

**Cory
Collusion Inquiry
Report**

**Chief Superintendent Breen
and
Superintendent Buchanan**

Delivered 7 October 2003

Chief Superintendent Harry Breen and Superintendent Bob Buchanan

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Preface

- 2.1 The terms of reference pertaining to this inquiry are precise and clear. I have no power to subpoena witnesses or compel the production of documents. It follows that I cannot make findings of fact based on the examination and cross-examination of witnesses.
- 2.2 My task is to review all the relevant papers pertaining to each case including the records of earlier investigations. In addition, I may interview anyone I think can assist in the examination of the relevant documents. The aim of the process is to determine whether there is sufficient evidence of collusion between state security forces and those responsible for the murder of Chief Superintendent Breen and Superintendent Buchanan to warrant a public inquiry.
- 2.3 At the outset I would like to express my thanks to the Gardaí and the PSNI who gave me their complete cooperation. I believe that all relevant material was produced and given to me for review. This was done quickly and efficiently and both forces are to be congratulated for their work. At the Gardaí I would like to particularly thank Chief Superintendent Martin Callinan and Detective Superintendent Timothy Maher. At the PSNI I extend particular thanks to Assistant Chief Constable Samuel Kinkaid, Detective Sergeant Raymond Clarke and Detective Chief Inspector Derek Williamson.
- 2.4 I would like to thank Counsel to the Inquiry, Renee Pomerance. She was, as she has been in all of the cases, extremely industrious, very efficient and dedicated. She really has undertaken and completed the onerous task of Counsel in an exemplary manner.
- 2.5 I would like to thank Anne Flynn for the very careful, speedy and efficient way in which she completed all the secretarial work involved in connection with this report.
- 2.6 Finally, I would like to thank those who submitted written material to me for my consideration.

The victims: Chief Superintendent Harry Breen and Superintendent Bob Buchanan

- 2.7 On the afternoon of 20 March 1989, two outstanding RUC officers were brutally murdered in an ambush on the Edenappa Road. The passenger in the car was Chief Superintendent Harry Breen, the Divisional Commander for “H” Division of the Royal Ulster Constabulary (RUC). This Division encompassed large parts of the counties of Armagh and South Down. He had enjoyed an exemplary career in the RUC. He joined the force on 5 May 1957. He served as a Sergeant in Lurgan and as an Inspector in Newry and Banbridge. In 1980 he was promoted to the rank of Superintendent and held posts in the Complaints and Discipline and Inspectorate Branch. On 8 February 1988, he was promoted to the rank of Chief Superintendent as Divisional Commander of “H” Division.
- 2.8 He had been commended twice and highly recommended on two other occasions. He was awarded the RUC Service Medal and later the Police Long-Service and Good Conduct Medal. He was a very well respected officer. He was dedicated to the protection and security of the public and to the welfare of the officers under his command. This attribute is extremely important and it was greatly appreciated by all members of the RUC who served under his command.
- 2.9 He was a deeply caring family man, devoted to his wife June and their two children, a daughter, Gillian, then aged 24, and a son, George, then aged 20. He was a conscientious, talented and dedicated police officer; a devoted husband and loving father. He was widely known and well respected in his community.
- 2.10 Superintendent Robert Buchanan was the driver of the ambushed vehicle. He occupied the difficult and dangerous post of Border Superintendent for “H” Division. He was responsible for all cross-border matters and, in particular, the liaison between the RUC and An Garda Síochána. He joined the RUC in 1956. He was promoted to Sergeant and served in Derrygonnelly, Co. Fermanagh, and Antrim. He was promoted to the rank of Inspector and stationed in Antrim from 1970 to 1975. As Chief Inspector he held posts in operations at Lisburn and in the Complaints and Discipline

Department. He was promoted to the rank of Superintendent, and served as Subdivisional Commander at Omagh and as Staff Officer to Senior Command at RUC Headquarters in Complaints and Discipline. Superintendent Buchanan was admired and respected by police officers on both sides of the border. He was known as a man of absolute integrity, and as a proud, dedicated and able police officer.

- 2.11 He was the loved and loving husband of Catherine and the fond and caring father of their two children, a daughter, Heather, then aged 27, and a son, William, then aged 25. His love of his family, his dedication to his Church and to his community, and his pride in his role as a police officer, mark the character of this outstanding officer.
- 2.12 The death of these two officers was a great loss to their police force, to the growing cooperation between what was then the RUC and An Garda Síochána, to their families, their friends and communities.
- 2.13 The extent of the loss can only be truly appreciated when the fundamental importance of the role of the police in a democratic society is considered.

The importance of the police to society

- 2.14 No society can exist without police. It is the police that provide protection to the community from violence, from criminal acts and from breaches of regulatory offences. Without the police chaos triumphs over order and might is always right.
- 2.15 The role of the police requires great physical courage, absolute integrity, patience, sensitivity, understanding, and firm self-discipline which must be exercised both by the individual officer and the police force as a unit. To perform their duties in today's society police officers must be both intelligent and highly trained. The police must serve and protect all within their community without regard to the colour of their skin, their religion, or country of origin. They must act without preference or bias.
- 2.16 The role of the police in a democratic society is of the highest importance. They must exercise all the highest attributes of a police force operating in the most despotic countries. Yet the police in a democracy must go much further. They must recognize that they are subject to the rule of law and always operate within and under the rule of law, no matter how difficult and how frustrating that may be. The police must serve and protect their community but always in a manner that complies with the law. They must protect their community and enforce its laws fairly and without discrimination. Prejudices must be set aside and personal preferences rejected. It is an extremely difficult role. Yet the work of the police is of fundamental importance to their community and country. It is the police who must serve as the role model for all, standing as examples of discipline, courage and fairness. Good police officers deserve the support, recognition and admiration of their community.
- 2.17 In troubled times the role of the police takes on an even greater importance. Chief Superintendent Breen and Superintendent Buchanan did indeed serve in troubled times. This can best be appreciated by recalling the statistics relating to the number of RUC officers killed during the troubles in Northern Ireland. From 1969 to 1999, 303 members of the RUC and the RUC Reserve lost their lives. (See: David McKittrick; Seamus Kelters; Brian Feeney; and Chris Thornton: *Lost Lives: The stories of men*,

women and children who died as a result of the Northern Ireland Troubles,
Mainstream Publishing Company (Edinburgh) Ltd., 2001 Edition, at pp. 1496-97.)

- 2.18 Chief Superintendent Breen and Superintendent Buchanan demonstrated all the finest attributes required of policemen. They were proven leaders in the police community and, by example, leaders in the greater community of Northern Ireland. To murder such men was a blow to their police communities, to the residents of Northern Ireland, to all who believe in a democratic society and to all who understand the important role of the police in a democratic society.

Meetings of Gardaí and RUC members

2.19 In 1989 there were two types of meetings involving officers from both forces. The first were formal structured meetings. They included the following:

- Headquarters command meetings held once every eight weeks, alternating between the Republic and Northern Ireland.
- Border Superintendents' meetings held on a monthly basis or more frequently as required or on request. These meetings also alternated between the Republic and Northern Ireland.
- Border Superintendent group meetings were held once in each eight-week period, alternating between the jurisdictions.

2.20 The second type of meetings were more frequent, unscheduled and arranged by telephone calls between the officers involved. The meetings Superintendent Buchanan frequently attended came within this informal category. He arranged them by telephone calls to his opposite number in the Gardaí. The meeting of 20 March 1989 which he and Chief Superintendent Breen attended at Dundalk was informal, unscheduled and arranged by telephone that morning.

