

A P P E A R A N C E S

The Sole Member:

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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NOTICE:

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

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THE TRIBUNAL RESUMED ON THE 25TH OF OCTOBER, 2011,
AS FOLLOWS:

MR. VALENTINE: Good morning, Chairman. Chairman, today we are scheduled to hear from three witnesses, all in relation to what we might describe as the telecoms aspect of evidence, and the first of those witnesses is retired Detective Inspector Chris Kelly.

CHRIS KELLY, HAVING BEEN SWORN, WAS EXAMINED BY
MR. VALENTINE AS FOLLOWS:

1 Q. MR. VALENTINE: Morning, Mr. Kelly. Now, I think,
Mr. Kelly, that you retired from An Garda Siochana
relatively recently, is that correct?

A. 2009, July 2009.

2 Q. And can you explain to the Chairman what position you held
prior to that?

A. Prior to that, I was Detective Inspector in charge of the
North Central Division, the Special Detective Unit,
Harcourt Square.

3 Q. And were you in that position in 2005?

A. I was.

4 Q. And I understand that you were given a task in relation to
an article that appeared in *The Phoenix* magazine. Can you
just outline to the Chairman the task?

A. In June 2005, Assistant Commissioner Joseph Egan appointed
me to carry out an investigation into an article that
appeared in *The Phoenix* magazine dated June 3rd, 2005, and
it related to the interception of telephone calls The
Ramparts E10 Digital Exchange at Dundalk.

5 Q. And I think, Chairman, that when Mr. Rowley gave evidence
last week, the contents of that article were read into the
record of the Tribunal, and Mr. Mills has kindly just put a
copy of that article onto the overhead projector.

Did you have any specialist technical knowledge yourself,
Mr. Kelly?

A. I had no special technical knowledge myself.

1 6 Q. And can you explain to the Chairman, in broad terms, how
2 you went about the task you had been assigned?

3 A. I was appointed in -- as I say, on June 10th, 2005. I went
4 through the article line by line, and I wasn't aware of the
5 technical details in the article. I decided that I'd have
6 to do a number of things. The first thing I wanted to do
7 was make contact with, Telecom Eireann at that time,
8 investigation branch. In 1989, that task would have been
9 An Post investigation branch, but, in 2005, Mr. Tom Corbett
10 from Telecom Eireann investigation branch, I was in contact
11 with him. And as the article described Mr. Gerry Finnegan
12 and a colleague of having found the intercept, and the late
13 Mr. Gerry Finnegan was deceased, and, if possible, I'd like
14 to just point out at this stage Judge, that, in all the
15 people - I have taken about 105 statements and I have done
16 questionnaires; everyone that I have spoken to that knew
17 Gerry Finnegan, held him in the very highest esteem. He
18 was a dedicated Telecom Eireann worker. He started off
19 with the Department of Post and Telegraphs and he had over
20 45 years' service. I think in June 2006, he retired, and
21 he died shortly afterwards, a year or so afterwards.
22 Sorry, the date is wrong there -- he died shortly after he
23 retired, I think it was 1996. He had 45 years' service in
24 the Department of Post and Telegraphs, Telecom and Telecom
25 Eireann.

26 7 Q. I think you also spoke, as well as contacting former
27 officials who were working in An Post, from the
28 investigative branch in An Post and from The Ramparts
29 Exchange at the time, you also spoke to some members of An
30 Garda Siochana, is that correct?

1 A. I did. I spoke to most of the senior officers that would
2 have worked in Dundalk around the time that the alleged
3 intercept was supposed to have taken place and was
4 investigated. I also spoke to a number of members from An
5 Post investigation branch. I spoke to the head of An Post
6 investigation branch who would have been in place at the
7 time of the intercept, and the deputy head. I also spoke
8 to Mr. Tom Corbett, who was a member of the Telecom Eireann
9 investigation branch, and I spoke to Gardaí in Crime and
10 Security in Headquarters, and no one had any recollection
11 if any investigation had been carried out or if any such
12 device had been found.

13 8 Q. And I think, then, you also carried out some physical
14 examinations of certain locations, including The Ramparts?

15 A. What I done, I got the assistance of the Garda
16 Telecommunications Section in Headquarters, Detective
17 Inspector Flynn, and I also spoke to retired Sergeant Peter
18 Kavanagh, and I was in contact with Detective Garda Garvan
19 McFadden, who was the telecommunications people in
20 Drogheda. And on the 25th of August, 2005, I went with
21 Detective Sergeant James Pious Butler; Colm Macken, who was
22 a member of Eircom; Mr. Tom Corbett from Eircom; Patrick
23 Flynn, a Garda photographer in the Garda Technical Bureau;
24 and also Tyrone McDonald from the Mapping Section, and I
25 decided that I would have the whole Ramparts Exchange, from
26 where you entered the gate right into the Exchange, every
27 part of the Exchange, I would have it photographed and I
28 would have it mapped as a reference and as a guide in the
29 investigation. On the 31st of August, I met Mr. Colm
30 Macken from Eircom and I went through each of the

1 photographs with him and he identified the different
2 locations in the photographs. On the 13th of June, 2006,
3 with personnel from Eircom, a Mr. Tom Corbett, Detective
4 Sergeant James Pious Butler, Detective Inspector Michael
5 Flynn, we went to The Ramparts Exchange in Dundalk. We
6 wanted to see would it be possible or feasible to carry out
7 the intercept as described. We checked the cable chamber
8 and we came across the Garda lines, which were not 400
9 pair, as described in the article, and there was no
10 evidence of interference. I also noticed that the Ramparts
11 Exchange is built on the River Ramparts, on a flood plain,
12 and I was speaking to a number of Eircom staff; it would
13 flood from time to time, and at some stages it would have
14 to be pumped out or they would have to get the fire brigade
15 in to pump it out. And if an electronic recorder, as
16 described in the article, was left in the cable chamber, it
17 wouldn't have -- the floods would have affected it. On the
18 4th of April, 2007, at Dundalk Garda Station, I had a
19 number of photographs taken in relation to the main
20 distribution frame at the station, the cabinet outside the
21 station and the manhole. Now, on the 13th of June
22 inspection, we also not only checked The Ramparts Exchange,
23 but we also checked the manhole outside Dundalk Garda
24 Station and we also checked the cable cabinet outside the
25 station. Now, it was a number of years, 16 years or so
26 after, but there was no evidence of interference.

27 9 Q. I think just, and we'll come to this in more detail in a
28 second, Mr. Kelly, but you did indicate there that when you
29 inspected the cable room and effectively tried to replicate
30 the described intercept in the article, you saw no evidence

1 of what was described in the article. From your
2 investigations and discussions with people with technical
3 expertise, were you led to believe that if it had been
4 carried out as suggested in that *Phoenix* article, there
5 would have been evidence?

6 A. There would have been, because you would have had to cut
7 back, this is what I'm told now from the technical people,
8 you would have had to cut back the cable chamber sheath,
9 and then, for example, you had two 1,000 pair wires, so
10 that means you would have 2,000 wires; you would have to
11 actually pick out the actual wires to intercept, but then
12 the problem, when you do that, you would have the loss of
13 pressure and that would set off an alarm in the Exchange,
14 in the Drallim machine, and that would indicate that some
15 interference had taken place, and I am told there would
16 have been evidence, after, to show that this work had been
17 carried out, and I could find no evidence to that effect.

18 10 Q. What form would that evidence take?

19 A. Pardon?

20 11 Q. What form would that evidence take?

21 A. Well, what you would have to do is, you would have to have
22 someone that would have an insight knowledge and a
23 technical expertise to carry out an intercept as described.
24 Now, where I have spoken to numerous engineers, jointers,
25 technicians in Telecom Eireann, it's feasibly possible to
26 carry out an intercept like that, but highly unlikely, and
27 the chances of detection would be very high indeed, where
28 there was more easier ways to carry it out. It could have
29 been carried out on the main distribution frame and it
30 could have been carried out at -- anywhere along the line

1 and diverted out to another house where the call could be
2 heard. For example, what they were saying is that the line
3 was intercepted, they attached an automatic recorder to the
4 line and that they were able to come in after hours and
5 listen to the communications on that recorder. The chances
6 of that happening without being detected would be very,
7 very high. Where, I'm told the most appropriate way to do
8 it is to get the intercept, maybe, on the main distribution
9 frame or away from the Exchange and divert it out to -- for
10 example, you have your line going from A to B; somewhere
11 along the line, divert it to C, to, probably, a safe house,
12 or whatever, and then could you easily listen in to the
13 communications. Now, it would eventually, more than
14 likely, be detected, but it would be much quicker, I am
15 told, be detected in the cable chamber and possibly at the
16 MDF frame in the Exchange, than if it had been diverted
17 from somewhere else.

18 12 Q. When you refer to that diverting a line that's going from A
19 to B, is that what's called putting a jumper on it --

20 A. Yes, that's my understanding. As I say, I haven't got the
21 technical knowledge, but that is my understanding.

22 13 Q. And just in relation to -- coming back, again, to, if the
23 chamber had have been opened to get -- to isolate the line,
24 presumably it would have had to have been opened some
25 distance so that you are able to get in and separate the --

26 A. It wouldn't be just -- you'd have to -- I am told, roughly
27 at least 18 inches you would have to disturb.

28 14 Q. Then, that 18 inches would have to be resealed?

29 A. Resealed, yes.

30 15 Q. How would that have been done from --

1 A. I am told it's kind of a patch, that the jointers would
2 carry out the work and then it would be patched over and
3 then it would be pressurised. So, to prevent, because the
4 problem with being -- if moisture gets in, it affects the
5 lines, so that's why you have to pressurise the lines, that
6 in the event, if there is a breakage, that the alarm will
7 immediately go off in the Drallim machine in the Exchange
8 and they know that there is a problem. So it would have to
9 be someone with the telecom or technical expertise that
10 could carry that out.

11 16 Q. And there was no evidence, when you inspected the cables,
12 of a large 18-inch --

13 A. I saw no evidence on the two lines, yeah. As a matter of
14 fact, it refers to 400 power wires, and it's not just --
15 that's 800 wires, even if that was the case, and you have
16 to go in and you have to individually identify the two
17 wires that you need to intercept.

18 17 Q. I think, Mr. Kelly, you reported on the 12th of February,
19 2008?

20 A. That's correct.

21 18 Q. I think you provided a report which was in six volumes?

22 A. That's right, yes.

23 19 Q. What I propose to do, I think -- volume 1 consists of a
24 very comprehensive and detailed summary?

25 A. Of my investigation, that is correct.

26 20 Q. What I think would be helpful to the Chairman is if we go
27 through the main points, and I'd ask Ms. McKevitt to
28 provide you with a copy of that and also provide the
29 Chairman and Mr. Mills with a copy of that. I understand
30 there are also some copies for the parties.

1 A. Can I just say something? The reason that the
2 investigation took so long, it was Gerry Finnegan was
3 deceased and I had to try and trace all the people that
4 were working with him at any given time, or the relevant
5 time. Now, I have traced, I think, over 20, but each team
6 might include three to five people, and it took me up to, I
7 think, nearly 2008, and, just by chance I was in the main
8 exchange in Dundalk and there was a photograph on the wall
9 of Mr. Gerry Finnegan and it had a number of his team, so
10 that's how it took so long to trace, where I was getting
11 information from Eircom and from speaking to people, they
12 would put me on to other people, and it kept building from
13 there. But because I got absolutely no cooperation from
14 the *Phoenix* magazine that published the article, the
15 necessity was then for me to have to look at the article
16 from line one and investigate it right through to the
17 conclusion and then submit it to the Director of Public
18 Prosecutions.

19 21 Q. And I think in your report, you described the investigation
20 as something of a Pandora's box?

21 A. That's correct, yes.

22 22 Q. In, when you speak to one person, they would give you the
23 names of other people who they worked with, and so it was
24 an ever-expanding group of people that you had to speak to?

25 A. It was, yes.

26 23 Q. Just before we get into the report itself, just to be
27 clear: Did your investigation have any relationship with
28 this Tribunal?

29 A. No. As a matter of fact, I think there was one witness to
30 the Tribunal, I think, mentioned that I had stated I was

1 representing the Tribunal. That was never the case. Every
2 witness that I spoke to, and I would say they will confirm
3 it, every witness I spoke to, I told them there was a Garda
4 criminal investigation. I did tell them there was a
5 tribunal of inquiry, the Smithwick Tribunal, and that was
6 totally separate. And I think what happened was that one
7 of the witnesses that I had interviewed, had stated that I
8 had represented myself as being from the Tribunal, which
9 wasn't the case. I was sent for because I think the
10 Tribunal made a complaint to Garda Headquarters and I was
11 asked -- I went to Garda Headquarters and I went through
12 the whole investigation, and they were satisfied that my
13 investigation, at all times, it was a criminal
14 investigation, and that I never once -- and I was very
15 careful with every witness, that told him that this was
16 purely a criminal investigation and it had absolutely
17 nothing to do with the Tribunal, which was a separate
18 inquiry. I think it was just a misunderstanding.

19 24 Q. I think that's probably correct, Mr. Kelly. Now, perhaps
20 if I start with the -- I just want to, perhaps, take you
21 into Section 3.2 of the report, and at that point I think
22 you describe the difficulty that arises because of the
23 amount of time that had elapsed since these --

24 A. That's correct, yes.

25 25 Q. I think you also describe, at that point, the particular
26 difficulty arising because Mr. Gerry Finnegan - this is
27 paragraph 3.4, now - Mr. Gerry Finnegan, who was named in
28 the article in *The Phoenix* magazine as having been the
29 person who discovered evidence of the intercept, was now
30 deceased?

1 A. That's right.

2 26 Q. And so I think the other primary difficulty then arose from
3 the fact that the *Phoenix* magazine didn't cooperate with
4 you. Can you outline to the Chairman --

5 A. I made a number of phone calls to the editor of the *Phoenix*
6 magazine. I outlined that what I was investigating into,
7 and requested a meeting, which didn't happen. I also sent
8 a letter by registered post requesting a meeting, and at no
9 time did I get a meeting with anyone from the *Phoenix*
10 magazine. I wanted to really go through the article to
11 establish where the information came from, and I accept
12 that there is journalistic privilege, but I wanted to speak
13 to the editor and speak to the author of the article to
14 establish the background to this information and to my
15 investigation. And there was two other articles that
16 appeared, one in *The Argus* newspaper shortly after the
17 *Phoenix* magazine, and one appeared in the *Cork Examiner*
18 shortly after the murder of Chief Superintendent Breen and
19 Superintendent Buchanan, and the journalists of both of
20 those papers met me and cooperated fully, but the *Phoenix*
21 did not cooperate and declined to meet me at any stage.

22 27 Q. When we come to -- your report deals with both of those
23 other articles, and, when we come to those, I'll read those
24 into the record because they haven't been previously read
25 into the record of the Tribunal. Obviously, the lack of
26 cooperation from *Phoenix* had a frustrating effect on your
27 investigation, is that fair to say?

28 A. Well, it had, because that would be the normal start of any
29 investigation, that you would endeavour to speak to the
30 editor and the author and see where the background to the

1 article was coming from. When that didn't happen, that
2 resulted in me having to start with the article line by
3 line, the necessity to speak to people in An Post ID
4 branch, the investigation branch, engineers, technicians,
5 jointers, anyone that was attached to the Eircom Exchange
6 that may have worked with Mr. Gerry Finnegan, to see were
7 they present when the intercept was found. I spoke to
8 Mr. John O'Halloran, I think it was, the manager of the
9 Exchange at that time, who was -- who was the superior to
10 Gerry Finnegan; I spoke to Alan Cox; and I think it was a
11 Mr. Frank McEvoy and a Des Egan, who would be in the line
12 -- they said the matter was reported to Cumberland House.
13 The procedure would have been that --

14 28 Q. I think that's a reference -- the *Phoenix* article suggested
15 that Gerry Finnegan had reported to the Cumberland House?

16 A. Cumberland House. That wouldn't have been the case.

17 29 Q. And why was that not -- why could that not have been the
18 case?

19 A. Because, at the very least, he would have been reporting it
20 to his manager, who he knew for years and worked with for
21 years, I think it was Mr. John O'Halloran in Boyne in
22 Drogheda, in the Exchange in Drogheda, but the line of
23 reporting would have been that he would have gone to his
24 immediate superior, which I think would have been Mr. Alan
25 Cox, Mr. Alan Cox would have briefed Mr. Frank McEvoy,
26 Mr. Frank McEvoy would have briefed Des Egan, who, in turn,
27 would have briefed the manager of the Exchange, who, in
28 turn, would notify the investigation branch, and they would
29 notify the Gardaí if such an intercept had been found. So
30 that was the -- that was the reporting mechanism at that

1 time, and the manager even said to me that even if he
2 bypassed that, Gerry would have gone to him and briefed him
3 on the find. He wouldn't have bypassed him. But
4 Cumberland House, as far as I could make out at that time,
5 was only responsible for Dublin; it wasn't responsible for
6 the country exchanges.

7 30 Q. Perhaps I could refer you to paragraph 4.3 of the report
8 where you deal with this chain of command. I think in the
9 preceding paragraph, is it fair to say that from all of
10 your discussions, it's fair to say that Mr. Finnegan was
11 held in the highest esteem by his colleagues?

12 A. He was very hard working, dedicated, gave 45 years to
13 Telecom Eireann. Sadly, his name was published in the
14 article after his death. He wasn't given an opportunity to
15 defend it. Everyone that I have spoken to, from the top in
16 Telecom Eireann to any of the guards that knew him, anyone
17 in the locality, he was spoken of the highest, as was his
18 wife, Rose, who I did meet just to inform her about the
19 investigation.

20 31 Q. Now, just in -- I think in paragraph 4.2, you say,
21 *"I am satisfied that if Mr. Gerry Finnegan had discovered*
22 *an interception device as detailed in the article, or any*
23 *other device illegally placed to intercept information,*
24 *then he would have reported such to his superiors through*
25 *the appropriate channels."* And you are satisfied with
26 that?

