impression that Bob Buchanan knew his way
14 around well?

15 A. Oh, I'd say he did, yeah. I'd say he did, yeah.

16 107 Q. If you were trying to avoid drawing attention to yourself,
17 would you travel on main roads or back roads around that
18 area?

19 A. Well, there is that many back roads that lead into Newry
20 and into Jonesboro. I mean, as I said, there was several
21 ways you could have left Dundalk to get to Newry, and what
22 was the best way to travel would have been on the main
23 road, of course, where there was a lot more traffic and you
24 wouldn't be drawing too much attention to yourself, I'd
25 say. The main road would have been the best option to go
26 back to Newry from Dundalk, but you could have taken --
27 there was several other options to go besides going by
28 Jonesboro.

29 108 Q. Do you recall that prior to that -- in or around Christmas
30 in 1988, I think there had been several bombings of the

1 railway line?

2 A. That's correct, yes.

3 109 Q. Around that area?

4 A. That's correct.

5 110 Q. And there had been, previously, bombings on the main road?

6 A. That's right, yes.

7 111 Q. So would you agree that whichever route you took in that
8 line of business, was potentially dangerous for an officer
9 in the Force?

10 A. Oh, they were dangerous times, yes, yes.

11 112 Q. And I think we have just heard from Mr. Roche that he was
12 injured and suffered an injury while in his career in the
13 Garda, and is still, indeed, suffering from an injury to
14 his leg?

15 A. That's right, yes.

16 113 Q. And I think we also heard from Ed Sheridan in the last few
17 days, and he was, at one stage, kidnapped, he told us?

18 A. That's correct, yes.

19 114 Q. Did anything like that ever happen to you?

20 A. We stopped a lorry one night, myself and Gerry O'Brien, and
21 when we pulled in in front of the lorry and the driver got
22 out and immediately opened fire with a firearm and barely
23 missed Gerry O'Brien. He was subsequently arrested and
24 dealt with in the Special Criminal Court.

25 115 Q. And you managed to arrest him?

26 A. Yes.

27 116 Q. Now, had you any views on how this particular operation was
28 carried out in Dundalk? Do you know if it was possible,
29 for example, that surveillance may have taken place?

30 A. I am not aware of any surveillance, no.

1 117 Q. You are not aware of that?

2 A. No.

3 118 Q. Did you ever serve with Leo Colton?

4 A. No, no, never served with him, no.

5 119 Q. What about Detective Sergeant Owen Corrigan?

6 A. No, never served with him.

7 120 Q. And did you know him?

8 A. Oh, I knew him all right, yeah, but I never had a direct
9 conversation with Detective Sergeant Corrigan, I never
10 spoke directly to him.

11 121 Q. Is that because, of course, you were in different sections?

12 A. He was in Special Branch and we were in Uniform, yeah.

13 122 Q. Was there much interaction between Special Branch and
14 Uniform?

15 A. I wouldn't consider there was. I think they, kind of -- I
16 suppose the Branch thought they were the Branch and the
17 Uniform were Uniform, and that was it.

18 123 Q. And what about Finbarr Hickey, did you work -- did he work
19 with you?

20 A. He did, yeah. When he came to Dundalk first, he worked
21 with me in the same unit. He was a guard, yeah.

22 124 Q. What unit were you in?

23 A. Sorry?

24 125 Q. Do you recall what unit you were in?

25 A. I was on Unit A all my time.

26 126 Q. All your life?

27 A. Yeah.

28 127 Q. And do you recall what unit Finbarr Hickey was in?

29 A. He was in Unit A with me.

30 128 Q. Was he ever changed out of that?

1 A. When he got promoted, you see, I think, yeah. He may have
2 went to Unit B, I am not too sure, but then he was promoted
3 and he went to Hackballscross, as far as I am aware.

4 129 Q. What unit was he in then? He was in B, was he, when he was
5 in Hackballscross?

6 A. I think he was. I am not a hundred percent sure now.

7 130 Q. And were you surprised at the, if you like, the press that
8 happened after the murders, the bad press that Dundalk
9 Garda Station was getting?

10 A. I was, because it came as a surprise. I wouldn't have
11 considered there was a mole in the station anyway, I
12 wouldn't have thought there would be anyway, you know.

13 131 Q. Do you recall that following the Gibson murders, that there
14 was a lot of speculation as well about Dundalk?

15 A. I can't recall that now, no.

16 132 Q. You can't recall?

17 A. No.

18 133 Q. You were aware that, in 1996, Mr. Corrigan was kidnapped by
19 the IRA?

20 A. That's correct, yes.

21 134 Q. And he was in the company of a man called Francis Tiernan,
22 is that correct?

23 A. That's correct, yes.

24 135 Q. Did you know him?

25 A. No, no.

26 136 Q. You didn't know him?

27 A. No.

28 137 Q. Thank you very much.

29

30 **THE WITNESS WAS CROSS-EXAMINED BY MR. BAKER AS FOLLOWS:**

1

2 138 Q. MR. BAKER: Mr. Witherow, good morning. I appear on behalf
3 of An Garda Siochana. Just, first of all, concerning the
4 location of the murders on the 20th of March, 1989,
5 relative to the border, I think the evidence to date before
6 the Tribunal has been that they occurred about 400 yards
7 north of the border on the Edenappa Road; do you have any
8 reason to disagree with that?

9 A. Oh, I don't, I have no -- I don't, because I know I was in
10 the station when Superintendent Tiernan arrived in the
11 station to tell me that -- I was aware there had been a
12 shooting because I had got a phone call from the RUC in
13 Bessbrook to say there had been a shooting in Jonesboro,
14 and Superintendent Tiernan arrived in the station shortly
15 afterwards to say that he knew that Bob Buchanan had been
16 shot dead, and what he said was, it was a killing at
17 Kilnasaggart Bridge, which is a considerable distance,
18 which is not near Edenappa, it's a long way from Edenappa
19 to Kilnasaggart Bridge, so I am not quite sure how far in
20 the border, where they were shot, actually.

21 139 Q. You are not sure?

22 A. No.

23 140 Q. Very good. In relation to Superintendent Buchanan calling
24 to Dromad Garda Station, it seems from your evidence that
25 he called in on a number of occasions on an informal basis,
26 would that be fair to say?

27 A. I gather he had been there previous to the first time I had
28 met him, yeah.

29 141 Q. On the occasions that you did meet him, it seemed to be on
30 an informal basis?

1 A. Totally informal, yes.

2 142 Q. Called in unannounced, is I think how you termed it?

3 A. Unannounced, just arrived in.

4 143 Q. Did that cause you any concern at all at the time?

5 A. I was surprised, to say the least, because it's not a thing
6 that you would expect. I wouldn't expect the local
7 Superintendent to call into the RUC station in Newry
8 unannounced. It was unusual.

9 144 Q. Were you surprised in a good or a bad way?

10 A. Oh, I suppose surprised. It wasn't good or bad, I was just
11 surprised, that's all.

12 145 Q. On these occasions, he would drive himself, is that right?

13 A. Oh, he drove himself, yeah.

14 146 Q. He parked his car?

15 A. In front of the station.

16 147 Q. I see. Now, was he the only RUC officer who would visit
17 Dromad or --

18 A. He was the only one in my time, anyway, yeah.

19 148 Q. And on the occasion that Chief Nolan appeared or arrived,
20 that coincided with Superintendent Buchanan arriving as
21 well, is that right?

22 A. And this other gentleman, I just -- I haven't got his name,
23 but he didn't -- the other gentleman never spoke,
24 Mr. Buchanan done all the talking, the other gentleman
25 never spoke.

26 149 Q. And it was Chief Nolan who requested, through you, that
27 Superintendent Buchanan move his car from his regular
28 position?

29 A. He asked me why his car was in front of the station and I
30 said that because he insisted on parking it there. I said

1 I asked him to park the car at the back of the station, but
2 Mr. Buchanan was quite happy to leave his car at the front
3 door.

4 150 Q. Do you know why Chief Nolan made that request of you?

5 A. Oh, I have no idea. Maybe just thought, maybe, for
6 security reasons, maybe.

7 151 Q. In any event, the request was declined?

8 A. Yeah.

9 152 Q. I see. Now, I think you also told the Tribunal previously
10 that the Provisional IRA, around that time, had a number of
11 intelligence officers who gathered information and
12 intelligence on Gardai in the Dundalk region, would that be
13 fair to say?

14 A. That would be correct, yeah.

15 153 Q. In your experience, how extensive were their
16 intelligence-gathering techniques?

17 A. Well, as far as I recall, I think there was a house
18 searched one time and they found documentation or a list of
19 members and their wives and cars, and whatnot.

20 154 Q. So how sophisticated an outfit were they in and around that
21 time?

22 A. I mean to say, I suppose it's like everything, they knew
23 when people were working, where they lived and what they
24 done and if their wives were working and how many children
25 they had and where they went to school. I mean to say, it
26 wasn't rocket science to find that out.

27 155 Q. Would it be fair to say that we are talking about a group
28 who were more than amateurs?

29 A. They were no amateurs, no, you know.

30 156 Q. And am I right in saying that you have no information or

1 evidence to present the Tribunal, one way or the other,
2 that would have any bearing on whether or not there was
3 collusion between any member of An Garda Siochana and --

4 A. No member whatsoever, no --

5 157 Q. -- and the IRA concerning the two murders?

6 A. No.

7 158 Q. Thank you very much.

8

9 MS. O'SULLIVAN: I just have a few questions.

10

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

12 **AS FOLLOWS:**

13

14 159 Q. MS. O'SULLIVAN: Sergeant Witherow, I appear for Finbarr
15 Hickey. I think in answer to a question put to you by
16 Mrs. Lavery, you indicated that it was your belief that if
17 an escort had been arranged for Superintendent Buchanan and
18 Chief Superintendent Breen, it would have had to stop about
19 half a mile north of the border because the RUC escort?

20 A. That's correct.

21 160 Q. And I think that was because there was a difficulty with
22 the escort on the ground, isn't that right, that there was
23 -- this was effectively a no-go area on the ground?

24 A. Yes, they wouldn't come to the actual border. I mean to
25 say, the border is -- they wouldn't actually come to the
26 actual crossing-over point.

27 161 Q. And I think north of Dromad Station were the army watch
28 towers, which would have had a certain amount of ability to
29 see the area, and, north of that, there was a helicopter
30 base, is that right?

1 A. Not to my knowledge, no.

2 162 Q. And if -- there could have been helicopters that would have
3 been able to fly over that area even if there wasn't able
4 to be an escort on the ground?

5 A. Well, the helicopter base would be in Bessbrook and
6 Forkhill, which would be a few miles away. The British
7 Army had their own observation tower on the mountain.

8 163 Q. But if there was to be an arranged escort, that the
9 helicopters could have gone out ahead to check the area and
10 scout the area?

11 A. Oh, yes, certainly, yes, certainly.

12 164 Q. And just one matter; you left Dundalk in 1986, isn't that
13 right?

14 A. I left Dromad in 1986.

15 165 Q. Sorry?

16 A. I left Dromad.

17 166 Q. Very good. I have no further questions.

18

19 MRS. LAVERTY: There is just one matter that arose.

20

21 **THE WITNESS WAS RE-EXAMINED BY MRS. LAVERTY AS FOLLOWS:**

22

23 167 Q. MRS. LAVERTY: You mentioned earlier, Mr. Witherow, that
24 when you had a meeting that was set up between Chief Nolan
25 and Bob Buchanan, and was there another officer present?

26 A. There was.

27 168 Q. Another officer present. You didn't receive any
28 instructions in relation to safety precautions to be taken?

29 A. No, no.

30 169 Q. By Chief Nolan?

1 A. No, no.

2 170 Q. And when Chief Nolan came to the station and asked you
3 where was Bob Buchanan's car and you said it's parked --

4 A. I could see his car at the front door. It was pointing
5 into the station. It was actually at the front door
6 pointing into the station, yeah.

7 171 Q. Presumably, Chief Nolan could have told Bob Buchanan, "This
8 is my patch and I want you to park your car behind the
9 station"?

10 A. Oh, he could, yes, yeah.

11 172 Q. You, presumably, would have been a little bit more
12 apprehensive about suggesting it to him?

13 A. Well, I wouldn't suggest it to him, as you say, no, no.

14 173 Q. But Chief Nolan could have done?

15 A. He could have asked him to move his car into the back of
16 the station, yeah.

17 174 Q. Indeed. Thank you.

18

19 CHAIRMAN: Very good. Thank you very much indeed,
20 Mr. Witherow.

21

22 **THE WITNESS THEN WITHDREW.**

23

24 MR. DILLON: Chairman, the next witness is Mr. Tom Fox.
25 Mr. Fox has already given evidence and has already been
26 sworn in, but you may want him to be sworn again.

27

28 CHAIRMAN: I think it's advisable.

29

30

TOM FOX, HAVING BEEN SWORN, WAS EXAMINED BY MR. DILLON
AS FOLLOWS:

175 Q. MR. DILLON: Now, Mr. Fox, you were last here on Friday last, the 22nd of July?

A. That is correct, Judge.

176 Q. And you gave evidence to the Chairman in respect of a number of matters and one of them concerned a gentleman called Peter Keeley?

A. That's correct, Judge, yes.

177 Q. Now, I am going just to remind you of what you said, starting with page 9. I'll read out the salient portions of your evidence.

You said, "Well, he was regarded as a spacer, and by that I mean a person who you couldn't possibly trust, exaggerated things, exaggerated everything, sensational.

Question: How did he come into your knowledge?

Answer: From other members of the Detective Branch."

Further down: "Well, how did it come about that people thought he was a spacer?"

You said, "I think by the way he probably behaved, Judge. I think there might have been -- I am not sure. I don't want to mislead -- I think there was sensational stories on national newspapers or local newspapers. Now, Judge, I have to stress, I think there was."

Then the next page, page 10, you say that he was using another name, which you say was McCann.

1

2

Then, on page 20, you said as follows: *"I wasn't exactly sure about the name, but he was regarded by members of the Detective Branch as unstable in that respect, Judge."*

3

4

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8

9

And then you were asked whether Peter Keeley was -- whether you were aware that Peter Keeley was also operating under the name of Kevin Fulton, and you said, *"Not at that time. I subsequently learned that, but it was years later, Judge."*

10

11

12

13

14

15

16

And then you were asked whether you had ever dealt with Mr. Keeley, and your answer was: *"I think I spoke to -- I think I spoke with -- if we are talking about the same person, yes, I did. But I cannot confirm one hundred percent that we are talking about the same person."*

17

18

19

And on page 21, you were asked whether you had a low opinion of Peter Keeley, and your answer was *"Very"*.

20

21

22

23

Now, page 23, you were asked in relation to Mr. Blair and Mr. Keeley: *"Were they known as close associates?"* To which you said, *"Not that I remember, Judge, but I don't want to mislead, Judge; I just can't remember that."*

24

25

26

27

Then you were asked whether Peter Keeley had any associations with subversives: *"Oh, I think in that context, Judge, I think that's how I got to know him,"* is what you said.

28

29

30

Then lastly, on page 24 of the transcript, you were asked whether Mr. Keeley was considered to be active in

1 subversive -- you then answered: *"Not on the everyday*
2 *running of -- scheme of things.*

3 *Question: But considered to be associated?"*

4 To which you said, *"Yes, Judge."*

5

6 Now, there are two representatives, one on behalf of
7 Mr. Keeley and one on behalf of Mr. Scappaticci, who I
8 think may wish to put questions to you. I should tell you,
9 Judge, that Mr. McAtamney is here on behalf of Mr. Kevin
10 Fulton and Ms. Fitzgerald is here for Mr. Scappaticci.

11

12 CHAIRMAN: Yes. Very well.

13

14 MR. DILLON: Now, I wonder if we could find somewhere where
15 Ms. Fitzgerald might be able to sit.

16

17 CHAIRMAN: Good morning, Ms. Fitzgerald. Now, do you want
18 to begin or does Mr. McAtamney [sic] want to go first,
19 whichever?

20

21 MR. RAFFERTY: I am happy if My Friend begins.

22 A. Judge, could I clear up something before we get into this.

23 I believe I was talking about -- or when the thing came up
24 first, Judge, I was talking about and I did mention

25 Mr. McCann. I still think that is the case, Judge. The
26 said Mr. McCann was around Dundalk in the early eighties.

27 When, some years later, he disappeared, when we inquired
28 from the Welfare, we found that there was no such person

29 signing on at that particular time, despite the fact that

30 we saw this gentleman in the vicinity of the Social Welfare

1 Office, signing on. It is quite possible, Judge, we are
2 not talking about the same person at all because I cannot
3 say with any definity that I knew or ever met Mr. Keeley or
4 the other man, whatever the other man's name.

5

6 MS. FITZGERALD: Chair, I wonder if I could be given an
7 opportunity -- there has been an e-mail sent through, in
8 fact, to the Tribunal, with a photo of Mr. Keeley in it,
9 and I think that might be of assistance --

10

11 CHAIRMAN: That would be very helpful.

12

A. Yes, Judge, I asked, the last time, if I could see a
13 photograph of Mr. Keeley and then I can confirm yes or no.

14

15 MS. FITZGERALD: Well, I think that photo is just being
16 printed out at the moment, Chair. I wonder if I could be
17 afforded an opportunity to get that to hand. I don't know
18 whether My Friend wants to go ahead with the evidence
19 before that.

20

21 CHAIRMAN: Well, Mr. McAtamney?

22

23 MR. RAFFERTY: Sorry, Mr. Chairman, my name is Neil
24 Rafferty. I appear instructed by Mr. McAtamney for
25 Mr. Fulton. I think it's really impossible, as it were,
26 for me to cross-examine or to examine Mr. Fox until he sees
27 the photograph, because it may well be that we are not even
28 talking about the same man.

29

A. Yes, Judge, and that's what I feared the other day.

30

1 MS. FITZGERALD: In fact, Judge, the photo has arrived, so
2 I think --

3

4 MR. DILLON: Chairman, can I just explain that we have a
5 photograph which has been given to the witness. I will
6 give it to My Friends. The photograph will not go up on
7 the screen.

8

9 CHAIRMAN: Sorry?

10

11 MR. DILLON: The photograph will not go up on the screen.

12 A. I can confirm to you, Judge, that I never saw that man in
13 my life.

14

15 CHAIRMAN: Oh, I see. And that is a photograph of who,
16 Mr. Dillon?

17

18 MS. FITZGERALD: That is, Chairman, is alleged to be a
19 photograph of Mr. Keeley. I wonder if My Friend is in a
20 position to confirm that.

21

22 MR. RAFFERTY: Yes, Mr. Chairman, can I go on record as
23 saying that is a photograph of Mr. Peter Keeley, also known
24 as Kevin Fulton.

25

26 CHAIRMAN: And you have never seen that man in your life?

27 A. I never saw him in my life -- not that I can remember,
28 Judge.

29

30

THE WITNESS WAS CROSS-EXAMINED BY MS. FITZGERALD

AS FOLLOWS:

178 Q. MS. FITZGERALD: I think, Mr. Fox, you said that you thought you may have, in fact, come in contact with a Mr. McCann, is that right?

A. Yes.

179 Q. But you do say that you have never seen the gentleman in this photo --

A. That is correct, Judge.

180 Q. -- before. You did say in your evidence that you knew of Mr. Keeley or Mr. Fulton, isn't that right?

A. That's correct, Judge.

181 Q. And that you had formed an opinion on him and on his involvement with the subversive activities, isn't that correct?

A. I was talking about Mr. McCann.

182 Q. You were talking about McCann?

A. Yes.

183 Q. So, in fact --

A. And that may not be his name at all, because when we checked, I want to make it quite clear, there was no McCann signing on at the time, Judge.

MS. FITZGERALD: Very good, Judge. I don't think I have any further questions.