Prior meetings at Garda stations across the border

- 2.21 Obviously, Superintendent Buchanan, in his role as Border Superintendent, met frequently with Garda officers in the Republic of Ireland. His diary demonstrates the frequency of his visits. For instance, in the month of January he made ten visits south of the border – five to Dundalk, three to Monaghan and two to Carrickmacross. In February he made five visits to Dundalk and three to Monaghan. Prior to the meeting on the 20th he had attended in the month of March four meetings in Dundalk, one in Monaghan and one in Carrickmacross. On these occasions, Superintendent Buchanan drove his own vehicle, a red Vauxhall Cavalier which he had owned since December 1986. It had Northern licence plates and was readily identifiable.
- 2.22 Further, it is apparent that, although Superintendent Buchanan may have occasionally parked in the rear at the Dundalk station, he usually parked in front of the Garda station. In that position his car could be seen from the street and readily observed by all who passed by. There can be no doubt that his vehicle had become well known in Monaghan and Carrickmacross and was particularly readily recognized in Dundalk. There was no security arranged for his visits. It may well be that Superintendent Buchanan wished to draw as little attention as possible to his trips and that he decided that the best way of doing this was to dispense with any security for them. He may have believed that this was helpful in establishing lines of communication and facilitating cooperation with the Gardaí and residents of the Republic.
- 2.23 By way of contrast, Chief Superintendent Breen did not regularly cross the border. While he had previously attended a meeting at Dundalk station on 2 February 1989, this was, for him, a relatively rare event.

Arrangements made for the meeting of 20 March by Superintendent Buchanan

- 2.24 On 20 March 1989 at 9.20am Superintendent Buchanan phoned to Dundalk to arrange a meeting for that afternoon. Following the murders the Gardaí carefully reviewed their records of the arrangements for the meeting. They indicate that at 9.20am Superintendent Buchanan rang Dundalk station and asked to speak to either Superintendent Tierney or Chief Superintendent Nolan. Neither officer was available at the time, but a message was left with the District Clerk of the Gardaí, George Flynn. At 10.00am Garda records reveal that Superintendent Tierney returned the call to Armagh RUC but Superintendent Buchanan was unavailable.
- 2.25 In any event, at 10.03am Superintendent Buchanan called Superintendent Tierney in Dundalk and told him that Chief Superintendent Breen wanted a meeting with Chief Superintendent Nolan in Dundalk. Superintendent Tierney told him to call Chief Superintendent Nolan directly to arrange the meeting. At 10.15am, Superintendent Buchanan called Chief Superintendent Nolan and arranged the meeting at the Dundalk station for 2.00pm.
- 2.26 I must note that in March 1989 there was no method of making secure telephone calls between these two stations. Perforce all calls were made on an open line.
- 2.27 According to the records, there was no further communication between the Gardaí and RUC officers. Further, there is nothing to indicate that civilian employees had any part in arranging this meeting. Indeed, the records indicate that all of these informal meetings were arranged by RUC officers with their Garda counterparts. It was not the role of Garda civilian employees to make or have anything to do with these arrangements.
- 2.28 Garda records indicate that at around 11.00am Chief Superintendent Nolan advised his Border Inspector, Frank Murray, of the proposed meeting. The Chief Superintendent did not mention the meeting to any other member of the Dundalk

station prior to the attendance of Chief Superintendent Breen and Superintendent Buchanan. At about 1.40pm Inspector Murray informed Superintendent Tierney of the proposed meeting while they were returning to Dundalk after a mobile patrol in the border area.

- 2.29 The proposed meeting on the 20th was to discuss suspected smuggling operations in the district. Chief Superintendent Breen was anxious to attend the meeting on the 20th because he had scheduled a meeting with Customs & Excise for the following morning and hoped to file a report with RUC Headquarters by lunchtime on the 21st.
- 2.30 Before he left the station at Armagh, Chief Superintendent Breen expressed his misgivings about attending the meeting to his Staff Officer, Sergeant Mains (now Chief Inspector Mains). He stated that he was uneasy about going to Dundalk because he believed that one of the officers stationed there had contact with a member of a notorious family from the area suspected of being a member of PIRA and of carrying out smuggling activities in the area and would pass information to him. Chief Superintendent Breen told Sergeant Mains that he felt that certain members of the Gardaí were on that person's payroll. In a later statement, Sergeant Mains named a particular Garda officer about whom Chief Superintendent Breen had expressed concern.
- 2.31 In any event, Chief Superintendent Breen left the Armagh station and drove to Newry station to meet Superintendent Buchanan. He arrived there at approximately 1.40pm. The officers then left Newry at 1.50pm and drove to Dundalk in Superintendent Buchanan's car.
- 2.32 When Chief Superintendent Breen and Superintendent Buchanan arrived at the Garda station in Dundalk, at about 2.00 or 2.10pm, they parked Buchanan's car in front of the station. At the meeting the RUC officers informed Chief Superintendent Nolan of the alleged smuggling activities.
- 2.33 The meeting finished at 3.15pm. When Chief Superintendent Breen and Superintendent Buchanan left they were careful not to discuss the route they were

taking back. However, it was known that Buchanan often used the Edenappa Road in order to avoid setting a pattern of constant use of the main road.

- 2.34 While the meeting was in progress, Garda A was for a time standing outside the Dundalk station. He saw a grey or blue Cavalier (whose licence plate he was able to partially identify) drive through the car park at the Dundalk station. It entered the station yard at the southern side, drove through, and then proceeded to drive into town. The driver appeared to be looking around while he drove slowly through the car park.
- 2.35 Further, at around 2.30pm, a man who was working close to the Garda station stated that he saw a red Ford Capri, which had front end damage and Northern registration plates bearing a number that was noted, drive slowly past the Garda station on three separate occasions.
- 2.36 There was a telephone kiosk in front of the Garda station. Anyone standing at the kiosk would have had a clear view of all the vehicles parked at the Dundalk station. Garda investigations showed that two calls had been made from this kiosk, one at 1.30pm and the other at 2.22pm. These calls were made through the Operator. The first was to a number in Belfast and the second to a number in Newry. However, subsequent inquiries established that these calls were not connected to the incident. One was made by an employee to his employer at the Ulster Lumber Co. and the other was made to a school in Newry. The person making the calls stated that he had not observed anything unusual.

The ambush

- 2.37 From the point of view of the murderers, the location of the ambush was ideal. The topography and the trees in the area provided ideal cover and the site could not be seen from the nearby British Army observation posts. It was located on the Edenappa Road, close to a vacant, abandoned house, referred to in some reports as “Morgan’s”. The driver of a north-bound vehicle approaching the site would have difficulty in attempting to decide if it was in reality an ambush.
- 2.38 Descriptions of the scene and the sequence of events were obtained through eyewitness accounts, intelligence reports and other investigations carried out by the RUC and Gardaí. It appears that shortly before the shooting two men, dressed in army battle fatigues and with camouflage paint on their faces, were at the scene. They were both armed. One was stationed at the side of the road in the ditch, while the other controlled traffic. A few minutes before the Buchanan car came on the scene, three south-bound vehicles were stopped. The first south-bound car was ordered to pull into the left-hand side of the road and told to switch off the engine. Another south-bound car, a white vehicle, was ordered to pull in to the right-hand side of the road at an angle and turn off the engine. The second car was parked approximately one car length behind the first vehicle. Almost immediately after the second car was stopped, a third arrived on the scene proceeding south. This car was also told to park on the left-hand side immediately behind the first car. It was apparently a blue Talbot.
- 2.39 The occupants of the three south-bound vehicles were told to get out of their cars and lie on the roadside with their hands over their heads. One of the two armed men covered the carefully placed vehicles with his weapon while the other gunman remained standing in the middle of the road. When the last south-bound vehicle was in position, there was room for only one vehicle to proceed along the road and that but slowly.
- 2.40 Shortly after the last south-bound vehicle was stopped and in place, Superintendent Buchanan’s red Vauxhall Cavalier appeared, driving northerly. It too was flagged

down by the armed man in the middle of the road. He slowed down and, as he did so, a cream-coloured van, which had been following, overtook Superintendent Buchanan's car and pulled into the laneway to the vacant house, opposite the red car. Four armed men, who were also in camouflage gear but wearing balaclavas, came out of the cream van and approached the red car. They started firing at it immediately. The red car attempted to back up to escape. It appeared to stall and then try once again, but stalled once more and never moved again. Both occupants of the car were hit several times. Superintendent Buchanan was in all probability dead by the time his car came to a stop. Examination of the vehicle the next day indicated that it was still in reverse with the accelerator pedal fully depressed.