27 A. I am very satisfied with that, yes.

28 32 Q. And then at 4.3, I think this is where you describe the
29 chain of command which you have just referred to:

30 *"In the article, it is stated that a report was made by Mr.*

1 Gerry Finnegan to Telecom HQ in Cumberland House, Dublin.
2 On the 6th of July, 2005, I interviewed Mr. John
3 O'Halloran, a retired district manager with Telecom
4 Eireann, who stated to me that had the late Gerry Finnegan
5 made a report as detailed in the article, then the initial
6 report would be to be his immediate superior, Mr. Alan Cox,
7 who was the executive engineer. The chain of command then
8 dictated that Mr. Alan Cox would, in turn, report such an
9 incident to Mr. Frank McEvoy, who was the assistant staff
10 engineer. Mr. Frank McEvoy, in turn, would report the
11 matter to Mr. Desmond Egan, district engineer. He, in
12 turn, would have reported to Mr. John O'Halloran himself,
13 and Mr. O'Halloran has stated to me that had such a matter
14 come before him, he would have immediately contacted the
15 head of Telecom investigation branch, Mr. Aidan Cullen.
16 Mr. John O'Halloran stated that he knew and worked with the
17 late Mr. Gerry Finnegan and Mr. Finnegan had never reported
18 such a discovery to him, and he stated 'If such a device
19 were discovered, it would almost certainly have been
20 brought to my attention'."

21
22 And then, I think you've already explained -- the next
23 paragraph deals with the reference to Cumberland House.
24 Cumberland House was, in fact, not a national headquarters,
25 but that was the divisional Dublin headquarters and that
26 wouldn't have been the appropriate place for such a report
27 to be made?

28 A. Yes.

29 33 Q. In paragraph 6.5, you deal with your meeting with Mrs. Rose
30 Finnegan, and did she have any recollection of the events

1 dealt with in the article?

2 A. She hadn't, no.

3 34 Q. And I think if such a report were to go through to
4 Headquarters, it would go to Stephen's Green rather than
5 Cumberland House, is that correct?

6 A. Stephen's Green, yes.

7 35 Q. And I think, as you recorded there, Mr. O'Halloran
8 indicated that if a report had have come to him, he would
9 have reported it to the Telecom investigation branch, and,
10 at that time, the Head was Mr. Cullen. Did you interview
11 Mr. Cullen?

12 A. I did, I took a statement from him.

13 36 Q. Did he have any recollection?

14 A. No recollection whatsoever.

15 37 Q. Now, at paragraph 4.8 of your report, Mr. Kelly, you refer
16 to your interview with Mr. William Prendergast. I wonder
17 could you outline to the Chairman what Mr. Prendergast
18 said? Perhaps I'll just read it into the record and you
19 can confirm:

20

21 *"A statement made to me by Mr. William Prendergast, an*
22 *Assistant Principal with An Post, who at the time of the*
23 *alleged intercept was a senior investigation officer with*
24 *An Post investigation branch. Stated that he had a clear*
25 *recollection of an investigation which took place similar*
26 *to that detailed in the article, but that he was unable to*
27 *connect the late Mr. Gerry Finnegan with that inquiry. He*
28 *further stated that 'I can't be certain that the case I*
29 *investigated is related on the same incident that appeared*
30 *in The Phoenix magazine.'* Copy of statement included in

1 *file. In a follow-up to Mr. Prendergast's statement, I met*
2 *with Mr. Tony Gough, Senior Security Manager, Eircom, and*
3 *Mr. Corbett, Eircom, Senior Investigation Manager, with a*
4 *view to establishing if the details submitted in*
5 *Mr. Prendergast's statement could be affirmed by supporting*
6 *evidence, i.e. by docket books. Despite extensive and*
7 *prolonged search, no record could be located."*

8 A. That's correct.

9 38 Q. So Mr. Prendergast did have a recollection of some
10 incident?

11 A. He did.

12 39 Q. Is it fair to say that he was vague on the specifics?

13 A. He was vague on the specifics, but he was adamant that he
14 did carry out an investigation. Now, as I said, he
15 couldn't be certain it was related to this, but it was an
16 investigation that he did carry out, and I linked that,
17 possibly, then to -- in the statement that I took from
18 Mr. Thomas Cummiskey, then, at a later date.

19 40 Q. We'll deal with that, because you come on to that in your
20 report subsequently, so we'll deal with that and you can
21 then explain why you make that link. Now, I want to deal
22 with the article that also appeared in *The Argus*, which is
23 a newspaper, a local newspaper in County Louth, isn't that
24 right? And I am going to ask Mr. Mills to put a copy of
25 *The Argus* article on the overhead, and if one could also be
26 provided to the witness and to the Chairman. This is an
27 article that appeared in *The Argus* on June 17 of 2005, and
28 it hasn't previously come up in evidence, so I am going to
29 read it into the record, Chairman.

30

1 The heading is: *"Controversial Article Theory is*
2 *Discounted:*

3
4 *"A controversial magazine article claiming that the IRA*
5 *covertly intercepted a private Garda phone line at the*
6 *former Telecom Eireann telephone exchange on The Ramparts*
7 *to learn of a meeting between two RUC officers and Gardaí*
8 *in Dundalk in 1989, has been discounted by An Argus source.*
9 *RUC Chief Superintendent Harry Breen and Superintendent Bob*
10 *Buchanan were brutally murdered by the IRA on March 20th,*
11 *1989, as they returned north after a meeting with senior*
12 *Gardaí in Dundalk.*

13
14 *"The article featured in the latest edition of the National*
15 *magazine claims that the IRA knew of the meeting because,*
16 *from 1987 to 1990, they had connected a hidden 'jumper' to*
17 *the Garda telephone line at the main distribution frame in*
18 *the former Telecom exchange and were, therefore, able to*
19 *intercept and record calls made by the RUC officer on the*
20 *day of the meeting.*

21
22 *"It was alleged that each time the 'RUC hot line', a*
23 *private telephone line used by Dundalk Gardaí, was used, a*
24 *listening device fitted by the IRA was switched on and*
25 *automatically recorded conversations onto cassettes.*
26 *The magazine also claimed that on March 20th, the first of*
27 *several intercepted phone calls from RUC officer Bob*
28 *Buchanan to Dundalk alerted the IRA that Chief*
29 *Superintendent Breen would be in town that day. It alleges*
30 *that the time the RUC officers would leave Dundalk was*

1 known but only the route was unknown.

2

3 "However, an ambush had been set up on the Edenappa Road
4 that afternoon and the two RUC officers were brutally shot
5 to the death.

6

7 "The article also claims that the alleged phone-tapping was
8 not included in the initial inquiry into the killings by
9 Canadian Judge Peter Cory, who found there was no Garda
10 collusion with the IRA.

11

12 "The magazine's claims have been discounted by local
13 sources contacted by *The Argus*."

14

15 In effect, I think it's fair to say, would you agree, that
16 that simply repeats what was in *The Phoenix* magazine, but
17 simply adds that the claims contained in the magazine have
18 been discounted by local sources contacted by *The Argus*.

19 A. That is correct, yes.

20 41 Q. And did you contact *The Argus* newspaper on foot of the
21 publication of that article?

22 A. I did, indeed. On Thursday the 17th of November, I met
23 Mr. John Mulligan, who was the editor of *The Argus*, at his
24 office in Park Street in Dundalk, and I took a written
25 record of an interview which I had with him in relation to
26 his article. I think the article had been down as being by
27 one of the journalists, I think it's Olivia Ryan, but, in
28 fact, it was Mr. Mulligan who supplied the information to
29 the journalist to write the article, so it was the editor
30 that had the information, and he passed that on to the

1 journalist to write the article.

2 42 Q. And did you ask him about what information he had received?

3 A. He said he had a number of sources, I think it was three
4 sources, and one of the sources would have had Eircom
5 connections.

6 43 Q. And did you ask him what information he had received from
7 the source?

8 A. I did ask him, again, would it be possible for me to meet
9 the source of the information, or could he arrange that,
10 and it wasn't possible, but he did cooperate fully with the
11 investigation.

12 44 Q. And you record at paragraph 5.9 of your report, and I think
13 this is a reference to Mr. Mulligan - you can confirm that:
14 *"He further stated, 'It was an opportune sighting of, on a*
15 *previous visit by an officer to the station and*
16 *surveillance was placed on the station and leased a room in*
17 *the vicinity of the station for that person. This is what*
18 *our sources indicated to us'."*

19

20 So that's what Mr. Mulligan said to you of the information
21 that he received?

22 A. That's correct, yes.

23 45 Q. You subsequently, then, as you say, met with Ms. Ryan, but,
24 in fact, she had just written the article on the
25 instructions of her editor?

26 A. On the instructions of the editor, yes. She had no
27 information apart from what the editor asked her to write.

28 46 Q. Your report then goes on to deal with an article that
29 appeared in the *Cork Examiner* on Wednesday, 22nd of March,
30 1989, so this, in fact, pre-dated the *Phoenix* article, but

1 this only came to your attention, am I correct in saying --

2 A. During the investigation.

3 47 Q. During the course of the investigation?

4 A. Yes.

5 48 Q. How did it come to your attention?

6 A. Just when I was researching back into it and looking
7 through the records, I came across the article. I think I
8 contacted the editor of the *Cork Examiner* and they faxed me
9 up, or sent, by post, up the article itself to me from that
10 date.

11 49 Q. And again, this is an article that hasn't previously arisen
12 in evidence, Chairman, so I'll read it into the record.
13 It's an article entitled "*IRA used hi-tech bug in ambush*
14 *planning.*" The report is by Jim McDowell of the Ulster
15 Press Agency in Belfast. As already stated, it was
16 published two days after the killings, on the 22nd of
17 March, 1989.

18
19 *"A European multi-millionaire provided the key for the IRA*
20 *killing of two top policemen in Northern Ireland. The*
21 *electronics expert unwittingly supplied a sophisticated*
22 *hi-tech eavesdropping device for a major cross-border*
23 *smuggling operation. The businessman, described as a*
24 *computer whizz kid, had come to the north to set up a*
25 *factory, but left 18 months ago. The microchip system came*
26 *into the possession of the IRA after it was used by*
27 *smugglers in the Crossmaglen area, who operate only with*
28 *the permission of the provisionals. The Provos were able*
29 *to adapt it to break into frequencies of the communication*
30 *links used by the security forces and customs officers.*

1 The Provos first used the system when tracking top northern
2 Judge Maurice Gibson, who died with his wife in a huge bomb
3 blast on the border two years ago. Since then, they have
4 adopted it successfully but sparingly on a number of
5 specified hit targets. It is now an important and vital
6 part of their armory in the war against the British Army.
7 The equipment is so effective they can eavesdrop on two-way
8 conversations or on any frequency or waveband. All that is
9 necessary is to pin the machinery, the size of a 10p piece,
10 to a telegraph pole. According to security sources,
11 provisional intelligence officers were able, using the
12 device, to monitor the times and meetings of cross-border
13 security briefings. They were even in position to know the
14 location of where such meetings with the Garda Síochána
15 took place and the registration of the car used to ferry
16 RUC chiefs across the border. It was then a simple matter
17 of relaying that information to snipers, who took up their
18 position on a hilltop vantage point and waited on Commander
19 Harry Breen and his deputy, Bob Buchanan, in returning
20 across the border. The Provisional's electronic expert is
21 known to security forces on both sides of the border. He
22 first surfaced after deadly sweeping devices were used to
23 detect bomb hauls in flash-point areas. The theory that
24 the two RUC men, both married and with families, were
25 tracked from the minute they left their headquarters in
26 Armagh, answers the question that they regularly drove
27 across the so-called bandit country in south Armagh without
28 an escort. It also answers the main question why the
29 plainclothes pair were driving in a treacherous two-mile
30 area where terrorists were waiting to spring their deadly

1 trap."

2

3 And the article then proceeds:

4

5 *"Fact one: The Provos knew and identified the red Cavalier*
6 *car the officers were travelling in from previous regular*
7 *briefings.*

8

9 *"Fact two: They had already spotted the officers crossing*
10 *the border on at least one previous mission.*

11

12 *"Fact three: The Provos had been alerted by the*
13 *sophisticated two-way radio system to the time and place of*
14 *such meetings.*

15

16 *"Fact four: Both officers had made it clear they did not*
17 *want a Garda and subsequent RUC escort on their journey*
18 *back to Armagh.*

19

20 *"The hysteria created by Loyalist politicians has been*
21 *blunted by the clear evidence now emerging on both sides of*
22 *the border that no mole was involved in setting up the*
23 *killings. Instead, the Provos are celebrating their*
24 *biggest propaganda exercise since the Troubles began almost*
25 *20 years ago.*

26

27 *In Cork, a private security expert, now retired and wishing*
28 *to remain anonymous, told the Examiner last evening that*
29 *unauthorised surveillance is not only possible but*
30 *relatively simple.*

1
2 *"Neither is the necessary equipment expensive, providing*
3 *that those using it have been trained and are able to make*
4 *the simple adaptations necessary to commercial gear.*
5 *Eavesdropping is possible in a number of ways. A*
6 *sophisticated audio device can be rigged up as much as 300*
7 *metres away from a given house or room and can be focused*
8 *and pinpointed in order to bring conversations right to the*
9 *listener. It is possible to tap into an ordinary telephone*
10 *line by using a simple mechanical clamp which can be*
11 *attached to any phone line at any given point without even*
12 *the necessity for climbing a telegraph pole. Conversations*
13 *can be drawn from the airwaves and unscrambled, assuming*
14 *they had been scrambled in the first place, using simple*
15 *computer technology now within the reach of many people.*
16 *Small signal transmitters can be attached to vehicles which*
17 *enable their exact location to be monitored at any given*
18 *time. It is now thought that the equipment used by the*
19 *security forces is not foolproof, that it can be breached*
20 *easily and inexpensively, and that this is being done on a*
21 *regular basis by subversives. There are means of*
22 *combatting this, but they depend mainly on very expensive*
23 *manpower with the high level of technical expertise*
24 *necessary to install and oversee new systems which are*
25 *secure."*

26
27 Did you meet the author of that article, Mr. Kelly?

28 A. I did, indeed, yes.

29 50 Q. And can you explain the result of that interview?

30 A. It was on Saturday, the 1st of April, 2006, I met Mr. Jim

1 McDowell, editor of the *Sunday World*, Belfast, at the
2 *Sunday World* offices in Dublin. I interviewed Mr. McDowell
3 in relation to this article which appeared in the *Cork*
4 *Examiner* on the 22nd of March, and I kept a written memo of
5 the interview, which was subsequently signed by
6 Mr. McDowell. During the course of the interview,
7 Mr. McDowell confirmed he was the author of the article
8 "IRA used hi-tech bug in ambush planning." He confirmed
9 the source of his article was an RUC man who is now
10 deceased, but would not disclose the name of the source.
11 Mr. McDowell was adamant that the source was credible at
12 the time, he was a very good source and a very reliable
13 source. At the time frame which this article was
14 published, on March 22nd, 1989, coincides with the period
15 mentioned in the *Phoenix* article, 1987 until 1980, it would
16 appear to substantiate the IRA known to be in possession of
17 surveillance equipment, if these articles were credible, if
18 the equipment of these articles are credible.
19 It was a full memo. I spoke to him at the *Sunday World*
20 offices and I took a full memo of interview off him.

21 51 Q. And he maintained that his source was credible?

22 A. Was credible, yes.

23 52 Q. And you felt, leaving aside the specific issue of the
24 specific allegation in the *Phoenix* magazine, you felt that
25 that tended to suggest that the IRA were certainly involved
26 in the use of surveillance equipment in the late 1980s?

27 A. That is correct, and had the capabilities of carrying out
28 an intercept.

29 53 Q. Is that a conclusion you formed overall as a result of your
30 investigation?

1 A. As a result of the investigation, yes.

2 54 Q. That the IRA were carrying out surveillance using --

3 A. Yes, that's correct.

4 55 Q. Did you form any view as to whether, from your other
5 investigations, did you form any view as to whether the
6 article was correct?

7 A. The article in the *Cork Examiner*?

8 56 Q. Yes, Mr. McDowell's article?

9 A. I was aware of the capabilities of the IRA, they had the
10 capabilities. There have been a number of finds throughout
11 the years which would indicate that they had the
12 capabilities to carry out intercepts, if required.

13 57 Q. So you were satisfied, in a general sense, that they had
14 capabilities to intercept phones?

15 A. That's correct, yes.

16 58 Q. I think you have already explained to the Chairman the
17 location of The Ramparts and the fact that it's on a -- on
18 flood plains, and effectively, am I correct in saying that
19 the cable chamber is on basement level?

20 A. It's on basement level, yes.

21 59 Q. And therefore, in terms of the -- I think you have taken
22 some photographs, and they indicate there is --

23 A. I have, yes.

24 60 Q. There is flood damage. In terms of the impact that might
25 have had on what the *Phoenix* magazine says was carried out
26 in the cable chamber, can you just outline your conclusions
27 in relation to that, to the Chairman?

28 A. From inspecting The Ramparts Exchange, the cable chamber in
29 the basement, there was evidence of flooding. I have also
30 spoke to a number of the personnel that works in The

1 Ramparts Exchange, Dundalk, and they were saying, as it was
2 built on a flood plain, that it was very prone to flooding,
3 and, on numerous occasions, that they had to pump water out
4 or the fire brigade would have to be called to pump it out.
5 So if there was electronic recorders, as described in the
6 article, in the basement chamber, I cannot see how it would
7 survive without being damaged by the water.

8 61 Q. I think the article suggested that the recording device was
9 held in a jointer's mending equipment --

10 A. A jointer's box.

11 62 Q. A jointer's box.

12 A. That wouldn't go -- if you put something into a jointer's
13 box, it might remain there for a short period of time, but
14 it will definitely be discovered, and there was no evidence
15 that any recorder was held in the jointer's box. I think
16 on the 13th of June, when we carried out the inspection --
17 when the Eircom officials had a look at the jointer's box,
18 and there was no evidence whatsoever indicating that a
19 recorder was kept there.

20 63 Q. And if I just -- these are photographs that were taken by
21 the Tribunal, Mr. Kelly, and I'd ask Mr. Mills to put
22 Photograph No. 80 on the screen. Can you confirm that that
23 is a jointer's box?

24 A. That's been described to me as a jointer's box, yes.

25 64 Q. And I think in the subsequent photograph, this is obviously
26 placed by the Tribunal in a kind of a fashion to suggest
27 what the article suggests, that the joint -- that the
28 intercept was taken out of the cable and into a jointer's
29 box where the voice-activated monitoring device was placed.
30 And from your investigations, were you satisfied that a box

1 that was sitting around like that for a prolonged period of
2 time, would have been remarked upon?