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

184 Q. MR. RAFFERTY: Mr. Fox, for the avoidance of doubt, can we be absolutely clear that when you were talking about a

1 person being a spacer and unreliable, that you were talking
2 about Mr. McCann?

3 A. Yes, I was not talking about your client; I was talking
4 about this gentleman.

5 185 Q. So whoever Mr. McCann is, Mr. McCann is not, and positively
6 not, Peter Keeley or a person known as Kevin Fulton?

7 A. That is correct, Judge.

8 186 Q. So insofar as you cast any doubt on the reliability of
9 Mr. Peter Keeley/Kevin Fulton, this Tribunal can completely
10 disregard your evidence last week?

11 A. I made it clear at the beginning, Judge, that I was not
12 sure.

13

14 CHAIRMAN: Yes, you did.

15 A. I did. And I asked if I could see a photograph. I felt
16 that that would clear it up there and then, it wouldn't be
17 necessary to come back today. And now it's provided and --

18

19 187 Q. MR. RAFFERTY: I appreciate that. I just want to confirm
20 that this Tribunal can completely disregard your evidence
21 last week?

22 A. Any reference I made was in respect of Mr. McCann, or
23 whatever he called himself, Judge.

24 188 Q. Well, can I ask you, because you went further last week,
25 because you mentioned a man, if we can refer to him by his
26 known name, as it were, the person you would have known him
27 as, 'Mooch' Blair?

28 A. Yes.

29 189 Q. He was a well-known subversive, wasn't he?

30 A. Yeah, he was well known, yes, in Dundalk at the time, yes.

1 190 Q. In fact, he was living there for about three years, in
2 Dundalk?

3 A. I am not sure, Judge, how long he lived there.

4 191 Q. And he was driven around, isn't that correct?

5 A. I couldn't say that, Judge.

6 192 Q. I think you said last week that he wasn't important enough
7 to be driven?

8 A. Somebody may have asked me that, yes.

9 193 Q. You see, there are a number of people who drove him, and
10 Peter Keeley was one of them. Did you have any knowledge
11 of the people who drove him?

12 A. No, Judge, no.

13

14 MR. RAFFERTY: If you'll just give me one moment,

15 Mr. Chairman. Thank you very much.

16

17 MR. O'CALLAGHAN: Chairman, can I just say, because
18 Mr. Fulton's evidence is obviously evidence that will
19 impinge upon my client, can Mr. Rafferty confirm or clarify
20 for the Tribunal what is his client's name, as most of us
21 have one name, and I think it would be of assistance if
22 Mr. Rafferty could identify to you, Chairman, who he is
23 representing here and the name of his client.

24

25 MR. RAFFERTY: I am quite happy to do that. I think it's a
26 very straightforward point. I thought My Friend would have
27 understood that. His real name is Peter Keeley. He
28 operated under the name of Peter Keeley as an agent for
29 MI5. And in press reports in relation both to his
30 knowledge of prior to the Omagh bombing and his knowledge

1 of Owen Corrigan as a Garda mole, he was referred to in the
2 press by a pseudonym, given to him by the reporter, of
3 Kevin Fulton, and that is why both names are
4 interchangeable. I thought he was easily identified by
5 both. Does that satisfy My Friend in relation to the
6 identification?

7
8 CHAIRMAN: Is that all right?

9
10 MR. O'CALLAGHAN: Yes, but his name is Peter Keeley.

11
12 CHAIRMAN: Yes.

13
14 MR. O'CALLAGHAN: Thank you.

15
16 CHAIRMAN: Thank you very much. I am sorry you had to be
17 put to the bother of coming back, Mr. Fox. Thank you very
18 much for coming and you have clarified matters. I am most
19 grateful to you.

20
21 **THE WITNESS THEN WITHDREW.**

22
23 MR. MCGUINNESS: Mr. Chairman, could I just make one
24 request. I am obviously unaware of the origin of the
25 photograph or the antiquity of it. It might be helpful if
26 either Ms. Fitzgerald or Mr. Rafferty could confirm the
27 origin of the photograph and the antiquity of it; when it
28 was taken, Judge.

29
30 MS. FITZGERALD: Yes, Mr. Chairman, I am just informed that

1 that was a photograph that was obtained on-line and it was
2 somebody who was referred to as Mr. Keeley, but I wonder if
3 My Friend is in a position to confirm --

4

5 CHAIRMAN: Well, Mr. Rafferty might like to look at the
6 photograph again.

7

8 MR. RAFFERTY: I have looked at the photographs, and, for
9 various reasons, I would prefer that that photograph was
10 not made public.

11

12 CHAIRMAN: All right, but do you want to look at it again
13 to say who it is?

14

15 MR. RAFFERTY: I can confirm, Mr. Chairman, that it is
16 Peter Keeley, but that I would ask that the Tribunal direct
17 that the photograph that has been shown here today, not be
18 made public.

19

20 CHAIRMAN: Oh, yes, I'll direct that, but we'll keep the
21 photograph on file.

22

23 MR. DILLON: That concludes the matters this morning,
24 Chairman. I think we'll be sitting again at 2 o'clock this
25 afternoon.

26

27 MR. MCGUINNESS: Sorry, Chairman, sorry to persevere on the
28 point. It might be helpful if Mr. Rafferty could confirm
29 the origin of the photograph and the age of it, because I
30 obviously don't know much about Mr. Feeley but it might be

1 helpful to know that.

2

3 MR. RAFFERTY: Unfortunately, Mr. Chairman, I can't be of
4 any assistance in that regard, simply to say that it's a
5 photograph of him. I don't know where the photograph was
6 taken, when it was taken, but I have confirmation that it
7 is him. That's as helpful as I can be.

8

9 CHAIRMAN: Does that satisfy you, Mr. McGuinness? I am
10 sure you'd like to know the provenance of the photograph,
11 but it doesn't appear --

12

13 MR. MCGUINNESS: It may arise at a later time, Chairman.

14

15 CHAIRMAN: All right. Thank you very much. Very well,
16 2 o'clock then.

17

18 THE TRIBUNAL ADJOURNED FOR LUNCH.

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1 THE TRIBUNAL CONTINUED AFTER LUNCH AS FOLLOWS:

2

3 MRS. LAVERTY: Good afternoon, Chairman. The first witness
4 this afternoon is retired Chief Superintendent John
5 Courtney.

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1 JOHN COURTNEY, HAVING BEEN SWORN, WAS EXAMINED BY MRS.

2 LAVERTY AS FOLLOWS:

3
4 MRS. LAVERTY: Good afternoon, Mr. Courtney. My name is
5 Mary Laverty and I am counsel for the Tribunal. I think
6 that you were Border Superintendent in Dundalk from
7 September 1978 until 1st of July '79, is that right?

8 A. That's correct, yes.

9 194 Q. And where were you before that?

10 A. I was in the Garda Technical Bureau.

11 195 Q. I see.

12 A. Detective Inspector in the Murder Squad.

13 196 Q. And what were your functions in 1978 and 1979 as Border
14 Superintendent?

15 A. Well, I would be responsible for any incidents that
16 occurred in the border and I'd make -- I would be
17 conversant with all border roads and people who were living
18 close to the border and be arranging for searches to be
19 carried out for firearms or anything that might be -- bombs
20 or anything like that, and I would be in charge of a number
21 of the guards who would be backed up by the national army.

22 197 Q. Yes. And did you visit all the stations along the border?

23 A. Oh, I did, I visited all the stations, yes, Hackballscross
24 and Dromad and Omeath and of course Dundalk, I was based in
25 Dundalk.

26 198 Q. And who was your Detective Sergeant at that stage?

27 A. Owen Corrigan.

28 199 Q. Yes. And did you have to cross the border in -- when you
29 were Border Superintendent, in your duty as Border
30 Superintendent, did you ever have to go across the border

1 for meetings or the like?

2 A. Oh I did. Meetings with the RUC you mean?

3 200 Q. Yes.

4 A. I did, a number of times, I would be arranging meetings
5 between the Gardaí personnel and the RUC personnel.

6 201 Q. And did you have an equivalent officer north of the border
7 that you liaised with?

8 A. It might be a Chief Superintendent or Detective Inspector,
9 it all depends who would be available at the time, you
10 know.

11 202 Q. But there wasn't a designated Border Superintendent, if you
12 like, in those days?

13 A. I think there was, all right, one, now that I think back --
14 I can't remember his name now.

15 203 Q. Yes. So this arrangement that there would be a Border
16 Superintendent both north and south, whatever title he was
17 given in the north, was in position in the late '70s. It
18 didn't just start in the middle of the 1980s?

19 A. Oh, it was going on at the time all right. We would have
20 cross-border meetings and there would be a Superintendent
21 at the meetings, but most of those cross-border meetings
22 took place, it could be Armagh or it could be Belfast or it
23 could be Derry or any of those places.

24 204 Q. Yes. And were there any -- when they took place in the
25 south --

26 A. Oh, they come across occasionally, but not very often now,
27 you know.

28 205 Q. Yes. And --

29 A. I remember Chief Superintendent McCullough coming from
30 Newry to Dundalk Garda Station and meeting me about

1 incidents on the border.

2 206 Q. So, if there was going to be a meeting, it would happen in
3 Dundalk?

4 A. Yes, mainly in Dundalk the meeting would be.

5 207 Q. But not very often?

6 A. Not very often.

7 208 Q. Did you travel north more frequently for a meeting?

8 A. Well the meetings on the north, though, I'd be told --

9 Headquarters would tell me the date and time to travel north
10 to meetings, yeah.

11 209 Q. Yes. And what security arrangements were in place in your
12 time there?

13 A. Well, the RUC now, if they were carrying out a search close
14 to the border they'd ask us to give cooperation; that in
15 other words there would be patrols along the Castleblayney
16 Road or any of those roads adjacent to the border, that a
17 person would have garda and army along there.

18 210 Q. If I could just go back to the meetings. Was there any
19 protocol in relation to security for the cross-border
20 meetings that you had?

21 A. No, but the way -- if I was going across, we wouldn't tell
22 anybody that we'd be going across to the border or we'd be
23 expecting the same from -- like, in other words, if I had
24 to travel across to any part of those towns or cities I
25 have mentioned, nobody would know about it. And if they
26 were coming across, that it would be kept very secret.

27 211 Q. And did you travel in your own cars?

28 A. Oh, I always -- yes, my own car. We never brought no
29 police car across.

30 212 Q. Was that considered more prudent to not let anyone know

1 your movements and to travel in your own car?

2 A. I thought it was better because -- well, that is what we
3 decided would be the best thing to do would be to travel by
4 our own car.

5 213 Q. Because there have been suggestions that the RUC officers
6 crossing the border should have escorts and should announce
7 their arrivals. What would you feel about that in view of
8 your experience?

9 A. There would be -- they would be escorted across the border,
10 they would be escorted, especially if they come Dromad they
11 would be escorted and back town to Dundalk, we would give
12 them an escort and they'd go back up again.

13 214 Q. Did that happen on every occasion?

14 A. As far as I remember it did, but just talking about
15 Mr. McCullough, I didn't want him to stay too long. These
16 meetings, as far as I was concerned, were short and sharp
17 and to the point, and back up again. And, like, he'd be --
18 like, he tried to hang on a few times and I didn't like to
19 tell him not to because I was always aware of security we
20 had put on the whole thing; that in other words, he get
21 back safe and he wouldn't be staying around too long.

22 215 Q. Yes. And in terms of the other operations then, you said
23 that you would cooperate to provide, for example, a garda
24 presence if there was a search going on north of the
25 border, you'd provide a garda presence on the south, is
26 that right?

27 A. How do you mean?

28 216 Q. When you were talking about cooperation with the RUC, that
29 you said that sometimes you might be asked to provide a
30 garda presence if there was a search and the RUC may be on

1 possibly the other side of the border, or did I take you up
2 wrong?

3 A. Oh yes, if they were carrying on an operation on the border
4 or if an incident happened especially, they would go up to
5 investigate it, such as a Superintendent and a constable
6 were blown up there one Saturday just on the border on the
7 North of Ireland and they asked us to give protection while
8 they would be going up there and carrying out the
9 investigation and the removing of bodies and all that, you
10 know.

11 217 Q. Now, was -- how did you find Detective Sergeant Owen
12 Corrigan?

13 A. Pardon?

14 218 Q. How did you find detective Corrigan to work with?

15 A. Oh, he worked well for me. I had no complaints as far as
16 his work was concerned.

17 219 Q. Mm-hmm.

18 A. He cooperated with me in every way because whatever I asked
19 him to do, he did it and he did it very well. And I never
20 got a complaint about him from the Superintendent or the
21 Chief Superintendent or any other body in the station
22 during my time there.

23 220 Q. And were you a higher rank than him at that stage?

24 A. Pardon?

25 221 Q. Were you of higher rank than Mr. Corrigan at that stage
26 when you were Border Superintendent?

27 A. I was. I was a Detective Superintendent. Before that I
28 would be Detective Inspector. Like, in other words, when
29 Captain Marrick was murdered, I was in charge of that and
30 he was a Detective Sergeant at that time, and when Seamus

1 Ludlow was murdered, I was a Detective Inspector and he was
2 a Detective Sergeant. Another incidence of when the bomb
3 went off and two people were killed near the courthouse, I
4 was in charge of that investigation as well.

5 222 Q. And this was a bomb, I think, that happened in the -- near
6 courthouse in Dundalk?

7 A. Near the courthouse in Dundalk; two people were killed
8 there, yes.

9 223 Q. And did you have to travel north on that occasion?

10 A. I did, I travelled north. I asked him would he accompany
11 me because I didn't know Belfast -- at that time I didn't
12 know any of the police up there and I asked him to
13 accompany me because we had information that a policeman in
14 Belfast knew who owned the car that was used at the
15 bombing; in other words, a car used to take the bomb to
16 Dundalk. We were told this policeman knew the person and I
17 was anxious to see this policeman and that is why I went up
18 there.

19 224 Q. And did you get cooperation up there?

20 A. Well, Detective Sergeant Corrigan knew the Chief of CID,
21 Mooney, Chief Superintendent Mooney, and he said "do you
22 want to speak to him?" I told him who I was and what I was
23 investigating and he said, "I will bring you down to the
24 Shankill Police Station where this man is stationed" he
25 said, and he brought me down anyhow and I met the Inspector
26 there and he was very cooperative to me. I said, "I will
27 get that man -- he is off duty but I will get him in
28 immediately." So while we were waiting Mr. Mooney came up
29 and said, "You are not going to see that policeman" he
30 said. I said, "Well I am not going to ask you where he got

1 information. I just want to know what help he can give me
2 and the Gardaí in the investigation." And he refused point
3 blank. And I was very disappointed and the Detective
4 Sergeant Corrigan, I suppose, was worse because he knew
5 Mr. Mooney, he knew him personally from years before that.

6 225 Q. And did you subsequently get information from some other
7 source in relation to that investigation?

8 A. Did I get?

9 226 Q. Did you get information subsequently, maybe through
10 official channels, did you get information or help from the
11 RUC about that investigation?

12 A. No, we didn't, but we were up --we travelled again to the
13 north, both of us, about the same thing to see would we get
14 something on it and Chief Superintendent Mooney said "Had
15 you ae murder down in Dundalk?" I said, "We had." "Well,"
16 he said, "I might be able to help you," and he brought in
17 two Detective Sergeants, introduced them to me and told me
18 the full story about who committed the murders, who shot
19 this fellow Seamus Ludlow, and I thanked them and took
20 notes from them and I was very grateful for the assistance
21 they gave me.

22 227 Q. I see. Did you know the Chief Cotterell, Richard
23 Cotterell, Chief Superintendent Richard Cotterell?

24 A. Costello?

25 228 Q. Cotterell.

26 A. Oh, he was the local Chief Superintendent in Dundalk; he
27 was the Chief over the border at the time, you know.

28 229 Q. Yes.

29 A. He was the Border Chief and I worked under him.

30 230 Q. You worked under him. And how -- what did you think of the

1 Chief.

2 A. Oh well, I got on very well with him and he often told me
3 he greatly appreciated the work I was doing on the border
4 and, as a matter of fact, when I was being transferred back
5 to Dublin he asked me could I not stay on as a Border
6 Superintendent. And I said, "Well, I have to go as my
7 authorities tell me to do" and my Commissioner told me I
8 was being transferred back in charge -- I was transferred
9 back in charge of the Murder Squad from Dundalk as a
10 Detective Super now, at this stage I was Detective
11 Superintendent in charge of the Murder Squad.

12 231 Q. And did you respect his judgement -- in your dealings with
13 him did you respect his judgement in matters concerning the
14 border?

15 A. Oh yes, we had meetings of course, from time to time, and I
16 told him how things were going and he asked me different
17 problems that came up, to sort them out, and I did my best
18 to sort out the problems.

19 232 Q. I see. Thank you very much, Mr. Courtney. Now, some of my
20 colleagues might want to ask you questions.

21

22 **THE WITNESS WAS CROSS-EXAMINED BY MR. McGUINNESS**

23 **AS FOLLOWS:**

24

25 MR. McGUINNESS: Good afternoon. I appear on behalf of An
26 Garda Siochana in this matter.

27 233 Q. Can you just help me? Before you were transferred to
28 Dundalk as the Border Superintendent, you had been the
29 Detective Inspector in charge of the Murder Squad?

30 A. Yes.

1 234 Q. And how many years had you served in that capacity?

2 A. At that time, I suppose I would have served six or seven
3 years anyhow.

4 235 Q. And --

5 A. Wait, yeah, about eight years, seven or eight years.

6 236 Q. And then after your period as a Border Superintendent, you
7 were promoted as, or transferred to the position of
8 Detective Superintendent --

9 A. Yeah.

10 237 Q. -- in charge of the Murder Squad?

11 A. Yes.

12 238 Q. And that, I think, operated out of the Technical --

13 A. The Technical Bureau in Headquarters, yes.

14 239 Q. The Technical Bureau, but before you were transferred to
15 Dundalk, your work as a Detective Inspector in the Murder
16 Squad led you to investigate many subversive killings by
17 the IRA, isn't that right?

18 A. Oh, unfortunately, yes.

19 240 Q. And including, as a very notable one, the murder of Senator
20 Billy Fox?

21 A. Yes, I investigated that, all right. He was a former Fine
22 Gael TD and I investigated that. We had a number of
23 prisoners, people charged and convicted for it, you know.

24 241 Q. Yes. So your daily work prior to becoming a Superintendent
25 in the border, stationed in Dundalk, led you to have many
26 dealings in connection with subversive crime and murders?

27 A. Yes, I did. Up in Buncrana now there was a bike importer,
28 a couple shot dead on New Year's Eve up there in Buncrana
29 at the border and I was up there in charge of that
30 investigation prior to being transferred to Dundalk. All

1 along the border I did a number of murders, you know.

2 242 Q. And I think it would be fair to say, and you have said in
3 your statement, that the IRA were very familiar of you and
4 your identity and your role before you became a Border
5 Superintendent even?

6 A. Oh, they were, yeah, yeah, because I'd be giving evidence
7 in court in some of those trials, you know. I would be
8 seen -- they would be looking at me in the court and they
9 could observe me, or they'd see me in Dundalk, anyhow, when
10 I was going around, or Buncrana, wherever I'd be.

11 243 Q. And obviously during the course of your work in
12 investigating the subversive murders you'd have a team of
13 detectives with you and they'd be responsible for, *inter*
14 *alia*, arresting suspects and questioning them and carrying
15 out searches?

16 A. That's correct, yes.

17 244 Q. And presumably you were the recipient of much confidential
18 and valuable information over the years?

19 A. That's right.

20 245 Q. As head of the Murder Squad?

21 A. Yes.

22 246 Q. And when you were transferred, then, to Dundalk, your
23 responsibilities changed, obviously, to a very large degree
24 in that you were focusing almost exclusively on activity
25 related to and around the border?