- 2.41 Ballistic testing revealed that two of the men who shot at the red Vauxhall Cavalier used .223 Armalite rifles, one used a Ruger mini 14 and the fourth a 7.62 Short. The testing indicated that one Armalite rifle had last been used in a helicopter attack at Silverbridge on 23 June 1988. The other Armalite rifle had last been used in the murder of Eamon Maguire at Cullaville on 1 September 1987. There was no prior recorded trace of the other two rifles. There were at least 25 strike marks from bullets along both sides of the Vauxhall Cavalier, although the majority appeared to be aimed at the driver's side.
- 2.42 The autopsy performed on Superintendent Buchanan revealed that he had suffered many fragment wounds on the right side of the head. He also sustained many fragment wounds on the front of the right shoulder and upper chest and two major fragments had penetrated completely through his chest from front to back. He had suffered a lacerated lung and considerable internal bleeding.
- 2.43 He had also been shot in the head at close range, almost certainly after he had died.
- 2.44 Chief Superintendent Breen had been wounded in the abdomen, the upper right shoulder and arm and sustained wounds to his head. He had been hit on both the left and right side of his body. It appears that he had left the car after it came to a stop, waving a white handkerchief. It was obvious that he had suffered several gunshot wounds before he left the car which, although severe, did not appear to have been

fatal. Eyewitness accounts indicated that a member of the shooting team walked up to him and shot him in the back of the head.

2.45 Neither Breen nor Buchanan was armed. This must have been known to the murderers who would probably have been aware of the regulation that prevented them bringing firearms into the Republic.

2.46 These shootings were brutal, cowardly, and demonstrate a callous insensitivity to both the suffering of individuals and to life itself.

IRA CLAIM

2.47 On the 11.00pm radio news on 22 March 1989 the following statement was made:

“In their statement the IRA says that after shooting the police officers dead they searched the vehicle in which the two RUC men were travelling from their security talks with the Gardaí in Dundalk and they found the confidential documents. They say the documents relate to cross-border collaboration with the security forces but they don't give any further specific details. The IRA say that the two top officers were shot dead after their car came to one of a number of checkpoints which the IRA claims they were operating on the Monday. They also say that the policemen acted suspiciously and attempted to drive off. Then, according to the IRA statement, the IRA volunteers feared their own lives could be in danger and they took what they called 'preventative action' to prevent the RUC men's escape.”

2.48 The claim of self-defence, although imaginative, seems to have very little to do with either reality or veracity.

Subsequent investigation

- 2.49 After the murders the shooting team and the two gunmen who had halted traffic got into the cream-coloured van which drove off in a northerly direction. At 3.45pm, an emergency call was received by RUC Forkhill that there were two dead men in a red car on the Edenappa Road. At 3.54pm, police arrived at the scene and positively identified the victims. However, before anything more could be done, a snow squall set in that lasted 40 minutes. By the time it had subsided it was too dark to do anything further that day. The RUC and Army were duly notified but the scene could not be cleared until the next morning. As a result the bodies of the victims could not be moved.
- 2.50 It cannot be forgotten that, during this difficult time, crime scenes, including the bodies of victims and the vehicles involved, were frequently rigged with hidden explosive devices. As a result of this practice, it was necessary for the Army or the RUC officers to clear the scene to make sure that there were no explosive devices in place and, if there were, to defuse them before the investigation and examination could proceed.
- 2.51 The next day a search was made of the Vauxhall, the scene of the shooting and of the nearby vacant house. A Kleenex and a Lucozade bottle were found, but neither fingerprints nor saliva could be obtained for forensic testing purposes. It must be remembered that the shooting occurred before DNA science had advanced to its present state.
- 2.52 Similarly, when the cream-coloured van used to transport the killers was located by a helicopter patrol on 22 March 1989 that area had to be cleared before it could be examined with a view to obtaining evidence to assist in the identification of the murderers. By the time the investigation could be carried out, on 29 March 1989, the van had been destroyed by fire and the registration plates removed. It was believed that the van had been burned on the night of the 23 March, 1989. The van had been so damaged by fire that the searches undertaken were fruitless. It was established that the

van had been stolen on 18 March 1989 from the parking lot of the Mullaghbawn Chapel.

- 2.53 It is obvious that police investigations in south Armagh were often frustrated by PIRA and their sympathizers and were always extremely dangerous and difficult. Although some criticism of the actions and practice of the RUC during the time of the troubles may be merited and necessary, the courage and dedication of a great many members of that force can never be questioned.

Definition of collusion

- 2.54 In this case the issue is whether there is any evidence of collusion by the Garda officers or members of any other Governmental agency.
- 2.55 How should collusion be defined? Synonyms that are frequently given for the verb to collude include: to conspire; to connive; to collaborate; to plot; and to scheme.
- 2.56 The verb connive is defined as to deliberately ignore; to overlook; to disregard; to pass over; to take no notice of; to turn a blind eye; to wink; to excuse; to condone; to look the other way; to let something ride: see for example the Oxford Compact Thesaurus Second Edition 2001.
- 2.57 Similarly the Webster dictionary defines the verb collude in this way: to connive with another: conspire, plot.
- 2.58 It defines the verb connive:
1. to pretend ignorance or unawareness of something one ought morally, or officially or legally to oppose;
to fail to take action against a known wrongdoing or misbehaviour – usually used with connive at the violation of a law.
 2. (a) to be indulgent, tolerant or secretly in favour or sympathy;
(b) wink at youthful follies;
(c) to cooperate secretly: to have a secret understanding.
- 2.59 In the narrower context how should collusion be defined for the purposes of this inquiry? At the outset it should be recognized that members of the public must have confidence in the actions of Governmental agencies, particularly those of the police force. There cannot be public confidence in government agencies that are guilty of collusion or connivance in serious crimes. Because of the necessity for public confidence in the police, the definition of collusion must be reasonably broad when it

is applied to their actions. This is to say that police forces must not act collusively by ignoring or turning a blind eye to the wrongful acts of their servants or agents or by supplying information to assist others in committing their wrongful acts or by encouraging them to commit wrongful acts. Any lesser definition would have the effect of condoning, or even encouraging, state involvement in crimes, thereby shattering all public confidence in these important agencies.

- 2.60 In determining whether there are indications of state collusion in the murder of Chief Superintendent Breen and Superintendent Buchanan, it is important to look at the issue from two perspectives. First, it must be seen whether the documents indicate that the action or inaction of government agencies might have directly contributed to the murders. Secondly, it is necessary to examine collusive acts which may have indirectly contributed to the killings, by generally facilitating the terrorist activities. That is, evidence may reveal a pattern of behaviour by a government agency that comes within the definition of collusion. This evidence may add to and form part of the cumulative effect which emerges from a reading of the documents. Both perspectives must be considered in determining whether the evidence indicates that there have been acts of collusion by government agencies.
- 2.61 In this case the prime issue that must be resolved is this: Has there been any evidence disclosed of acts of collusion, as I have defined it, by Garda officers or employees?
- 2.62 Obviously, if a member of the Gardaí advised the murderers or the members of their organization of the visit of Breen and Buchanan, and particularly if they advised them of the time that they left the Dundalk station, those acts or actions would constitute evidence of collusion within the definition that I have employed.

Evidence available which either supports or negates the allegation of collusion

2.63 It may be helpful to review and consider the evidence available which either supports or negates the allegations of collusion by Garda officers or employees.

A. Publications alleging Collusion

2.64 In this case, as in the Gibson case, the families of the victims have placed great store in the book (published by Hodder and Stoughton) written by Toby Harnden in 1999 and entitled “Bandit Country”, revised in the year 2000, and in an article entitled “An Irishman’s Diary” written by Kevin Myers published in the *Irish Times* on the 10th March 2000. The relevant excerpts from Mr Harnden’s book are pages 156 – 159 of “Bandit Country” first edition, 1999 and pages 460 and 461 of “Bandit Country” revised edition, 2000. Both the book and the article alleged that Garda officers or employees colluded in the murder of Chief Superintendent Breen and Superintendent Buchanan. It is sufficient to note that the authors alleged that a mole or moles within the Gardaí was responsible for passing information about both the Gibsons and officers Breen and Buchanan to PIRA.

2.65 In the face of these allegations, both the RUC and the Gardaí conducted inquiries to determine if there were any grounds for the allegations, contained in the book and article, of collusion by Garda officers or its civilian employees in the murders of the Gibsons and the other murders they mention, including that of the two RUC officers, Chief Superintendent Breen and Superintendent Buchanan.