3 A. It wouldn't have gone unnoticed.

4 65 Q. Now, I understand that The Ramparts switched over to the
5 electronic system in the mid-1980s, is that correct?

6 A. It became an Alcatel E10 Digital Exchange. Alcatel, and
7 that is just the name of the company, it's a French company
8 that installed that type of exchange at Ramparts, Dundalk,
9 it was a digital exchange, so that's where it gets the name
10 Alcatel, and E10 was just the name of the exchange itself.

11 66 Q. Are you satisfied that, from that point forward, security
12 at The Ramparts was high in terms of, and I speak, I
13 suppose, in terms of people, outsiders getting access into
14 the building?

15 A. As -- when you entered the exchange in 1989, there was a
16 CCTV in operation and there was a -- security personnel on
17 duty. Eircom Telecom staff that would have access to the
18 exchange, would actually have to key in a number to gain
19 entry. At that time, there was also, I think a number of
20 telephonists operated from there, and RTE had a small
21 studio there, as well. Security was tight. And I have
22 spoken to some of the personnel at the exchange and they
23 would describe the security as being at par with any of the
24 main exchanges in Dublin.

25 67 Q. About how many staff worked in the exchange in the late
26 1980s?

27 A. As I say, I have traced over -- you see, you would have
28 staff working in the exchange on the main distribution
29 frame, you'd have your internal superintendent and you'd
30 have your internal staff, figures I haven't got, and then

1 you would have your external superintendent who was
2 responsible for work outside the exchange, but you would
3 have, from time to time, interchange; you would have
4 external staff going into the cable chamber, and vice
5 versa. I think I traced around, in all, about 40 or 50
6 Eircom officials that worked in The Ramparts Exchange at
7 that time, but, at any given day, it would be a guess, you
8 might have 20, or whatever, there. I just couldn't give
9 the exact amount.

10 68 Q. And did you establish whether the access to the chamber, to
11 the cable chamber, was open or whether it was controlled?

12 A. The cable chamber, when you go into the exchange, you went
13 into the main part of the exchange, the ground floor, then
14 you had to go downstairs and you had to be -- go into the
15 cable chamber. Now, at that time, I don't know if it was
16 security codes or not. I would imagine it was. I don't
17 know at that time if it was or not.

18 69 Q. Just, sorry, can I ask you, Mr. Kelly, to look at paragraph
19 6.5 of your report. Mr. Mills might just put that up.
20 That's a quote from the statement of John O'Halloran, who
21 was the retired district manager from Telecom Eireann. He
22 states, *"Having read the article, if the IRA had an*
23 *engineer in Dundalk Exchange, it would be technically*
24 *possible for them to carry out the interception as*
25 *described."*

26 A. Yes. Then, under that, he goes on to say, *"The building*
27 *known as The Ramparts is a solid brick construction. Entry*
28 *to the Exchange was through electronically-controlled gates*
29 *monitored by CCTV. There was a camera at the main building*
30 *itself, and entry to the door would be by coded number, as*

1 I said, or key. The Exchange in Dundalk would open between
2 8:30 a.m. and 5 p.m. for engineering staff, but they could
3 gain entry 24 hours a day when an emergency arose. There
4 would be roughly 25 to 30 engineering staff attached to the
5 Exchange. The telephonists were employed at the Exchange
6 on a 24-hour basis." And then "a small studio operated by
7 RTE, northeast region, adjacent to the Exchange..."

8 70 Q. So can I take from that that it was highly unlikely that
9 the IRA could have done it if they didn't have an employee
10 in the Exchange?

11 A. That's right.

12 71 Q. If they had an employee in the Exchange, it was technically
13 possible that they might have done it, but we'll come on
14 to --

15 A. Otherwise, no. Like, if you work in a place, in work, you
16 know everyone you are working with, you are meeting them on
17 a daily basis. So if a stranger turned up at the Exchange,
18 he would definitely be stopped and questioned, even if he
19 was an Eircom official from a different section. If he was
20 to come onto the Exchange and he wasn't known, he wouldn't
21 just be able to walk in and say -- he would be definitely
22 challenged by management.

23 72 Q. I think you deal with, at the next section of the report
24 would be, the fact that you carried out a photo survey and
25 a mapping survey?

26 A. That's right, yes.

27 73 Q. And I might just, from the Tribunal's photographs, ask
28 Mr. Mills to put up Photograph No. 32. Can you identify --

29 A. That's like the Drallim machine and that is the machine
30 that if anyone interfered with the cables down in the

1 chamber, it would set off -- once there was a loss of
2 pressure, an alarm would go off and that machine would
3 immediately, it would be immediately investigated because
4 it could cause problems to customers' lines, so once the
5 alarm -- once there was a loss of pressure, the alarm would
6 go off and senior personnel at the Exchange then would
7 immediately go to see where the problem was.

8 74 Q. I think you also carried out a mapping survey of The
9 Ramparts, isn't that correct?

10 A. Yes.

11 75 Q. In section 8 of your report, you deal with a communication
12 between RUC stations and Garda stations at the relevant
13 period in the late 1980s?

14 A. Yes.

15 76 Q. Did you contact the RUC in that regard, Mr. Kelly?

16 A. I did, yes.

17 77 Q. And I think you deal with that effectively as an addendum
18 in Section 14 of your report. Can you indicate what the
19 RUC told you about communications at the time?

20 A. There was an article in relation to, that the IRA had used,
21 I think it was 160 megahertz, whatever. That wasn't used
22 by the RUC at that time. They did use pocket phones. The
23 article also went on, I think, to say something like --
24 identifying the members. For example, I think if the call
25 sign was, say, just an example, was Hotel Delta 1, there
26 was an inclination to drop, say, the 'Hotel' and just call
27 sign 'Delta 1' and the '1' would signify the seniority of
28 the officer. So if it was Delta 1, Delta 2, Delta 1 may be
29 the Chief Superintendent, Delta 2 may be the
30 Superintendent, and that's my interpretation of the report.

1 78 Q. The article, I think the section of the article you are
2 referring to says "A separate CI" -- which is a
3 communications interception -- "*unit monitored the RUC*
4 *pocket-phone 160 megahertz radio network on which Buchanan,*
5 *call sign Hotel 1-0, spoke to Hotel 0*" -- which is Newry
6 RUC HQ -- "*several times on the fateful day.*"

7 So the RUC told you that whilst pocket phones were in use,
8 the suggested frequency in the article --

9 A. That frequency was not used -- was not in use, yeah.

10 79 Q. Did you investigate what private wires existed going in or
11 coming out of Ramparts station?

12 A. I think in the border there was something like 40, 41
13 private wires. Now, as the communications was supposed to
14 have been between Dundalk Garda Station and Armagh RUC
15 Station, there was no private wire between Dundalk and
16 Armagh. There was a private wire between Dundalk and Newry
17 RUC station, Dundalk and Bessbrook RUC station, there was
18 also one to the courthouse in Dundalk, to the army barracks
19 in Dundalk, and also to the 999 connection, but there was
20 no trace that we could establish that there was a private
21 wire in existence at that time, from our Garda records, to
22 Armagh but there was no Newry and Bessbrook, which would
23 also contradict the article.

24 80 Q. I think in that regard, just again to be clear on this, to
25 refer back to the article, the article suggests that "*from*
26 *1987 until 1990, a Garda private wire (PW circuit) was*
27 *intercepted 24/7 by the IRA in the Telecom Eireann*
28 *telephone exchange at the Ramparts Dundalk known as E10.*"
29 And it goes on to say: "*At 9:20 a.m. on the March 20th,*
30 *the first of several intercepted phone calls from Buchanan*

1 to Dundalk gave the IRA an indication that Breen would fall
2 into their trap that day."

3 But you are saying that you established that the only
4 private wires that existed in terms of, other than to the
5 barracks and to the Court house, the only ones that existed
6 going out of Dundalk to an RUC station, there were two:
7 Bessbrook and Newry?

8 A. That's from our record and from speaking to our
9 telecommunications personnel, I think there was one from
10 Monaghan to Armagh but not from Dundalk to Armagh.

11 81 Q. And as well as speaking to the Garda telecommunications
12 personnel, was that confirmed by written Garda records?

13 A. There is written records, yes.

14 82 Q. And are you referring to the record --

15 A. Exhibit 8 and 9 I think it is.

16 83 Q. Of exhibit, I don't know if you have Volume 3 of your
17 report in front of you, that's exhibit 8 and exhibit 9 of
18 Volume 3 of your report. Perhaps you might just explain
19 what that exhibit is? Mr. Mills will put my copy of it on
20 the overhead.

21 A. Exhibit 8, it shows Dundalk Garda Station and at the very
22 bottom it says, just the second line up: "1. Private wire
23 to Newry and, 2. Private wire to Bessbrook." It also
24 shows the phone lines into the Dundalk Garda Station, I
25 think there was ten with the possibility of 40 extensions,
26 if required. It also showed where there was scrambler
27 phones, for example in the Border Superintendent there was
28 a scrambler phone in operation; in the Communications Room
29 and in the Superintendent's and DDU office there was
30 scrambled phones as well. That means that communications

1 between one scrambled phone and another where you may be
2 able to intercept, you may not be able to hear what the
3 conversation is because the conversation is scrambled.
4 Now, that only worked if both, if both people operating the
5 system have the scrambling system on. And from what I can
6 find out, with some of the communications with the RUC and
7 the Gardaí at that time that some of the scrambled phones
8 weren't compatible, so it would be open, the conversation.

9 84 Q. Can I just refer you, Mr. Kelly, now, back to Volume 16
10 your report, the Executive Summary, and to paragraph 8.8.
11 And there it states: *"The Police Service of Northern*
12 *Ireland have historical records which indicate that a*
13 *private wire circuit was in operation between Armagh and*
14 *Dundalk but that this line was withdrawn in December 1989."*
15 So that does appear to contradict the written records that
16 you just referred us to in exhibit 8?

17 A. *"It would indicate that these private wires were in service*
18 *on the 25th January 1989 and they were terminated in around*
19 *the 16th January 1990."* Is that the --

20 85 Q. It's the final sentence of that paragraph I am referring
21 to.

22 A. *Therefore the private wire... the Police Service of*
23 *Northern Ireland have historical records...* Yes, that's
24 why I was referring to the Garda records. The PSNI records
25 would indicate that there was a private wire between Armagh
26 and Dundalk, but all the Garda records which I have and
27 have spoken to, the private wires were only between
28 Bessbrook and Newry and that the private wire, I think to
29 Armagh, was from Monaghan. Now, I could find no records
30 from the Garda point of view from the investigation that

1 there was a private wire from Dundalk to Armagh.

2 86 Q. And I think in the subsequent paragraph you refer to the
3 statement provided to you by Garda Garvan McFadden?

4 A. Yes.

5 87 Q. And his recollection, and this is at the top of page 23 of
6 your report, his recollection was that *"These private wires*
7 *connected with the following locations: Newry RUC,*
8 *Bessbrook RUC, 999 circuit, army barracks Dundalk and the*
9 *Court house Dundalk"*. So his recollection concurs with the
10 written records that the Garda Siochana had?

11 A. That's correct.

12 88 Q. And if you possibly could just explain -- could you
13 possibly outline to the Chairman, you deal there with the,
14 with Garvan McFadden's opinion and the information he gave
15 you. You say that he has some interesting points. Perhaps
16 you can just explain that to the Chairman.

17 A. *"He states there were five private wires terminated on the*
18 *telephone instruments in the Communications Room. These*
19 *private wires were connected with the following locations:*
20 *Newry RUC, Bessbrook RUC, 999 circuit and the army barracks*
21 *Dundalk and the Courthouse Dundalk. Having read the*
22 *article in The Phoenix magazine June 3, 2005 and the*
23 *description of the intercept, it was his opinion such an*
24 *intercept could occur if the technicians involved had free*
25 *access on a 24/7 basis to the exchange. They would have*
26 *also needed access to the written records detailing the*
27 *Garda lines located at the Exchange. He again highlights*
28 *that if the pressurised cable is damaged, the air will*
29 *escape activating an alarm. The pressurised cables are*
30 *used so that they can be monitored for faults. A repair*

1 sleeve would have to be heat shrink-fitted to the cable to
2 stop the loss of air and clear the fault alarm. In
3 extracting the pair of wires from 400 pair cable a tape
4 recorder could then have been connected locally. The tape
5 recorder could have been set up only to record when the
6 line was used by the technical change in voltage on the
7 line went it was ringing. The tape recorder would have
8 needed a power source, batteries or local mains supply.
9 The recorder would have needed to be long-play to remove
10 the necessity of the tapes having to be replaced regularly.
11 The recorder in turn would need to be hidden away so as not
12 to be discovered. This could prove difficult if it was in
13 a jointing chamber used by the Telecom Eireann
14 technicians".

15 89 Q. Did you form a view, Mr. Kelly, as to the feasibility of
16 having this tape recorder in the cable chamber?

17 A. In my opinion, it wasn't feasible because if we look at the
18 *Phoenix* article itself, the -- and from the report, it was
19 shortly after nine o'clock in the morning I think that the
20 first call was made between Superintendent Buchanan and
21 Dundalk Garda Station, and it was roughly around 10:15, I
22 think, before Chief Superintendent Nolan was in contact.
23 Now, from my inquiries only Chief Superintendent Nolan and
24 Inspector Murray, the Border Inspector, was aware of the
25 meeting up to about 1:40 p.m. when Superintendent Tierney
26 was informed by Inspector Murray. So I looked at the time
27 frame from the Cory Report and the article going in after
28 hours, so after hours would be outside the time frame. But
29 from the private wire point of view, I looked at was there
30 a possibility when Superintendent, Chief Superintendent

1 Nolan or Superintendent Tierney rang back Armagh Garda
2 station he wasn't able to get in contact with
3 Superintendent Buchanan, and as we go on, we say, around
4 1:40 p.m., Chief Superintendent Breen left Armagh Station
5 and went to Newry Garda station where the two of them
6 travelled to the Dundalk Ramparts Exchange. Now, I was
7 looking at the possibility if in fact Superintendent
8 Buchanan had been operating from Newry RUC station that
9 morning and that's where the telecommunications appeared
10 from. Now, I tried to get records, telephone records going
11 back to that period for all telephone calls out of Dundalk
12 Garda Station, but they were no longer in existence, so
13 that, in some way, hindered the investigation from that
14 aspect, trying to establish if a call had been made from
15 Dundalk or from Newry to Dundalk or Dundalk to Newry. But
16 the time frame at the *Phoenix* magazine, if they were going
17 in in the evening time and playing back the recording,
18 would have been outside the scope given of the time frame
19 when this meeting was arranged. This meeting was arranged
20 -- it wasn't a planned meeting, it was only arranged, as
21 far as I can make out, on the morning of the meeting, so
22 the time frame up to when they left Dundalk Garda Station
23 would be very close for an intercept, for the information
24 to be got and for the IRA to set up a full active service
25 team to monitor Chief Superintendent Breen and Buchanan,
26 because you have logistics, you have weaponry, you have
27 transport, you have manpower, I don't think it was feasible
28 in that short period of time for to get an operation like
29 that going.

30 90 Q. That's just, correct me if I am wrong on this, that's

1 because, in your opinion, what the article was suggesting
2 was a recording of a phone conversation, the retrieval of a
3 tape and then somebody presumably went listening to the
4 tape?

5 A. That's right.

6 91 Q. It wasn't suggesting contemporaneous monitoring of phone
7 conversations?

8 A. No, it wasn't.

9 92 Q. And of course that couldn't be done if the tape recorder
10 was simply in a jointer's box in the cable chamber?

11 A. Someone would have to go in and listen to it and pass on
12 the information. I looked at that aspect from the Cory
13 Report because I thought it was important to try and tie in
14 the time frame of the phone calls, as we had no private
15 wire from Dundalk to Armagh, I was looking, if there was a
16 possibility that Superintendent Buchanan had been in Newry
17 when he made the original phone call rather than Armagh,
18 just to try and prove or disprove what was in the article.

19 93 Q. And if Superintendent Buchanan had been in Newry, had made
20 a phone call in the private wire from Newry, where did that
21 private wire come into in Dundalk Station?

22 A. The way it is, it's in the Communications Room. A private
23 wire is a direct connection between A and B. Our technical
24 people explain it differently. What you do is you just
25 lift up the phone, as far as I know it was kind of hand
26 electric turned, and that went straight to probably the
27 Communications Room in Newry station and it was, as I say
28 it was a direct connection just A to B just by lifting up
29 the phone.

30 94 Q. Can I refer you to page 33 of your report?

1 A. 33?

2 95 Q. Page 33, yeah. And this is, I think this is what you are
3 discussing there, you took a time line from the Cory
4 Report, and if you look at the entry under 10:15 a.m.?

5 A. Yes.

6 96 Q. You say "*At approximately 10:15 a.m. Chief Superintendent*
7 *John Nolan was present in his office at Dundalk Garda*
8 *Station when he received a telephone call from*
9 *Superintendent Bob Buchanan on his private line 04233613.*"
10 That's not a private wire then, is that correct?

11 A. No, no, no, that would be his own -- my understanding, his
12 own office line.

13 97 Q. According to Chief Superintendent Nolan's evidence, he was
14 phoned by normal telephone on his direct office number?

15 A. That would be my understanding.

16 98 Q. So that wouldn't be a private wire and --

17 A. No, it wouldn't be a private wire.

18 99 Q. If the arrangements had been made on that conversation,
19 well that couldn't have been intercepted in the manner that
20 is suggested in the *Phoenix* article because that was a
21 suggestion of the monitoring of a private wire?

22 A. That's right. I looked at that aspect of it too. You see,
23 as I say, this line was fitted with a scrambler, but it was
24 not compatible with the secure telephone system in
25 operation by the RUC at the time, so the line would be
26 open.

27 100 Q. So, from your investigations, there were several different
28 types of kind of scrambled phones, is that correct?

29 A. Yes, basically a scrambler phone is you have your phone and
30 you have your scrambler at the end of your phone and if the

1 person you are speaking to on the other end has an
2 identical, has a phone and identical scrambler, then the
3 conversation will be scrambled. But if the phones aren't
4 compatible and the scrambler system isn't compatible, if
5 they are two separate types of scrambler systems, then they
6 are not compatible so the line remains open. It's only if
7 the two, this is from my understanding of it now, it's only
8 if the two of them are identical and pressed on will the
9 scrambler system work.