26 A. Yes, but I gave attention to those -- the bomb that went
27 off near the courthouse where two people were killed and
28 the murder of Captain -- the murder of Seamus Ludlow
29 because I had been on that before and I said I would do my
30 best now that I am back in Dundalk as a Superintendent and

1 I put every effort into solving those two very serious
2 cases.

3 247 Q. And would it be fair for you to describe yourself as a
4 person who had a very great deal of experience and
5 knowledge of how the IRA operated?

6 A. I had, I had a fair knowledge, all right, of the way they
7 operated.

8 248 Q. Now, at any stage either in the 1970s or in the 1980s did
9 anyone warn you about Sergeant Corrigan in any way?

10 A. No, never, never.

11 249 Q. OK.

12 A. Headquarters or the Chief Superintendent Corrigan -- or the
13 Superintendent, nobody ever told me, except they left him
14 work away as he was working and there was no question about
15 his honesty or integrity or anything like that.

16 250 Q. And did you find him, in dealing with him, that he had very
17 good sources of information?

18 A. Oh, he had, I have no doubt about that, because he would
19 be -- he had sources of information in Dundalk, yes.

20 251 Q. And which led to significant finds and leads in
21 investigations?

22 A. Well, he would pass it on to me from time to time, but yes,
23 we would be investigating, you know.

24 252 Q. Did Chief Superintendent John McMenamin ever tell you that
25 he had been concerned about Sergeant Corrigan in any
26 respect?

27 A. McMenamin?

28 253 Q. Yes, do you remember him?

29 A. Where was he stationed?

30 254 Q. Well, he was in Monaghan.

1 A. Oh, there was John McMenamin, he was a Superintendent
2 there.

3 255 Q. A Superintendent, sorry.

4 A. Oh, I knew him well. I had met him previously down in
5 Sligo in a murder case but, no, he never passed any
6 information on or remarked to me about him.

7 256 Q. Yes. And at any stage did Superintendent Curran, who was
8 also later stationed in Monaghan, did he ever express any
9 concern to you about the reliability or otherwise of
10 Sergeant Corrigan?

11 A. No, I knew Tom Curran well. No, never, never.

12 257 Q. Presumably you knew Eugene Crowley throughout your career?

13 A. Eugene Crowley, yes, he was afterwards a Commissioner. No,
14 he didn't ever warn me about Detective Sergeant Corrigan or
15 give him special attention or anything like that.

16 258 Q. And as head of the Murder Squad, both before and after you
17 went to Dundalk, would you expect, for example, Eugene
18 Crowley to have taken action if it had been brought to his
19 attention that there was any suspicion, even, that Sergeant
20 Corrigan was colluding with the IRA?

21 A. Oh, I would of course, yes.

22 259 Q. Thank you.

23

24 **THE WITNESS WAS CROSS-EXAMINED BY MR. O'CALLAGHAN**

25 **AS FOLLOWS:**

26

27 MR. O'CALLAGHAN: I appear for Owen Corrigan.

28 260 Q. One of the matters the Tribunal is inquiring into is
29 whether Mr. Corrigan provided assistance to the IRA in the
30 killing of these two unfortunate RUC officers. From your

1 experience, Mr. Courtney, did Owen Corrigan stand up to the
2 IRA when he served as a Sergeant under you?

3 A. Yes, as far as I can recollect, there was no, there was no
4 time did, we'll say, pull back or anything. In other
5 words, anything I asked him to do, he never was shy to do
6 it. He just carried out what he was told to do. I never
7 had any reason to say "why don't you do this or that?"
8 Whatever I asked him to do, he did it.

9 261 Q. And would you agree that he kept pressure on the IRA at
10 this difficult time in the country's history?

11 A. Oh, he did a certain amount of pressure, all right. But in
12 his party, of course, he had all the detectives with him,
13 you know.

14 262 Q. Would you regard him as an effective Sergeant?

15 A. Oh yes, certainly, yes.

16 263 Q. Did you believe that he had a good source of information on
17 subversives, particularly the IRA?

18 A. That he had information on them, yeah, he probably had,
19 like -- that he passed it on to Headquarters.

20 264 Q. And would you agree with me, Mr. Courtney, that in order to
21 get information about subversives, you have to associate
22 with them or with people who know them in order to get the
23 information?

24 A. It all depends on the person, you know.

25 265 Q. But that is one way of getting information about a
26 subversive, isn't it, from other subversives?

27 A. Well, I don't know. I investigated a lot of crime along
28 the border but I wasn't very interested in what I'd get
29 from the IRA or any of their associates, you know.

30 266 Q. Yes. Are you aware as to whether or not Detective Sergeant

1 Corrigan was harassed by the IRA because of the work he
2 carried out on behalf of An Garda Siochana?

3 A. I don't remember him being harassed at any time while I was
4 there anyhow.

5 267 Q. You weren't there at the time he helped to extradite
6 Dominic McGlinchey, were you? That would have been 1984,
7 '85, '86, you weren't in Dundalk at that stage?

8 A. No, I was gone out of it.

9 268 Q. Thanks very much.

10

11 MR. COFFEY: No questions.

12

13 MS. O'SULLIVAN: No questions.

14

15 CHAIRMAN: Any questions?

16

17 MRS. LAVERTY: No.

18

19 CHAIRMAN: Thank you very much indeed, Mr. Courtney. Thank
20 you.

21

22 THE WITNESS THEN WITHDREW.

23

24 CHAIRMAN: That leaves Mr. Ned O'Dea.

25

26 MRS. LAVERTY: Yes, and I understand Mr. O'Dea isn't
27 available until three o'clock, Chairman.

28

29 CHAIRMAN: Yes, certainly not before three o'clock. I will
30 rise and I will sit when he arrives if it should be before

1 three o'clock.

2

3 THE TRIBUNAL ADJOURNED BRIEFLY AND THEN RESUMED AS FOLLOWS:

4

5 MR. DILLON: Chairman, there is one further witness for
6 today, who is Mr. Ned O'Dea, and he was Assistant
7 Commissioner in the Garda Siochana who was tasked with the
8 job of investigating, at the request of the Government, the
9 murders of the two RUC officers. But before I call him, it
10 might be as well to put the investigation into context
11 which, as I said, is a Government decision. And we have
12 certain documents which we offer in evidence, and the first
13 is, it's a formal record of the Government's decision and
14 it goes as follows:

15

16 "Deaths of the two RUC officers:
17 Following a report on the matter from the Minister for
18 Justice, the text of a statement were issued through the
19 GIS was agreed" -- I understand the GIS is the Government
20 information service.

21

22 Now, the Government statement as released on 21 March 1989
23 is as follows.

24

25 "The Government of today's meeting considered the killings
26 of the two senior RUC officers on their return from a
27 meeting with garda officers in talk and reiterated the
28 commitment already given that every possible cooperation
29 would be provided to the northern authorities in relation
30 to the investigation of this outrage. To this end, the

1 Commissioner has been asked to conduct an immediate and
2 thorough investigation of all the circumstances and
3 arrangements relating to the attendance of the deceased
4 officers in Dundalk and to report urgently to the Minister
5 for Justice on the matter."

6
7 Now following receipt of that documentation, we became
8 aware that there were minutes of the government meeting,
9 but that necessitated an application to be made to the High
10 Court, which was done on 10 March 2008 before the
11 President, when, on that day, he made, on your application,
12 an order against the defendant, who was the Government of
13 Ireland, directing the defendant to produce a document
14 generated at meeting of the Government held on 21 March
15 1989 as a result of discussions pertaining to an item on
16 the agenda of the said day concerning the fatal shootings
17 of the two RUC officers.

18
19 And that document is a manuscript document. I will ask
20 Mr. Mills to put up on the screen. And as best as we can
21 read it, it seems to go as follows:

22
23 *"RUC killings" -- now what looks like "MI5" is in fact*
24 *"Minister for Justice": M/J. What is written there*
25 *appears to be "car parked in front of garda station. Would*
26 *have been seen. T" -- seems to be "Taoiseach" -- "...*
27 *seems to be some form of garda inquiry? Minister for*
28 *Justice. Commissioner reporting."* Then it appears to be
29 *"Taoiseach said ask Commissioner to carry out investigation*
30 *of full..."* now, I can't read the word but it could be

1 *"circumstances -- and report to M/J"*; that is the Minister
2 for Justice. Now in those days the Taoiseach was
3 Mr. Haughey and Minister for Justice was Mr. Collins. Now
4 we have asked Mr. Collins to give evidence but
5 unfortunately it hasn't been possible for him to do so up
6 to now, but it may be of interest for to you hear
7 Mr. Collins because it's clear from these documents that
8 the Minister had a report, on going into the Government
9 meeting on 22nd -- I beg your pardon, 21st of March, and we
10 haven't been able to turn up that report or any
11 documentation, and the Department of Justice has not been
12 able to turn up that, but it may be Mr. Collins will be
13 able to assist you in that regard.

14
15 That is the background which Mr. O'Dea was tasked with the
16 investigation of the murders and to draw up a report and
17 submit it to the Garda Commissioner and, as you will see,
18 that report was sent to the Government under covering
19 letter from the then Commissioner, Eugene Crowley, and that
20 will be read into the record as well. So, Mr. Ned O'Dea,
21 please.

22
23 MR. DURACK: I am sure it is an error on the part of Mr.
24 Dillon but the investigation is not into the murders, it's
25 into the circumstances.

26
27 MR. DILLON: I thought I corrected myself.

28
29 MR. DURACK: You said it again.

1 CHAIRMAN: It is into the circumstances.

2

3 MR. DILLON: And other matters, we believe.

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1 NED O'DEA, HAVING BEEN SWORN, WAS EXAMINED BY MR. DILLON

2 AS FOLLOWS:

3

4 269 Q. MR. DILLON: Now, Mr. O'Dea, are you comfortable there?

5 A. Oh, yes.

6 270 Q. All right. Now, I believe you joined the Garda Siochana in
7 1952?

8 A. Correct.

9 271 Q. And you spent about four years in uniform in the stations
10 in Donnybrook, Rathmines and Irishtown?

11 A. Correct.

12 272 Q. I think it was in 1956 that you went to Dublin Castle which
13 was known at the time as a Special Branch but subsequently
14 became known as the Special Detective Unit?

15 A. That is correct.

16 273 Q. I think you served there and you were promoted to the rank
17 of Sergeant on 22nd January 1960 and you went to Cork for
18 two years?

19 A. Correct.

20 274 Q. You returned from Cork as Detective Inspector on 17th March
21 1967 and subsequently on 1st of September 1971 you were
22 promoted to the rank of Superintendent?

23 A. That's correct, yes.

24 275 Q. And then you were promoted to the rank of Chief
25 Superintendent on 3rd March 1982?

26 A. Correct.

27 276 Q. On 13th January 1989, you became an Assistant Commissioner
28 of the Garda Siochana, isn't that right?

29 A. That's correct, yes.

30 277 Q. And I think you were in Crime and Security from 5th May

1 1988?

2 A. Yes, that is correct, yes.

3 278 Q. Yes. I think prior to that, with the brief exception when
4 you were in Coolock and in Dun Laoghaire and on those
5 occasions you were in uniform, all your service was in the
6 special unit?

7 A. That is correct, yes.

8 279 Q. I think it follows that by 1989 you were in charge of Crime
9 and Security as Assistant Commissioner at that stage, is
10 that right?

11 A. Correct, yes.

12 280 Q. Yes. I think your interest was in getting intelligence
13 from the border regions, and I think the difficulty from
14 the RUC point of view was that the south Armagh was
15 regarded pretty well as a no-go area from their point of
16 view?

17 A. They had a difficulty in that area, yes.

18 281 Q. Yes. And I think this sometimes necessitated organising
19 escorts for VIPs and the like?

20 A. That is correct, yes.

21 282 Q. Now, I think the IRA, as you put it, had free reign in
22 south Armagh?

23 A. Well it was a difficult place for the RUC to operate.

24 283 Q. And could you explain to the Chairman to what extent they
25 had free reign, as you put it?

26 A. Well, I wouldn't be in a position to answer that. You
27 would have to ask some RUC person to.

28 284 Q. I think you are aware that they pretty well knew everything
29 that went on in the area?

30 A. Oh yes, their intelligence gathering in that area was --

1 and you had a lot of people who supported them in that
2 particular area.

3 285 Q. And did you ever see intelligence which the IRA had
4 collected?

5 A. I did indeed, yes.

6 286 Q. And how did you find it?

7 A. Well, I saw my own at one time which was every detail about
8 family, where I lived, car, you name it.

9 287 Q. Even such details as your golf handicap?

10 A. That's correct, yes.

11 288 Q. And can it be taken that you weren't unique in that regard;
12 the IRA had such information on your colleagues, or some of
13 your colleagues?

14 A. Each unit has its own intelligence officer and he would
15 have his own people who would do the various observations
16 in places to find out where we lived and what were we doing
17 in our spare time, all that type of intelligence.

18 289 Q. I think it wasn't an easy time for policemen at the time,
19 particularly those who were in the Detective Unit, isn't
20 that right?

21 A. Definitely not.

22 290 Q. I think you found yourself -- I don't mean yourself
23 personally but your colleagues were threatened in court and
24 things like that?

25 A. We were indeed, yes. I was actually shot at one time
26 myself; that was Monasterevin at the time of the kidnapping
27 of Herrema.

28 291 Q. Was this Tiede Herrema?

29 A. It was, yes.

30 292 Q. I think the whole situation, if I can put it this way,

1 erupted in the burning of the British embassy?

2 A. It did; that was the worst period of the time.

3 293 Q. That was the early seventies?

4 A. That's correct, yes.

5 294 Q. Now, your understanding of matters in terms of the IRA and
6 smuggling, what is your view about whether you could carry
7 out smuggling on a large scale, say, through south Armagh?

8 A. No way, without they knowing or giving you permission.

9 295 Q. And by permission, does that mean any monetary payment?

10 A. I wouldn't know whether there was monetary payment or not.

11 296 Q. Very well. Now, you were asked to conduct a -- sorry, to
12 investigate the circumstances and arrangements for the
13 meeting of the two RUC officers?

14 A. That's correct, yes.

15 297 Q. I will come back to that in just a second if I may. Did
16 you ever meet Bob Buchanan or Harry Breen?

17 A. I never met Chief Superintendent Breen. I met
18 Superintendent Buchanan on one occasion in the Garda
19 Headquarters, he was at a meeting, I think there was a
20 Border Superintendents' meeting.

21 298 Q. How did you find him, if you remember?

22 A. He was very nice gentleman, chatted away freely.

23 299 Q. I think you had information about him owning -- him using
24 his own car?

25 A. Ah yes, yes, he used it frequently, apparently.

26 300 Q. That being so, did that make the IRA's task easier?

27 A. Oh, it made it a lot easier.

28 301 Q. And what do you base that opinion on?

29 A. Well, if they had the number of his car, they had plenty of
30 people along the Dundalk, south Armagh area would keep tabs

1 on coming and goings of cars and when he uses the same car
2 all the time, like, it was not the right thing to do.

3 302 Q. And what about the Garda Station in Dundalk?

4 A. The Garda Station in Dundalk, anything that was happening
5 they would be watching.

6 303 Q. How do you know that?

7 A. Well, I know how they operate.

8 304 Q. But did you have any information that --

9 A. I had no solid information that there was anyone on any
10 particular spot in Dundalk watching the Garda Station, if
11 that is what you mean.

12 305 Q. Are you aware of anything in relation to the murder of Lord
13 Justice and Lady Gibson?

14 A. No, I knew it happened, but there was some mention of
15 escorts there. But the way escorts were arranged, it was
16 arranged through an office in Headquarters, through their
17 corresponding office in the Headquarters of the RUC and
18 there was no other person or agencies involved, that is the
19 way it was done, and this would be done on a secure
20 telephone line, a scrambled line.

21 306 Q. Yes. So there was secure lines for this particular
22 purpose, is that right?

23 A. Oh yes.

24 307 Q. But our understanding is there was no secure line in
25 Dundalk in March 1989, isn't that right?

26 A. I wouldn't be a hundred percent sure of that now.

27 308 Q. OK. Were you aware of any RUC intelligence relating to a
28 Detective Sergeant dating from about 1985?

29 A. No, no.

30 309 Q. That was never brought to your attention, was it?

1 A. No.

2 310 Q. If such an allegation -- sorry, if you had knowledge of
3 such an allegation or such an allegation was reported to
4 you, what steps should be taken?

5 A. It would all depend what the allegation was.

6 311 Q. Well, in the sense that a member of the Force was assisting
7 subversives?

8 A. I take a very serious view of it.

9 312 Q. Indeed. And -- but what is the first step?

10 A. Well, you had to find out the name of the -- that the
11 allegation was made against, would be a start, and take it
12 from there.

13 313 Q. Well, in what sense? You would end up -- do you interview
14 the member or do you interview colleagues of the member or?

15 A. Ah, we wouldn't go direct to the -- you would have to do a
16 little bit of fishing around in the area of different
17 people who might know something.

18 314 Q. Do a bit of surveillance --

19 A. And if you got something solid that you could put to a
20 person you would go then, but you wouldn't do that on
21 speculation.

22 315 Q. Might surveillance come into the picture?

23 A. Yes, surveillance would. We had a case in Limerick of a
24 guard who was passing intelligence and we set up a trap for
25 him and he took the bait and we caught him after leaving
26 the telephone kiosk where he was after speaking to somebody
27 in the IRA and he was subsequently charged and dismissed.

28 316 Q. Was this a man who was down in Limerick?

29 A. That's correct, yes.

30 317 Q. Yes. Now, if we could turn to your report. Could you tell

1 the Chairman, please, how did it come about that you were
2 given this particular task?

3 A. Yes, the Commissioner of the day, Mr. Crowley, and he gave
4 me my instructions to inquire into all the circumstances,
5 how this meeting was set up, who knew about it and all
6 that.

7 318 Q. Yes. Now, was that a written instruction or did he speak
8 to you?

9 A. I think it was written. It's a long time ago. My memory
10 is not that -- I am in my 82nd year. My memory is not as
11 good as it used to be.

12 319 Q. Don't worry about that, we will help you along as best as
13 possible. But you do think that you got a written
14 instruction?

15 A. I would think I did, yes.

16 320 Q. Because that would give you an idea of what you were
17 supposed to do, isn't that right?

18 A. Correct, yes.

19 321 Q. Now, going as we can on the dates on which statements were
20 taken, it seems that you were in Dundalk on the 21st and
21 22nd March. The 21st March was the day after the murders
22 and the day of the Government decision and the 22nd March
23 was clearly the day after that?

24 A. Yes, it would be around that time. I wouldn't know the
25 exact date from memory.

26 322 Q. Yes. Again I am going on what I think is a reasonable
27 speculation that the Government decision was taken in the
28 morning and that you received your instructions at some
29 point either late morning or early afternoon and you went
30 up to Dundalk and I think your first interviewee was John

1 Nolan?

2 A. That's correct, the Chief in Dundalk at the time, yes.

3 323 Q. And then you were in Dundalk on the 22nd March?

4 A. Yes, the second day, yes, we were there a second day.

5 324 Q. Now, could you help us with this? Did you stay in Dundalk
6 overnight or did you travel up and down?

7 A. No, I came home.

8 325 Q. So, let's take, for example, the 22nd: what hours do you
9 think you worked on this investigation on the 22nd?

10 A. We worked until late.

11 326 Q. But let's say, for the sake of trying to put some sort of
12 shape on it, did you start at 9 a.m. or did you start
13 earlier than that?

14 A. It could be nine to half nine, yes.

15 327 Q. Very well. We will say nine o'clock. And what time do you
16 think you finished?

17 A. Oh, it was late that first evening. We were back in town
18 about eleven or half eleven.

19 328 Q. So that means you finished around about maybe nine,
20 ten o'clock?