2.66 At this stage I can do no better than repeat what was to a large extent said on this subject in the Gibson report.

2.67 On 11 April 2000 the Commissioner of the Gardaí directed Chief Superintendent Sean Camon and Detective Inspector Peter Kirwin to re-examine all available files and investigate allegations of collusion relating to the Dundalk Garda Station. Because

those allegations stemmed from the book written by Toby Harnden and the article written by Kevin Myers, the officers interviewed both journalists in the course of their investigation. The interviews revealed how little these gentlemen relied upon fact and how much they relied upon suspicion and hypothesis. It will be helpful to review these interviews and the statements made by the authors. It should be remembered that there was no probing cross-examination of the authors; rather they were simply interviewed in a straightforward manner in comfortable surroundings.

i. The interviews with Mr Harnden

- 2.68 In the first edition of the book “Bandit Country” the author, Toby Harnden, alleged collusion in the murders of Chief Superintendent Breen and Superintendent Buchanan: He wrote that: “Senior RUC and Garda officers told the author that they were certain that information passed by a Garda officer enabled the IRA to ambush them as they returned from a meeting with Chief Superintendent John Nolan at Dundalk Garda Station”. Harnden was interviewed in Washington DC by Garda officers on two occasions: 6 April 2000 and 12 May 2000. When he was asked to identify his sources, Harnden stated that a lot of what was told to him was circumstantial and that he did not believe that he was in possession of evidence that could result in any charges.
- 2.69 The Garda investigation included inquiries of the RUC. These inquiries revealed “That no evidence existed, nor could any documentation be located, which indicates Garda collusion with subversives”. Assistant Commissioner Edward O’Dea was appointed by the then Garda Commissioner to conduct all necessary inquiries in Dundalk. Every single Garda member from Dundalk station who was working on 20 March 1989 when the RUC officers were murdered was interviewed and a statement taken from each officer. Assistant Commissioner O’Dea concluded that no member of An Garda Síochána leaked or passed on any information to any person outside the force concerning the visit of the two RUC officers to Dundalk on 20 March 1989.
- 2.70 In his book Harnden wrote that Chief Superintendent Breen had been uneasy about the meeting in Dundalk because he was concerned about one Garda officer who the RUC thought might be working for the IRA. This may well be a reference to a

statement made by Alan Mains who was Chief Superintendent Breen's staff officer. The two had lunch together on the day of the murder. Mr Mains stated that Chief Superintendent Breen had told him that he was uneasy about travelling down to Dundalk and that he felt that a person, suspected of being a senior IRA figure in the south Armagh area, had contacts with An Garda Síochána and that certain members were on his payroll. In a second statement Mains said that the officer referred to by Chief Superintendent Breen was Garda B at Dundalk. The statement of Mains could be seen as a basis for suspecting collusion. One document I have received does provide a factual basis for the concern expressed by Chief Superintendent Breen.

- 2.71 In a passage from his book "Bandit Country" (pages 157-158) Harnden sets out a great deal of detail as to how the operation against Messrs Breen and Buchanan would have been mounted. However, in his interview with Gardaí on the same subject, Harnden stated that "He could only hypothesize in relation to how the attack upon Breen and Buchanan could have been mounted".
- 2.72 With respect to the suggestion in the book that an IRA man with a CB radio was watching the two officers as they left Dundalk station and was in CB radio contact with an IRA team, Harnden stated that "this was not a fact that he considered particularly significant and that while it was said to him by someone north of the border, it may 'have been said as a belief rather than something definite'." He added that there was "possibly an element of drawing conclusions" and that a more accurate account in the book might have been that an "IRA man was probably watching". He had no definite information in relation to a man with a CB outside the Dundalk station despite what he had written in the book.
- 2.73 In his book Harnden also referred to the fact that there was technical information which confirmed that the IRA had been contacted by someone in Dundalk station. Harnden stated that he based this statement on information from "a trusted RUC source who had an intimate knowledge of the investigation into the two murders". According to Harnden, the source would not expand on this and was "extremely cagey".

- 2.74 Harnden stated that the clear impression that he got was that the CB transmissions were being monitored by the security force towers. However, he acknowledged that this was supposition on his part and that, while he was given the firm impression by one source that there was technical information in existence, nothing definite was given to him.
- 2.75 In response to an inquiry from the Gardaí, the RUC stated that no evidence existed, nor could any documentation be found, which indicated that there had been any Garda collusion with subversives. Further, the RUC denied that there was any technical information which confirmed that the IRA had been contacted by someone within the Dundalk station.
- 2.76 There was an allegation in the Harnden book that RUC SB received intelligence that a Garda officer telephoned an IRA member to tell him of the Gibsons' expected arrival at the border. When he was asked to discuss the source of this intelligence he stated that it was the same officer who had told him about the technical information. When asked if he could provide any more information Harnden stated that he had nothing further on the IRA man except that Garda B was mentioned to him as the Garda member who had contacted the IRA. When queried about this, the RUC denied that it had received intelligence information that a Garda officer had phoned an IRA man. I must observe that the Gardaí have confirmed to me that in 1989 there was no log kept of outgoing telephone calls from the Dundalk station.
- 2.77 It should be noted that this intelligence report was not passed on to the Gardaí. However, in correspondence dated 29 September 2000, Deputy Chief Constable Cramphorn of the RUC sent Deputy Commissioner Conroy of the Gardaí a report prepared by Chief Superintendent McBurney. In his report, dated 15 September 2000, McBurney specifically addressed the allegation that "RUC Special Branch had received intelligence that a Garda officer had telephoned an IRA member to tip him off". With respect to this and other allegations, Chief Superintendent McBurney asserted that "... no evidence exists, nor can any documentation be located, which indicates Garda collusion with subversives". Certainly, the Garda was entitled to rely upon the RUC report in drawing its own conclusion that there did not appear to be any documents which indicated that any member of the Gardaí had colluded with the

murderers of the Gibsons or Officers Breen and Buchanan. The investigations carried out by Assistant Commissioner O’Dea provided further confirmation that no officers or civilian employees working in Dundalk had contacted PIRA regarding the attendance of Breen and Buchanan at Dundalk.

- 2.78 Harnden declined to identify Inspector “L”, a former member of Garda SB, who was referred to at page 159 of “Bandit Country” as having “confirmed the sequence of events”. When asked to clarify this account, Harnden stated that he was referring to basic timings, etc. and that the reference was not intended to convey, nor did it mean, that Detective Inspector “L” had confirmed the allegation that there was information passed from a Garda member to the IRA.
- 2.79 In his book Harnden attributed a statement to detective inspector “L” to the effect “I am afraid the leak came from a guard”. When questioned about this, Harnden repeated that he was not referring to the technical information or the RUC intelligence, but rather “basic timings”. He said that because of editing the statement attributed to “L” appeared out of context. Harnden went on to say that it was possible that “L” was “putting forward a theory” when he stated that the leak came from a guard, though he thought it appeared to be stronger than that.
- 2.80 In his book Harnden wrote about an RUC SB officer who was supposedly able to name the Garda officer who had told the IRA about the meeting but said that Chief Constable Hermon had stamped on the story.
- 2.81 However, Harnden declined to name the RUC officer or offer any further information relating to the identity of the RUC Special Branch officer other than describing him as someone who had assisted him with the research for the book.
- 2.82 With respect to naming Garda B, Harnden qualified this tip-off by saying that “If it was a tip-off it may not be as specific”. When asked “Can we take it as dogmatic that it was Garda B”, Harnden responded “No, it is my way of stating it”.
- 2.83 When asked if the RUC SB officer had alluded to the basis for his knowledge that Garda B had passed on the details of the meeting, Harnden stated that, as he recalled,

the RUC officer was not as specific or emphatic and was speaking more from an overview perspective.