10 101 Q. Did you draw any conclusions as to whether there was
11 compatibility of the scrambler systems between An Garda
12 Siochana and the RUC at that time?

13 A. My understanding is with the ordinary scrambler phones that
14 they weren't compatible.

15 102 Q. They weren't compatible?

16 A. They were not compatible.

17 103 Q. And therefore they weren't used?

18 A. They weren't used, no.

19 104 Q. I wonder we could turn now, Mr. Kelly, to the statement of
20 Mr. Cummiskey, you deal with that in section 9, and just
21 without reading in detail, could you just, from your own
22 memory, explain to the Chairman what Mr. Cummiskey told you
23 when you interviewed him?

24 A. I met Mr. Cummiskey. He worked in the Ramparts Exchange
25 Dundalk, and he had some recollection of an interception
26 device being found. Basically what it was, it was near the
27 border, I think Hackballscross, that he was examining the
28 phone line, the street phone lines and he came across a
29 wire which was different and he believed that it was being
30 used to intercept phone calls. Now he reported it, as far

1 as I know, to his superiors and he states that Mr. Gerry
2 Finnegan and members of the investigation branch and Gardai
3 interviewed him in relation to that incident. Now he
4 couldn't put a time frame and it wasn't connected with the
5 *Phoenix* article whatsoever, but he couldn't put a time
6 frame. Now, I have checked with Eircom, I have checked
7 with everything and I haven't been able to locate an
8 investigation file or anyone that carried out an
9 investigation, but I do believe Mr. Cummiskey when he said
10 that he did find some wire interferences on the telegraph
11 pole. Now he did say an article appeared in the *Sunday*
12 *World* in relation to that incident, and I spent a number of
13 days and probably weeks over in the National Library going
14 through all the old *Sunday Worlds* to see could I come up
15 with an article on this intercept, but I had no luck and I
16 wasn't even sure if this was the intercept that Mr.
17 Prendergast, from the investigation branch, was involved in
18 but I could find no investigation file or no records, there
19 was none in Dundalk, that an investigation had been carried
20 out into it, that doesn't mean that it didn't happen.

21 105 Q. You mentioned that earlier. If you could just,
22 incidentally if you could just keep your voice up because
23 our microphone system has failed. You mentioned earlier
24 when you interviewed Mr. Prendergast and he referred to
25 having some memory of some investigation, you made a
26 possible link between that and the incident that Mr.
27 Cummiskey was referring to?

28 A. Yes.

29 106 Q. But obviously you can't be conclusive about that?

30 A. I can't be conclusive on it. But I said, when I was

1 looking at the two, they were the only evidence that I
2 could come up in the investigation of intercepts. I had
3 someone from Eircom saying that they found an intercept or
4 a wire on a telegraph pole, and Mr. Prendergast had carried
5 out an investigation. I could get no investigation files
6 or no documentation to clarify that, and there was the
7 possibility that they were, the two investigations were
8 linked, but I couldn't conclusively state that.

9 107 Q. Can I turn now, Mr. Kelly, to deal with, and you have
10 already touched on this in your introduction, but to deal
11 with the experiment that you conducted in the cable chamber
12 of The Ramparts in Dundalk, and that's referred to in
13 section -- paragraphs 10.8 onwards of your report.

14 A. 10.8. I think it was on June the 13th, 2006. The --

15 108 Q. I think, in paragraph 10.9, you say that "*In the basement*
16 *jointing chamber the Garda wires were first identified...* "

17 A. What I endeavoured to do --

18 109 Q. Just to explain, we have redacted the specific cable
19 numbers of the cables in The Ramparts which contain wires
20 from Dundalk Garda Station.

21 A. Right. What I intended to establish was could an intercept
22 have been carried out in the Exchange as described in the
23 article? Now, we couldn't carry out an exact identical
24 scenario, because if we did and we cut open the sheath and
25 we took out wires, then there'd be a loss of pressure and
26 the telephony system to the customer would be interfered
27 with. We tried to carry out the experiment, mirroring
28 exactly what it had said in *The Phoenix* magazine. Now, I
29 had Detective Inspector Michael Flynn with me, because he
30 was from the Telecommunications Section. So what I

endeavoured was, "to establish if it would be technically possible to intercept a private wire circuit as described in the article. An examination of the allegation was carried out at the Eircom Exchange at Ramparts, Dundalk, on the 13th of June, 2006. Present were Mr. Hubert Smith from Eircom; Martin Davis from Eircom, Senior Manager; Mr. Tom Corbett, retired, investigation branch, Telecom Eireann; Inspector Michael Flynn, Garda Telecommunications; Detective Garda Stephen Brady, Garda Telecommunications; myself; and Detective Sergeant James Pious Butler from the Special Detective Unit in Harcourt Square. In the basement jointing chamber, the Garda wires were first identified, they were located. The private wire circuits from Newry and Bessbrook RUC stations would have been routed into the Exchange through the basement jointing chamber and connected across the main distribution frame as shown in Detective Inspector Flynn's exhibit. The circuit would then be routed to Dundalk Garda Station, back out through the basement jointing chamber and cables, which are 1,200 pair and a 2,400 pair cables respectively. The private wire circuits consist of a pair of wires, and a second jumper, another pair of wires could have been connected across the private wire circuit to connect traffic carried by the private wire to another circuit. The parallel circuit could have been routed to the basement jointing chamber and had a tape recorder connected to it. The PUT cables, described as pressurised cables located in the basement jointing chambers used to route, are the telephony in and out of the Exchange. If the outer sheath of a cable is slit, the air pressure in the cable would fall and an

1 alarm would sound in the Exchange. Then, to locate the
2 pair in question, the cable pair would have to be spread
3 out in order to identify the correct circuit. Once the
4 circuit was located, the pair would have to be taken
5 outside the sheath and then a heat-shrunk sleeve would be
6 applied to receive the cable. A tape recorder could have
7 been connected to this pair in the manner described.
8 However, while plausible, this scenario would be quite
9 difficult. At least an 18- to 24-inch section of the
10 sheath would have to be removed in order to spread out the
11 cable pairs to identify the correct one, and the
12 possibility also exists that if the pair of wires taken
13 outside the sheath would be damaged as a result of heat
14 applied to the patch. Although it was deemed technically
15 possible, it was not practical."

16 110 Q. So it's a fair summary of the results of that experiment to
17 say that whilst -- well, you concluded that whilst what was
18 described in the article was technically possible,
19 plausible, it was unlikely to have occurred because it was
20 impractical and also there was no evidence of this
21 one-and-a-half to two-feet cut in the cable having been
22 repaired?

23 A. That is correct.

24 111 Q. To be found?

25 A. Yes.

26 112 Q. I think you then go on to feed into your analysis, the
27 timings that you did from the Cory Report, and you have
28 already touched upon that.

29 A. Yes.

30 113 Q. You discussed that you explored the hypothetical

1 possibility that Mr. Buchanan made those arrangements early
2 that morning from Newry station. You have no evidence in
3 relation to --

4 A. I have absolutely no evidence. It was just because our
5 records indicated there was no private wire from Dundalk to
6 Armagh. If the article was correct, then I had to look at
7 the possibility that the private wire between Dundalk and
8 Newry could have been intercepted if Superintendent
9 Buchanan had, in fact, been in Newry RUC Station rather
10 than Armagh RUC Station when the calls were made.

11 114 Q. However, as you record - we have already dealt with this -
12 Chief Superintendent Nolan records that he received the
13 call on his direct-dial telephone rather than on a private
14 wire?

15 A. That's correct, yes.

16 115 Q. In that regard, I think you conclude at paragraph 11.7 --

17 A. Yes.

18 116 Q. -- *"In reality, therefore, the article"* -- this is having
19 looked at that time line and the explanation from John
20 Nolan about how he received the telephone call, you say,
21 *"In reality, the article is not relevant to the material*
22 *facts."* Is that a fair summary of your --

23 A. Yes. It was just an aspect that I had to look at. As I
24 said, I wanted to make sure that every aspect possible
25 could be looked at, and every scenario, and I had to look
26 at that aspect of it, too.

27 117 Q. Over the next page, you deal with the fact that you are in
28 a position to ascertain from the Cory Report that the
29 *Phoenix* article correctly stated that Harry Breen had
30 visited Dundalk Garda Station on the 2nd of February, 1989?

1 A. Yes. What section?

2 118 Q. It's paragraph 11.9 and 11.10.

3 A. Yes, that's right. I studied and went through the Cory
4 Report and I linked the Cory Report to my investigation
5 because I thought it was an important part of it.

6 119 Q. Did you make any conclusion as to whether that fact, that
7 one correct fact was -- did that in any way strengthen the
8 integrity of the article or the authenticity of the
9 article?

10 A. No, because we had a lapse of 16 years and that aspect
11 could have coming out at any time in the investigation
12 about that meeting. The meeting did take place, but it
13 could have coming in the 16 years from when the -- from
14 March 1989 up to my investigation, that could have coming
15 from any source.

16 120 Q. And, of course, you weren't in a position to ask the
17 *Phoenix* what source it came from?

18 A. No.

19 121 Q. And I think over the page at paragraph 11.13, you reiterate
20 that *"The most pertinent obstruction to my investigation is*
21 *the total lack of cooperation from the Phoenix magazine and*
22 *its editorial staff."*

23 A. That's right. I included, in my investigation, a report.
24 Start quote here? *"The investigations looked at all the*
25 *allegations made in the Phoenix article in detail. In*
26 *summary of my conclusion, I will elaborate in greater*
27 *detail of the allegations. What remains the most pertinent*
28 *obstruction to my investigation is the total lack of*
29 *cooperation from the Phoenix magazine and its editorial*
30 *staff. This investigation, extensive, prolonged and*

1 *intrusive in the lives of very many individuals who have*
2 *since retired and are in their golden years, but who,*
3 *nonetheless, were all very willing and forthcoming in*
4 *trying to assist the Gardaí with the investigation, and in*
5 *stark contrast to the indifference and abysmal attitude of*
6 *the Phoenix magazine and its editor. Surely the editor, if*
7 *he is in possession of credible, supportive evidence as to*
8 *how the IRA planned, ambushed and murdered these two armed*
9 *RUC officers in the course of their duty, then there is a*
10 *legal, if not a moral, duty, for the magazine to cooperate*
11 *with the Garda investigation."*

12
13 MR. VALENTINE: Chairman, it's coming up to one o'clock.
14 What I suggest is, I'll be probably about five more
15 minutes. Perhaps I should finish my examination and we can
16 break for lunch and commence with cross-examination.

17
18 CHAIRMAN: Yes, I think that's a good idea. What's the
19 attitude of other counsel about cross-examination? Have
20 you questions?

21
22 MR. MCGUINNESS: I have a few questions.

23
24 CHAIRMAN: How long do you think, approximately?

25
26 MR. MCGUINNESS: Ten minutes, at most.

27
28 CHAIRMAN: Anybody else?

29
30 MR. O'CALLAGHAN: I have no questions.

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MR. COFFEY: No questions.

MS. O'SULLIVAN: No questions.

CHAIRMAN: No questions from anyone else.

MR. VALENTINE: In those circumstances, perhaps the alternative would be to carry on with Mr. Kelly --

CHAIRMAN: If the stenographer has no objection, I think we should carry on.

MR. VALENTINE: I will finish the examination and then Mr. Kelly can go.

CHAIRMAN: Thank you very much.

122 Q. MR. VALENTINE: Mr. Kelly, can you explain to the Chairman what was the nature of the questionnaire that you prepared for some of the witnesses you spoke to?

A. Judge, as I hadn't got the technical expertise, it was my intention to locate as many of the Eircom personnel that worked with Mr. -- the late Gerry Finnegan, but also Telecom Eireann staff who were present and working in the Exchange. And the questionnaire was based on the technicalities of the article itself, so I broke down, line by line, into a question, to try to get it explained what all the different technical terms in the article meant, and that's why the questionnaire is made over 95 percent to

1 Telecom Eircom staff, and I think I had two questionnaires
2 or three questionnaires for Gardaí, which was Peter
3 Kavanagh and Garda Garvan McFadden, who were attached to
4 the Telecommunications. Really, what it was, was to give
5 me a knowledge of what the terminology in the article and
6 to assist my investigation in relation to the understanding
7 of the technical terms, and I thought it was very important
8 to get each individual to give their opinion on what they
9 thought the article meant. It went very well towards the
10 investigation.

11 123 Q. And what was your conclusion from the results you gleaned
12 from those questionnaires?

13 A. The majority I spoke to would say where it was technically
14 feasible to carry out an intercept as described, it would
15 be highly unlikely, if not impossible. It was pointed out
16 that it would be much more easier to intercept the main
17 distribution frame at the cable cabinet, which is on the
18 roadside outside Dundalk Garda Station, even from the
19 manhole which is outside the Garda station in the vicinity
20 or from the Garda station itself. There was more of a
21 chance of it being discovered if it was done from the cable
22 chamber. It could be done from the main distribution frame
23 in the Exchange, but, again, it would, sooner or later,
24 would have been discovered.

25 124 Q. I am just going to read to you, Mr. Kelly, a section from
26 paragraph 12.3, and you can confirm that this represents a
27 fair summary of your conclusions:

28
29 *"The completed questionnaires are on file and attached to*
30 *the report. As I am not technically qualified, these*

1 reports speak for themselves. Having reviewed same, with
2 the exception of a statement made by Mr. William
3 Prendergast, the overall consensus is the procedures
4 described in Phoenix magazine article were technically
5 feasible, displayed knowledge that the substance of the
6 article was contributed by an individual with a background
7 in telecommunications technology. However, most of the
8 questionnaires submitted that the method described in the
9 article would be cumbersome, inept and certainly more prone
10 to discovery than if simpler methods were employed and such
11 methods were indeed an option at the time. Significantly,
12 none of the questionnaires could confirm, indeed many would
13 refute, that the covert interception described in the
14 article and allegedly discovered by the late Mr. Gerry
15 Finnegan ever occurred. Further, none of these
16 individuals, with the exception of Mr. William Prendergast,
17 has any recollection of being interviewed by Telecom
18 investigation branch in relation to any such inquiry or on
19 the basis that they were staff members with access to the
20 Exchange. In relation to the statement made by Mr. William
21 Prendergast, who at the time was a senior investigation
22 officer with An Post, I have endeavoured, in this
23 investigation, to trace any substantive material, including
24 checking historic records from An Post and checking with
25 the National Library records, to confirm or deny his
26 position."

27 The National Library, is that a reference to your looking
28 for the Sunday World article?

29 A. That's correct, the Sunday World article.

30 125 Q. "Again, I would reiterate the statement that I can't be

1 *certain that the case I investigated is related or the same*
2 *incident that appeared in The Phoenix magazine."*

3

4 Does that represent a fair summary of your conclusions
5 arising from the questionnaires?

6 A. Yes.

7 126 Q. In the next section, I think you just touched on this in
8 the answer you gave in relation to the questionnaires, you
9 outline a number of alternatives, which I think you are of
10 the opinion that if the IRA were going to carry out an
11 intercept, there were easier ways of doing it than what's
12 described in the *Phoenix* article, is that correct?

13 A. That is correct, yes, and less chance of being detected.

14 127 Q. Just to reiterate, I think you summarise those in paragraph
15 13.1?

16 A. That's right. *"At the main distribution frame or*
17 *distribution point or at the customer's premises. At the*
18 *cabinet on the street, but it would be hard to conceal a*
19 *device there, but a jumper could be run to another cable*
20 *pair."*

21 128 Q. So when you say a jumper could be run to another cable
22 pair, that's a jumper from --

23 A. Yeah, from A to B and you could divert it out to house to
24 another line.

25 129 Q. So that the listening, so to speak, or the intercepting
26 would take place at the end of another phone line in a
27 vacant house for example, or something like that?

28 A. More than likely that's -- if it was an operation carried
29 out by the IRA, that's the way it would be done, they would
30 have it diverted out to a safe house or safe place where

1 they could listen to the communications, not risking going
2 in and out to the cable chamber and having to listen -- the
3 chance of detection was too good.

4 130 Q. If you just take the Chairman through the remaining --

5 A. *"As described in the article, but the difficult part would*
6 *be cutting the sheath on the PU2 cable and fitting the heat*
7 *shrink and extracting the cable pair, taking it out of the*
8 *heat shrink would tell tale signs of interference. It*
9 *could be done at the main distribution frame at the Garda*
10 *station"* and there was two cabinets in Dundalk Garda
11 Station which held the phone wires -- *"... and it could be*
12 *done on access to the manhole on the cable run to the Garda*
13 *station."* That is the manhole where the wires are going
14 from the exchange under the ground and to the Garda
15 station, the manhole outside the station where if there was
16 a fault on the wires, that Eircom officials could work on.

17

18 CHAIRMAN: Well now, of those five options, all in one
19 shape or form would be very detectable and liable to be
20 found. Well if we take the main distribution frame, that
21 is sort of a fairly well acquainted --

22 A. That would be worked on, there would be technicians or
23 engineers nearly on a regular basis, so it might go
24 undetected for a short period of time but I don't think it
25 could be left on for the time frame that the *Phoenix*
26 article stated without it being discovered. I'd be
27 surprised if it wasn't discovered.

28

29 CHAIRMAN: Yes. And I mean it would be quite a sizable
30 recorder, the recorder would be quite --

1 A. The recorder, I believe that would do -- with the main
2 distribution frame, I think you would be just connecting an
3 intercept wire and diverting that out, on the customer
4 side, out to, for example, a safe house where it could be
5 listened to.

6
7 CHAIRMAN: But that would be visible?

8 A. Not to myself or someone, but definitely to the engineers
9 that would be on a regular basis and they do carry out
10 inspections on the main distribution frame, that would
11 definitely be discovered. It wouldn't go undetected, I
12 don't think, for a long period of time.

13
14 CHAIRMAN: And likewise, if it was done at the cabinet on
15 the street?

16 A. The cabinet on the street: we did inspect the cabinet. As
17 I say, the time lapse is so much, there was no evidence
18 when we looked at it that there was an intercept, and we
19 checked the manhole outside Dundalk Garda Station and I
20 also had a look, but it was defunct, the system in Dundalk
21 Garda Station, they have a new system in operation there
22 but I did have a look at the two main distribution frames
23 in the cabinets in Dundalk Garda Station basement but they
24 have been replaced so it would be -- you know...