21 A. About ten o'clock, yes.

22 329 Q. Very well. Now, it seems that the bulk of the statements
23 that you took were taken on the 22nd, isn't that right?

24 A. Yes, 22nd, yes.

25 330 Q. Yes. Now, I think on the 23rd you attended the funerals of
26 the two officers?

27 A. That is correct, yes.

28 331 Q. I think yourself and John Nolan went to Belfast?

29 A. I don't know whether the funerals were in Belfast --.

30 332 Q. No, no, sorry, you went to Belfast and then you met up, I

1 think, you had a meeting with the Chief Constable and then
2 you went down, first of all, to Bob Buchanan's funeral?

3 A. I had no meeting with the Chief Constable.

4 333 Q. Very well.

5 A. I think I was at both funerals. Now I am not a hundred
6 percent.

7 334 Q. That is fair enough.

8 A. I was at several funerals, during my time, of RUC officers,
9 yes.

10 335 Q. But our understanding is you may have gone to Bob
11 Buchanan's funeral first and then over to Banbridge to the
12 funeral of Harry Breen?

13 A. That could be, that could be right, yes.

14 336 Q. And you then you went back to Belfast because I think you
15 were being escorted by the RUC on that occasion?

16 A. No, we travelled up and down, we were on the escort most
17 times.

18 337 Q. Very well. Now, one matter I want to refer to is that you
19 mention -- oh, yes, before I get to that. Could you tell
20 us, please, what was the purpose of this investigation and
21 report?

22 A. I had got my instructions from the Commissioner, that were
23 written, it was to investigate the circumstances
24 surrounding this meeting, who arranged it, who attended it,
25 who knew about it.

26 338 Q. I think, by inference, who knew about it means was there a
27 leak?

28 A. Well, that would be -- you could say that, yes.

29 339 Q. And that was part and parcel of your job, to see if there
30 was a leak?

1 A. Well, no, my instructions, it wasn't about a leak. My
2 instructions were as regards the meeting. There was no
3 mention of anything else as regards leaks or moles or...

4 340 Q. But in your report you did cover the question of a leak,
5 isn't that right?

6 A. No -- I did, yeah. I didn't find any evidence --

7 341 Q. OK.

8 A. -- to substantiate the thought that there may have been.

9 342 Q. Now, when John Nolan, you remember John Nolan, he was Chief
10 Superintendent in Dundalk?

11 A. I do, yes.

12 343 Q. When he gave evidence to the Chairman, he was asked: "*I*
13 *think you know full well that the Commissioner's*
14 *investigation had another purpose?*" And his answer was:
15 "*Well, it was to establish, I suppose, if there was a leak*
16 *of information in relation to the holding of a meeting.*"
17 Is he mistaken in that regard?

18 A. I don't know what you are driving at there now.

19 344 Q. No, I am on the question of what was the purpose of the
20 meeting.

21 A. The meeting between John Nolan?

22 345 Q. No, I am sorry, that is my mistake. The purpose of the
23 investigation, my apologies.

24 A. I think I told you about the purpose of the investigation,
25 was the meeting.

26 346 Q. Yes.

27 A. Who arranged it, everything like that.

28 347 Q. And whether or not there was a leak?

29 A. No, there was no question of that in the instructions I
30 got.

1 348 Q. So when John Nolan told the Chairman *"It was to establish,*
2 *I suppose, if there was a leak of information in relation*
3 *to the holding of a meeting,"* he was wrong in that regard,
4 is that right?

5 A. Well, I wouldn't agree with the way you are putting it
6 there.

7 349 Q. So your view is that he is wrong?

8 A. Yes, I think, from recollection now. I am not a hundred
9 percent sure on that. I couldn't...

10 350 Q. Did you discuss with anybody the question of whether there
11 was a leak?

12 A. No, I did not.

13 351 Q. If one of your conclusions was that there was no leak, how
14 could you arrive at that conclusion if you hadn't discussed
15 the matter?

16 A. Because I was thinking at that time of a leak from any
17 person who was at the meeting or who was in the station
18 that day, that is what I was referring to.

19 352 Q. Now, do you remember a Detective Garda called Terry Hynes?

20 A. Yes, I knew Terry Hynes, yes, he was a very active member
21 of the Detective Branch in Dundalk over that period.

22 353 Q. Indeed. He told the Chairman as follows: *"I was*
23 *approached in Dundalk Garda Station by Assistant*
24 *Commissioner Ned O'Dea, whom I knew, and he said and*
25 *informed me that he was making inquiries about information*
26 *leaking out of Dundalk Station regarding the murder of*
27 *these two police officers, and I was interviewed by him and*
28 *made a statement to the best of my knowledge."*

29 A. I don't know if I took a statement from Terry Hynes nor
30 not, I couldn't remember that now.

1 354 Q. He made it quite clear that you were inquiring about
2 whether there was a leak in the station.

3 A. I can't remember speaking to Terry Hynes now at any time in
4 Dundalk.

5 355 Q. The two of you knew each other?

6 A. Oh yeah, I knew Terry Hynes, I had seen him several times
7 in the Special Criminal Court.

8 356 Q. And he was on duty that day?

9 A. You'll have to fill me in on that, I'm not -- I can't
10 remember.

11 357 Q. He told the Chairman he was on duty that day?

12 A. Yes.

13 358 Q. So in all likelihood, he saw you and you saw him?

14 A. It's a possibility, yeah.

15 359 Q. And you had this discussion with him?

16 A. I can't remember it.

17 360 Q. No, you had this discussion with him; do you agree with
18 that or not?

19 A. I can't remember it, to be honest. I am on oath.

20 361 Q. So, can the Chairman take it that Terry Hynes is correct if
21 he remembers it?

22 A. If his memory is better than mine, yes.

23 362 Q. Now, at page 3 of your report, you record what was said by
24 the Provisional IRA on Downtown Radio news on 22nd March
25 1989, and it goes as follows: *"The IRA say that two top*
26 *officers were shot dead after their car came to one of a*
27 *number of checkpoints which the IRA claims they were*
28 *operating on Monday. They also say that the policemen*
29 *acted suspiciously and attempted to drive off and,*
30 *according to the IRA statement, the IRA volunteers feared*

1 *their own lives could be in danger and took what they call*
2 *preventive action to prevent the RUC men's escape. In*
3 *their statement the IRA says that after shooting the police*
4 *officers dead, they searched the vehicles in which the two*
5 *RUC men were travelling from their security talks with*
6 *Garda in Dundalk and they found the confidential documents.*
7 *They say the documents related to cross-border*
8 *collaborations with the security forces but do not give*
9 *any further specific details."*

10
11 Now, you quoted that in your report. Do you know anything
12 about whether any documents --

13 A. No, I don't. I doubt very much if people would be carrying
14 confidential stuff like that on their person.

15 363 Q. Now, at page eleven of your report, if I just pause here
16 for a second.

17
18 Chairman, I don't propose reading the report into the
19 evidence. I would ask that you adopt it as evidence. I
20 merely propose dipping into certain passages which appear
21 relevant to your inquiry.

22
23 CHAIRMAN: Very well.

24
25 364 Q. MR. DILLON: At page 11, you say "*Arrangements can be*
26 *summarised as follows:*

27 *At 10:15 a.m. Chief Superintendent Nolan and Superintendent*
28 *Buchanan agree an appointment for 2 p.m. 11 a.m. Chief*
29 *Superintendent Nolan informed Inspector Murray of the*
30 *proposed meeting. 1:40 p.m. Inspector Murray informed*

1 *Superintendent Tierney of the meeting."*

2

3 Now, "Arrangements can be summarised as follows..." Surely
4 the only arrangement was that Chief Superintendent Nolan
5 and Superintendent Buchanan agreed the appointment. Who
6 knew about it as a separate matter, isn't it?

7 A. That would be the way it was arranged, yes, arranged on
8 telephone.

9 365 Q. That's right. It wasn't arranged by Superintendent Nolan
10 speaking to Inspector Murray, nor was it arranged by
11 Inspector Murray speaking to Superintendent Tierney?

12 A. I would have expected that Chief Superintendent Nolan would
13 speak to either Chief Superintendent Breen or
14 Superintendent Bob Buchanan.

15 366 Q. Yes. But that has nothing to do with the arrangement
16 because the arrangement was made between Nolan and
17 Buchanan, isn't that right?

18 A. Yes, that is the way I would expect it to be made.

19 367 Q. So the purpose of putting those two names in, that of Chief
20 Superintendent Nolan and Inspector Murray, is to establish
21 who knew about the meeting?

22 A. Well, maybe John Nolan told -- I think he was Inspector at
23 the time.

24 368 Q. Yes. Now, since you are trying to establish who knew about
25 the meeting, did you take any account of what Vincent Rowan
26 told you?

27 A. Vincent Rowan was in the Chief's office.

28 369 Q. Yes.

29 A. And he would take telephone calls if the Chief wasn't
30 there. But I cannot remember what he might have told me.

1 370 Q. Now, what Vincent Rowan said to you on 21st March 1989,
2 it's statement number 10, if you can find that, is
3 as follows: I think you are aware what he did, he brought
4 refreshments into the office when the two officers were
5 there?

6 A. Yes, that would be the usual procedure.

7 371 Q. Yes. And he said to you that when he was there "*I spoke to*
8 *Superintendent Buchanan and I wished him well on his*
9 *appointment. Someone had mentioned his transfer to me that*
10 *morning in the station.*"

11 A. That is news to me.

12 372 Q. That is what he told you. It's in his statement to you.

13 A. OK, if you have it there in writing.

14 373 Q. Yes.

15 A. It's a long time ago. Do you think I can remember what I
16 did 30 years ago? It's an impossible task. If you say
17 it's in a statement there that I took at that time, it must
18 be right.

19 374 Q. It is right, yes.

20 A. Yes.

21 375 Q. Now...

22 A. But I can not remember the details of it.

23 376 Q. That is fine. What I'm coming back to, though, is that you
24 sought to set out who knew that these two officers were
25 coming?

26 A. Yes.

27 377 Q. And you had John Nolan, Pat Tierney and Frank Murray?

28 A. Yeah.

29 378 Q. And in fact there was another one, at least another two,
30 because there was Vincent Rowan who was aware of the

1 transfer?

2 A. Mm-hmm, yes.

3 379 Q. Which means that somebody told Vincent Rowan that he was
4 coming down?

5 A. I don't know how he got know it but people talk, you know.

6 380 Q. That is the whole point. Your job was to establish who
7 knew that these people were coming down.

8 A. I did establish who was there at the time; who knew.

9 381 Q. I am sorry to have to come back to this but you left out
10 Vincent Rowan?

11 A. OK, if you say so.

12 382 Q. It's an important matter because it means that he and
13 somebody else knew. Now, we took Vincent Rowan through
14 this when he was giving his evidence to the Chairman and he
15 thought it might have been George Flynn, but George Flynn
16 is quite clear that he did not know about the transfer, he
17 thought it might have been John Nolan but John Nolan gave
18 no evidence that he had mentioned the transfer to Vincent
19 Rowan. He, again, thought it might have been Pat Tierney,
20 and again the same situation applied which left us with
21 deceased Frank Murray, but he says he was simply told the
22 two were coming down and nothing about a transfer, so there
23 does seem to have been somebody else in the station there
24 who knew that the two officers were coming down.

25

26 MR. DURACK: I am sorry, Sir, it's been said that it's
27 Mr. Murray's evidence, but since Mr. Murray has never been
28 questioned on the issue, being deceased.

29

30 MR. DILLON: Mr. Murray's evidence was put in and accepted

1 by all parties.

2

3 MR. MacGUILL: Chairman, from the point of view of
4 Mr. Hickey, we accepted the rather unusual procedure
5 whereby statements of deceased members are taken in by the
6 Tribunal but never and could never conceivably have been on
7 the basis that the contents were accepted as being true,
8 being uncross-examinable.

9

10 But I was going to make a suggestion which I think is a
11 constructive suggestion and will be in ease of time,
12 because certainly when we come to ask Assistant
13 Commissioner O'Dea some questions, we would like him to
14 have the benefit of his own report, and it certainly would
15 appear, to say the least of it, a little unfair to this
16 witness that he is being cross-examined without a report
17 that has been in the possession of the Tribunal since 2006
18 and in respect of which there is serious criticism to be
19 made about the failure to disclose content of that report
20 to affected parties from the time it came into the
21 Tribunal's possession. So I think the witness should have
22 the report at this stage.

23

24 MR. DILLON: Chairman, to be quite clear on the matter --
25 it would have been useful if it had been raised beforehand
26 -- Mr. O'Dea was given a copy of his report. He was told
27 he could bring it in with him. He chose not to bring it in
28 with him. So, that is his choice. If he wishes a copy of
29 the report now, the copy that he left outside will be
30 fetched for him.

1

2

CHAIRMAN: Do you want it now, Mr. O'Dea?

3

A. No, I have a copy here.

4

5

CHAIRMAN: You have a copy there, good. Well if you want

6

to refer to that report, please do.

7

A. What page are you on?

8

9

MR. DILLON: I am looking at statement number 10 of

10

Sergeant Vincent Rowan.

11

A. Yes, I have it now.

12

383 Q. Now, about halfway down, you see he said: *"I knew both*

13

Chief Superintendent Breen and Superintendent Buchanan as I

14

met him at cross-border meetings where I acted as a

15

notetaker. I spoke to Superintendent Buchanan and I wished

16

him well on his new appointment. Someone mentioned his

17

transfer to me that morning in the station but I can't

18

recall who it was, it may have been Garda George Flynn who

19

works in the office with me."

20

Do you see that?

21

A. Yes.

22

384 Q. What I was explaining to you is that we have established

23

that Garda George Flynn did not tell him.

24

A. Mm-hmm.

25

385 Q. There is no evidence that either John Nolan or Pat Tierney

26

told him. And the evidence of John Nolan is that he simply

27

told Frank Murray that the two officers were coming, not

28

that Buchanan was being transferred. All right?

29

A. Yes.

30

386 Q. So it follows, does it not, that Vincent Rowan was aware --

1 A. Vincent Rowan, being the divisional clerk, would know
2 everything that was happening in that division. He would
3 be the Chief Superintendent's right-hand man.

4 387 Q. But he just explained to both you indeed, and to the
5 Chairman, that George Flynn knew nothing about it?

6

7 MR. DURACK: Sorry, Sir, are we not confusing two things
8 here? One is the question of the transfer, and that is
9 what Mr. Rowan said he knew about that morning.

10

11 CHAIRMAN: Yes.

12

13 MR. DURACK: And where he knew that from doesn't really
14 matter. He knows that he only discovers both the
15 Superintendent and the Chief Superintendent when they
16 arrive at the station.

17

18 CHAIRMAN: Yes.

19

20 MR. DURACK: Now it's two separate things.

21

22 MR. DILLON: Does the Chief State Solicitor's office have
23 instructions to intervene on behalf of this witness?

24

25 MR. DURACK: Yes, of course I do.

26

27 MR. DILLON: I understood the Chief State Solicitor's
28 Office was acting for the Garda Commissioner.

29

30 MR. DURACK: And for retired and current members where

1 requested.

2

3 MR. DILLON: That has never been specified, Judge.

4 However, we will motor on.

5

6 CHAIRMAN: I think you should move on, yes. I think the
7 point that you are making, Mr. Dillon, is it not, that
8 if somebody had knowledge of the transfer and there is no,
9 there is no indication of where that knowledge came from,
10 it may indicate that somebody else had knowledge of the
11 meeting as well as those who said they had knowledge.

12

13 MR. DILLON: Yes, precisely.

14 388 Q. So it does seem that there were a number of people, in
15 addition to those nominated in your report, who were aware
16 of Bob Buchanan coming to the station, because coming to
17 the station and his transfer were two bits of the one
18 message?

19 A. And, as I said, Vincent Rowan would be aware of everything.
20 He was the Chief's right-hand man and he would see all
21 correspondence, he would take most of the telephone calls,
22 he would be very well-informed of what was happening in the
23 division.

24 389 Q. But this is the difficulty. He cannot recall who it was;
25 that is what he said to you?

26 A. That is what he said, yes.

27 390 Q. Now, this was a statement you took on two days following
28 the day which you saw them?

29 A. Yes.

30 391 Q. You didn't press him to try to recall who it was, did you?

1 A. I don't think so.

2 392 Q. It wasn't important to know, since you were trying to
3 establish who knew the two officers were coming down?

4 A. I think I got a list of the people from John Nolan, I am
5 not certain on that now, but those were the people I went
6 to and interviewed. I didn't interview them all.
7 Detective Inspector Kevin Carty, whoever was ready for
8 interview, he took one and I would take the next one
9 coming, whoever was ready.

10 393 Q. We have no difficulty with that. It's that when he said
11 you couldn't recall who had mentioned the transfer you
12 didn't press him on the point. It was important to know,
13 wasn't it, at that time?

14 A. I couldn't see what was important about who was being
15 transferred.

16 394 Q. Well, you were trying to establish who knew that the two
17 officers were coming down?

18 A. Yeah.

19 395 Q. Now, if we could turn to page 11 of your report -- sorry
20 before that, another matter I wish to mention to you. Yes,
21 page 11 of your report. Your conclusion there: *"Prior to*
22 *2 p.m. on that date, no other member of the Gardaí at*
23 *Dundalk was aware of the proposed meeting."* Do you see
24 that?

25 A. I do, yes.

26 396 Q. With respect, it doesn't seem that in light of what we have
27 just gone through, that doesn't seem to be altogether
28 correct, do you agree with that?

29 A. Well, if you say that Vincent Rowan didn't know, I am
30 surprised. I am surprised that any divisional clerk, that

1 his Chief Superintendent wouldn't inform him of anything
2 like that, a meeting coming up and who would be coming, I
3 would be very surprised.

4 397 Q. John Nolan is quite clear that he mentioned it only to
5 Frank Murray?

6 A. I can't speak for Chief Superintendent Nolan.

7 398 Q. But I think your surprise is perhaps answered by the fact
8 that the evidence the Chairman has is that John Nolan told
9 only Frank Murray?

10 A. Well, that is what he said, yeah. But I am surprised that
11 Vincent Rowan wasn't aware of it, that is all I am saying.

12 399 Q. Wasn't aware of what?

13 A. Of the meeting.

14 400 Q. But he was. He was aware that the two officers were coming
15 down because he was aware of the transfer.

16 A. What are you getting at then?

17 401 Q. Who -- somebody told him about Bob Buchanan's transfer, he
18 can't remember who it was?

19 A. Neither can I.

20 402 Q. And you didn't press him on the point?

21 A. I did not.

22 403 Q. Was it not important to press him on the point so as to
23 establish who knew these two officers were coming?

24 A. The list I got was from John Nolan and I took that at face
25 value, that he knew who the people were who knew about the
26 meeting.

27 404 Q. Yes.

28 A. And I worked on that.

29 405 Q. We've no quarrel with that. My question goes to the
30 substance of your interview with Vincent Rowan.

1 A. I can't add anything further to that.

2 406 Q. All right. Now, your next paragraph -- as I say, "*Prior to*
3 *2 p.m. on that date no other member of the Gardai in*
4 *Dundalk was aware of the proposed meeting.*" Prior to
5 2 p.m. on that date. So that refers to all the officers
6 who had come on duty prior to 2 p.m., isn't that right?

7 A. Yes, very few of the ordinary guards or Detective Branch
8 would be aware of that meeting taking place.

9 407 Q. No --

10 A. They wouldn't be about to say "we have having a meeting.
11 Who is coming?" These things were arranged over a secure
12 line between Dublin and Headquarters in Belfast or between
13 John Nolan and his opposite number, whoever it was, whether
14 Mr. Breen was his opposite number or not, I do not know.