- 2.84 In the revised edition published in late 2000, at pages 216-222 Harnden outlined the same allegations of collusion along with some additional ones, namely, that in addition to one leak by “Garda X”, there was another officer “Garda Y” that was also providing information to the IRA. During the interview with Harnden he told the officers “There were suspicions about Garda B before this when the leak from the Garda station became an issue. I suspect Garda B was involved but have no evidence. There was suspicion in the RUC about Garda B. Garda A has recently been mentioned to me in the context of a matter that, if established, would have been a disciplinary offence of relevance. Looking at it in hindsight, he must now also be a suspect”. When Harnden was asked if he had discovered any new information since he wrote the book, he answered “Not really in terms of specific detail. The two names have been generally thrown about – Garda B and Garda A – but nothing specific”.
- 2.85 The Garda report indicates that the additional allegations in the second edition seemed to be based upon the discovery of the existence of Garda A’s alleged involvement in the matter that, if established, would have been a disciplinary offence of relevance and the more expansive theories expounded by Myers in his article “An Irishman’s Diary”.
- 2.86 At this stage I should observe that the matter that, if established, would have been a disciplinary offence of relevance refers to events that took place in 1993 some time after the murder of the Gibsons and Breen and Buchanan. It is not relevant to those murders except in a peripheral manner by indicating that some Garda officers appear to have been prepared to assist members of the IRA.

ii. The interviews with Mr Myers

- 2.87 Myers was interviewed by the Garda investigating team on 10 and 24 May 2000. He was asked to provide any information or evidence in his possession that provided the basis for his statement that a member of the Garda was directly responsible for the murders referred to in his article. These murders included those of Chief

Superintendent Breen and Superintendent Buchanan and Lord Justice Gibson and Lady Gibson.

- 2.88 Myers responded that he had information but no evidence. When he was asked to identify the retired member of the Garda that he referred to in his article, Myers stated that he did not wish to name the retired officer. He went on to say that since writing the article he had learned that more than one Garda was involved in leaking information to the IRA. He referred to an “active cell operating in the Dundalk Garda Station”.
- 2.89 He used the word “cell” because he believed that there was more than one Garda involved and the Gardaí were not working alone. When he was pressed with regard to this, he stated that it was his belief that there were “a very tiny number of Gardaí inside Dundalk Garda Station who were leaking information to the IRA and that they may or may not have been working together”.
- 2.90 With regard to his allegation in the article that a Garda officer “passed vast amounts of intelligence to the IRA and even recruited for the IRA from within the force” Myers stated that he based this statement on the “Bandit Country” book and then made further inquiries of other journalists, RUC officers and Gardaí.
- 2.91 When he was asked to identify the intelligence referred to, Myers stated that the entire Narrow Water investigation had been compromised by an individual or individuals within the Dundalk station. This was a reference to an IRA bomb attack in 1979 which killed 18 British soldiers. Two men were arrested by the Gardaí but released and the items seized during their arrest could not be located when the RUC asked for them.
- 2.92 While Myers attributed a sinister motive to the disposal of the items, the Garda investigation report observed that all indications were that they had been inadvertently disposed of by the Gardaí.
- 2.93 In his second interview Myers acknowledged that there was a long time span between Narrow Water and the other incidents and that there may be no connection between

them. He acknowledged in his interview that his instinct then was that it was not a conspiracy to destroy forensic evidence; rather that it may be more in the line of incompetence and he did not have any reason to suspect a Garda mole.

- 2.94 When asked about the matter that, if established, would have been a disciplinary offence of relevance, Myers stated that he was dealing with the story before the matter came to light and could not recall when the information came to him.
- 2.95 Myers was asked to provide the Gardaí with any evidence he had to support his statement that ex-Gardaí passed on precise information to the IRA regarding the movements of a Brinks Mat security van in May 1985 and the handover of the escort of that vehicle from the Gardaí to the RUC.
- 2.96 Myers responded with a very general statement that he had been told by his informant that all border transactions which had gone wrong had been compromised.
- 2.97 The same response was given when he was asked for evidence to support the claim that there had been a Garda mole who was active in connection with the murder of the Gibsons.
- 2.98 The statement Myers made that “but, as was revealed within a year, the Garda mole was vital” was simply his hypothesis that it was not a mole within the travel agents that brought about the murders, but information that came from elsewhere.
- 2.99 With regard to Myers’ statement that ex-Gardaí had told the IRA of the precise handover point from the Gardaí to the RUC of an escort for Lord Justice Higgins, resulting in the murder of the Hanna family, he once again responded with the general statement that he had been told that all handovers to the RUC had been compromised.
- 2.100 In his second interview he stated that “nobody spoke to him in relation to all of the incidents referred to in the article, that each one was compromised in a particular way”.

- 2.101 Myers stated that there were elements of “conjecture, hypothesis, etc. and that he wrote about the pattern”.
- 2.102 When further pressed with regard to this, he confirmed that he had no specific information in relation to each incident referred to. He added: *“I wrote from my overview. I may have stated it in a more authoritative way than I should. I probably wrote it as a fact, where if I wrote the article now I probably would not write it as fact”*.
- 2.103 When he was asked about his references to a mole in the Dundalk station and if this was a matter of conjecture, Myers stated that sources had stated it to him. He said he did not question or interrogate them about this, but they knew things. He did not question them about the details of their knowledge. He stated: *“I was told that handovers at the border were compromised but did not question this – perhaps I should have. I presumed that these persons were telling the truth and that they had no reason to lie. I would have asked if they were sure about what they were saying.”*
- 2.104 When asked about his allegations that Breen and Buchanan were set up by the Garda mole, Myers stated that he relied on Harnden’s book which he took to be hard information. He had also made inquiries north and south and obtained information that was “anecdotal but sufficient for me to say and justify this statement in the article”.
- 2.105 In the second interview he once again said that he had relied upon Harnden’s book. In relation to other sources, he said that he did not think that any of them had lied “but they may have told me untruths believing them to be the truth. But I do not believe this”.
- 2.106 When asked, he stated that he did not have any evidence to present which supported his statement that an ex-Garda mole had passed on information to the IRA regarding the movements of Breen and Buchanan.
- 2.107 With regard to the murder of Tom Oliver and allegations of a Garda mole in Dundalk, he stated: “This is what Toby Harnden told me. I say RUC intelligence – it could be

MI5/MI6. While I mention not even a minor Garda inquiry did not take place, I don't know, I could be entirely wrong.”

2.108 The report carefully observed that, while Myers attributed this information to Toby Harnden, there were no allegations of Garda collusion in the murder of Tom Oliver referred to in the first edition of Harnden's book “Bandit Country”. There was a reference in the second edition, although this was published after Myers' article and appeared to refer to a different officer than the one identified by Myers.

2.109 The following is a summary of the conclusion of the Garda report which appears to be appropriate in light of the statements made by Harnden and Myers during their interviews.

iii. Summary of the conclusions of the Garda investigation report

2.110 Assistant Commissioner O'Dea in his report concluded that he “was satisfied that no member of An Garda Síochána leaked or passed on any information concerning the visits of the RUC officers to Dundalk on 20 March 1989 to any person outside the force”.

2.111 In the investigations carried out by Chief Superintendent Camon and Detective Inspector Kirwan, it was observed that the two members of the Gardaí whose names had been mentioned – Garda B and Garda A – were interviewed and both had denied the allegations. I note in passing that the denials would not of themselves suffice to allay suspicions regarding their activities. One document I have obtained could be found to indicate that Garda B did pass information to the IRA and telephoned a member of the Provisional IRA to advise that Officers Breen and Buchanan were at the Dundalk station on 20 March 1989.

2.112 Detective Chief Superintendent McBurney was appointed by Chief Constable Sir Ronnie Flanagan to carry out, on behalf of the RUC, inquiries into the allegations of collusion by Garda officers. The Garda report indicated that it had been advised that the RUC had not found any evidence or documentation which pointed to Garda collusion with subversives.