25
26 CHAIRMAN: At number 3, as described in the article, you
27 could cut the sheath on the PUT table and could you put the
28 heat-shrink and extract the cable there? Taking it out of
29 the heat shrink would leave telltale signs of interference;
30 they would remain permanently, I take it?

1 A. That would mean basically when you go down to the cable
2 chamber, you have two 400 pair wires. Just say it was two
3 400 pairs, well that's 800 wires. You have to be able to
4 physically identify the two wires that are the clients that
5 you want to intercept, then you would have to peel back
6 about 18 to 24 inches of the sheath which would cause a
7 loss of pressure, which would set off an alarm in the
8 Exchange, and then you would have to reseal it and reheat
9 it. So the chance of that going undetected would be very,
10 very slim.

11
12 CHAIRMAN: Well, that work would remain the permanently?

13 A. It would remain permanent, yes.

14
15 CHAIRMAN: And you didn't see any evidence of that?

16 A. No. As a matter of fact, the article refers to two 400
17 pair wires. The garda lines, as far as I can recollect,
18 was on 2000 pair wires, it wasn't on the 400 pair, as
19 described in the article, they were on the 2000 pair wires.

20
21 131 Q. MR. VALENTINE: Just in relation to that, if you were to
22 try to take an intercept from the garda wires in a cable
23 containing 2000 pair wires, how would you know which were
24 the garda wires?

25 A. That's what I am saying; you would have to have the
26 technical knowledge and background to be able to identify
27 the two wires you are looking for first of all. I wouldn't
28 be able to do it, or someone without the telecom background
29 or expertise would be able just go down. You would need a
30 jointer or you'd need someone that's used to working on

1 cables and are in a position to identify the two wires, the
2 customers wires. I couldn't do it or...

3 132 Q. Do they have codes, the wires?

4 A. The wires would be coded and that but you would have to
5 know the exact two wires that you are looking for. If you
6 have 2000 -- if 1,000 pair is 2,000 wires as far as I know,
7 so you'd have to open it up and you'd have to pick the
8 exact two wires that you were looking for. That's my
9 understanding of what's being explained.

10 133 Q. And are the codes written on the wires?

11 A. Pardon?

12 134 Q. Are the codes written on the wires?

13 A. Not to my knowledge.

14 135 Q. So it would have to be done by putting some form of pulse
15 through the wire from where a code can be written and
16 identified?

17 A. Yes.

18 136 Q. Just turning then --

19 A. As I say, that would, that would be a question for maybe
20 one of the engineers from Eircom because we didn't pull
21 across the wires, so they would be able to explain how the
22 wires were identified or how someone would identify them.
23 I wouldn't have the expertise.

24 137 Q. Identify a particular wire in a cable of 2,000 wires?

25 A. Yes.

26 138 Q. I think we have some more telecoms witnesses this afternoon
27 so hopefully they might be able to assist us in that
28 regard. Can I just finally turn you to the section 15
29 which outlines the conclusions --

30 A. Yes.

1 139 Q. -- of your report. I think you indicate at paragraph 15.2
2 that *"Given the lapse of time, whether the detail in the*
3 *article is accurate or whether a more simplistic and less*
4 *intrusive technology was employed or even indeed whether*
5 *the murder of these officers was a result of surveillance*
6 *by the Provisional IRA directly or with the assistance or*
7 *cooperation of sympathisers may never be fully*
8 *ascertained."*

9 A. That's correct, yes, the time frame is too long.

10 140 Q. You go on then to discuss discoveries which suggest that
11 the IRA did have surveillance equipment during the relevant
12 period, is that correct?

13 A. That is correct, yes.

14 141 Q. And you refer specifically in the final paragraph of 15.3
15 of your report, you state *"The use of a modified voice*
16 *operated long play recorder, as indicated in the article,*
17 *is certainly similar to equipment seized by An Garda*
18 *Siochana during the course of operations."*

19 A. That's correct.

20 142 Q. That's from inquiries you made?

21 A. That's from inquiries I made.

22 143 Q. Within An Garda Siochana?

23 A. In the Garda Siochana, yes.

24 144 Q. And then paragraph 15.5 you analyse what I suppose might be
25 the heart of the method described in the *Phoenix* article,
26 which is this intercepting of private wire in the cable
27 chamber?

28 A. 15.5?

29 145 Q. 15.5. Yeah.

30 A. *"The details of the travel plans were never openly*

1 discussed. This was an impromptu unscheduled meeting
2 arranged mid-morning by telephone. There was no
3 discussions in relation to travel plans or the route which
4 the officers might take. This was in keeping with previous
5 visits. As to whether the private wire circuits were
6 intercepted in the cable chamber at the Ramparts remains to
7 be considered. This process would involve extracting two
8 wires from a massive telephony wiring, knowing, identifying
9 and isolating the two wires in question, connecting a
10 hidden 'jumper' across these wires and achieving this
11 result was a necessity to split the sheath of the PUT cable
12 which was an air pressured cable which would sound an alarm
13 and would require a repair sleeve which a technician would
14 heat-shrink to prevent loss of air. On the day of the
15 experiment was conducted at the Ramparts, the PUT cables
16 were examined for any signs of interference but no
17 indication of same were detected."

18 146 Q. And I think that echoes what you told the Chairman earlier?

19 A. That's correct.

20 147 Q. Whilst technically feasible and plausible, it was
21 impractical and there was no evidence that it occurred?

22 A. No, no.

23 148 Q. Subsequently you indicate that the suggestion that Mr.
24 Finnegan discovered a covert interception device, you could
25 find no records whatsoever to substantiate that?

26 A. Absolutely none.

27 149 Q. And you made extensive efforts in that regard, is that
28 right?

29 A. I made extensive -- as a matter of fact, I didn't want to
30 intrude but I did speak to Mr. Gerry Finnegan's wife, first

1 of all, to brief her on the investigation because I didn't
2 want her hearing it from any other source, but also just
3 then in the event that any documents, records or diaries
4 that Mr. Gerry Finnegan might have had, he may have had at
5 home and because everywhere else I tried with Eircom there
6 was no records, and there was no records at Gerry
7 Finnegan's, the late Mr. Gerry Finnegan's home.

8 150 Q. And I think the remainder of section 15 reiterates your
9 frustration and disappointment at the failure of *Phoenix*
10 magazine to cooperate with your investigation?

11 A. That's correct, yes.

12 151 Q. And just, I think to conclude, I am going to -- you also
13 provided a statement to the Tribunal which was primarily
14 related to your methodology and it reflected what was in
15 the Executive Summary of your report?

16 A. That's correct.

17 152 Q. But there is a paragraph, and I thought this might
18 summarise -- well you might indicate whether this fairly
19 summarises the conclusion you reached where you state:
20 *"The investigation concluded in 2008 and where details*
21 *within the article indicated the possibility of such an*
22 *intercept, the technical experts who assisted me with the*
23 *investigation were largely in agreement that although*
24 *technically feasible to conduct such an intercept, it would*
25 *be a most cumbersome method which could easily be detected*
26 *when much simpler and available means could be engaged with*
27 *less chance of detection."*

28 A. That's correct, yes.

29 153 Q. Is that effectively a fair summary of what the
30 investigation found?

1 A. Correct, yes.

2 154 Q. Thank you very much, Mr. Kelly. If you can answer any
3 questions Mr. McGuinness has.

4

5 THE WITNESS WAS CROSS-EXAMINED BY MR. MCGUINNESS AS
6 FOLLOWS:

7

8 155 Q. MR. MCGUINNESS: Mr. Kelly, just a couple of questions.
9 Firstly, just some detail about your investigation
10 concerning Mr. Finnegan. I think in all the statements
11 that you took from people who worked with him at the time,
12 they all confirmed to you that if anything had been found
13 by him, he would have reported it up the chain of command?

14 A. That's absolutely correct, and I have no doubt that's what
15 he would have done, yes.

16 156 Q. And you yourself investigated what that chain of command
17 was and interviewed everyone available to you to confirm
18 that position?

19 A. That is correct, yes.

20 157 Q. And you interviewed Mr. Mulligan, who was the editor of the
21 Argus then, in connection with his article?

22 A. That is correct, yes.

23 158 Q. And I think he confirmed to you that he had one primary
24 source and two secondary sources for his assertion?

25 A. Correct, yes.

26 159 Q. And that's a paper local to Dundalk?

27 A. It is, it's the local paper in Dundalk, yes.

28 160 Q. And do I understand correctly that one of the secondary
29 sources was an Eircom person?

30 A. Correct, yes.

1 161 Q. Who was able to confirm that no such investigation had
2 taken place by the Investigation Branch?

3 A. That would be correct, yes.

4 162 Q. The other source seemed to be confirming that the
5 Provisional IRA didn't rely on any interception but had an
6 opportune sighting of an officer visiting Dundalk?

7 A. That would be correct. As I say, Mr. Mulligan assisted my
8 investigation as much as he possibly could. I accept his
9 journalistic privilege but he did go out of his way to help
10 me but he couldn't reveal his sources.

11 163 Q. And certainly the *Phoenix* article itself had referred to a
12 previous visit on the 2nd February by Chief Superintendent
13 Breen as a matter of fact?

14 A. Yes.

15 164 Q. And were you aware that there had in fact been other
16 previous visits by Superintendent Buchanan?

17 A. As far as I remember, I think Superintendent Tierney had
18 met with him a number of times since he took up his
19 position in Dundalk in 1989.

20 165 Q. Now, the contemporaneous article, and I refer to the *Cork*
21 *Examiner* article published on the 22nd March 1989, that
22 asserted that the Provisional IRA had learnt of the
23 possible movements and visit through surveillance at that
24 time?

25 A. Correct, yes.

26 166 Q. And although published by the *Cork Examiner*, it wasn't an
27 article by a staff journalist, it was an article by Mr.
28 McDowell?

29 A. That's right, yes.

30 167 Q. Based in Belfast?

1 A. Based in Belfast, yeah.

2 168 Q. And he was one of the partners in the Ulster Press Agency?

3 A. He worked for the Ulster Press Agency. He became, I think,
4 editor then of the *Sunday World* Belfast at a later stage.

5 169 Q. And you interviewed him and he went, I think, a little bit
6 further than the details given in the article in that he
7 confirmed that the businessman being referred to was, to
8 his recollection, a Belgian national?

9 A. Yes.

10 170 Q. Who had been in extensive talks about a view to locating a
11 business in the west Belfast area?

12 A. Yes.

13 171 Q. Who had this technology available to him?

14 A. Correct, yes.

15 172 Q. And that it was unwittingly made available to, and came
16 into the hands of a smuggler?

17 A. That's correct, yes, for smuggling purposes.

18 173 Q. Whom he, Mr. McDowell, identified as 'Slab' Murphy?

19 A. Yes, Thomas 'Slab' Murray.

20 174 Q. Involved in smuggling in the border area?

21 A. That's correct, yes.

22 175 Q. And in terms of his source, Mr. Mulligan's source, I think
23 he confirmed to you that that was a very good source, a
24 very reliable source and was an RUC officer?

25 A. That's correct, yes.

26 176 Q. And it would imply that he had been briefed by this source
27 perhaps immediately after the murders?

28 A. That impression could be taken, yes, that's correct, yes.

29 177 Q. And was being briefed as to the technology that the IRA had
30 for intercepting two-way communications?

1 A. True, yes.

2 178 Q. And certainly from your own investigations, would you be in
3 a position to offer an opinion as to whether at that time
4 they were so capable of doing that?

5 A. I would say they were capable, yes.

6 179 Q. The *Phoenix* article is premised upon there being an
7 interception of conversations that took place on the
8 private wires?

9 A. That is correct, yes.

10 180 Q. And if the arrangements were made on open lines, or direct
11 lines not private wires, the article isn't and couldn't
12 possibly be true?

13 A. That's right true. They placed a lot of emphasis on the
14 private wire. And also, as I say, that emphasis then would
15 have to look at Dundalk, Armagh, but there was no private
16 wire, as I say, between Dundalk and Armagh. There was
17 Dundalk and Newry and Dundalk and Bessbrook. There was
18 none between Dundalk and Armagh.

19 181 Q. And obviously if Superintendent Buchanan phoned from either
20 his home or from Armagh or from a direct line in Newry, or
21 if some other person made an arrangement and private wires
22 weren't involved, the article has no relevance at all?

23 A. Correct.

24 182 Q. Now, in terms of what you were able to find out about the
25 use by the RUC of pocket radios, I think they were able to
26 confirm that there were pocket radios available?

27 A. They didn't operate on that frequency.

28 183 Q. But not on that frequency?

29 A. Yes.

30 184 Q. But if the IRA had technology available to them which could

1 scan different frequencies, the fact that it's being
2 misidentified as 160 megahertz may be neither here nor
3 there?

4 A. That's possible. I can't answer that because I haven't got
5 the technical knowledge.

6 185 Q. All right. In your report you do identify the particular
7 cables which carried the private wires in the cable
8 chamber?

9 A. Mm-hmm.

10 186 Q. I think you identified them as carrying 1,200 pairs in one
11 case and 2,400 in the other?

12 A. That's right. It wasn't a 400 pair as described.

13 187 Q. It wasn't a 400 pair, indeed. Obviously that means if the
14 cables were ever opened there would be either 2,400 wires
15 to sift through or 4,800 wires?

16 A. That's correct.

17 188 Q. I think you discovered that in fact that pressurised cable
18 went as far as the garda junction box?

19 A. That's correct, yes, yes.

20 189 Q. And there is no evidence, either within the Ramparts or up
21 to the garda junction box, that there had been any
22 interference with the cable?

23 A. As I say, we carried out the experiments at Dundalk Garda
24 Station, at the Exchange in Dundalk, at the cabinet and the
25 manhole, and there was no evidence of any interference.

26 190 Q. And insofar as the system that Alcatel installed, did your
27 investigations confirm that the system that you examined
28 and have reported on is the same system with the same
29 cables carrying the private wires in question?

30 A. Yeah, it's the Digital E10 Exchange, the exact same Alcatel

1 put in, yes.

2 191 Q. It hasn't been changed since?

3 A. Not to my knowledge, no.

4 192 Q. And insofar as the system is concerned, did Alcatel confirm
5 to you that the system itself wasn't capable of monitoring
6 or listening to calls?

7 A. Yeah, it's --

8 193 Q. Because Eircom hadn't bought the software or the hardware
9 to enable it to do that?

10 A. That's in their report, yes.

11 194 Q. Insofar as Mr. Cummiskey, or Garda Cummiskey provided a
12 statement to you, that related to a two cable bell wire
13 that he found --

14 A. He is, I'm sorry, he's an Eircom official, he was working
15 at, that's right, at Bell Wire.

16 195 Q. That was adjacent to a private house?

17 A. Yes.

18 196 Q. Beside the border and didn't relate to any private wire or
19 to a garda line?

20 A. No, it had no connection with the investigation at all.

21 197 Q. And he confirmed to you that he had discussed that with Mr.
22 Finnegan, the late Mr. Finnegan?

23 A. That's correct, yes.

24 198 Q. So we know that Mr. Finnegan was involved to that extent?

25 A. He was an engineering superintendent.

26 199 Q. Insofar as the question of open lines are concerned, all of
27 the discussion has, in reality, been centred on the *Phoenix*
28 article about the private wires?

29 A. Yes.

30 200 Q. But obviously as far as the open lines that come into

1 Dundalk Garda Station are concerned, they are carried in
2 through the junction box into the main distribution frame
3 within the garda station?

4 A. That's true, yes.

5 201 Q. And in order to monitor any telephone calls coming in and
6 out, you'd have to attempt to monitor all of them?

7 A. That is -- it depends -- there was, I think, ten lines with
8 the provision that 40 extensions could be put on. You
9 would possibly have to monitor them all, yes.

10 202 Q. In order to hope to get the contents of some communication
11 that's being communicated down the lines, you'd either have
12 to monitor them all continuously?

13 A. That's correct, yes.

14 203 Q. Or else record them all continuously and then listen to
15 them all at some stage?

16 A. Yes.

17 204 Q. There is no evidence that you are aware of that any open
18 lines were ever interfered with either coming into or going
19 out of Dundalk?

20 A. No, I have not been able to establish any evidence to that
21 effect.

22

23 MR. McGUINNESS: Thank you.

24

25 CHAIRMAN: Any other questions?

26

27 MR. VALENTINE: Just one or two.

28

29 **THE WITNESS WAS RE-EXAMINED BY MR. VALENTINE AS FOLLOWS:**

30

1 MR. VALENTINE: Ms. McKevitt kindly reminds me of your
2 volume 3 of your report, it contains an article from the
3 *Phoenix* magazine of March 10th, 2006, Mr. Kelly?

4 A. That's correct, yes.

5 205 Q. Could you just describe what was in that article for the
6 Chairman?

7 A. It was really just a continuation of, additional to what
8 they had already published, except they named myself as
9 carrying out an investigation into it. There wasn't really
10 much more offered. It was just a continuation. At the end
11 of the article it refers to "see *Phoenix* magazine June 3,
12 2005".

13 206 Q. So it effectively reported that you were carrying out an
14 investigation into what they had already published. Are
15 you satisfied it didn't contain any new technical
16 information that wasn't --

17 A. No, I went through, because when that article came out a
18 lot of witnesses that I interviewed, I went through the two
19 articles with them just in case the articles on June 3rd
20 and then the following article, I think it was the
21 following April, whatever, but a lot of witnesses I would
22 have referred both of the articles that appeared in *The*
23 *Phoenix* magazine, not just the one.

24 207 Q. In circumstances where there is no new technical
25 allegations in it, I don't think there is any necessity for
26 me to read it into the record unless anyone wishes me to do
27 so, Chairman.

28

29 CHAIRMAN: I don't think so.

30

1 MR. VALENTINE: Thank you very much, Mr. Kelly.

2

3 CHAIRMAN: Thank you very much. Well it's now -- first of
4 all, Mr. Kelly, thank you very much for the help you have
5 given the Tribunal, I am most grateful to you. I think Mr.
6 Kelly is now free to go.

7

8 MR. VALENTINE: That's correct.

9

10 MR. VALENTINE: As I say, Chairman, there are two more
11 witnesses but I think they will be shorter than Mr. Kelly.
12 Perhaps we'll say half past two?