15 408 Q. On the question of secure line, we know there was no secure
16 line between the two officers who made this appointment,
17 that is the first point. The point I am getting at is that
18 you say that "*prior to 2 p.m. on that date no other member*
19 *was aware of the proposed meeting.*" Did you interview
20 people who were on duty up to 2 p.m.?

21 A. I cannot say -- I can't remember now, to be honest.

22 409 Q. Well in fairness to you, you did --

23 A. I interviewed everybody that was on the list that Chief
24 Superintendent Nolan gave me and I took that for real.

25 410 Q. I am not quarrelling --

26 A. I can't go further than that.

27 411 Q. I don't dispute that. I accept what you say. But I am
28 looking at your conclusion here which is that "*prior to*
29 *2 p.m. no other member of the Gardaí in Dundalk were aware*
30 *of the proposed meeting.*" To write that conclusion it

1 seems to me you need to interview those who were on duty
2 prior to 2 p.m. to find out if they did know about it?

3 A. Very few would know it. Like, a thing like that, you don't
4 broadcast it.

5 412 Q. Your job was to investigate circumstances and arrangements
6 and you were asked for a comprehensive report, isn't that
7 right?

8 A. Yeah, well I did a comprehensive report. I sent it to the
9 Commissioner. It didn't come back to me. He sent it to
10 the Department of Justice and it didn't come back, so as
11 far as I was concerned that is what I did.

12 413 Q. Moving on to page 14, you have the conclusion: *"The*
13 *following members also saw the RUC officers as they made*
14 *their way from the public office to the Chief*
15 *Superintendent's office..."* You refer to Frank Murray,
16 Garda David Sheridan, D/Garda Thomas Molloy, and Bean
17 Garda, as they were then known, Anne McMurrow. Now, you
18 took a statement from John Nolan, isn't that right?

19 A. Yes.

20 414 Q. And I am just going to ask Mr. Mills -- do you have those
21 statements there? Do you have that, the manuscript -- do
22 you have this folder that I gave you?

23 A. I haven't that -- is that the handwritten one, is it?

24 415 Q. Yes.

25 A. No, I haven't got that.

26 416 Q. Do you have the folder -- do you have the folder that you
27 were given before you came in here?

28 A. I have the copy of my report here.

29 417 Q. Ms. Cummins, would you mind giving it to the witness,
30 please?

1

2

MS. CUMMINS: I don't have the folder. I gave --

3

4

MR. DILLON: My solicitor told me that you had it, my

5

apologies. I am very sorry, my apologies, I misunderstood.

6

7

Bear with us a second because I would like you to identify

8

your handwriting -- I'm sorry about this. There was a

9

folder that we gave you when you came in and you had a look

10

at it in the room down -- remember you were in the

11

consultation room?

12

A. Yes, I didn't get a chance to --

13

418 Q. Don't worry about that. My apologies, Ms. Cummins, I

14

misunderstood what my solicitor said. Would you mind

15

handing --

16

(Folder handed to the witness.)

17

That is your handwriting, is it?

18

A. It is, yes.

19

419 Q. Very well. Now, could you go to page 3? And do you see

20

down at the middle, there is a number of lines that have

21

been crossed out?

22

A. I see that, yes.

23

420 Q. And what is crossed out is: *"Garda Seamus Nolan, Dundalk,*

24

came to my office and said that there were two gentlemen to

25

see me and he showed them in."

26

A. Mm-hmm.

27

421 Q. Those lines were crossed out?

28

A. Yes.

29

422 Q. Can you tell us about that?

30

1 MR. DURACK: I don't have a copy of this. It's not even
2 going up on the screen. I don't know how we can deal with
3 it.

4

5 MR. DILLON: It's from the guards' own papers. We are
6 trying to sort this out.

7

8 MR. DURACK: So am I and I am attempting to make this
9 operate in a reasonable and fair manner and the witness
10 should be able to see the written document and equally the
11 rest of us have to be able to see it.

12

13 CHAIRMAN: The witness has it.

14

15 MR. DURACK: I know, but the rest of us have to be able to
16 see it. It should be up on the screen for everybody.

17

18 MR. DILLON: Mr. Mills, if you go to page 3 of the
19 document.

20 423 Q. Now, you see there the sentence that was crossed out?

21 A. I do, yes.

22 424 Q. How did that come about?

23 A. I cannot -- to be honest, it's the first time I have seen
24 this in a long, long time.

25 425 Q. You see --

26 A. Maybe Chief Superintendent Nolan didn't want it in or he
27 may have been mistaken, I don't know.

28 426 Q. Well now, I can tell you what the Chief Superintendent said
29 to you.

30 A. Yes.

1 427 Q. The question was: "You see there is a sentence that has
2 been crossed out?

3 Answer: Yes.

4 Question: There seems to be the following: 'Garda Seamus
5 Nolan, Dundalk, came to my office and said there were two
6 gentlemen to see me and he showed them in'.

7 Answer: Yes.

8 Question: Is that correct?

9 Answer: Correct.

10 Question: Why was it crossed out?

11 Answer: It can only -- it must only be because there some
12 uncertainty on my part whether it was Seamus Nolan or not,
13 but as it happened when I said it I was correct but I may
14 have had some doubt.

15 Question: Why not simply say a guard.

16 Answer: Well maybe Mr. O'Dea must have felt it was he that
17 crossed it out.

18 Question: Well if you are not sure..."

19 Question: Did he cross it out in your presence?

20 Answer: Yes, he did."

21

22 Then on the next page, page 51, Question 324:

23 "Answer: I may have created" -- this is John O'Dea [sic]
24 speaking -- "I may have created a doubt in Mr. O'Dea's mind
25 as to whether it was Seamus Nolan or not and he may well
26 have said 'well, if our not sure, we won't put it in'."

27

28 I can tell you that the evidence -- sorry, that the
29 Chairman has evidence from Seamus Nolan that he undoubtedly
30 did meet the two officers on the stairs of the station and

1 bring them up to John Nolan's office?

2 A. Well, John Nolan must have been mistaken then.

3 428 Q. Yes. But what he says is that if -- what he says is that
4 you said to him that if there is any doubt about who it is,
5 let's leave it out?

6 A. I could have, yes.

7 429 Q. Now, again, aren't you trying to establish who knew the two
8 officers were in the station?

9 A. But if he wasn't sure who it was.

10 430 Q. But he was sure there was somebody.

11 A. Then somebody must have shown him up, I don't know who.

12 431 Q. He was certain there was somebody.

13 A. Yes.

14 432 Q. So wasn't it important to work out who that person was
15 because this was somebody who had seen the two officers in
16 the station?

17 A. I can't recall a whole lot about that now, to be honest.
18 This is the first time I have seen this in a long, long
19 time.

20 433 Q. Now, you took a statement from a Garda Val Smith, that is
21 number 15 in the book. You see it there: Statement of
22 Garda Val Smith?

23 A. I do, yes.

24 434 Q. And he says that, after the first sentence: *"Immediately*
25 *after 2 p.m. I went to Chief Superintendent's Nolan's*
26 *office in connection with the recruit training. About*
27 *eight or nine minutes past two I left the Chief*
28 *Superintendent's office and returned to the Public Office.*
29 *At approximately 2:15 p.m. I joined up with Garda McKeown*
30 *and we left the station on mobile patrol. As I was leaving*

1 the Chief Superintendent's office he asked me to leave the
2 door open as he was expecting two men from the North."

3 Do you see that?

4 A. I do, yes.

5 435 Q. Now, what he told the Chairman was as follows: He was
6 asked, "Do you remember seeing two officers being brought
7 in?" He said, "I met two gentlemen at the door when I was
8 walking out.

9 Question: Was there anyone with them?

10 Answer: From my memory I thought there was someone with
11 them." And he thought it was Vincent Rowan but he was
12 mistaken in that regard, it was Seamus Nolan.

13 So here is somebody else who saw the two officers, isn't
14 that right?

15

16 MR. DURACK: Sorry, I am somewhat confused at the way this
17 is being dealt with. This witness wrote a report 20 odd
18 years ago. He appended to the report all of the statements
19 of all of the witnesses that he interviewed, and all of
20 this information is contained in those statements. And yet
21 I don't see what Mr. Dillon is attempting to drag out of
22 it. We have, for instance, it's already confirmed in the
23 statement of Seamus Nolan that he, in fact, had dealt with
24 Chief Superintendent Nolan. They are all contained in the
25 report.

26

27 CHAIRMAN: But I think Mr. Dillon is trying to probe
28 whether the statements are absolutely accurate and to
29 explain any inconsistencies.

30

1 MR. DILLON: So it seems that Garda Val Smith saw the two
2 men, from what he told the Chairman?

3 A. Mm-hmm.

4 436 Q. So, on page 14, it seems that *"the following members also*
5 *saw the RUC officers as they made their way from the public*
6 *office to the Chief Superintendent's office: Inspector*
7 *Frank Murray, Garda David Sheridan, D/Garda Thomas Molloy,*
8 *Bean Garda Anne McMurrow,"* to that should be added Seamus
9 Nolan and Val Smith, isn't that right?

10 A. Where are you reading from now?

11 437 Q. Page 14 of your report, my apologies.

12 A. I have it now, yes.

13 438 Q. So it seems to that list, the paragraph at the top of the
14 page, should be added the names of Seamus Nolan and Val
15 Smith, isn't that right?

16 A. If you say so.

17 439 Q. Now, if you go to page 26 of your report.

18 A. Yes.

19 440 Q. If you have it there, the last paragraph: *"I am satisfied*
20 *from the investigations I have carried out that no member*
21 *of An Garda Siochana leaked or passed on any information*
22 *concerning the visit of the two RUC officers to Dundalk on*
23 *20 March 1989 to any person outside the Force."*

24

25 Now, first of all, I take it you mean no member of An Garda
26 Siochana in Dundalk Station?

27 A. That's correct, yes.

28 441 Q. Now, a number of matters arise out of that conclusion.

29 First of all, one of the purposes of your investigation was
30 to see whether there was a leak?

1 A. It wasn't mentioned in my instructions. My instructions
2 were all about the meeting.

3 442 Q. Why did you put this into your report then?

4 A. Because I was satisfied, from my investigation, what I did
5 on that day.

6 443 Q. Now you say that no member of the Force in Dundalk Station
7 passed on information. Surely, to draw that conclusion,
8 you'd need to interview everybody who was on duty that day?

9 A. You could be interviewing for years, you might get the same
10 answers. This was done in three days, this report. You
11 are going through it now for the past years or months
12 picking out little pieces. I cannot put those any further.
13 It's a long time ago and I told you what age I was.

14 444 Q. So this was an investigation conducted in three days.

15 A. It was three days, three to four days.

16 445 Q. What was the rush?

17 A. There was no rush. That is how long it took us to do it.
18 It was a busy time. We had a lot of things to do.

19 446 Q. And you wanted this to get this out of the way, is that
20 right?

21 A. It was a job I got do and I did it to the best of my
22 ability, and I sent it to my Commissioner, the late
23 Mr. Crowley, and he didn't send it back, and he was a
24 stickler for detail, and he sent it to the Department of
25 Justice and I heard no more about it until this Tribunal
26 was set up.

27 447 Q. Now, could you go to the statements of Thomas Brady and Leo
28 Colton; they are statements number 12 and 13?

29 A. Yes.

30 448 Q. Now, he says "*I am attached to Dundalk Garda Station. On*

1 Monday 20 March 1989 I was employed Acting Sergeant in
2 charge of the station. At 2 p.m., accompanied by Sergeant
3 Leo Colton, I briefed Unit A prior to they going on duty.
4 I detailed Garda Seamus Nolan as station orderly and Garda
5 David Sheridan for duty in the Radio Room, also Garda Anne
6 McMorrow for the radio room. I detailed John McKeown for
7 town duty with Garda Val Smith. I detailed Matthew
8 O'Reilly and Garda John Daly for mobile patrol on town."

9
10 Now, if you go to the next page, which is the statement of
11 Mr. Colton, Leo Colton, Sergeant as he then was, and then
12 the third line he says: "*Accompanied by Sergeant Brady, I*
13 *detailed the Gardaí for duty. I detailed Garda Seamus*
14 *Nolan for duty as station orderly, Garda David Sheridan and*
15 *Bean Garda Anne McMorrow for duty in the radio room, Garda*
16 *John McKeown and Garda Val Smith for mobile town duty,*
17 *Garda Matthew O'Reilly and Garda Joe Daly for town mobile*
18 *patrol.*"

19
20 Now, you have the two sergeants doing exactly the same job
21 in those two statements?

22 A. That can happen. If they were parading a unit, both of
23 them would be there and I couldn't say what each did, but
24 those are their statements.

25 449 Q. Well now, this was put to, in particular -- well, it was
26 put, first of all, to Tom Brady and he said, flatly, it was
27 he who paraded the unit. And it was put also to Leo
28 Colton, and after a while he said "*Well, if Sergeant Brady*
29 *read out the detail, I read out the rest of the stuff.*

30 Question: What?

1 *Answer: The stolen cars and incidents that happened in the*
2 *previous 24 hours, things like that.*

3 *Question: Why didn't you say that to the Assistant*
4 *Commissioner?*

5 *Answer: It was just as handy to say I briefed.*

6 *Question: Would it not have been a more correct reflection*
7 *if you had have said to the Assistant Commissioner that*
8 *while or following Tom Brady's detailing of the unit, I*
9 *then told them of the events in the previous 24 hours? To*
10 *which he replied "possibly."*

11

12 Well now, wouldn't a little bit more questioning of
13 Sergeant Colton have produced a clearer impression of what
14 was going on in the station?

15 A. It might have, but the two sergeants were there in a small
16 office detailing a unit and one could do one thing and the
17 other the other, and they have said what -- they have
18 outlined what they did. I see nothing wrong with that.

19 450 Q. So nothing struck you as curious that the two of them were
20 doing exactly the same job?

21 A. No.

22 451 Q. Now, when it came to interviewing the members it seems, by
23 and large, your interviews followed a pattern, which was to
24 ask them to identify themselves, ask them what they were
25 doing on the day?

26 A. Mm-hmm.

27 452 Q. And whether or not they saw the two RUC officers or were
28 aware of their visit, isn't that right?

29 A. Mm-hmm.

30 453 Q. They are the main points you touched on with the

1 interviews, isn't that correct?

2 A. That's correct, yes.

3 454 Q. And I think, by and large, the members assisted you in that
4 regard; they gave you detail of what they did, isn't that
5 right?

6 A. Yes, they were all very straightforward.

7 455 Q. To take an example here, statement number 20, Detective
8 Garda James Greene: *"I left the station in the company of*
9 *D/Garda Joe Flanagan at 7:30. I went to Blackrock. We*
10 *returned to Dundalk Garda Station at 9 a.m. I remained in*
11 *the station for a few minutes and then left again to attend*
12 *a burglary with D/Garda Flanagan ..."* and so on and so
13 forth. If you look to the statement of D/Garda Flanagan,
14 you will find that he confirms what D/Garda James Greene
15 said.

16
17 If you go to statement number 18, statement of Detective
18 Sergeant Owen Corrigan: *"I am a Detective Sergeant of the*
19 *Garda Siochana attached to Dundalk Station. On Monday 20*
20 *March 1989, I took up duty at Dundalk Garda Station at*
21 *8 a.m. I terminated duty at 4 p.m. on that date. During*
22 *my tour of duty I attended to duties in the Detective*
23 *Branch office and some outdoor duty. I availed of a meal*
24 *break from 12:45 p.m. to 1:30 p.m. In the course of the day*
25 *I did not see any members of the RUC in Dundalk Garda*
26 *Station. I was not aware of any meeting that was arranged*
27 *between Chief Superintendent John Nolan and members of the*
28 *RUC at Dundalk Station on that day. This statement is*
29 *correct..."* And that statement was taken by your
30 colleague, Detective Inspector Kevin Carty, isn't that

1 right?

2 A. That's correct.

3 456 Q. But you include it in your report to your Commissioner,
4 isn't that right?

5 A. Correct.

6 457 Q. It's a bit short on detail, isn't it?

7 A. Well, it's short and to the point.

8 458 Q. Yes. Whereas others told you what they were doing so that
9 you could confirm that if you wished to. Do you have any
10 way of confirming what Detective Sergeant Corrigan may or
11 may not have been doing that day?

12 A. No, it was Kevin Carty that interviewed him.

13 459 Q. Yes, but he then submitted the statement to you. It's your
14 report, isn't it?

15 A. It is, yes.

16 460 Q. So did you not ask Detective Inspector Carty, or indeed
17 yourself, did you not go back to seek some clarification?

18 A. No, I did not.

19 461 Q. Do you know -- something which John Nolan mentioned, did
20 you ask Kevin Carty to go back to Dundalk Station at a
21 later date to take further statements, including one from
22 him?

23 A. No.

24 462 Q. John Nolan gave that evidence to the Chairman?

25 A. He must be mistaken.

26 463 Q. Very well. Now, in the context of coming to a conclusion
27 whether there was any leak, did you carry out any
28 assessment of how the killings were carried out by the IRA?

29 A. Well, my personal opinion and my experience with the IRA,
30 the late Superintendent Buchanan coming to the station in

1 his own car, several times, same number plates, going and
2 coming the same way, he was really setting himself up. I
3 wouldn't have dreamt of doing that. Any time I travelled
4 north it was a different car, different plates. So I think
5 if they were taking proper precautions, they didn't need
6 anybody in Dundalk to tell them that he was there, they
7 would know that themselves from all their own intelligence
8 officers. You had a lot of Provos in south Armagh and a
9 lot came to live in Dundalk at that particular period, and
10 it was a difficult task for anybody in the Detective Branch
11 working in Dundalk at that time, they'd be abused, even
12 their families in supermarket would be abused, and it was
13 difficult. And you are honing in now on Detective Sergeant
14 Corrigan. Detective Sergeant Corrigan was a brave officer
15 in Dundalk, took a lot of action against the Provisional
16 IRA, and there is no way I would believe that he would tip
17 off the IRA. He put in a lot of intelligence, both about
18 committees in the north, different groups in the north, and
19 about the Provisional IRA. So I would have no doubt in my
20 mind as to his loyalty to the Force.

21 464 Q. Yes, my question wasn't directed at that. My question was
22 directed at the lack of information that you received from
23 Owen Corrigan.

24 A. I didn't interview the Sergeant, Sergeant Corrigan. It was
25 Kevin Carty interviewed him.

26 465 Q. That's right, and you incorporate it in your report?

27
28 CHAIRMAN: Were you happy that Mr. Carty had asked the
29 necessary questions of him?

30 A. I was, because he was -- Carty was an experienced

1 investigator.

2

3 CHAIRMAN: Yes.

4

5 466 Q. MR. DILLON: Did you liaise at all with either Tom Curran
6 or Pat Tierney when conducting your investigation?

7 A. No, I had no contact whatsoever with Tom Curran.

8 467 Q. I am very sorry I did say Tom Curran, I met Tom Connolly,
9 my apologies.

10 A. Oh I knew Tom Connolly over the years, yes.

11 468 Q. Did you liaise with him in relation to the investigation
12 that he was carrying out?

13 A. That was of a disciplinary nature.

14 469 Q. No, no, he conducted a forensic investigation following the
15 murders; that is the one I am referring to, my apologies?

16 A. No, I am not aware of that.

17 470 Q. Did you make any contact with the RUC to see what
18 information they could give you about the making of
19 arrangements?

20 A. I had very regular contact with the RUC, with Assistant
21 Chief Constable Brian Fitzsimons and Chief Superintendent
22 Jimmy McClure on a regular basis personally when they
23 visited Garda Headquarters and when I went to Knock Road
24 and there was never a mention of any leaks to the PIRA from
25 Dundalk.

26 471 Q. My question, though, was: did you go and talk to the RUC
27 about your investigation?