- 2.113 In light of these investigations, it was concluded that, insofar as the members of the Gardaí, Garda B and Garda A, were concerned, “there is no evidence or intelligence reports to indicate that they colluded as alleged with members of PIRA”.
- 2.114 It is fair to say that allegations of collusion relating to Garda A only arose from the writings of Toby Harnden and Kevin Myers. It appears that allegations of collusion by this officer arose as a result of his name appearing in the course of the investigation of the matter that, if established, would have been a disciplinary offence of relevance.
- 2.115 I had not discovered any documents or statement which could be taken to support the suggestion made by the late Chief Superintendent Breen to Sergeant Mains of the RUC to the effect that Garda B was providing information to PIRA until 9 September 2003. Two pertinent documents have now come to my attention, and they will be dealt with under the heading “The Kevin Fulton Statement”.
- 2.116 A further investigation of the allegations of collusion contained in “Bandit Country” and the Myers article, dated 10 March 2000, was carried out by Detective Garda Lionel Mulally. In his report of 31 March 2000, he too found that there was nothing to substantiate the publications.
- 2.117 With regard to the Gibsons, the Mulally Report observed:

“The international liaison office had been informed by the RUC on 9th April 1987 that the Gibsons would be arriving in Dublin on 25th April by ferry from England en route to Northern Ireland. The Chief Superintendent Louth/Meath was subsequently notified of these arrangements and local Gardaí made aware. Lord Justice Gibson had booked the holiday through a Belfast travel agency on 29th December 1986. He had booked it in his own name and provided details of his vehicle.

There is no intelligence or information here to suggest that any individual member of An Garda Síochána provided any information to subversives pertaining to the Gibsons. Earlier intelligence does indicate that Lord Justice

Gibson had been targeted by PIRA for some time. He had a holiday home in Carrick, Co. Donegal, that had been attacked by PSF-PIRA in May 1981 and in July 1984. Intelligence indicated that PIRA were at that stage well aware of the identity of Lord Gibson and his movements in the Republic.”

- 2.118 In summary, the investigations into the book “Bandit Country” and the article “An Irishman’s Diary” indicate that the authors’ allegations that there was a Garda mole or that a Garda member facilitated the murder of Officers Breen and Buchanan, appear to be based upon hypothesis, speculation and a source or sources of information that the authors refused to disclose. Statements and allegations were put forward as matters of fact when in reality they were founded upon speculation and hypothesis. It would have been preferable if the book and the article had made this clear. Fairness to the victims’ families demanded no less.
- 2.119 Every opportunity was afforded to the two journalists to assist the Gardaí with regard to an important aspect of the murders, not only of Breen and Buchanan, but of the Gibsons. Despite being given this opportunity, the authors failed to either disclose their sources of information or put forward any evidence.
- 2.120 I find that I cannot base any finding of collusion, or possible collusion, on the contents of either Harnden’s book “Bandit Country” or Myers’ article “An Irishman’s Diary”.

Intelligence

A. Intelligence reports which indicate there was collusion

- 2.121 There are three intelligence reports which refer to a Garda mole that must be considered. The first was referred to earlier. It was received a few years after the murders of Chief Superintendent Breen and Superintendent Buchanan. It states that, according to a source whose reliability could not be assessed, an identifiable contact in the Garda office at Dundalk was a PIRA contact who passed on information that facilitated the murder of the two officers.
- 2.122 The second report was received by the Gardaí. It indicates, by way of double hearsay, that there was a contact in the Gardaí who had passed on information that “facilitated” the murder of Lord Justice Gibson and the shooting of the two RUC officers after their visit to the Dundalk Garda station. This report was received many years after the shooting. What is of greater concern is that it was based on double hearsay.
- 2.123 The third report was received by the Police Service of Northern Ireland (formerly the RUC) more than a decade after the murders. It was given a “high” grade, indicating that the source was considered reliable and had provided accurate information in the past. The source reported that an administrator based in an unknown location in Ireland, who organized meetings between the Gardaí and the RUC in 1989, was responsible for the leak to PIRA that led to the deaths of Breen and Buchanan. Because of the brevity of the information provided and the passage of time, it is impossible to properly assess the value or reliability of this information. Yet the fact that two separate sources refer to a somewhat similar leak of information could be taken to lend additional strength and credence to each of them. This information can only be assessed when all the factors, both pro and con, have been set out and considered.

2.124 A fourth intelligence report only came to my attention very recently, on 22 September 2003. This document will be referred to under the heading “The Kevin Fulton statement”.

B. Reports by the Gardaí

2.125 The RUC sent a copy of the third report to the Gardaí in the spring of this year and asked whether any civilian personnel dealt with the arrangements of meetings. The Garda response is found in a document prepared by Chief Superintendent Finnegan for the Assistant Commissioner of Crime, Security and Traffic. It stated that a review of the Garda file established the following chronology:

“At 9.20am Buchanan rang Dundalk Station and asked to speak to Superintendent Tierney but he was unavailable.

Buchanan spoke to the District Clerk, Garda George Flynn (now retired).

At 10.00am Superintendent Tierney returned the call to Armagh RUC but Buchanan was unavailable at that time.

At 10.03am Buchanan rang Tierney in Dundalk and told him that Chief Superintendent Breen wanted a meeting with Chief Superintendent John Nolan in Dundalk. Superintendent Tierney advised him to ring Chief Superintendent Nolan directly to arrange the meeting.

At 10.15am Superintendent Buchanan rang Chief Superintendent Nolan and arranged a meeting at Dundalk station at 2.00pm.

According to records, there was no further contact, and no civilian employees had any part in arranging this meeting.

Records indicate that all such meetings were arranged by Garda members and were not the role of civilian personnel.”

2.126 A similar conclusion was reached by Assistant Commissioner Edward J O’Dea, who had prepared a very detailed and careful report shortly after the murder. In his conclusion he stated that he was satisfied that no member of the Gardaí had leaked or passed on any information concerning the visit of the two RUC officers to anyone outside the force. The following are significant portions of his report:

“Summary

Breen was stationed at Armagh from April 1986 until his demise. He was the Divisional Commander for “H” Division of the RUC. He resided at Banbridge, Co Down, which is approximately 18 miles from Armagh city.

Superintendent Buchanan was stationed at Armagh from January 1986 until his demise. He was the Border Superintendent for the RUC “H” Division. He resided at Moira, Co Down, which is approximately 22 miles from Armagh city. He used his private motor car, a red Cavalier, ... in the course of his duty since his allocation to Armagh.

Because he occupied the post of Border Superintendent he was a person that would be known to the PIRA.

Past experiences of PIRA show that they are capable of targeting members of the security forces on both sides of the border and building up intelligence dossiers on them. This intelligence can then be used to plan and implement attacks.

Particular areas which left Breen and Buchanan vulnerable to reconnaissance by the PIRA:

Most obvious:

- Buchanan’s identity was known to the PIRA.

- He used the same vehicle over a three-year period in the course of his duties as Border Superintendent.
- He visited Dundalk station on a regular basis over this period in the same car. It was not unusual for him to call to the station twice a week.
- As far as can be ascertained he parked his car in the open forecourt of the station where it was clearly visible to members of the public.
- According to RUC sources, Buchanan used the same route, via border crossing 10 and Jonesborough village on an average of eight out of ten visits.
- This route traverses some of the most Republican-oriented territory in Northern Ireland. The roads are narrow and the terrain lends itself to guerrilla activities.”

2.127 The report finished with Assistant Commissioner O’Dea concluding that he was satisfied from his investigation that no member of the Gardaí had leaked or passed on any information concerning the visit of RUC officers to anyone outside the force:

“Conclusion

Structured and formal meetings between RUC and Gardaí are planned and organized in advance.

But informal meetings between officers of the two forces occur on a regular basis and are usually organized on an impromptu basis via telephone.

Consideration will be given to security precautions in future, including using different routes, using principal rather than secondary roads, and utilizing secure telephone systems to arrange informal meetings.”

2.128 Further, it must be remembered that, in correspondence dated 29 September 2000, Deputy Chief Constable Cramphorn of the RUC sent Deputy Commissioner Conroy of the Gardaí a report prepared by Chief Superintendent McBurney dated 15 September 2000. In that report, McBurney specifically addressed the allegation that “RUC Special Branch had received intelligence that a Garda officer had telephoned an IRA member to tip him off”. With respect to this and other allegations, Chief Superintendent McBurney asserted that “... no evidence exists, nor can any documentation be located, which indicates Garda collusion with subversives”. Certainly, the Garda was entitled to rely upon the RUC report in drawing its own conclusion that there did not appear to be any documents which indicated that any member of the Gardaí had colluded with the murderers of the Gibsons or Breen and Buchanan.