13

14 CHAIRMAN: Half past two then.

15

16 **THE TRIBUNAL ADJOURNED FOR LUNCH.**

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

2

3 MR. VALENTINE: Good afternoon, Chairman, the next witness
4 is a former telecoms employee, Mr. John McGuone.

5

6 **JOHN MCGUONE, HAVING BEEN SWORN, WAS EXAMINED BY**

7 **MR. VALENTINE AS FOLLOWS:**

8

9 208 Q. MR. VALENTINE: Good afternoon Mr. McGuone. I wonder could
10 you outline for the Chairman just briefly your employment
11 history with Telecom Eireann?

12 A. Well, I joined Telecom Eireann, or P&T as it was then, in
13 1959, and I worked mostly in a maintenance capacity all
14 through my career until 1999 when I retired from Eircom, as
15 it was then.

16 209 Q. And what was the position you occupied on retirement in
17 1999, just before you retired?

18 A. I was the technician in charge of the telephone Exchange.

19 210 Q. That is the telephone Exchange at The Ramparts?

20 A. At The Ramparts in Dundalk, yeah.

21 211 Q. And when did you take up that position originally?

22 A. In 1984 when the Exchange opened.

23 212 Q. And that -- that coincides with when Alcatel fitted the new
24 electronic E10 Exchange, is that correct?

25 A. That's correct.

26 213 Q. From that point on you were the technician in charge of the
27 Telephone Exchange?

28 A. That's correct.

29 214 Q. You occupied that position in the period between '87 and
30 1990?

1 A. That would be right.

2 215 Q. I think you are familiar with -- you have been shown both
3 by the Tribunal and by Chief Inspector Kelly, or Inspector
4 Kelly -- Detective Inspector Kelly, who I think interviewed
5 you as well?

6 A. That's right.

7 216 Q. And by the Tribunal, an article that appeared in *The*
8 *Phoenix* magazine. I am going to read you the relevant
9 portion which purports to explain how the Provisional IRA
10 became aware of the movements of Chief Superintendent Breen
11 and Superintendent Buchanan on 20th of March 1989, and the
12 hypothesis put forward is this: "*From 1987 until 1990 a*
13 *Garda Private Wire Circuit was intercepted 24/7 by the IRA*
14 *at the Telecom Eireann Telephone Exchange at The Ramparts*
15 *Dundalk known as E10. The PW*" -- private wire -- "*was a*
16 *dedicated RUC liaison hot line. At the main distribution*
17 *frame, (the MDF), IRA engineers covertly connected a hidden*
18 *jumper to the Garda line running this to spare wires on the*
19 *termination block of a 400 pair underground distribution*
20 *cable running through the basement jointing chamber. The*
21 *technicians, ironically trained by British Telecom, had*
22 *free access after hours to E10 and other exchanges. In the*
23 *cable chamber they slit the sheath of the PUT cable and*
24 *extracted the tapped circuit. This was then linked to a*
25 *modified US operated longplay recorder hidden in jointer's*
26 *test equipment. Each time the RUC hotline was used, the*
27 *listening device switched on and automatically recorded*
28 *conversations on cassettes which were changed regularly.*
29 *Since the cable was air pressurised, the IRA had to*
30 *heat-shrink a repair sleeve and nozzle onto it to avoid a*

1 *telltale loss of air. This work still exists and Judge*
2 *Smithwick may care to inspect it with his technical*
3 *advisors."*

4

5 Can you just explain to the Chairman your impressions of
6 the feasibility of what is outlined there?

7 A. Well, it doesn't, to me it doesn't sound very feasible.

8 217 Q. Why not?

9 A. Well, if 400 pair cable, as you mentioned, has 800 wires in
10 it, and to be able to pick out a specific one of those
11 would be virtually impossible down in the cable chamber.

12 218 Q. How thick would these cables be containing these --

13 A. Well probably a 400 pair wouldn't be any more than maybe 3
14 three inches in diameter, less probably.

15 219 Q. And you are saying that once you opened that, it would be
16 very difficult to identify a particular pair of wires
17 within it?

18 A. Yeah, well you would have to strip it back maybe for a
19 metre.

20 220 Q. In order to get enough space to tease them out?

21 A. Yeah.

22 221 Q. There would be a large opening on the cable which would
23 then have to be repaired?

24 A. That's correct, yes.

25 222 Q. So it is technically possible?

26 A. It's technically possible, yeah.

27 223 Q. But why do you say unlikely?

28 A. If somebody slits a metre in the chamber, it would be
29 obvious afterwards, you know.

30 224 Q. Like, if somebody did that and, as you say, put a

1 shrinkable sleeve on it, that would be obvious because
2 there were no shrinkable sleeves in the chamber other
3 than --

4 A. No, there were no joints in the chamber as such.

5 225 Q. And the Chairman heard evidence this morning from Detective
6 Inspector, retired Detective Inspector Kelly that in fact
7 he inspected the cables and identified those which
8 contained garda wires, and in fact they were -- there were
9 two such cables: one was a 1,200 pair cable and the other
10 was a 2,400 pair cable, so they'd be even bigger again
11 presumably?

12 A. Oh, absolutely.

13 226 Q. And would it be even more difficult to identify within
14 those a single pair of wires?

15 A. Yes, yes.

16 227 Q. Would the cutting of a cable trigger any kind of alarm?

17 A. It would. Most of the cables would have been air pressured
18 to prevent moisture seeping into them so once you'd
19 punctured the sheath of it an alarm would go off.

20 228 Q. And presumably that would immediately draw someone's
21 attention --

22 A. It would yeah, yeah.

23 229 Q. Were there personnel in The Ramparts all the time, 24 hours
24 a day?

25 A. It was 24 hours a day manual telephone exchange was in
26 operation.

27 230 Q. So there were telephone exchange people there all the time?

28 A. 24/7 yeah.

29 231 Q. And what about the technicians, the jointers for example,
30 people who carried out repairs on telephone lines?

1 A. The engineer side of it was only 8 o'clock until 6 o'clock,
2 really.

3 232 Q. Was it difficult for someone other than an employee of
4 Telecom Eireann, as it then was, to get access into The
5 Ramparts?

6 A. Well the outside doors had electronic locks on them; you
7 needed a swab to get into the building and then --

8 233 Q. Once you were inside the building was it free access to
9 all?

10 A. No it wasn't, all doors were locked.

11 234 Q. And how did you get from one area to the next, so to speak?

12 A. Well, some of them had swabs, some of them had keys.

13 235 Q. Actual physical keys. Was it difficult to get to the main
14 distribution frame or was that easily accessible once you
15 were in the front door of the building?

16 A. Well that had a lock, a key lock on it.

17 236 Q. A physical lock?

18 A. There wasn't swab on it.

19 237 Q. Who would have had possession or access to that key?

20 A. Mostly the cable jointers.

21 238 Q. And can you just explain where, in relation to the MDF, the
22 cables were in relation to that, the cable chamber was in
23 relation to the MDF?

24 A. The cable chamber was directly underneath the main
25 distribution frame, or the MDF.

26 239 Q. How did you access the main cable chamber?

27 A. A trapdoor in the room where the MDF WAS.

28 240 Q. And that was the only way in and out?

29 A. That was the only way in and out, yeah.

30 241 Q. Was that locked or was that open?

1 A. That was locked.

2 242 Q. Again was it by key or electronic fob?

3 A. By key.

4 243 Q. And who had...

5 A. Again cable jointers would have access to that.

6 244 Q. So, for example, if you, as the technician in charge of the
7 telephone exchange, needed to go down to the cable chamber,
8 how would you go, where would you get the key from?

9 A. Off a jointer, if I needed to.

10 245 Q. Would you have occasion very much to go down there?

11 A. Very, very rarely. I suppose in my time I was down it
12 twice and that would be due when, like yesterday, heavy
13 rain or something in case it would be flooded or something
14 like that.

15 246 Q. Now, in the period of time that you were employed, did you
16 ever hear of a recording device being found in The
17 Ramparts?

18 A. No.

19 247 Q. Did you ever hear of anyone finding evidence that one of
20 the cables had been cut and an intercept placed on it?

21 A. No.

22 248 Q. You knew the late Gerry Finnegan?

23 A. I did, yes.

24 249 Q. Where was Gerry Finnegan in relation to you, so to speak,
25 in the employment structure?

26 A. Well he'd be -- he was the supervisor for the outside
27 maintenance staff. He would be a higher level now than me
28 but he wasn't my supervisor.

29 250 Q. So he was a supervisor in terms of outside maintenance so
30 he would have a role in repairs effectively.

1 A. Yeah, with jointers and all that, yeah.

2 251 Q. So he would have occasion to be in the cable chamber?

3 A. He would indeed, yes.

4 252 Q. Did you ever hear of him finding evidence of an intercept?

5 A. No.

6 253 Q. You don't recall any conversation with him where he may
7 have mentioned that to you?

8 A. No.

9 254 Q. If you had found or been alerted to the existence of some
10 evidence that suggested there may have been an intercept,
11 what would you have done?

12 A. I would have phoned my supervisor, who was Frank McDonnell.

13 255 Q. And what was his job description, Frank McDonnell's?

14 A. He would have been the supervisor on internal maintenance.

15 256 Q. Within the Exchange?

16 A. Within The Ramparts, yes.

17 257 Q. Was his office in The Ramparts or was he elsewhere?

18 A. No, no, it was in McSweeney Street where the area
19 headquarters were.

20 258 Q. In McSweeney Street in Dundalk?

21 A. Yes.

22 259 Q. So you would have alerted him, and he presumably would have
23 alerted his supervisors?

24 A. That would be right, yes.

25 260 Q. In the statements you provide to the Tribunal, I note that
26 you state when you were asked what your impressions were
27 when you read the article, you said it was impractical and
28 you also said that your impression of the article was that
29 it looked like someone had a grudge against Gerry Finnegan.
30 Could you just explain that for the Chairman, that

1 impression?

2 A. Well that was just my opinion. The article, to me, still
3 seems impractical that someone would go to a 1,200 pair
4 cable, pick two wires out and put something on to it. That
5 is, to me, is still impractical, and the only reason I
6 could give would be that somebody would have a grudge
7 against him or something like that. But I have no evidence
8 to suggest that somebody did have a grudge, you know.

9 261 Q. Last week the Chairman heard from Mr. Tom Ruddy?

10 A. I know Tom Ruddy, yes.

11 262 Q. He gave evidence to the effect that, I think the article
12 suggests that the recording device was in a
13 jointer's equipment -- kit?

14 A. Yeah.

15 263 Q. Which is also no one as a megger?

16 A. That's right.

17 264 Q. He gave evidence that if there was one of those sitting on
18 top of the cable, as suggested in the article, that would
19 not go unnoticed for very long?

20 A. I would agree with that.

21 265 Q. Why would you agree with that?

22 A. Well, you wouldn't -- you don't -- you don't leave test
23 equipment in the chamber, you know.

24 266 Q. Right.

25 A. That is belonging to somebody and -- like, the chamber had
26 no equipment in it as such.

27 267 Q. I see. Very good.

28

29 MR. VALENTINE: No further questions. If you answer any
30 questions my friends might have.

1

2

THE WITNESS WAS CROSS-EXAMINED BY MR. McGUINNESS

3

AS FOLLOWS:

4

5

MR. McGUINNESS: Good afternoon, I appear for An Garda
Siochana.

6

7

268 Q. Can I ask you this: presumably, as a technician, you would
have known that there were private wires in the Exchange
going out to different locations?

9

10

A. Officially, no I wouldn't, no.

11

269 Q. Yes. But unofficially?

12

A. Unofficially, yes.

13

270 Q. And I take it that you wouldn't be aware of where they
were?

14

15

A. No.

16

271 Q. And you wouldn't be aware of how they were coded?

17

A. No.

18

272 Q. Did you know that they were coded?

19

A. No.

20

273 Q. OK. But my understanding is that they didn't go on the
MDF, they didn't go to exchange side, is that correct?

21

22

A. I don't know.

23

274 Q. OK. Certainly if you didn't know which cable they were in
downstairs you would have to take a chance of cutting open
one cable or two cables or three cables, isn't that right?

25

26

A. That would be correct, yes.

27

275 Q. And Inspector Kelly, retired Inspector Kelly told us that,
in fact the cables that the private wires were in were
1,200 and 2,400 pair cables and, in your opinion, how big a
slit would you have to make to get out 2,400 cables or

28

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1 4,800 cables?

2 A. Well, in my opinion, it would have to be a metre or more.

3 276 Q. A metre or more?

4 A. Yeah.

5 277 Q. Did you know Mr. Thomas Rice who worked there?

6 A. I did, yes.

7 278 Q. In a statement to Inspector Kelly he said, "*I checked all*
8 *the sleeves on the cable, and could find no evidence of an*
9 *intercept having been carried out. If an intercept had*
10 *been carried out as described, I would have known.*"

11 Would you agree that anyone looking at them could know if
12 they had been cut?

13 A. Yes.

14 279 Q. All right. Now, if you opened the cables, if you did cut
15 them open, would you be able to tell which was a private
16 wire or not?

17 A. I personally wouldn't, no.

18 280 Q. OK. And do you know how they could have been identified or
19 how they were coded or where the codes were kept?

20 A. No.

21 281 Q. Mr. McEvoy, in his statement, says that "*the Dundalk*
22 *Exchange, which was built in 1984, was the most secure in*
23 *the area because of the number of transmission networks*
24 *which terminated there and also the main trunk line between*
25 *Dublin and Belfast.*" Would you agree with that?

26 A. That's right, yeah.

27 282 Q. In terms of putting a jumper or a connection on to the MDF,
28 if you didn't know the private wire and you were trying to,
29 as it were, listen in to 40 lines coming from the garda
30 station, you would have to identify those lines, isn't that

1 right?

2 A. That would be correct, yes.

3 283 Q. And in order to either record each of them or listen in to
4 each of them, you would have to have a jumper wire from
5 each of them to whatever device or wherever you are taking
6 a feed off to, isn't that right?

7 A. Yeah, that would be right.

8 284 Q. And I take it you never heard of any such interception of
9 garda open lines in Ramparts?

10 A. No.

11 285 Q. Or otherwise?

12 A. No.

13 286 Q. And insofar as the article suggested that there was an
14 investigation led by Mr. Gerry Finnegan, may I take it that
15 you worked there for 40 years; you were there in 1989?

16 A. That's right.

17 287 Q. And if it had happened at any stage either in 1989 or
18 between then and when you retired, you would be likely to
19 have heard of it?

20 A. That's correct, yes.

21 288 Q. And you didn't?

22 A. No.

23 289 Q. Thank you.

24

25 CHAIRMAN: Any other questions?

26

27 MR. COFFEY: No questions.

28

29 MS. O'SULLIVAN: No questions.

30

1 CHAIRMAN: Any other questions from anybody else?

2

3 MR. VALENTINE: I have no further questions.

4

5 CHAIRMAN: Thank you very much indeed.

6

7 **THE WITNESS THEN WITHDREW.**

8

9 MR. HAYES: Chairman, the next witness this afternoon is

10 Mr. Frank McEvoy, who is also a retired Eircom engineer.

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FRANK McEVOY, HAVING BEEN SWORN, WAS EXAMINED BY MR. HAYES
AS FOLLOWS:

290 Q. MR. HAYES: Good afternoon, Mr. McEvoy. I think you are a retired engineer who formerly worked with Eircom and before that with Telecom Eireann?

A. I am, yes.

291 Q. Did you work with, I suppose we will call it Telecom for ease of reference, Telecom in any of its various identities over the years?

A. I started with the P&T in '69 as a student and I then became what was called an executive engineer in '73. I was promoted to assistant staff engineer in the early '80s and I took on a planning role at that stage, and in the mid-'80s I became the internal maintenance manager for the district.

292 Q. And that was the Drogheda district?

A. And that was the Drogheda district, yes.

293 Q. And where did the Drogheda district cover?

A. The Drogheda district generally covered north of Balbriggan to the border and west as far as the Shannon.

294 Q. I see.

A. It was actually the northeast.

295 Q. North Leinster sort of area with a bit of Ulster thrown in?

A. North Leinster, Meath, Cavan, Monaghan, Longford, Mullingar.

296 Q. Yes. I think that in 1984 am I correct that a new Exchange opened in Dundalk at The Ramparts?

A. Yes.

297 Q. And before that where was the Exchange in Dundalk?

1 A. The Exchange would have been at the back of the Post
2 Office. It had been there from its beginnings in probably
3 the late 40's, basically, right up to 1984 and at that
4 stage it was moved to The Ramparts, where it is today.

5 298 Q. Where it is today. When you were working, then, in the
6 1980s, into the late 1980s, were you based in Dundalk or
7 were you based in Drogheda?

8 A. No, my base was in Drogheda.

9 299 Q. You were based in Drogheda. Who was the district manager
10 in 1989?

11 A. John O'Halloran was the district manager.

12 300 Q. And I think then you came next in the chain of command, is
13 that correct?

14 A. Yeah, the district manager, John O'Halloran; you had the
15 district engineer, Des Egan; and below Des, the different
16 functions of internal maintenance, external maintenance and
17 planning broke out.

18 301 Q. Yes. And you were then at the third level, is that right?

19 A. I was at that third level, yes.

20 302 Q. I think you were responsible for internal operations, is
21 that correct?

22 A. Internal maintenance operations and sort of the
23 internal installation of equipment.

24 303 Q. Yes. Is that, just so the Chairman is clear, that is
25 operations from the MDF to the Exchange itself, is that
26 correct?

27 A. Yeah, the MDF or -- is short for the main distribution
28 frame, was the point at which the external operations
29 cables stopped, and that is on one side of it; and on the
30 other side of it, then, the various wires basically from

1 the Exchange equipment were terminated.

2 304 Q. Yes.

3 A. And effectively the way a customer got service, in effect,
4 was that a jumper was from one side of the frame to the
5 other side of the frame.

6 305 Q. Now, last week the Tribunal saw photographs of the set-up
7 of the MDF and various parts of the Exchange. Below the
8 MDF there was the cable chamber, is that correct?

9 A. Correct, yes.

10 306 Q. And that was part of the external operations --

11 A. Yes.

12 307 Q. -- sphere of control, is that correct?

13 A. Yes.

14 308 Q. And we know that cables came from outside the building from
15 various junction boxes into the cable chamber?

16 A. Correct.

17 309 Q. They went from the cable chamber up through the roof?

18 A. Up through the floor.

19 310 Q. Into the MDF room?

20 A. Yes.

21 311 Q. Where they connected with the MDF itself?

22 A. Yes.

23 312 Q. There then seems to be a maze of wires coming from the back
24 of the MDF to the front where they are connected up, is
25 that correct?