28 A. I presume I mentioned to the two officers I had mentioned.
29 I couldn't be a hundred percent sure of that now.

30 472 Q. If you had a discussion with the RUC, was that over the

1 telephone, was it person-to-person?

2 A. Person-to-person mostly. Secure telephone line other
3 times.

4 473 Q. Very well. But I am now asking you to focus on this
5 particular investigation that you carried out. Did you
6 liaise with the RUC when you prepared your report?

7 A. I don't think I did.

8 474 Q. You see, the RUC might have told you the following, which
9 has been put in evidence; it's their records:

10 *"At approximately 9:30 a.m. Chief Superintendent Breen*
11 *contacted Dundalk Garda Station by telephone to arrange a*
12 *meeting with Chief Superintendent Nolan."*

13 Straightaway you can see a difference there, can't you,
14 because what you were told in Dundalk Station was that it
15 was Bob Buchanan who telephoned George Flynn?

16 A. Mm-hmm, but somebody was mistaken there.

17 475 Q. Well either what you heard is correct or what the RUC have
18 is correct? You can't both be correct, isn't that right?

19 A. Well I don't know, it's...

20 476 Q. You have the booklet there, it's tab 16.

21

22 MR. DURACK: I wonder could Mr. Dillon identify what he is
23 reading from?

24

25 MR. DILLON: It should be put on the screen. It's just the
26 transcript of the 21st June.

27 A. Where are we now?

28 477 Q. Now, do you have tab 16 there?

29 A. At page 16?

30 478 Q. Tab 16 of the booklet, not your report. The other booklet.

1 (Handed to the witness.)

2 A. Yes.

3 479 Q. Have you got tab 16 there?

4

5 MR. DURACK: Again, for the record, could it be identified?

6

7 MR. DILLON: I have just done that.

8

9 MR. DURACK: You didn't.

10

11 MR. DILLON: I did. I said it was the transcript of the
12 21st June 2011.

13

14 MR. DURACK: Page?

15

16 MR. DILLON: Page 27.

17 480 Q. Do you have it there?

18 A. I have, yes.

19 481 Q. Do you see the italics, the text in italics?

20 A. Yes.

21 482 Q. *"At approximately 9:30 a.m. Chief Superintendent Breen*
22 *contacted Dundalk Garda Station by telephone to arrange a*
23 *meeting with Chief Superintendent Nolan."*

24 That is what is set out in the RUC record?

25 A. Mm-hmm.

26 483 Q. You can see already that there is a difference between what
27 you were informed in Dundalk and what the RUC record
28 states, isn't that right, because what you were told is
29 that 9:30 it was Bob Buchanan who made a phone call taken
30 by George Flynn?

1 A. Mm-hmm. But whether Headquarters in Knock Road would be
2 aware of telephone calls that Bob Buchanan made, I doubt it
3 very much.

4 484 Q. That is not quite the point. What I am pointing out to you
5 is that the RUC record of what happened that morning, the
6 beginning of the sequence of the events that culminated in
7 the deaths of the two officers, their record is different
8 to the information that you received?

9 A. Mm-hmm.

10 485 Q. And it can't be the case that you are both right, isn't
11 that so?

12 A. Both can't be right.

13 486 Q. Yes.

14

15 MR. DURACK: Again this document, it was read into the
16 record. Nobody has been cross-examined on it or no theory
17 has been put to anybody. It was a document headed "HMG
18 50", apparently, and there are selected portions of it read
19 out and, as I say, it's not been subject to
20 cross-examination by anybody.

21

22 MR. DILLON: That is quite correct.

23

24 MR. DURACK: Therefore, there is no presumption that it is
25 correct.

26

27 MR. DILLON: Now, the reason I am putting this to you is
28 that it seems that had you contacted the RUC, you might
29 have received a different version of events?

30 A. That is a possibility, yes.

1 487 Q. And wouldn't it have been useful to have contacted the RUC?

2 A. I think we had plenty from all the people in Dundalk that
3 particular day. This is not signed by anybody.

4 488 Q. Oh no, I am just telling you that is the information that
5 we have received.

6 A. From who? Like, who is this from?

7 489 Q. From the RUC.

8 A. Who in the RUC?

9 490 Q. Well the information was given to us by a retired Detective
10 Superintendent called McConville?

11 A. Never met him.

12 491 Q. No, I appreciate that it's unlikely that you would have met
13 him. Now, moving on now -- yes, on this question -- we
14 know, in any event, that the meeting was established by
15 telephone calls, isn't that right?

16 A. That's correct.

17 492 Q. Did you look -- did you seek access to any telephone
18 records of the station?

19 A. No.

20 493 Q. Is there any reason not to?

21 A. Well, from my own service I know that all telephone calls
22 would not be listed or a record kept.

23 494 Q. But couldn't you ask the telephone company for records?

24 A. I suppose you could, yes.

25 495 Q. Mm-hmm. Were you aware that Superintendent Curran, in
26 Monaghan, six months prior to the murders of Breen and
27 Buchanan, sent in an intelligence report warning of a
28 direct threat to the life of Bob Buchanan?

29 A. I am not aware of that. I didn't see that.

30 496 Q. Now, do you remember Tom Connolly?

1 A. Oh, I know Tom Connolly, yeah.

2 497 Q. A colleague of yours, isn't that right?

3 A. Yes, he is an ex Detective Superintendent, I think.

4 498 Q. He was a good Superintendent, wasn't he; he did his job
5 well?

6 A. Oh he was a good investigator, yes.

7 499 Q. Now, he told the Chairman of unease in Garda Headquarters
8 about an individual in Dundalk Station. Were you aware of
9 that unease?

10 A. That is the first I heard of it, hearing it now.

11 500 Q. Were you aware that Superintendent Curran approached Eugene
12 Crowley when he was in Crime and Security, before he became
13 Commissioner, to pass on a message from Bob Buchanan that
14 there was a desire to see a particular member in Dundalk
15 Station transferred out of Dundalk?

16 A. No, I never heard of that.

17 501 Q. Now, if you just go to the last couple of tabs, you see
18 those tabs there? They are press reports.

19 A. Mm-hmm.

20 502 Q. Now, the first is dated -- the date is not there, but I
21 will tell you it's 22nd March 1989, and you see "*Hermon*
22 *dismisses all suggestions of a mole in the south security*
23 *forces.*"

24 Now, in the second column down at the bottom:

25 "*An uncompromising RUC Chief Constable, Sir John Hermon,*
26 *stressed that it was a lie to suggest that there was any*
27 *leak among the Republic security forces in the hours*
28 *leading up to the deaths. We have been very concerned*
29 *about these statements concerning the possibility of a*
30 *mole. The evidence that we have firmly confirmed that*

1 *there was no mole and we would ask that those allegations*
2 *are discounted."*

3

4 Then the next is also a report dated 22nd March 1989,
5 headed "*Collins Dismisses Speculation on Mole.*" And it
6 goes as follows:

7 "*Speculation that an IRA mole operating in the Garda had*
8 *been involved in the shooting dead of the two senior RUC*
9 *officers was rejected as totally untrue by the Minister for*
10 *Justice, Mr. Collins, yesterday.*" -- that is the 21st of
11 March -- "*A lot of emphasis had been laid on the theory*
12 *that an IRA informant had provided intelligence from the*
13 *Garda, the Minister had said that he totally rejected this.*
14 '*It is certainly not the first time that such a rumour has*
15 *been used. I was very happy this morning to hear the RUC*
16 *say that they had every faith in the Gardaí,*' Mr. Collins
17 added." We can leave it at that.

18 And then the last one is: "*No IRA Mole in Garda Chief*" and
19 that also dated 22nd March 1989. "*The Garda Commissioner*"
20 -- and this was Mr. Crowley at the time, isn't that right?

21 A. Yes.

22 503 Q. "... said last night that he absolutely rejected
23 allegations of an IRA hole in the Gardai. Speaking at the
24 Association of Garda Sergeants and Inspectors Annual
25 Conference in Donegal, Commissioner Eugene Crowley said he
26 hoped the investigation into Monday's shooting of the two
27 RUC senior officers would secure the means of allowing
28 security meetings between the two forces to continue. He
29 joined with the RUC Chief Constable, Sir John Hermon, in
30 rejecting allegations that an IRA mole in the Garda had

1 *provided the information which led to the murder of Chief*
2 *Superintendent Harry Breen and Superintendent Bob Buchanan*
3 *near Jonesboro on Monday."*

4 These were statements which were made by those three
5 parties on the 21st of March, it's quite clear from those
6 reports, when you were heading up to Dundalk or maybe had
7 arrived in Dundalk at that point. You had hardly begun
8 your investigation, isn't that right?

9 A. If you say so.

10 504 Q. Well, it seems that the Garda Commissioner was reasonably
11 satisfied the sort of report you were going to bring back;
12 that he, as it were, in advance announced the result on the
13 21st March to the Garda Association?

14 A. He couldn't have done that because he wouldn't have been
15 speaking to me. I didn't speak to him from the time I got
16 my instructions until it was over.

17 505 Q. That is my point. He had confidence that you were gong to
18 bring back a report which said there was no leak?

19 A. He couldn't know that in advance.

20 506 Q. Well, as I say, he certainly stuck his neck out if he spoke
21 in those terms, isn't that right?

22 A. Unfortunately he is not here to answer that himself.

23 507 Q. Oh, I accept that, I accept that. Now, one last matter.
24 Following the submission of your report, the Garda
25 Commissioner then produced a summary of it dated 18 April
26 1989, which he sent on to the Secretary of the Department
27 of Justice.

28
29 Now, Chairman, I would again ask you if you would adopt
30 this in evidence. I don't propose, given the hour, reading

1 through this report. I merely want to refer to one passage
2 if you could go to -- Mr. Mills, if you go to the third
3 page.

4

5 MR. MacGUILL: I wonder, Chairman, if the Tribunal could
6 indicate whether this is a document that has been provided
7 to any of the parties?

8

9 MR. DILLON: No, it's a Garda document. Now --

10

11 MR. MacGUILL: I don't have to indicate to the handicap
12 that puts us all under, that a document is now being
13 presented which clearly ought to have been supplied before
14 we came to deal with the evidence here today and we don't
15 have copies of it and don't know what the explanation is.

16

17 CHAIRMAN: You have heard about the document. I think you
18 can judge then whether you are at any disadvantage.

19

20 MR. MacGUILL: It's frankly unfair to everybody that a
21 document, which is obviously a summary of an essentially
22 crucial report in this case, is being produced while the
23 witness is in the middle of examination. None of the
24 parties have had an opportunity of reviewing it or taking
25 instructions on it. No explanation is being tendered as to
26 why this course is being adopted. It does put us at
27 disadvantage, Chairman.

28

29 MR. DILLON: Well, the first matter that I should say is
30 that neither the Assistant Commissioner's report nor this

1 report by the Garda Commissioner is in any way prejudicial
2 of Mr. Hickey; that is the first point.

3

4 The second point is that it's a Garda document, it's not
5 ours to give. If anybody else wants it, they can apply to
6 the guards to have the document released to them.

7

8 MR. MacGUILL: Briefly in reply, Chairman, and this is the
9 point that has been repeatedly misunderstood by counsel for
10 the Tribunal. The document, the report of Assistant
11 Commissioner O'Dea is not alone not prejudicial to Finbarr
12 Hickey, it is extremely exculpatory. It is a vital
13 document in the presentation of his case to this Tribunal
14 and anything that supports that ought to have been supplied
15 to us. The document will demonstrate that Finbarr Hickey
16 was neither on duty nor had the means of knowledge of the
17 visit to a Garda station of the two RUC officers on the day
18 and it is a critical part of his case to the Tribunal, and
19 it is a fundamental unfairness that the document has been
20 withheld.

21

22 CHAIRMAN: I think you may be overstating that. Let's hear
23 the document first of all.

24

25 MR. DILLON: Very briefly in reply to that. It should be
26 pointed out on a number of occasions Mr. Hickey has
27 indicated to us that he was on duty. And furthermore, the
28 application for representation was grounded on the fact
29 that Finbarr Hickey was on duty on the day.

30

1 CHAIRMAN: Anyway, let's hear the hear the document first
2 and then we can go back to it and decide whether you are
3 prejudiced.

4

5 508 Q. MR. DILLON: Now, do you have the third page there in front
6 of you? do you have the Garda Commissioner's report?

7 A. Yes, I think it's on this, is it?

8 509 Q. No, it's not, no.

9 (Document handed to the witness.)

10 You see the third page there?

11 A. Mm-hmm.

12 510 Q. Paragraph 15: *"There is a consensus in both forces that*
13 *the RUC officers were targeted when leaving Armagh or*
14 *en route and followed to Dundalk. It is stated that on one*
15 *occasion Bob Buchanan mentioned to a colleague in the car,*
16 *on returning from Dundalk, that he thought they were being*
17 *followed."*

18 Well, I can assist you there in that a former member of the
19 RUC has given evidence to that effect, that he was with Bob
20 Buchanan on one occasion when they had the sense that they
21 were being followed.

22

23 Now, from the Commissioner's point of view he reaches for a
24 conclusion. The first of his conclusions is paragraph 60:
25 *"I am satisfied there was no leakage of information by the*
26 *Gardaí on the proposed visit to the two officers."*

27 That was the purpose of the investigation, wasn't it?

28 A. That was after the investigation, I presume, when he wrote
29 this.

30 511 Q. Yes, but he wouldn't record that as a conclusion if that

1 wasn't part and parcel of the investigation.

2 A. Well, that is his report. I can't know what he had in
3 mind.

4 512 Q. Bear with me a second. Just coming back to the matter I
5 mentioned to you earlier on, namely that Tom Curran had
6 spoken to Eugene Crowley about the request from Bob
7 Buchanan that a particular officer be transferred out of
8 Dundalk Station. Would you have expected to have been
9 informed of that by Eugene Crowley?

10 A. I wasn't informed of anything about that, no, no.

11 513 Q. My question is: would you expect to have been informed of
12 that?

13 A. Yes, I had a good relationship with the Commissioner.

14 514 Q. Thank you.

15

16 CHAIRMAN: Any questions?

17

18 MR. DURACK: There will be some substantial number. Is it
19 proposed to sit on or have the witness come back tomorrow?

20

21 CHAIRMAN: First of all, what would Mr. O'Dea like?

22 A. I would prefer to get it finished now.

23

24 CHAIRMAN: Would you? Yes, all right.

25

26 MR. DILLON: Would you like a short break at this point?

27 A. No, no.

28

29 MR. MacGUILL: Just before we proceed into the questions of
30 Assistant Commissioner, could we have the document that was

1 presented a moment ago and declared to be a summary of the
2 Assistant Commissioner's report, because paragraph 30,
3 which we could all see, refers to an analysis of
4 ballistics, which are not dealt with in the Assistant
5 Commissioner's report at all, and I would be concerned that
6 it's not in fact a summary but is a document of an entirely
7 different provenance and we should all have that at this
8 stage.

9
10 MR. DILLON: Chairman, ballistics deal with what weapons
11 were used and when they might have been used on previous
12 occasions. They had nothing to do with your terms of
13 reference.

14
15 MR. MacGUILL: If the document is being used as a summary
16 of the Assistant Commissioner's report and it addresses
17 material that is not in the Assistant Commissioner's
18 report, then it suggests that the document is not a
19 summary. Now if it's been misdescribed, that can be
20 explained. If it's irrelevant, that can also be explained.
21 But it appears that it seems to be of relevance and we
22 should have the document.

23
24 MR. DILLON: That point simply is not of relevance to your
25 terms of reference, Chairman. And that is the first point
26 that needs to be established before any further point can
27 be developed.

28
29 CHAIRMAN: Yes.

1 MR. MacGUILL: It's the Tribunal led the document. We
2 didn't know anything about this document until ten minutes
3 ago, and as soon as we want to see it we are told it's
4 irrelevant.

5

6 CHAIRMAN: Well that portion, the portion dealing with
7 ballistics is irrelevant, it has nothing to do with the
8 terms of reference of the Tribunal.

9

10 MR. MacGUILL: Well then is Tribunal counsel conceding that
11 he ought not to have described it as a summary of the
12 Assistant Commissioner's report that we are dealing with?
13 If that concession is being made, we can move on.

14

15 MR. DILLON: I have no difficulty if that will make people
16 happy.

17

18 CHAIRMAN: I think we will move on. Let's not labour it.
19 Questions for Mr. O'Dea, please.

20

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

22

23 515 Q. MR. DURACK: Just to deal with the last question first. Is
24 that document a summary of your report or is it something
25 else?

26 A. It is a covering report on my report.

27

28 CHAIRMAN: Covering report created by the Commissioner?

29 A. Correct, which he sent to the Department of Justice.

30

1 516 Q. MR. DURACK: Which appears to be dated 18 April, nearly a
2 month after your report?

3 A. That's correct, yes. The 17th I think is on it.

4 517 Q. And it appears to refer to a consensus between the RUC and
5 the Garda authorities, from what has been read out to us?

6 A. That is correct.

7 518 Q. And that would suggest, would it not, that was based on
8 other information that had been provided by either
9 intelligence sources or the RUC?

10 A. Yes, you could say that.

11

12 CHAIRMAN: Provided to the Commissioner?

13 A. Yes.

14

15 CHAIRMAN: Yes.

16

17 519 Q. MR. DURACK: In the course of the weeks after your
18 investigation?

19 A. Yes.

20 520 Q. And you have told us that you had no discussion with the
21 RUC in the preparation of your report?

22 A. That's correct.

23 521 Q. And I don't think that you had any intelligence in from the
24 RUC either in relation to the subject of your report?

25 A. That is correct.

26 522 Q. And that you, in fact, set out to give an account of the
27 circumstances and arrangements for the meeting?

28 A. Correct.

29 523 Q. And that this, you did, by interviewing various members who
30 were on duty in the Garda Station on the day?

1 A. Correct.

2 524 Q. You didn't know what had occurred on the other side of the
3 border?

4 A. No, I did not.

5 525 Q. Nor were you aware of what information was in the
6 possession of the Gardaí -- of the RUC on the day of the
7 murder or immediately subsequently?

8 A. No, I did not.

9 526 Q. Now, you were referred initially, I think, to a statement
10 of a Garda Terry Hynes?

11 A. Yes.

12 527 Q. Do you remember that? You were read a statement, a portion
13 of a statement which he made to this Tribunal. And I can
14 tell that you it's clear from your report that you never
15 took -- you did not include any statement from Mr. Hynes in
16 your report?

17 A. If it's not there, I didn't take any statement from him, if
18 it's not there.

19 528 Q. And he said in his statement to the Tribunal that sometime
20 after the murders he spoke to you in relation to a
21 potential leak and he says, and I quote "*The Assistant
22 Commissioner asked me if I had any suspicions regarding any
23 member of An Garda Síochána being involved in the passing
24 of information in relation to these murders. I informed
25 him that I had no suspicions whatsoever about these
26 murders. I have to say at this juncture that I would be
27 surprised if any information regarding these killings
28 emanated from Dundalk Garda Station.*"

29

30 Now, do you have any recollection of when you had that

1 conversation with Detective Hynes?

2 A. No, I cannot remember that. I know Terry Hynes reasonably
3 well over the years but I can't recall having a
4 conversation with him.

5 529 Q. And he is a man, I take it, whom you respect?

6 A. Very much.

7 530 Q. And the next item that Mr. Dillon dealt with, he referred
8 to the IRA statement which you had included in your report,
9 and in that, I think, he referred to the IRA claiming to
10 have recovered confidential documents from the car?

11 A. Mm-hmm.

12 531 Q. From your knowledge and from your knowledge as an
13 intelligence expert, do you know or believe that there were
14 any confidential documents in the car?

15 A. It's difficult to say, but I doubt it very much. If I were
16 in their position I wouldn't be carrying any written
17 documents.