2.129 It is not clear why Chief Superintendent McBurney’s report did not refer to the intelligence report received a few years after the murder. This was the report which alleged that an identifiable contact at Dundalk station had given information to PIRA, which facilitated the ambush of the officers. Nor was this item of intelligence referred to in the letter written to the Gardaí by Deputy Chief Constable Cramphorn on 29 September 2000. I note that it was commented upon in an internal RUC memorandum from Assistant Chief Constable Hall of “E” Department to the Assistant Chief Constable of “C” Department signed by the Deputy Head of Special Branch, Detective Chief Superintendent Martindale, on 25 September 2000. It may be that because the report was ungraded it was considered of such little value that no reference to it was needed.

C. Intelligence reports which could be taken as indicating that there was no Collusion

2.130 There are other intelligence reports which could be taken as indicating that the ambush did not occur as a result of information given by Garda officers or employees to PIRA members regarding the attendance of Chief Superintendent Breen and Superintendent Buchanan at the Dundalk station. Rather, it appears to have occurred as a result of a large-scale PIRA operation which had been in place for a week before the murders occurred. These intelligence reports were derived from at least two

separate sources. They are generally in agreement as to the planning of the ambush and as to the identity and role of the participants. This could be taken as adding weight and credence to these reports.

- 2.131 An intelligence report was received by the Gardaí a few weeks after the ambush. It was assessed as probably true and emanating from a previously reliable source. It indicated that on the day of the shooting the IRA had men in position on the main Dublin-Belfast Road, the main Omeath-Newry Road and the Carrickmacross Road in addition to the road on which the ambush occurred. The largest concentration was on the Carrickastrickan Road, that is to say the main Dundalk-Forkhill Road. It stated that over 20 IRA men were involved in the operation that was in place for a week before Chief Superintendent Breen and Superintendent Buchanan were murdered. The report went on to provide details as to the identity of the planners and participants in the operation that are not relevant to the issue as to whether or not there was collusion in this case.
- 2.132 There is another intelligence report that purports to be based upon an eyewitness account of the event which the report suggests would be true. It was received by the Gardaí four days after the shooting. It indicated that about four minutes before Buchanan's car arrived at the site of the ambush, two men with rifles halted three cars on the Jonesborough side of the hill where the shooting occurred. It was said that the cars blocking the road would not be visible to anyone travelling to Jonesborough until they reached the top of the hill, the site of the murders. It was said that the officers' car was followed by a white or cream-coloured Liteace van. The back window of the van was covered with black plastic which gave a mirror reflection from the outside but allowed persons in the van to see out. The van passed the Buchanan car and pulled in front of it. The car stopped and four masked men with guns jumped out from the back door of the van. The officers tried to reverse their car but were shot by the four gunmen. The van then drove off in the direction of Jonesborough taking the six gunmen with them. The two men who halted cars on the road did not wear masks and had no transport with them.
- 2.133 Another intelligence report was prepared in April 1989 by a Garda Superintendent at Dundalk, based upon the information received from a reliable source. It too reported

that over 20 persons were involved in the PIRA operation that culminated in the murders of Chief Superintendent Breen and Superintendent Buchanan.

- 2.134 It stated that the operation continued each day for over a week. The aim of the operation was to abduct the officers and interrogate them as to how they were alerted to the PIRA's intended raid on the RUC station at Loughall.
- 2.135 It referred to the four roads which were covered for the week prior to the shooting.
- 2.136 It also stated that a van was parked at a location on the Newry Road, Dundalk. When the RUC officers passed by on their way to Newry the van was to overtake them and drive to Edenappa. It was said that each group had vehicles scouting in the area.
- 2.137 It gave the names of those said to be involved in the operation. The intention of PIRA was said to be to block the road behind the RUC vehicle but things went wrong when the officers reversed and tried to escape.
- 2.138 It went on to say that the IRA could have shot the officers on prior occasions but they were anxious to identify the source that had notified the RUC about a planned PIRA attack on the RUC station at Loughall.
- 2.139 There is as well a report prepared by the Armed Forces which should be considered.
- 2.140 An MOD document prepared by 1st Battalion Royal Regiment of Fusiliers, British Forces, Lisburn, dated 25 March 1989, described the incident as follows:

“Eyewitnesses report at 201430 March 1989, a beige van drove up the Edenappa Road and stopped outside a derelict at GR 06531506. Two armed men, dressed in full combats and wearing camouflage cream, got out of the van and went into the derelict. The men were not wearing berets. This is an excellent ambush position; it is 400 m north of BCP 10; in dead ground to OP R21C, where the road hits a sharp rise but is covered from view from other areas by trees.

At 15.15hrs, Breen and Buchanan left Dundalk Garda station after a routine meeting with the Gardaí to return to the North. They were travelling in Buchanan's private car.

Eyewitnesses report that at 15.45hrs, the two gunmen came out of the derelict and stopped three cars that were heading south down the Edenappa Road. The occupants of the cars were made to get out and lie face down by the side of the road. Their cars were stopped in such a manner that the road was blocked, leaving space for only one car to pass. As Buchanan's car approached the roadblock, they slowed and stopped, obviously thinking they were at Army VCP. The beige van drove up the Edenappa Road from the south, overtook the car, and pulled into a track to the east of the road. Four more gunmen got out of the van and began firing at the car. Mr. Buchanan attempted to reverse out of the ambush, but came up against a wall and stopped. Mr. Breen got out of the car and waved a white handkerchief; one of the gunmen walked up to him and shot him in the head. Mr. Buchanan was dispatched in the same manner while still strapped in his seatbelt; it is probable that at this stage he was already dead. The gunmen then climbed into the van and drove away south down the Edenappa Road and across the border.

- 2.141 From this report it could be taken that the Army was impressed with the suitability and excellence of the site for an ambush.
- 2.142 It is not for me to assess the evidence and make findings of fact. All I can do is observe that various intelligence reports, assessed as probably true and emanating from reliable sources, could be taken as indicating that the ambush occurred solely as a result of PIRA operations and not as a result of information passed by Garda officers or employees regarding the visit of Breen and Buchanan or their movements.
- 2.143 In addition, there are factors other than intelligence reports which could be taken to indicate that the PIRA would not have needed any assistance from the Gardaí in planning and carrying out the murders of Chief Superintendent Breen and Superintendent Buchanan.

Factors to be considered other than intelligence reports

- 2.144 It may be helpful to set out all the factors other than intelligence reports that should be taken into account in determining whether the murders of the officers were committed with or without the assistance of Garda officers or employees.
- 2.145 On one side of the balance sheet is the very precise timing of the final arrangements made for the ambush by the PIRA killers. It will be remembered that the three south-bound cars were stopped and positioned a very short time before the officers' north-bound red Vauxhall Cavalier came on the scene. The time interval was described as "very short" or "four minutes". It is true that the information regarding the approach of the officers' car could have been given by radio or other means from the light-coloured van following their car or by other PIRA surveillance teams. Yet an inference could be drawn, based on supposition or hypothesis, that the information came from a Garda officer or employee. The statement of Kevin Fulton, discussed in the next section, could be taken as providing some evidence that this is, in fact, what occurred.
- 2.146 On the other side of the balance sheet there were a number of known factors that could lead to a contrary inference. They include the following:
- (i) Superintendent Buchanan was stationed at Armagh from January 1986 until his demise. He was the Border Superintendent for the RUC "H" Division. He resided at Moira, Co. Down, some 22 miles from the city of Armagh. He used his own car, a red Vauxhall Cavalier with a well-known Northern Ireland registration number, in the course of his duties which frequently took him across the border.
 - (ii) Because he occupied the post of Border Superintendent, he was a person that would be known to PIRA. Past experience of PIRA murders shows that this organization was capable of targeting members of the security forces on both

sides of the border and building up intelligence dossiers on them. This intelligence could then be used by them to plan and implement attacks.