26 A. From an outsider's point of view, it is a maze of wires,
27 yes.

28 313 Q. Yes.

29 A. But there is a structure to it.

30 314 Q. Absolutely. But one that, I suppose would it be fair to

1 say, wouldn't be readily apparent to the likes of me if I
2 were to walk into it?

3 A. No, it looks like a nest.

4 315 Q. Yes. And then it goes from this, from the front of the
5 MDF, am I correct in saying, to the Exchange itself?

6 A. Yes.

7 316 Q. And that was your sphere of --

8 A. That was my sphere of operation.

9 317 Q. Of operation, OK. And I think then by, am I correct in
10 saying that the purpose of the new Exchange was to have an
11 electronic exchange rather than an old-fashioned exchange,
12 is that correct?

13 A. If you take into account by the 1980s the volume of
14 customers enjoying telephone service was vast and it was
15 dramatically increasing, so the old building was actually
16 full. It, as I said, it was there from the late 1940s the
17 equipment in it was very robust but very, very
18 maintenance-orientated and could not be extended and, in
19 effect, the normal method of extension would have been a
20 particular type of exchange that sort of bridged the old
21 very heavily and maintained equipment to the new digital
22 equipment.

23 318 Q. Yes.

24 A. Hence, the building in Dundalk, as you know yourself, is a
25 very, very big building. However, in the late 1970s the
26 Government sort of decided, because it was P&T at that
27 stage, the Government decided that it needed to effectively
28 bring the P&T system right up into the modern era and it
29 went for digital, and the digital, basically, as you know
30 yourself, is a very, very compact piece of equipment, and

1 hence we went straight from the old to the brand new at
2 that time.

3 319 Q. Yes. Now in 1989, and obviously the Tribunal is
4 particularly interested in the events that took place on
5 the 20th of March 1989 and any events associated with it
6 when RUC Chief Superintendent Breen and Superintendent
7 Buchanan were murdered on their way home from Dundalk?

8 A. Yes.

9 320 Q. Do you recall the time of those murders?

10 A. To be absolutely honest, I don't.

11 321 Q. Yes.

12 A. I would have been aware from reading newspapers at the
13 time, but unlike some people who can remember where they
14 were at certain times --

15 322 Q. Yes, I am not asking you that --

16 A. I don't have that, I am afraid, you know. But I would have
17 been aware, yes, that the unfortunate events took place.

18 323 Q. And at the time, or in the years around that time, do you
19 recall any suspicions or otherwise of there having been
20 taps in the -- on the garda lines?

21 A. No.

22 324 Q. Or otherwise in Dundalk?

23 A. No, no. In that being responsible for the internal side,
24 you could nearly say that we sort of operated in a sort of
25 a bubble, in a way, in that our main concern was to ensure
26 that the Exchange equipment itself was working. The
27 external side, by and large, was dealt with by a colleague
28 of mine.

29 325 Q. Yes, that was Mr. Commins, is that correct?

30 A. That would have been Tommy, yes.

1 326 Q. Yes. So insofar as there would have been any investigation
2 into taps on external lines, that would have been his area
3 of responsibility rather than yours?

4 A. It would have been very much his area of responsibility,
5 yes.

6 327 Q. Yes. Do you think that at the time, not necessarily just
7 in relation to this particular incident but when there was
8 a major incident such as this, do you think that Telecom,
9 as it was, would have carried out any sort of an internal
10 audit into their security procedures?

11 A. I would presume that they would. You have to bear in mind
12 that at that time we were very focused, obviously, on the
13 goings-on north of the border. We also would have been
14 very concerned to ensure that our own networks were working
15 properly.

16 328 Q. Yes.

17 A. So there would have been an element of investigation or
18 audit would take place from time to time.

19 329 Q. Yes.

20 A. Even from our own point of view, from the security aspect
21 of the building itself, I would have been responsible for
22 that --

23 330 Q. Yes.

24 A. -- part of the building. We would try to ensure as best we
25 could that there was no breaches or whatever.

26 331 Q. Now, you mentioned the security of the building. What were
27 the security precautions taken at the building?

28 A. Well, the building in Dundalk, unlike any other of our main
29 exchanges throughout the country, had palisade fencing
30 around it, I think it was the first in the country. It

1 also had --

2 332 Q. When you say palisade fencing, again just so that we are
3 clear, is that the sort of dull grey metal fencing that is
4 now quite commonplace?

5 A. Yeah, except this was painted green to blend in a bit more
6 with the environment.

7 333 Q. With the sort of spike at the top, is that correct?

8 A. Correct, correct, and it was a fairly tall -- its height
9 was fairly tall.

10 334 Q. Yes.

11 A. It had an electronic gate at the front which was controlled
12 by a motor. There was a camera, then, on the corner of the
13 building.

14 335 Q. And how was the gate opened then?

15 A. There was two ways of opening the gate, one was by a key
16 fob.

17 336 Q. And who had the key fobs?

18 A. Selected staff would have had key fobs.

19 337 Q. Not all staff?

20 A. Not all staff. Only staff who needed access or who
21 required access to the building would be given key fobs.

22 338 Q. For example, would you have had a key fob?

23 A. I had a key fob, yes.

24 339 Q. Yes.

25 A. But not every staff; the maintenance lineman, maintenance
26 jointers and the superintendent would have had key fobs.

27 340 Q. Yes.

28 A. But ordinary construction staff, they would be the staff
29 who would normally be employed in pulling in cables and
30 building the networks, would only get access via their own

1 manager.

2 341 Q. And were staff such as those construction staff, were they
3 Telecom employees as well or were they contracted
4 employees, can you recall?

5 A. At that time, sort of in the early '80s, Eircom went
6 through a major transition from being, as you know where
7 you are self, very much it was a Government department to
8 being semi-state.

9 342 Q. Yes.

10 A. But the expertise at that time developed to the extent that
11 Eircom purchased cable machines, so it would have done the
12 vast majority of that sort of cabling itself.

13 343 Q. Itself, OK.

14 A. Although in the late '70s, there was a major cabling job
15 which involved a company called Parelli.

16 344 Q. Right.

17 A. That kicked it off, but I think by the time of the mid-'80s
18 we were doing that work ourselves.

19 345 Q. And would it be then fair to say that certainly by the late
20 1980s you were doing it by yourselves?

21 A. Yes.

22 346 Q. Yes. Now, if you didn't have a fob, how did you gain
23 access to the compound?

24 A. The other way you could get access was basically there was
25 an intercom at the gate itself, you pressed the intercom,
26 similar to, you have an income down below, and you would
27 indicate who you were and you would then sort of, the gate
28 would be opened and you would gain access and then that
29 person would either meet you at the door or, alternatively,
30 they would come -- bear in mind that during the day the

1 security was dealt with from our own people.

2 347 Q. Yes.

3 A. At night-time, from 5 o'clock at night to 9:00 in the
4 morning, the operator staff basically handled the intercom.

5 348 Q. Right.

6 A. And I suppose if someone was unknown, I don't think they
7 were allowed in.

8 349 Q. I see. What would cause people to require access at night
9 in the ordinary course?

10 A. Well, obviously at night-time, on the top floor you had the
11 Operators' Centre so you would have operators coming and
12 going, basically, during the night. I don't think they had
13 a fob, but I am not a hundred percent certain of that.

14 350 Q. Yes.

15 A. I would think that the supervisors probably had, but the
16 normal operating staff would have to be allowed in via
17 their own people.

18 351 Q. Yes.

19 A. Other than that, as -- you know, unfortunately, the
20 telephone system doesn't just stop at 5 o'clock in the
21 evening, we would have had breakdowns and things to deal
22 with so emergency attendances, the staff on emergency
23 attendance would have a fob, basically, to gain access.

24 352 Q. Yes. Do you know how frequently people would -- people
25 required access at night on emergency basis?

26 A. It depends. This time of the year, basically, you could
27 have -- you could have attendance once a night, once every
28 two nights.

29 353 Q. Yes.

30 A. Because the people in the Exchange, the Exchange staff were

1 also responsible for maintaining the links from the main
2 exchange to the periphery exchanges, and that equipment can
3 generate an alarm for various reasons; they would have to
4 attend it.

5 354 Q. Right. I think the chamber itself, for example, was prone
6 to flooding, is that correct?

7 A. The chamber was below sea level. The Ramparts,
8 unfortunately, is generally below sea level, so that cable
9 chamber, no different to any other cable chamber, they all
10 have pumps in them to cater for water ingress; there is
11 always water in the cable chamber.

12 355 Q. Yes.

13 A. But that wouldn't generate an alarm, as such, because the
14 pumps normally took care of --

15 356 Q. I see.

16 A. The only time an alarm would be triggered is if the pumps
17 would fail to operate in which case you would be in
18 attendance for that purpose.

19 357 Q. For that purpose. Was there ever any sort of necessity or
20 was there any particular reason why members of the public
21 might seek access to The Ramparts building?

22 A. They needn't to be there. However, the building also
23 housed the repair service. There was three repair services
24 in the district at that time: one in Drogheda, one in
25 Dundalk and one in Mullingar. The one in Dundalk catered
26 for Monaghan and Dundalk areas, so if people in Dundalk had
27 a problem with their phone, instead of ringing up, in a
28 number of occasions they would present themselves,
29 sometimes with their faulty phone in their hand basically,
30 on the basis that that is where it would be dealt with.

1 However, the main centre for that was over in the domain
2 basically, where the external operation offices were, but
3 effectively that sometimes happened.

4 358 Q. Now, I think that -- was the Exchange, do you think, was --
5 it was a prime, I suppose, security target, do you think?

6 A. Yes.

7 359 Q. And why was that?

8 A. Oh definitely, yes. Well, the Exchange effectively held
9 the main switching capability for the northeast region.
10 Any exchange building anywhere in the world is always
11 looked upon as a key target: if something was to happen
12 there, the whole communications system in the northeast
13 would have been -- disappeared for a period of time and
14 chaos would ensue. The other point is that at that time
15 the link from Dublin to Belfast, going through Dundalk for
16 a long time, would have been the main link to Belfast,
17 between the two towns, but also, via that route it also
18 carried some of our circuits into England. That has
19 subsequently been reduced now with fibre optic links across
20 the Irish sea, but at that time that link would have been
21 of critical importance.

22 360 Q. And on that basis, do you think that the security that was
23 there was a comprehensive level of security?

24 A. Well, I would have to say it was. It was designed with
25 that in mind. As I said, staff who had access to the
26 building were very, very seriously vetted. Only those that
27 had a right to direct access were given the ability to do
28 so. All other staff -- and I know, at the time, there was
29 complaints from external staff, basically, that they had a
30 right to be there because of the nature of the -- they work

1 in MDFs, however not everyone was given the right for
2 that -- to be there because of the building itself and what
3 it held.

4 361 Q. Yes. And who carried out vetting of staff?

5 A. I know in the beginning, in the early 1980s, when the
6 security system went into being, each of the local
7 managers, superintendents, as they were then, were asked to
8 present a list of staff, basically, that they felt should
9 have access to it. That list then was sent up -- we had a
10 group called the Investigation Branch who were primarily
11 our liaison with the Gardaí and the Gardaí would have
12 looked at that list and anybody that they felt was not
13 suitable, that message would have come back down the line.

14 362 Q. I see. And what would have happened to such staff?

15 A. They would not have been given the fob. Now, to my
16 knowledge, I am not aware of any of the names that we would
17 have submitted not being accepted.

18 363 Q. I see. Were you aware, for example, of there being
19 concerns generally about employees of Telecom?

20 A. In what regard?

21 364 Q. In regard, I suppose, of subversive tendencies?

22 A. I suppose it's fair to say that everyone had thoughts and
23 everybody had views, but I am not aware of any staff
24 displaying specific subversive thoughts.

25 365 Q. Yes. In the 1980s, and I suppose particularly getting
26 towards the later 1980s, was there much casual recruitment
27 of staff in Telecom?

28 A. No. I think the last -- I think the last casual
29 recruitment on the external side would have been, I think,
30 in the late '70s, because there was a major upheaval in.

1 P&T in '79, which the result of that was a huge change in
2 our views and our attitudes, basically, but when we went
3 semi-state in '84, there was a thinking process at the time
4 was that the numbers of staff were too high so
5 mechanisation came into being, and that all came about from
6 the upheaval in '79, so on the external staff there
7 wouldn't have been that many casual recruitment. On the
8 internal staff, definitely there wasn't because the
9 internal staff were, by and large, highly trained
10 technicians.

11 366 Q. Yes. Now, when you say the internal staff, again just so
12 that we are clear, that is the staff working on engineering
13 aspects of the Exchange, is that correct?

14 A. When I relate to internal staff, I am talking about the
15 staff who were responsible for the maintenance and
16 installation of the exchanges, the exchanges and the
17 ancillary equipment basically that was associated with
18 those.

19 367 Q. Yes, yes.

20 A. In the context of the total staff in Dundalk, that staff
21 would have been relatively small in number, I think
22 somewhere around about 20 to 25, I think, at the most.

23 368 Q. Yes. Can you recall ever, do you know were any of the
24 engineers in Telecom, by whom were they trained, do you
25 know?

26 A. They were -- in the original Eircom, or Telecom at the
27 time, would have had its own training school.

28 369 Q. Yes.

29 A. They did most of the training of the technicians. In fact
30 technicians, throughout the '70s, became -- they started as

1 technician trainees. They normally attended, basically,
2 Dundalk, as it's now, the Dundalk Institute for, I think it
3 was a three-year course basically, before they came what
4 was Technician 2s, which was the basic level, and then you
5 became a Technician 1, and then a Senior Technical Officer.
6 So, leading up to the introduction of the digital
7 equipment, it would have been done through regional
8 colleges plus, outside of exchange type equipment, Eircom
9 itself. However, with the introduction of the new digital
10 exchanges, we didn't have that expertise in-house, so
11 Alcatel, who were the suppliers of the equipment, part and
12 parcel of their contract, I suppose, was to provide
13 training to our own people, and they, in turn, then, after
14 a number of years, our own people then developed the
15 expertise to carry out the training themselves.

16 370 Q. Alcatel were French, is that correct?

17 A. Alcatel were French, yes.

18 371 Q. Were you aware, or do you know of any of your colleagues
19 who had been trained by British Telecom at any time?

20 A. No.

21 372 Q. No.

22 A. British Telecom, the original Exchange was termed a
23 step-by-step exchange. That effectively is the same
24 equipment that would have been in BT, but I know when we
25 went to the digital side we went one route and I think they
26 went a different route altogether.

27 373 Q. Yes.

28 A. But no, I am not aware of any training from Bt.

29 374 Q. So would their expertise have been, well perhaps
30 incompatible too strong a word, but was their expertise

1 different to the expertise required to run the Exchange in
2 the Dundalk?

3 A. Well by the time of the late '70s, to a certain extent, we
4 had the expertise ourselves basically on Exchange equipment
5 to train our own people. The expertise that BT had, at
6 that stage, I think we were well -- we were well able to
7 carry on our own. Following that, we went a different
8 route altogether.

9 375 Q. And that is when I am talking about, once you had gone the
10 different route?

11 A. No, their digital equipment, I think, might be Siemens -- I
12 am not exactly certain, I am only guessing, but they did
13 not go to the Alcatel route.

14 376 Q. It wasn't the same?

15 A. No.

16 377 Q. Was there a material difference between the two different
17 types of equipment used?

18 A. I can't say. The fundamental process, or concept would be
19 similar but methodology and how the equipment worked and
20 all that would be totally different.

21 378 Q. OK. I suppose, given that your operation, your sphere of
22 operation was in relation to the Internal Exchange, does
23 that mean that you would have little, if any, cause to go
24 to the cable chamber at any stage?

25 A. The only reason I would go to the cable chamber is if, on
26 one of my visits, I wanted to check what the situation down
27 there was. We had -- because of Dundalk being low-lying,
28 we would have had gas alarms there because Methane gas is a
29 serious issue so we would have had gas alarms there, so for
30 the purpose of an inspection visit by me, that would be my

1 only reason for going down there.

2 379 Q. I see. You would have no actual operational reason to go,
3 is that right?

4 A. No.

5 380 Q. Now, I think in the -- obviously you have told us that
6 there was the old Exchange behind the Post Office and that
7 this was the new Exchange built in the mid-1980s?

8 A. Yes.

9 381 Q. And obviously at some point what had been in the old
10 Exchange had to transfer across to the new Exchange?

11 A. Yes.

12 382 Q. Was that a gradual process?

13 A. It was. You have to bear in mind that for 30, 40 years,
14 basically, the whole hub of the telecommunications business
15 in Dundalk would have centred on the old Exchange at the
16 back of the Post Office.

17 383 Q. Yes.

18 A. In 1984 the new Exchange opened in The Ramparts.

19 384 Q. Yes.

20 A. And there is absolutely no way could sort of all of the
21 cable network in Dundalk be turned to The Ramparts in that
22 short period of time.

23 385 Q. Yes.

24 A. So, Dundalk would have started, basically, with The
25 Ramparts. It would have had some cable ran out around that
26 time to link into existing cables, but then the remaining
27 cables would have been brought across on a tied cable
28 basically, and then over the subsequent years after that,
29 (with the growth of the telecommunications industry, all
30 cable then would have been gradually intercepted and

1 brought to The Ramparts.

2 386 Q. Yes. Brought to The Ramparts. I suppose, just by way of
3 in layman's language, it was a case that after cables had
4 been -- after the cables had been transferred to The
5 Ramparts and The Ramparts was now the Exchange, that the
6 old Exchange acted as a junction box, almost, for a period
7 of time?

8 A. By and large, yes.

9 387 Q. And I think you said that the cross-border cables were
10 amongst the last to be transferred fully to The Ramparts
11 Exchange?

12 A. They were, yes.

13 388 Q. But nonetheless, even though they were running through the
14 old Exchange, am I correct in thinking that the
15 cross-border cables were coming through -- or came to The
16 Ramparts Exchange?

17 A. Yeah, they were brought across on a tied cable.

18 389 Q. Yes. Now in respect of, we alluded to it earlier when I
19 described it as a maze of wires and you said in fact if you
20 knew what you were doing it was quite a straightforward
21 thing, or words to that effect. How did you get to know,
22 when you were looking at the, what I would see as a maze of
23 wires, what each particular wire was for?