18 532 Q. Can you say that you -- did you receive any intelligence
19 from the North that might have suggested that there were
20 written documents in the car?

21 A. I did not, no, no.

22 533 Q. The IRA, in that statement, appeared to give an account of
23 what had occurred, suggesting that they had -- they were
24 operating a roadblock and that the policemen were acting
25 suspiciously and attempting to get away. Have you any
26 reason to believe that the contents of that report were
27 correct, from such intelligence as you are in possession
28 of?

29 A. It's difficult to say. It would appear that they set up an
30 ambush rather than -- because they often, at that

1 particular time, had checkpoints in various places,
2 different times. They seemed to have a free hand. But
3 they were working under completely different circumstances
4 than we were here. Their life was in danger every time
5 they went out, whereas here the IRA did shoot some of our
6 people but not to the same extent as in Northern Ireland,
7 so the risk to RUC officers coming down to Dundalk was a
8 lot greater than of two garda officers going up to Knock
9 Road.

10 534 Q. Would you agree with me that that statement appears to be
11 attempting to justify the shooting of the men as having
12 been caused by their actions?

13 A. These people wouldn't have to justify it at all; it didn't
14 cost them a thought.

15 535 Q. Now, in relation to Mr. Rowan, he told you that he had
16 heard of the transfer that morning, isn't that correct?

17 A. If he said that, if I have it in his statement...

18 536 Q. And I think you told us that he was the man who would have
19 been in the District Office?

20 A. In the Divisional Office, actually, he would be the Chief
21 Superintendent's clerk.

22 537 Q. And he would know everything that went on?

23 A. Everything, yes.

24 538 Q. And in fact as part of his remit would be to be in regular
25 contact with the RUC?

26 A. Whether he was personally or not, I couldn't say, but I
27 would assume that Chief Superintendent Nolan would have
28 regular contact with the RUC, with his opposite number in
29 south Armagh and in Newry, I presume.

30 539 Q. And that, presumably, many of those contacts would be

1 arranged by his clerk?

2 A. It's difficult to say. Some may, but he may make them
3 himself, I don't know.

4 540 Q. But it wouldn't be unusual, in any case, for him to be on
5 the phone to people in the RUC?

6 A. No, it would not.

7 541 Q. Equally, it's equally possible that he heard of the
8 transfer from somebody in the RUC?

9 A. He could have, he could have, indeed, yes.

10 542 Q. And he wasn't referring to at, any stage to hearing that
11 they were coming down, that in his statement to you he
12 referred to meeting them for the first time at the station,
13 that being the first he knew of their arrival, isn't that
14 correct?

15 A. Could be. I am not a hundred percent sure on that now.

16 543 Q. If I just refer you to the question raised by Mr. Dillon at
17 page -- sorry, Question 101 of page 15 of the transcript of
18 the 23rd June 2011, in which he said: *"You learned of it,*
19 *you think, possibly from Mr. Flynn, is that right, or did*
20 *you learn of it first when in fact you went into the room*
21 *with the tea?*

22 *Answer: It was my recollection at the time, that's the*
23 *first time I knew they were there but I did, I did mention*
24 *something to Superintendent Buchanan about his transfer.*
25 *So I may have been told before I went in."*

26 A. Mm-hmm.

27 544 Q. So it appears that he did not at any stage try to hide from
28 you that he had heard of the transfer but maintained that
29 he did not know until the men arrived in the station that
30 they were coming, isn't that right?

1 A. That's correct, yes.

2 545 Q. Much was made of the two lines crossed out of Chief Nolan's
3 statement as to who had -- as to whom he had been talking
4 to, isn't that right?

5 A. Yes, we saw that, yes.

6 546 Q. And we know that you subsequently spoke to Seamus Nolan on
7 statement number 6, where he confirmed that he was in fact
8 told that the men were arriving at 2:15, isn't that right,
9 and that he had seen them coming up the stairs. So, again,
10 nothing was hidden from you in that regard?

11 A. No, no, nothing was hidden.

12 547 Q. And again, Val Smith, the recruit, told you that he met the
13 men at the door on their arrival, isn't that right?

14 A. Yes, if it's in the statement, yes.

15 548 Q. That was not in any way hidden from you?

16 A. No, it was not, no, no.

17 549 Q. And you included all of those statements with your report?

18 A. I did, yes.

19 550 Q. Now, again the question has been raised about the statement
20 you took from Sergeant Brady and Sergeant Colton, and as to
21 whether the two of them briefed the unit together, is that
22 usual or unusual? You may not have been -- were you here
23 this morning?

24 A. I wasn't, no.

25 551 Q. No. But we heard from Sergeant Witherow that there may
26 often be a Sergeant in charge and the Unit Sergeant present
27 at the same time for the briefing?

28 A. That's correct, yes, you would have your unit sergeant, you
29 would have the sergeant in charge and you could have two
30 section sergeants, as they call them in the city, but that

1 was to brief their units before they go out, one would do
2 part of it and the other would take over, and if they had
3 some documentation, stolen car lists or something like
4 that, the other sergeant could do it.

5 552 Q. But that in fact --

6 A. That's just --

7 553 Q. Sorry, the purpose of the briefing was to tell people what
8 had happened on the last shift, to bring them up-to-date
9 and assign them tasks to do?

10 A. That's correct, yes.

11 554 Q. And I suggest to you it wouldn't be at all unusual for the
12 sergeant in charge and the unit sergeant to be there
13 together at the same time, if you like, alternating the
14 job?

15 A. Not unusual. It's usual procedure.

16 555 Q. Yes. Now you spent, I think, virtually all of your career
17 in intelligence, isn't that right?

18 A. Most of it was in the counter or anti-Provisional IRA
19 activities and other different groups, all with the
20 exception of about six years, and I had 42 years'
21 experience when I retired, so I would consider myself very
22 well informed of how the IRA worked and what makes them
23 tick and how they recruit people and all that.

24 556 Q. Now, the Tribunal has heard evidence that Mr. Curran, the
25 Superintendent in Monaghan, was approached by Mr. Buchanan,
26 apparently on the instructions of the northern Special
27 Branch to express their concern about Sergeant Corrigan and
28 to ask him, Mr. Curran, to go and bring that concern and
29 that information to Mr. Crowley in Dublin. Now, would that
30 be an unusual method of communication of information from

1 the Special Branch to HQ?

2 A. I think it would, yeah.

3 557 Q. How would you expect the information to be transferred?

4 A. You mean what Tom Curran had to say?

5 558 Q. No, no, I am saying that if the northern Special Branch had
6 some information to convey, is it likely that they would
7 send Superintendent Buchanan as their messenger or how
8 would they deal with it?

9 A. No, it would be from Headquarters in Knock Road to
10 Headquarters in Dublin. That would be the line of
11 communication of anything like that.

12 559 Q. And that would come from the northern Special Branch,
13 presumably, to the Chief Constable, is that correct?

14 A. At our regular monthly meetings anything like that would
15 have been discussed. Nothing like that ever came up at any
16 of our meetings.

17 560 Q. But if there was something like that concerning their
18 concerns about the dubious loyalty of a member of the
19 Force, would you expect that to be communicated immediately
20 to Headquarters down here?

21 A. I would, yes.

22 561 Q. And directly by northern Headquarters?

23 A. Correct.

24 562 Q. Now, Mr. Curran has told us that he went to Mr. Crowley
25 with the information, that when he went in, he was sitting
26 at a desk reading a file, that he told him he, Mr. Curran,
27 gave him this information, Mr. Crowley continues to read
28 the file making no reaction. When he finished, nothing
29 more was said and the meeting appeared to end at that
30 stage.

1 A. Rather strange.

2 563 Q. Now, how would you expect -- I take it you have known
3 Mr. Crowley for many years?

4 A. I knew him for the last ten years of my service, yes.

5 564 Q. And how would you expect him to react to information that
6 there was a doubtful member of the Force?

7 A. I'd say he would react sharply.

8 565 Q. And what was his form in relation to intelligence?

9 A. How do you mean now what was his form?

10 566 Q. I mean, if somebody gave an inkling of information, what
11 was he likely to do?

12 A. Well, he would consult with his people in Crime and
13 Security and whatever the intelligence was, he would get
14 them to investigate it and come back to him.

15 567 Q. Would you have expected him to fully discuss the issue with
16 Mr. Curran and get whatever information he had to base
17 his --

18 A. Oh I would say he would, yes. Knowing him, he was a
19 stickler for detail.

20 568 Q. Would you have expected him to just sit at his desk and
21 continue to read the file and make no reaction?

22 A. He may not have heard Tom Curran. If he was reading a file
23 and he was engrossed in whatever he was doing, there might
24 have been some misunderstanding between Tom Curran and
25 himself as to what took precedence at the particular time.

26 569 Q. You have told -- we have been told that he was a man of
27 very gentle manners. Would that be your recollection, a
28 man who was polite at all times?

29 A. Not at all times. He could be terribly polite but he could
30 be the opposite as well.

1 570 Q. But in any case, you would have expected that if there
2 was -- he was being told some significant mention about any
3 particular member of the Force, that he would have looked
4 into it immediately?

5 A. Oh I would expect that, yeah.

6 571 Q. Now, had you heard at any stage of the, what is described
7 of the 1985 intelligence from the RUC, suggesting that
8 Sergeant Corrigan was keeping the boys happy, so to speak?

9 A. First time I heard it is now, today. First I heard of it.

10 572 Q. It appears that the only record that had been passed to the
11 guards is earlier in January of this year. You didn't have
12 any of the -- any information at all from the RUC at the
13 time you did your report?

14 A. No.

15 573 Q. So you did not know what they had found out at their end?

16 A. Not at that time, no, I didn't, Chairman.

17 574 Q. Had you ever heard or seen of the document referred to as
18 "HMG 50"?

19 A. No.

20 575 Q. I think that is a document that was literally produced by
21 Mr. McConville, who was in no position to comment in any
22 way about its contents. Did you at any stage hear anything
23 about Tom Connolly expressing any unease or -- at Garda
24 Headquarters in relation to any member?

25 A. Not to me personally, I never heard him comment on any
26 other member.

27 576 Q. Did you ever hear any hint of it around Headquarters?

28 A. No.

29 577 Q. Were you aware that this Tribunal has heard evidence that
30 on the day following the murders, a Mr. Mains spoke to the

1 Chief Constable who dismissed his suggestions that there
2 may have been a mole in Dundalk?

3 A. I don't know anything about that.

4 578 Q. Yes. And equally, I take it you don't know anything about
5 the -- or am I right in saying you don't anything about the
6 sources upon which the report of the 18th April 1989, that
7 has been referred to?

8 A. No, I don't know anything about that.

9 579 Q. Which appears to be based on what is regarded as consensus
10 between the RUC and the Gardaí, and presumably also based
11 on information and intelligence? Did you follow my
12 question? It was that the -- you had had no -- or were you
13 in any way aware of what has been described as the summary
14 of your report?

15 A. You mean --

16 580 Q. The one we have been referred to of the 18th April?

17 A. That is the first I have seen it today, first time I have
18 seen it.

19 581 Q. Could I just have a look at it, please?

20 (Handed to Mr. Durack.)

21 That appears to be a report by the Commissioner to the
22 Secretary of the Department of Justice, presumably for
23 passing on to the Cabinet?

24 A. Correct.

25 582 Q. It sets out *"There is a consensus in both forces that the*
26 *RUC officers were targeted when leaving Armagh or en route*
27 *and followed to Dundalk. It is stated that on one occasion*
28 *Buchanan mentioned to a colleague in a car returning from*
29 *Dundalk that they thought they were being followed."* That
30 appeared to be the conclusion based on the information

1 available to both forces?

2 A. That's correct.

3 583 Q. And I think it's been suggested to you, essentially, that
4 your report was a whitewash?

5 A. I wouldn't agree with that.

6 584 Q. And in fact because of the statement made by Mr. Collins,
7 the Minister for Justice, and that he appeared to be
8 anticipating what your report would say before it was even
9 finished; I take it you wouldn't agree with that?

10 A. I would not, no, no.

11 585 Q. Do you think it's significant that the Chief Constable, on
12 the same day, is dismissing any suggestion of a mole?

13 A. That was information he had at his disposal.

14 586 Q. And there was no suggestion made to you, either prior or
15 post, that there was?

16 A. None whatsoever.

17 587 Q. Thank you very much.

18

19 **THE WITNESS WAS CROSS-EXAMINED BY MR. LEHANE AS FOLLOWS:**

20

21 MR. LEHANE: Just have a few questions.

22 588 Q. First of all, my name is Darren Lehane and I appear on
23 behalf of retired Detective Sergeant Corrigan. Would you
24 agree with me that retired Detective Sergeant Corrigan laid
25 his life on the line in the defence of this State at a very
26 difficult time to be a Detective Garda?

27 A. I would agree with that.

28 589 Q. Now, Mr. O'Dea, it has been put to you in evidence by
29 counsel for the Tribunal that the statement provided by
30 Detective Sergeant Corrigan to Detective Inspector Kevin

1 Carty was a bit short on detail. Now, you'd nothing to do
2 with the taking of that statement, sure you didn't?

3 A. No, I had nothing to do with that one.

4 590 Q. And just so that the matter isn't left lingering there.

5 For the record, the statement of Detective Owen Corrigan or
6 Detective Sergeant Owen Corrigan is 13 lines long. Other
7 statements taken, I think the statement taken by you in
8 relation to Detective Garda James Lane was 15 lines long,
9 and indeed a statement taken by you from Garda Errol Boyle
10 was nine lines long. And would you agree with me it's not
11 the length of the statement that is important, rather it's
12 the content that is important?

13 A. It's the content is important.

14 591 Q. And just for the record again, I might just read out very
15 quickly the statement of retired Detective Sergeant
16 Corrigan. He says "*I am a Detective Sergeant of the Garda
17 Siochana attached to Dundalk Garda Station. On Monday 20
18 March 1989 I took up duty at Dundalk Garda Station at
19 8 a.m.. I terminated duty at 4 p.m. on that date. During
20 my tour of duty I attended to duties in the Detective
21 Branch office and some outdoor duty. I availed of a meal
22 break from 12:45 p.m. to 1:30 p.m. In the course of the
23 day I did not see any members of the RUC in Dundalk Garda
24 Station. I was not aware of any meeting that was arranged
25 between Chief Superintendent John Nolan and members of the
26 RUC at Dundalk Garda Station on that day. This statement
27 is correct.*"

28

29 Would you agree with me that that statement is a
30 comprehensive account of Detective Sergeant Corrigan's

1 activities on that day?

2 A. It's account, yes, it's an account of his duties on that
3 particular day.

4 592 Q. Now, just so you are aware, Mr. O'Dea, my client gave
5 evidence to the Sole Member that if he had been asked to
6 give any further detail in relation to his statement to
7 Detective Inspector Kevin Carty, he would have been happy
8 to do so but he simply wasn't asked.

9 A. That could be correct.

10 593 Q. Yes. And finally, would you agree with me that any
11 suggestion that retired Detective Sergeant Corrigan
12 colluded with the IRA or was in any way involved with the
13 IRA in the killing of these two officers is a shameful
14 suggestion?

15 A. I would agree with that, what you say.

16 594 Q. And, sorry, I should have asked you this question earlier
17 on. Your knowledge of retired Detective Sergeant Owen
18 Corrigan, would you agree with me that that was borne out
19 of your long career dealing with intelligence matters and
20 anti-subversion with An Garda Siochana?

21 A. That's correct.

22

23 CHAIRMAN: You were happy with him?

24 A. I was, sir, yes.

25

26 CHAIRMAN: Any other questions?

27

28 MR. CALLAN: No questions.

29

30 MR. MacGUILL: A few questions, Assistant Commissioner.

1

2

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

3

4

595 Q. MR. MacGUILL: I am representing Finbarr Hickey, and if I
can ask to feel free to refer to your report because I will
be asking you some questions about it.

7

If I can start by taking a couple of details to confirm
them for the record. At the time that you were tasked with
this investigation, you had 37 years' service?

10

A. That is correct, yes.

11

596 Q. You were one of the most senior and most experienced
policemen in the State?

12

13

A. Might be. I wouldn't like to say yes or no to that.

14

597 Q. It's beyond dispute, you were one of the most senior
officers in the State?

15

16

A. OK, yes, especially in subversive matters, maybe not in the
crime ordinary, as we would refer to it, but in subversive
matters, yes.

17

18

19

598 Q. And in terms of its sensitivity, the murder of two RUC men
immediately following a meeting with An Garda Siochana was
an exceptionally sensitive matter?

20

21

22

A. It was indeed, yes, it was very a sad matter.

23

599 Q. It was discussed at the Cabinet and the Cabinet gave a
direction to the Commissioner to investigate it?

24

25

A. Correct.

26

600 Q. The Commissioner acted immediately; he appointed you?

27

A. Correct.

28

601 Q. I think it would be fair to say that in the context of that
instruction, there could be no more important investigation
directed in the State at that time?

29

30

1 A. That is correct.

2 602 Q. It was entrusted to you because of your experience and your
3 record?

4 A. Well, I was the Assistant Commissioner in Crime and
5 Security at that particular time. I suppose I was the
6 obvious choice to ask to investigate it.

7 603 Q. No time was lost. You immediately went on site at Dundalk
8 Garda Station, assisted by Detective Inspector Carty?

9 A. Correct.

10 604 Q. You proceeded to interview the persons you considered
11 relevant to your investigation?

12 A. And the persons whom -- the names I got from Chief
13 Superintendent Nolan.

14 605 Q. Yes. And I take it it follows that if you had encountered
15 any obstruction of any kind in Dundalk Garda Station, you
16 would have used your authority to bring an end to that
17 obstruction?

18 A. I would, yes.

19 606 Q. Now, I think in point of fact, at that time, and this is
20 where your evidence is critically important to the work of
21 the Tribunal, the records in relation to activity in
22 Dundalk Garda Station on the 20th March were available to
23 you, they are not available to the Tribunal; they have been
24 misplaced?

25 A. You mean -- what records do you mean now?

26 607 Q. Station Diaries, Occurrence Books, On-Off Registers, they
27 were all in the station at the time?

28 A. Oh I presume they were, I didn't see any of those but that
29 is normal of any station, those type of books.

30 608 Q. And I think they have been described by other witnesses as

1 vitally important documents of record which should be
2 maintained securely in any Garda Station, the register of
3 members' activities, occurrence books, collator logs, all
4 of this?

5 A. How long they would be kept when they were full, I couldn't
6 say, I have no idea.

7 609 Q. OK. Now, I think that as an experienced investigator, I
8 think you would expect that statements made by persons
9 immediately after an event are likely to be more reliable
10 than statements made by persons relating to the same event
11 15 or 16 years later?

12 A. Oh, correct.

13 610 Q. I think as an experienced investigator, you would accept
14 that the proper investigation of any incident requires the
15 investigator to go back to primary sources, specifically
16 contemporaneous records?

17 A. Yes.

18 611 Q. OK. And I think that you would say that where there is a
19 conflict between an apparently authentic and
20 contemporaneous record and what a witness is saying, that
21 is a conflict that an experienced investigator would
22 explore?

23 A. If there was a conflict, yes.

24 612 Q. If there was a conflict. I think we heard during your
25 examination by the Tribunal some criticism that you failed
26 to identify and resolve conflicts based on your
27 investigations over a three-day period, and I think it's
28 fair to say that you would accept that with more time an
29 experienced investigator would look at conflicts and try
30 and explore them, isn't that correct?

1 A. If you had more time, yes.

2 613 Q. If I could just take you to your report for a moment, and
3 we will just take some of the points, and I don't know if
4 you have the report in front of you?

5 A. I have, yes.

6 614 Q. I think it's -- the copy we have, at least, is date stamped
7 received by the Tribunal in April 2006?