24 A. Well, every cable that was installed had to have a set of
25 what is called cable records. So when the external staff
26 completed their job, originally in the -- up until the, I
27 would think the early '80s, I am not exactly certain, they
28 would have made out a set of cable cards and on that cable
29 card would be the cable number, where it was on the MDF,
30 what it was connected to and the telephone number

1 associated with it. But then throughout the early '80s all
2 those cards then were converted to computer, and
3 effectively they were on computer then for anybody who
4 needed to get information. Now, I have to say, basically,
5 later on, just to put in -- later on in the mid-'90s
6 because of the demand based on the external network, it was
7 decided that it was too big of a role for one individual so
8 it was split between myself and Tommy Cummins, so that is
9 how I have a knowledge of the external part of the
10 business. But I have to admit I would have access from
11 then on but any time I went to use it I was totally
12 confused; I needed the help of the experts, basically, to
13 get information.

14 390 Q. I see. When they were on cards, that was a physical
15 card --

16 A. Yes.

17 391 Q. -- stored somewhere in the MDF room?

18 A. There was a duty in the Exchange called the, I think the
19 Service Order Duty. That particular individual's job was
20 to -- service order basically, is an order from a customer
21 to provide service.

22 392 Q. Yes.

23 A. So, he had a job, basically, he was the guy who ran the
24 jumper from the external side to the internal side and, in
25 effect, he was the keeper of the records; the records were
26 physical cards kept in a big filing cabinet.

27 393 Q. Yes. And then you say they became computerised at some
28 point in the 1980s, is that correct?

29 A. To my knowledge, it was sometime in the 1980s that they
30 became computerised.

1 394 Q. Was there a time when there was an overlap between the two
2 systems?

3 A. Yes there was, yes.

4 395 Q. And once they were computerised, how would people have got
5 access to them? Was there restricted access in any way?

6 A. That particular programme, it's not like your Windows
7 programme now that everything was easy, this was a very,
8 very difficult programme, you had to have a password to
9 access, each individual who used this record or needed to
10 use this record had his own individual password. That was
11 to allow for audits in the event of something going wrong
12 or something like that, that you could trace back who
13 actually would have actually carried out a job.

14 396 Q. I see. Now, we know, also, that there was a system of
15 private wires going from various places?

16 A. Correct, correct.

17 397 Q. Such as, we were told, from a bank to the garda station?

18 A. Correct, yes.

19 398 Q. Or from commercial premises to Headquarters or -- and
20 including, we are told, from garda stations to RUC
21 stations?

22 A. Correct, yes.

23 399 Q. Were the -- the private wires were, am I correct in saying,
24 in the ordinary course, indistinguishable from any other
25 phone line?

26 A. In the main network they were just a pair of wires.

27 400 Q. They were still a pair of wires like every other phone line
28 was a pair of wires?

29 A. Yes, yes.

30 401 Q. And they came from the telephone, from the premises to a

1 junction box to the Exchange in the ordinary way?

2 A. Correct.

3 402 Q. And connected through the MDF?

4 A. Connected through the MDF. But bear in mind that private
5 wires, by their nature, do not have a telephone number on
6 them.

7 403 Q. Yes.

8 A. So, as such, they would not be connected to the Exchange.

9 404 Q. Yes. They were a dedicated line that you were sure
10 wouldn't ever -- at times, I suppose, of high telephone
11 activity you always had a free line available to you?

12 A. Effectively from, let's say from the bank's perspective,
13 they were an alarm line that connected from the bank to the
14 garda barracks intact without any equipment on it end to
15 end; just a pair of wires from one building to another
16 building.

17 405 Q. Were the records of those wires, were they kept with the
18 ordinary records that you have described on the cards in
19 the MDF room or on the computer?

20 A. No, they were separate.

21 406 Q. And where were they kept?

22 A. They were normally kept in the OC's office.

23 407 Q. And who was the OC?

24 A. The OC was Damien Kinlan.

25 408 Q. And if you needed access to them, and again I suppose this
26 may be something that you are not particularly familiar
27 with given what your role was, but insofar as you know, if
28 one needed access to those private wire records, how did
29 you go about getting it?

30 A. Well, from my knowledge, Damien kept them locked in his

1 room.

2 409 Q. Yes.

3 A. Damien was also, you could consider, part of the old school
4 of operation; in other words, that if something was
5 private, it was private, so he was the only one basically
6 who had access to those and if something needed to be done
7 in regard to private wires, Damien did that himself.

8 410 Q. I see. Now, I think if you wanted to tap a phone line,
9 essentially you have to, first of all, isolate the
10 particular pair of wires, is that correct, at some point on
11 their journey?

12 A. Yes.

13 411 Q. Would it be fair to say that the easiest way to do that is
14 at either the start or the finish or at any of the
15 junctions along the way?

16 A. I would say mainly the start and the finish, because at the
17 start and the finish the wires are accessible, for want of
18 a better word, be it that they are on a cabinet out in the
19 network, or in the old system they were on a pole, and at
20 the other end they were on a frame.

21 412 Q. Yes. So in the Exchange itself you have the MDF?

22 A. Correct.

23 413 Q. Is it straightforward to tap a line from there?

24 A. Well, the tapping of a line is, I suppose, you identify a
25 particular line that you want to listen to and you connect
26 a pair of wires to it and you listen.

27 414 Q. Yes. And then presumably at the other end, for want of a
28 better example, at the garda station, if you manage to get
29 access, you can tap a line there, their box, is that
30 correct?

1 A. Yes.

2 415 Q. Or at the junction boxes along the way if you know what
3 your --

4 A. The junction boxes -- bear in mind that the junction boxes
5 throughout the way, the cable just runs through in a cable.
6 It's not broken out.

7 416 Q. I see.

8 A. Particularly the cables we are talking, the main cables.
9 Effectively what you have is you have a main cable from the
10 Exchange to a cabinet, that starts off as an 800, 1,400,
11 2,400 per cable, so it's a big tube.

12 417 Q. Yes.

13 A. It goes to a box and it divides into smaller cables.
14 Generally speaking, the smallest cable that would go to a
15 cabinet would be down to 200 pair.

16 418 Q. I see.

17 A. But at that stage you are talking about a cable about that
18 size. [Demonstrating]

19 419 Q. About an inch in diameter or thereabouts?

20 A. About a inch in diameter, and that is terminated on a
21 frame. On the distribution side it's somewhat different
22 because the distribution side now, you are now sort of
23 taking cables and effectively breaking them out into
24 individual pairs for individual buildings. So in that
25 scenario you could go to a junction box, particularly in
26 the newer set-up, and access cable near it.

27 420 Q. There was a junction box, I think, in the vicinity of the
28 garda station near the brewery, is that correct?

29 A. Correct, yes.

30 421 Q. When the wires came out of the garda station into that

1 junction box, do they come out in an isolated way from the
2 station or are they joined up with other wires in the
3 locality as they enter the box, do you know?

4 A. My understanding is that there would have been a number of
5 cables coming out from the garda station into that -- into
6 the box and then into the cabinet.

7 422 Q. Yes.

8 A. But those cables would be the same as, they would be black,
9 like any other cable that is in the box.

10 423 Q. So, again without specific knowledge, you don't know where
11 any particular cable is, is that correct?

12 A. Well if you are able to follow -- if you have, effectively,
13 pipes come into a box and then effectively if you can sort
14 of see where that pipe is coming from, you could figure out
15 where the cables were going to.

16 424 Q. If you had a tap on a private wire, would that enable you
17 to listen to any conversation that was on an open line, if
18 you like?

19 A. How do you mean an open line?

20 425 Q. On an ordinary telephone line, I suppose, not a private
21 wiring, or if you have tapped one line you are only
22 listening to that one line, is that correct?

23 A. If you go across a pair of wires, you will only hear what
24 is on that pair of wires.

25 426 Q. Yes. But on a private wire, is the only thing that runs
26 along that pair of wires any communications between the two
27 fixed points?

28 A. Yes.

29 427 Q. So, a telephone call that didn't use the two fixed points
30 of the private wire could never get on to that private

1 wire?

2 A. No.

3 428 Q. No.

4 A. No, my understanding with the private wires were,
5 particularly in regard to the Gardai, that they terminated
6 on a particular phone at both ends, which was a scrambler
7 phone, and the purpose for that basically was to -- any
8 conversation was scrambled, so anybody who was to listen in
9 halfway along would need to have the facility to unscramble
10 it.

11 429 Q. In 1989, are you aware there was much use of mobile
12 telephones?

13 A. No, mobile telephones at that stage were in their infancy.
14 In fact, I remember I had one myself, it was like carrying
15 around a blooming briefcase.

16

17 CHAIRMAN: What did you say?

18 A. It was like carrying a briefcase. They were bricks, to a
19 certain extent. Actually, it's interesting when you see
20 photographs of them now, you know, modern phones, nice
21 little small things. Those ones, they were big yokes
22 basically, and in fact at times you needed to carry the
23 battery for it, it was about the size of a brick in fact at
24 times.

25

26 430 Q. MR. HAYES: Yes. Now, you have told us previously that
27 Telecom itself was concerned about the security of lines
28 and of its system.

29 A. Yes.

30 431 Q. Are you aware were you ever -- or were Telecom employees

1 ever required to conduct security checks or sweep for bugs
2 or such like in garda stations?

3 A. To my knowledge, no. We had nothing to do with garda
4 stations. The Gardai had their own personnel and, in
5 fairness, they were a lot more focused, I suppose, on that
6 type of activity than we would have been ourselves. We
7 didn't have that capability and it wasn't our place to do
8 that.

9 432 Q. Insofar as you are aware --

10 A. As far as I am aware.

11 433 Q. -- they looked after themselves?

12 A. Yes, yes, within their own premises it was their
13 responsibility.

14 434 Q. Thank you very much, Mr. McEvoy. If could you answer any
15 other questions that any other party might have for you.

16

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

18 **AS FOLLOWS:**

19

20 435 Q. MR. McGUINNESS: A good afternoon, I appear for An Garda
21 Siochana. Can I just ask you about your experience. Do I
22 understand you to say that you took up duty as the internal
23 manager of maintenance in 1980?

24 A. No, I became the planning engineer, I suppose, in the early
25 '80s. I took over the internal maintenance manager's job
26 around '84, '85.

27 436 Q. And you were in that position in the year 1989?

28 A. I was, yes.

29 437 Q. And you told My Friend that would you go down to the cable
30 chamber to inspect it for methane or perhaps other things

1 as well?

2 A. Well I wouldn't.

3 438 Q. You wouldn't?

4 A. No, that was not my role.

5 439 Q. I see.

6 A. My role was more of a management position in that I had, in
7 each of the exchanges, I would have had an engineering
8 superintendent who had specific responsibility for
9 activities in his area and, below him then, he would have
10 had the individual staff who carried out his functions.

11 440 Q. I am sorry, I had understood you to say that on occasion
12 you had gone down in connection with that particular --

13 A. Oh I would have, on visits to the Exchange, part of my role
14 was to just do a survey of the building with the manager or
15 the officer in charge, and I would have gone to the cable
16 chamber for that purpose.

17 441 Q. And can you just assist me in that regard? For what
18 purposes would people have gone down to the cable chamber
19 for?

20 A. Cable chambers, generally speak, they are not a very
21 comfortable place to be.

22 442 Q. Yes.

23 A. If you can picture, in Dundalk itself, as I said, it is
24 below sea level, so you are going -- you get water in it,
25 you get gunge from time to time, so, generally speaking,
26 the only reason why you go into the cable chamber would be
27 to carry out routine tests to make sure, basically, that
28 the pumps were working, that the alarms were working.

29 443 Q. The pumps for pumping out the water?

30 A. The pump was primarily to pump out the water. The other

1 reason, obviously then, is when you are installing new
2 cables.

3 444 Q. Yes.

4 A. That would be -- they would be the only real reasons why
5 you would go to the cable chamber.

6 445 Q. Yes. And how -- I mean intermittently, perhaps, or maybe
7 on more regular visits, how often would somebody go down
8 there a week or could you give the Chairman any sort of
9 estimate as to how often there might be somebody in the
10 cable chamber during any given week, a seven-day period?

11 A. I would say not in a week, I'd say on a monthly basis
12 probably Damien would, or the officer in charge would carry
13 out a routine inspection. Cable chambers, by their nature,
14 are some place that you don't generally go to unless you
15 have to go.

16 446 Q. Yes. And unless there is some particular reason?

17 A. Correct.

18 447 Q. And they are kept locked?

19 A. Oh, they are kept locked on the basis that there is no
20 reason for anybody to go there.

21 448 Q. Yes. And who would normally have the key, or is it left on
22 a --

23 A. No, no, that -- Damien carried the key, basically, for that
24 particular part of the building.

25 449 Q. All right. So anyone seeking access would have to get the
26 key from him?

27 A. Yes. Now, that is my understanding.

28 450 Q. For a specified purpose?

29 A. Yes.

30 451 Q. You have explained none of the staff in this period were

1 BT-trained because BT had different systems?

2 A. No, at this stage in the game, all the staff were
3 Telecom-trained.

4 452 Q. Yes. The private wire records, they were never
5 computerised, isn't that right?

6 A. They may have been computerised in recent times.

7 453 Q. Yes, but at the time we are talking about?

8 A. At that time, definitely not, no.

9 454 Q. And they'd be in the form that we have seen, just letters
10 and numbers, without any real identification as to the
11 destinations of each, isn't that right?

12 A. The card, the cable record card - I am trying to remember
13 if I ever saw one - I would say the cable record card would
14 have to carry who the private wire belonged to; in other
15 words, it would be Garda private wire, Bank of Ireland
16 private wire, AIB private wire.

17 455 Q. Yes. Insofar as the private wires are concerned, if you
18 opened any of the cables in the cable chamber, may I take
19 it you wouldn't be able to see, from looking at them, which
20 was a private wire?

21 A. No, no.

22 456 Q. The private wires themselves, then, they do go up to the
23 main distribution frame?

24 A. Yes.

25 457 Q. But they don't go to the Exchange side of the frame because
26 there is no need for them to be switched?

27 A. No.

28 458 Q. There is no -- no other party is intended to be able to
29 communicate via the private wire, other than the party from
30 whom it's going to -- the party to whom it's going?

1 A. Yes. My understanding is that they would come up on what
2 we call the line side of the cable chamber and then be
3 jumpered across then to whatever pair that they were going
4 to.

5 459 Q. We have seen photographs of the main distribution frame,
6 and the line side is sort of on the interior of the
7 building, and, as I understand it, the Exchange side is
8 sort of on the wall side, is that right?

9 A. I can't say offhand. I know -- left or right? -- if I saw
10 it, I could tell you straightaway, basically.

11 460 Q. Yes. Perhaps we could look at one of the photographs,
12 perhaps photograph 41. The lineside is on the left of --

13 A. The left-hand side is the line side.

14 461 Q. Where the ladder is?

15 A. Correct, yes.

16 462 Q. And the Exchange side is on the other side?

17 A. On the other side, yes.

18 463 Q. In terms of the allegation in the article, do you believe
19 for a moment that the IRA cut into a cable in the cable
20 chamber and were monitoring and recording private wire
21 conversations for a three-year period?

22 A. In my honest opinion, no.

23 464 Q. And in terms of doing it on the MDF, as well, do I take it
24 that you don't believe it was done there by the same method
25 or for the same period?

26 A. I don't believe it was done.

27 465 Q. Yes. And you have no evidence to support --

28 A. I have no evidence to support, or the opposite.

29 466 Q. Yes. But people connecting either to private wires - I
30 mean, if it was one private wire tapped into, there would

1 have to be a listening device or a diversion, or the
2 allegation was that cassettes would be made and obviously
3 listened to, something like that would be noticed?

4 A. Well, I would argue -- you saw the MDF chamber there --

5 467 Q. Yes.

6 A. -- if there was -- if there was a recording device, it
7 would have to be enclosed in something, and I reckon it
8 would be visible.

9 468 Q. There is virtually no room to put it anywhere where it
10 wouldn't be visible?

11 A. The only place you would put it would be way up on top.
12 Now, whether that would be visible or not, I couldn't say.
13 There is enough people going in and out of that MDF on a
14 day-by-day basis that, if something was there, I have no
15 doubt that it would have been seen, and there is no way, in
16 my view, that it would sit there for three years without
17 being identified.

18 469 Q. Yes. Obviously, if there isn't an interception of a
19 private wire or there isn't a phone conversation on a
20 private wire, there is no question of any phone calls by
21 the Gardaí to the RUC being compromised?

22 A. No. Also, bear in mind what I have said earlier, that if
23 somebody did happen to put something onto a private wire,
24 what they will get out would be scrambled information.

25 470 Q. Yes, that is the next point.

26 A. It would have to go through some form of scrambling to
27 identify what was actually being said. Now, that is
28 presuming that, at both ends, that the people talking
29 actually were using a scrambler to talk.

30 471 Q. Yes. In terms of the Garda junction box, that is the one

1 outside the station on the street?

2 A. Yes.

3 472 Q. Again, it's not possible to identify which are the private
4 wires or which are the actual pair wires coming from any
5 particular phone in the station?

6 A. No. In that box, a cable comes out, the same as any other
7 cable. It's jumpered in that cabinet to a cable pair going
8 to the Exchange like any other cable pair.

9 473 Q. And do I understand your evidence to be that the Exchange
10 was designed with a great deal of security in mind because
11 of the time and the function and the importance of the
12 function it had?

13 A. I wouldn't say the Exchange was designed that way. The
14 building is a standard exchange building; it's very similar
15 to the Exchange building that is in Drogheda. However,
16 security equipment installed in that building is definitely
17 different than the normal exchange building that we would
18 use, because of its location.

19 474 Q. All right. Thank you, Mr. McEvoy.

20

21 CHAIRMAN: Any questions?

22

23 MR. COFFEY: No questions.

24

25 MS. O'SULLIVAN: No questions.

26

27 CHAIRMAN: Any re-examination?

28

29 MR. HAYES: I have nothing by way of re-examination.

30

1 CHAIRMAN: Mr. McEvoy, thank you very much for all your
2 help you have given. You have been very clear and I am
3 most grateful to you.

4 A. Thank you.

5

6 MR. HAYES: That, then, is the evidence until tomorrow
7 morning at 11 o'clock.

8

9 CHAIRMAN: 11 o'clock in the morning, then.

10

11 THE TRIBUNAL THEN ADJOURNED TO THE 26TH OF OCTOBER, 2011,
12 AT 11 A.M.

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