8 A. Yes.

9 615 Q. That is five years ago, or in excess of five years ago.
10 And I think that your investigation then commences by
11 indicating the factual matters that you discovered in
12 relation to the meeting, and the first and very important
13 point at paragraph 2 in your prelude, is that you have
14 established, the day after the events, that the two RUC men
15 arrived at Dundalk Garda Station at 2:20?

16 A. Mm-hmm.

17 616 Q. I think that is at paragraph 2?

18 A. Yes.

19 617 Q. Roman numeral one. Very important in that context is there
20 is a change of garda shift at two o'clock and one would
21 have expected that gardaí finishing duty at two o'clock
22 would have cleared the station by 2:20?

23 A. Definitely, yes.

24 618 Q. So therefore we are concerned, in terms of casual contact
25 with members of An Garda Siochana seeing the RUC men
26 arrive, with the unit that was on duty between two and ten
27 on that day?

28 A. A lot of the uniformed personnel, I doubt if they would be
29 aware of the identity of the two gentlemen from the north.

30 619 Q. Yes. Well, to put my question in context: I think one of

1 the things that you addressed immediately in your
2 investigation was to establish those members of An Garda
3 Siochana who may have had knowledge of the presence in the
4 station of Chief Superintendent Breen and Superintendent
5 Buchanan?

6 A. That's correct, yes.

7 620 Q. So that we know that we were dealing with the two o'clock
8 to ten shift, which I think the evidence has established
9 was the A Unit on the uniform side?

10 A. I don't know anything about A or B units. If you say it
11 was the A Unit, I will go along with that.

12 621 Q. I think you make an observation at paragraph (ii) that the
13 car was parked in an open forecourt and I think would you
14 share the concern that was expressed by countless witnesses
15 so far that it was reckless in the extreme to park the
16 vehicle that could be linked to the two RUC men in such an
17 open place?

18 A. Yes, it wasn't the best place to park it.

19 622 Q. And I think you have confirmed that the, at the next
20 paragraph, that the RUC men left at 3:25 p.m.?

21 A. Yes.

22 623 Q. OK. Now, at your next paragraph, which I think is vitally
23 important, that your investigation illustrated that while
24 the RUC men indicated they were coming to the station, they
25 did not indicate to anybody the route by which they would
26 come or the route by which they would return?

27 A. That is correct.

28 624 Q. So that, therefore, a suggestion that the IRA ambush was
29 set up by members of An Garda Siochana or a member of An
30 Garda Siochana giving information to the IRA, they could

1 not have given the information about the route because that
2 was not known to any member of An Garda Siochana?

3 A. That is correct.

4 625 Q. So that in terms of probability and in terms of your
5 experience as an investigating officer, how probable would
6 you feel that that was adequate quality information if it
7 was available to enable the IRA set up an ambush of this
8 kind?

9 A. If it was available, it would be very important.

10 626 Q. Yes. But the routing would be important? I think to set
11 up an ambush you would need to know how they were getting
12 back to where they were going?

13 A. Well, I don't know that area too well but I know there is
14 one -- the main road, I don't know what the number of it
15 is, but the other way back is a narrower, is the shorter
16 way I'd say, but I am not too familiar with that area.

17 627 Q. Well again I think that the evidence has been that there
18 are at least four or five routes that could have been
19 taken, and that the IRA would have had to have monitored
20 those, all of them, if they didn't know the precise route?

21 A. I couldn't -- I don't know anything about that.

22 628 Q. If I could take you to page 7 of your report, and at Roman
23 numeral X, it appears that Superintendent Buchanan, at
24 10:03, you can take at that from me because it follows from
25 your previous paragraph, spoke to Superintendent Tierney to
26 arrange the meeting?

27 A. Yes, that's correct, yes.

28 629 Q. OK. He did so on an open line, it was not scrambled even
29 though a scrambled facility was available?

30 A. Maybe the scrambler facility may be only in the Chief's

1 office, I am not too sure of that.

2 630 Q. If I can take you to page 8, Roman 17. There is some, the
3 discussion about the transfer, and again taking up a point
4 that was raised with you. I think policemen familiar with
5 each other frequently talk about transfers, promotions,
6 retirements?

7 A. Yes, I'd agree with that.

8 631 Q. And that wouldn't necessarily be anything to do with the
9 specifics of a meeting later that day. It could be in the
10 context of a forthcoming meeting or a past meeting?

11 A. Yes, correct.

12 632 Q. At page 9, Roman 19, in the discussion with Superintendent
13 Tierney, no timing was communicated to Superintendent
14 Tierney, simply that the visit would take place on
15 Superintendent Tierney's assumption that day. Do you see
16 that paragraph?

17 A. I do, yes.

18 633 Q. OK. So the first mention of timing is at your next
19 paragraph when a separate open line telephone call takes
20 place, this time with Chief Superintendent Nolan and
21 Superintendent Buchanan, and it's in this call that the
22 two o'clock or afternoon timing is suggested?

23 A. It could be, yes.

24 634 Q. So we now have, in terms of the presence of the two RUC men
25 in the station, not one but two phone calls over an open
26 line either of which could have been eavesdropped on, isn't
27 that correct?

28 A. I don't know if it's that easy to eavesdrop on telephone
29 messages.

30 635 Q. Well, will you go so far as to agree that it was on the

1 open line rather than the scrambled line, and we can leave
2 it to other witnesses to deal with the logistics of
3 tapping?

4 A. It should be on the -- the scrambled line would have been
5 the proper procedure to follow.

6 636 Q. And you relate, at page 10, how Chief Superintendent Nolan
7 told Frank Murray about the timing but strangely, had not
8 told Superintendent Tierney, who had in fact been more
9 directly involved in the earlier arrangements?

10 A. That is what he said he did, yeah.

11 637 Q. So that your conclusion, as an experienced investigator of
12 some 37 years, was that the people who knew, prior to
13 two o'clock, of the intended arrival of the RUC men were
14 limited to the participants in those conversations?

15 A. That is correct.

16 638 Q. And I think I would have to suggest to you that when
17 counsel for the Tribunal suggested that Sergeant Rowan
18 knowing about somebody's transfer equated to knowing they
19 were coming to the Garda Station on that day at
20 two o'clock, in fact is a step too far?

21 A. Slightly, slightly, yes.

22 639 Q. Now, I think that you then moved to the circumstances of
23 the meeting, and I think your investigation shows that
24 despite being told to enter the station through the side
25 door, the two officers went straight through the public
26 area of the station, straight up the stairs, had to be
27 challenged as to their identity, were in open view and
28 continued up to the meeting?

29 A. Yeah, that would be the --

30 640 Q. I don't know if you recall, Assistant Commissioner, the

1 layout of Dundalk Garda Station, but we have had evidence
2 to the effect that the public area is extremely busy,
3 members of the public would be present routinely for
4 ordinary purposes, making inquiries about a crime being
5 investigated, reporting crime, people being brought into
6 custody, people visiting people in custody, people signing
7 on for bail, and we have had evidence that among that group
8 of members of the public could easily be members of the
9 IRA. Would you have a view on that, from your
10 investigation?

11 A. That is a possibility, yes, a possibility, yes.

12 641 Q. Now, if I can then move you to, you identify various
13 persons on duty and who you are going to interview. And we
14 will come to the persons on duty and the order of your
15 interviews shortly. But at page 15 in your report, at
16 Roman 18, your investigation established that on the
17 meeting of the 20th March, Chief Superintendent Breen
18 arranged another meeting with Chief Superintendent Nolan,
19 this time to take place in Armagh on the 4th April, a full
20 fortnight later?

21 A. Yes.

22 642 Q. I would have to suggest to you, and as an experienced
23 investigator you might have a view on it, that if there was
24 a mole in An Garda Siochana, isn't it a meeting of this
25 kind they would leak to the IRA rather than something that
26 was arranged on the morning with very little reaction time,
27 but a scheduled meeting two weeks later on would be far
28 more use for intelligence for subversives?

29 A. Either would be good intelligence, but I would say the one
30 on the 4th April would have made it easier.

1

2

CHAIRMAN: Yes.

3

4

643 Q. MR. MacGUILL: Can I take you to page 18 of your report?

5

One of the first things that you sought to establish on the

6

day was who was on duty in the station.

7

A. Mm-hmm, that's correct, this was list supplied to me by

8

Chief Superintendent Nolan and I worked from that.

9

644 Q. And there is no reason to believe that Chief Superintendent

10

Nolan would hold back from you the name of a member or

11

members that were actually on duty?

12

A. No way.

13

645 Q. And there would be any number of records of which you could

14

check even if that had been so?

15

A. Yes.

16

646 Q. So I take it, would you say as an experienced investigator,

17

that this document representing a near contemporaneous,

18

within 24 or 48 hours, of the events, ought to be viewed at

19

face value the correct indicator of who was on duty? Would

20

you accept that? It's an important document.

21

A. Yes, I would, yes. Those are the names that I got from

22

Chief Superintendent Nolan; they were listed.

23

647 Q. Now would it surprise you to learn, as an experienced

24

investigator, that despite your report being in the

25

possession of the Tribunal since April 2006, no member of

26

An Garda Siochana asked about their recollection of events

27

17 years ago at the time they were being interviewed was

28

told that this list existed, would that surprise you as an

29

experienced investigator?

30

A. Yes, it would, yes.

1 648 Q. Would it surprise you, as an experienced investigator, that
2 the Tribunal have taken statements from members of An Garda
3 Siochana declaring themselves to have been on duty at this
4 time when, in fact, the record showed that they were not on
5 duty and they were not asked about that?

6

7 CHAIRMAN: Well Mr. O'Dea can hardly know about that.

8

9 MR. MacGUILL: Mr. O'Dea was not, a half an hour ago,
10 Chairman, cross-examined about why he didn't, in the course
11 of his investigation, investigate possible conflicts, and I
12 am giving Mr. O'Dea an opportunity to say is it not
13 surprising to say that somebody could say 'I was on duty on
14 the day' and not be told 'well actually, our record, the
15 O'Dea report shows you weren't on duty, can you explain
16 that?' And I am asking him, as an experienced
17 investigator, whether he would have raised with somebody
18 the fact, 'well you say you were on duty but you are not on
19 my list, could you be mistaken?' Is that a question you
20 would ask, Assistant Commissioner?

21 A. Yes, you could ask -- you could ask lots of questions.

22 649 Q. And I think we now know that the records show that a
23 substantial number of members came on duty in response to
24 the events which took place, in other words after the
25 murders, people came on duty by way of overtime?

26 A. I am not aware of that.

27 650 Q. But that would be obviously a possible explanation for
28 somebody believing they were on duty when they weren't at
29 the time?

30

1 CHAIRMAN: I think that is speculation. Mr. O'Dea can't
2 possibly know that.

3

4 651 Q. MR. MacGUILL: Well, as a minimum, you would expect, I
5 think, as an experienced investigator, if somebody such as
6 Kathleen Freeman, who was on maternity leave at the time
7 and made a statement to the Tribunal that she was on duty
8 at the time, ought to have been asked 'well why is your
9 name not on the list?' As an experienced investigator,
10 would that be a matter you would explore?

11

12 CHAIRMAN: Well this is more a matter of comment by you,
13 Mr. MacGuill, and you have made the comment before and I am
14 sure you will make it again and it will be well recorded
15 you made it. We take your point.

16

17 652 Q. MR. MacGUILL: If we can continue on through your report,
18 please, Assistant Commissioner. I think you address very
19 specifically who was aware or who had the means of
20 knowledge of the meeting, and specifically you don't put
21 Finbarr Hickey as a person who was on duty at the relevant
22 time?

23 A. If he is not on the list.

24 653 Q. And he is not referred to in a single statement, not a
25 single person other than Mr. Hickey himself who, when
26 approached by the Tribunal, volunteered, as others did,
27 erroneously that he was on duty, but your contemporaneous
28 record makes no reference to him at all?

29 A. No.

30 654 Q. It makes no reference to any other member of Unit C,

1 although several of them came on duty after the murders,
2 isn't that right?

3 A. I concentrated on the people who were on duty at the time
4 and were in the station and I didn't go looking after
5 people who were in other units who were not on duty at the
6 time.

7 655 Q. Yes. And isn't that -- isn't the simple explanation for
8 that, that it was those that could have had the knowledge
9 before the murders that were the primary object that you
10 wanted to investigate into, not people who came on duty
11 after the event?

12 A. The people who were listed -- the list that I got, the
13 people who were on duty at the time, those were the people
14 I was interested in. I don't know what unit they belonged
15 to or whether they were on duty at that particular time.

16 656 Q. Now, counsel to the Tribunal have asked did you not
17 consider it an unusual thing that Sergeant Colton and
18 Sergeant Brady gave almost identical accounts of how they
19 paraded the unit at the time. Can I suggest to you that it
20 is far from unusual and is, in fact, routine that members
21 of An Garda Siochana present at the same scene, describing
22 the same incident, effectively give verbatim identical
23 accounts? It routinely happens in practically every
24 investigation?

25

26 MRS. LAVERTY: I am sorry to have to interfere here but it
27 seems to me, Chairman, that Mr. MacGuill is now
28 representing Mr. Colton. I thought he was representing Mr.
29 Hickey.

30

1 CHAIRMAN: He is commenting really rather than asking a
2 question, Mr. MacGuill. The point you are making, and you
3 have made it very forcefully and I don't think you have to
4 make it again and again, is that Finbarr Hickey was not on
5 duty that day, that he thought, later on, that he may have
6 been, but he now realises he wasn't.

7
8 MR. MacGUILL: Well, no, Chairman. I will tell you why I
9 am making the point. This witness was subjected to a
10 full-on attack on the thoroughness and credibility of this
11 report by your counsel, and the witness can't necessarily
12 defend a report that is hugely important to my client from
13 the witness-box. And I would simply like to say that some
14 of the criticisms that might well very find their way into
15 your report may not be criticisms at all, and in due course
16 we will be asking you to bring to bear your personal
17 expertise and experience as to whether or not in fact it is
18 an unusual thing that two men parading a unit would
19 describe -- if it's not relevant, it shouldn't have been
20 used to attack this witness. But the witness was attacked
21 on the basis that in the course of what is, and I will come
22 to it in a minute, a thorough investigation --

23
24 CHAIRMAN: Yes, you have made your point. Perhaps could
25 you ask any other questions?

26
27 MR. MacGUILL: Certainly, I will do that.

28 657 Q. Now, I think then if we go to the schedule of statements
29 that you have, Assistant Commissioner, and while the
30 statements aren't timed, it appears to be clear enough that

1 you started by interviewing the more senior members, Chief
2 Superintendent Nolan, Superintendent Tierney, and then
3 working your way down to the less -- you started with those
4 members on the 22nd and working your way down to other
5 members on the 23rd?

6 A. That's correct.

7 658 Q. And I think that was because of the importance of the
8 investigation and the importance of your role required that
9 an immediate account be obtained from the most senior
10 people most involved?

11 A. Well, that is what I did, yes, I started with the Chief and
12 worked down along.

13 659 Q. And I have to suggest to you that that simply demonstrates
14 the importance with which everybody attached to this
15 investigation, nobody was allowed go missing, they had to
16 answer your questions and you questioned them immediately
17 when all the records and information were available to you,
18 isn't that right?

19 A. I had no problems with the witnesses. They were all
20 straightforward.

21 660 Q. OK. Thank you very much, Assistant Commissioner.

22

23 CHAIRMAN: Any other questions? Any re-examination?

24

25 MR. DILLON: Just one or two matters, Chairman.

26

27 THE WITNESS WAS RE-EXAMINED BY MR. DILLON AS FOLLOWS:

28

29 661 Q. MR. DILLON: You mention that were somebody to report to
30 Eugene Crowley that a member's loyalty was suspect, that

1 he'd react sharply to that, isn't that right?

2 A. That's correct.

3 662 Q. Supposing somebody went to Eugene Crowley and made such a
4 report but he didn't react sharply, he carried on reading a
5 file, what does that say to you, knowing the man?

6 A. If he was engrossed in the file, a person came into his
7 office, I don't know whether he was his clerk or somebody,
8 his personal assistant would have brought him in or, I
9 don't know the circumstances as they occurred, but I would
10 be surprised if a person walked in straightaway and he
11 reading and start telling him something. I'd be very
12 surprised if it was like that. He would sit down for a
13 while until he was ready and then the Commissioner and
14 himself would chat.

15 663 Q. Mm-hmm. But supposing he wasn't engrossed in the file,
16 supposing he did hear but he was just simply ignoring?

17 A. I doubt very much if he would ignore a Chief Superintendent
18 from the border area at that particular time.

19 664 Q. Now, in your investigation, in terms of interviewing
20 persons who were on duty, they were persons who were on
21 duty from 2 p.m. onwards, isn't that right?

22 A. That's correct, yes.

23 665 Q. Now, if you could help us with one last matter, which is
24 this: Going on your experience, we -- could you tell us
25 this? We know -- we understand that the two officers
26 arrived, say, at sometime between ten past and twenty past
27 two?

28 A. Mm-hmm.

29 666 Q. And they left the station about 3:25?

30 A. That's correct, yes.

1 667 Q. It seems that they were murdered, say, ten minutes later,
2 give or take?

3 A. However long it takes to go from Dundalk to where they were
4 murdered?

5 668 Q. Exactly, yes. Taking those two reference points, say,
6 twenty past two or ten past two to maybe 3:35, 3:40, is
7 that time enough for the IRA to put together a unit?

8 A. I'd say it was, because if they saw them leaving and tailed
9 them down to Dundalk, they had adequate time, they had
10 plenty of resources in that area, no problem; south Armagh,
11 no problem whatsoever.

12 669 Q. Let's shorten the time frame a little bit. They arrive at
13 ten past, twenty past two and, as far as we are aware, the
14 active service unit is delivered to the Edenappa Road at
15 about 2:30. Is that enough time?

16 A. I don't know what time the active service unit arrived at
17 the scene.

18 670 Q. Well I am giving you a suggested time.

19 A. Can you come again with the times?

20 671 Q. Let's say ten past two, the officers arrive at ten past two
21 and the ASU is in place on the road at half past two?

22 A. Mm-hmm.

23 672 Q. Now, is that enough time?

24 A. I'd say it is for that particular area. It wouldn't
25 happen, say, down in Cork, Kerry or somewhere like that, it
26 wouldn't be - you wouldn't have the same numbers of members
27 available. But in Dundalk, south Armagh, no problem
28 whatsoever.

29 673 Q. But what is -- going on the best you can on the expertise
30 that you have gained over the years, how is the unit

1 assembled? How are the weapons brought together?

2 A. A lot of these fellas would have personal weapons.

3 674 Q. Is that so?

4 A. Oh yes. They wouldn't have to go to a dump to get -- they
5 were freely available. They had plenty of ammunition and
6 firearms.

7 675 Q. But surely it's very dangerous from, their point of view,
8 to have a weapon at home. Surely the whole policy was to
9 put distance between volunteers and weapons?

10 A. That would be part of their policy but there are exceptions
11 to every rule.

12 676 Q. And this, you think, was an exception?

13 A. I would think so, yes. I can't be a hundred percent sure,
14 I am just basing it on what I think myself.

15

16 CHAIRMAN: Mr. O'Dea, I am very grateful to you. I am
17 afraid you have had a grueling afternoon but I am most
18 grateful to you for coming and helping us with your
19 evidence. Thank you very much.

20 A. Thank you very much.

21

22 **THE WITNESS THEN WITHDREW.**

23

24 MR. DILLON: That concludes matters until the 1st September
25 at 11 o'clock.

26

27 CHAIRMAN: And I think the parties will be notified. The
28 time may be adjusted.

29

30 MR. DILLON: I may have been being previous in that, my

1 apologies.

2

3 THE TRIBUNAL THEN ADJOURNED TO THE 1ST OF SEPTEMBER, 2011.

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