(iii) As noted by Assistant Commissioner O’Dea in his report, aspects which left Chief Superintendent Breen and Superintendent Buchanan particularly vulnerable to reconnaissance by the PIRA included the following:

- Buchanan’s identity was well known to the PIRA.
- He used the same vehicle over a period of three years in the course of his duties as Border Superintendent.
- He visited Dundalk regularly over this period in the same car. It was not unusual for him to attend at the station twice a week.
- As far as can be ascertained he usually parked his car in the open forecourt of the station where it was clearly visible to members of the public passing by the station.
- According to RUC sources, Buchanan used the same route by way of border crossing No. 10 and Jonesborough Village on an average of eight out of every ten visits.

(iv) Assistant Commissioner O’Dea concluded that he was satisfied that no member of the Gardaí leaked or passed on any information concerning the visit of RUC officers to anyone outside the force.

- He noted that the structured and formal meetings between RUC and Gardaí were planned and organized in advance but that informal meetings between officers of the two forces occurred on a regular basis and were usually organized by telephone by the officers involved.

- In the course of the preparation of his report, O’Dea noted that he had interviewed the 27 officers stationed at Dundalk. He found that the majority of those officers were unaware of the fact that Breen and Buchanan were attending a meeting at the station. Other officers were aware of their presence but did not know their identity. All those that did speak to Breen or Buchanan stated that they did not know or discuss the route taken by the officers to reach Dundalk nor the route they intended to use on their return.
- He interviewed as well the one civilian employee, Nora Burns, who worked as a clerical assistant at the station. She stated that she was present on the day of the visit but she was not aware that a meeting was being held between RUC and Garda officers. Nor did she notice anything unusual at the station on that day.
- In statements similar to that of many of the Garda officers, both Inspector Tierney and Chief Superintendent Nolan stated that there was no reference made by either Superintendent Buchanan or Chief Superintendent Breen as to how they had arrived at Dundalk or the route they intended to take on the return journey.
- It was known to the police on both sides of the border that the PIRA in south Armagh was strong in numbers and particularly well organized.
- PIRA also used local people sympathetic to PIRA known as “dickers” to keep watch on buildings and on police stations and to report on the arrivals and departures of people and vehicles from the stations.
- As well it was known that PIRA had developed sophisticated intelligence-gathering techniques. For example it employed relatively sophisticated radio equipment to monitor some of the radio transmissions and telephone calls of the police and army units.

- 2.147 There are as well the Army vehicle surveillance reports to consider. One of them indicated that Buchanan's car was being followed by a member of PIRA's car on 15 March, five days before the murder.
- 2.148 Similarly, a traffic analysis conducted by Army intelligence, dated 6 June 1989, determined that two vehicles had been regularly sighted in the vicinity of Buchanan's car at Newtownhamilton Town Centre. One of the vehicles was linked to PIRA and had been seen travelling in the same direction as Buchanan's car, within a short space of time, on at least three occasions. In addition, the two vehicles in question had been seen travelling in tandem on various occasions. It was believed that these sightings were unlikely to be a product of random coincidence. Finally, it was observed that there had been no further sightings of one of the vehicles after the murder of the officers on 20 March 1989.

The Kevin Fulton statement

2.149 On 9 September 2003 Kevin Fulton, accompanied by a friend, delivered to me a statement. It reads as follows:

In 1979, I enlisted in the British Army. Within months of my posting, I was recruited by a British intelligence agency to act as an agent. In this capacity, I became a member of the Provisional IRA.

On one occasion in the late 1980s, I was with my senior IRA commander and another individual in my car. I knew the other individual to be Garda B. I was introduced to Garda B. I knew that Garda B, who was stationed at Dundalk, was passing information to the Provisional IRA.

I was in Dundalk on the day of the ambush of Superintendent Buchanan and Chief Superintendent Breen. I am aware that, after the ambush took place, my senior IRA commander was told by a member of PIRA that Garda B had telephoned to the Provisional IRA to tell them that officers Breen and Buchanan were at the Dundalk station.

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

I have read this statement and its contents are true and accurate.

(Signature)

1.150 It is not for me to make findings of fact and I specifically refrain from doing so. It is sufficient to note that in delivering this statement to me Fulton knowingly placed himself in a dangerous position. He had reasonable grounds to believe that by doing so he made himself a threat to and a target of some organizations. Those charged with making findings of fact may conclude that this adds to the credibility of the document. All this to say that the statement could be taken to constitute evidence that Garda B

was passing information to PIRA members while he was stationed at Dundalk. Further, that on the day of the massacre he telephoned a PIRA member to advise that Breen and Buchanan were at the Dundalk station. If this evidence is accepted by those making the findings of fact, then it could certainly be found to constitute collusion. It is a document that must be given very careful consideration. I note that other evidence, including the report by Assistant Commissioner O'Dea, confirms that Garda B was on duty at Dundalk station on the day of the ambush.

2.151 An intelligence report very recently provided to me by the PSNI could be taken as providing some independent confirmation of Kevin Fulton's statement. This document contains information from an agent, other than Kevin Fulton, who was graded as "fairly reliable". In 1985, this agent reported that Garda B was passing information to PIRA. While this report does not mention any specific PIRA operations, it could be taken to confirm Kevin Fulton's statement that, prior to the murder of Chief Superintendent Breen and Superintendent Buchanan, Garda B was passing information to the Provisional IRA.

Conclusions

- 2.152 What conclusions can be drawn from the summary of the known factors, the intelligence reports that are relevant to this case and the statement of Kevin Fulton.
- 2.153 From a review of the relevant factors it might be said that PIRA did not need any assistance from the Gardaí to carry out the ambush and murders of the officers. Yet, the timing of the ambush was so very precise that it might lead to a conclusion that it could have only resulted from information given to PIRA by the Gardaí or members or sympathizers who knew the approximate time Buchanan's car left the station and the route it was taking to the North. It is true that the same information might have been given by the van apparently following Buchanan's car on the Edenappa Road. A consideration of the relevant factors alone might lead to a conclusion that information must have been given to PIRA a by Garda officer or employees to carry out the killings. Yet it could just as readily lead to a conclusion that PIRA neither had nor needed to rely upon collusion by Garda officers or employees to carry out the killings.
- 2.154 Let me turn next to the intelligence reports.
- 2.155 The intelligence reports received within days and the early weeks following the murder all suggest that PIRA members committed the murders without relying upon any information that the Gardaí or its employees could have supplied.
- 2.156 On the other side of the ledger, there are three more recent intelligence reports to be considered. The first, received some two years after the killings, speaks of information passed on by telephone from an identifiable contact at the Dundalk station which led to the murder of the officers. This report is ungraded. As a result, it would not be impossible but it would be difficult, if it were standing alone, to rely upon it as constituting evidence of collusion. The second report was received by the Gardaí many years after the shooting. It speaks of a fruitful contact in the Gardaí who passed on information that facilitated the murder of Judge Gibson and the shooting of two RUC officers after their visit to the Dundalk Garda Station. I must note that this

report is based on double hearsay. The third report was received more than a decade after the ambush. It received a grade of “high”. It speaks of an administrator, based somewhere in the Republic, who arranged meetings of Gardaí and RUC officers who provided PIRA with information that led to the murders of the officers.

- 2.157 The following must be kept in mind when considering these reports. The meeting of RUC officers and Garda officers that took place on 20 March was not a scheduled meeting. It was not arranged by a civilian employee or an administrator. Rather, it was the result of telephone conversations between the officers involved. There is no evidence to indicate that either a civilian employee or an administrator would have been in a position to notify PIRA of the meeting. Neither a civilian employee nor a Garda officer could have given any notice to PIRA regarding the RUC officers until Superintendent Buchanan’s car was parked in front of the Dundalk station. At that stage it was just as easy for “dickers” or PIRA sympathizers to give notice of the presence of the RUC officers as it was for Garda officers or employees.
- 2.158 Nor can it be forgotten that the first report is ungraded, the second was received many years after the murders and is based on double hearsay, the third was received more than a decade after the murder and, although rated as “high”, it casts a geographical net well beyond Dundalk, potentially wide enough to encompass all of the Republic of Ireland.
- 2.159 The factors and the intelligence reports received shortly after the murder considered by themselves might be thought to point to a conclusion that PIRA did not need any information from or collusion by the Gardaí to set up the ambush and carry out the murders.
- 2.160 The statement of Kevin Fulton must now be added to the mix and carefully considered. Standing alone it could be found to constitute evidence of collusion on the part of a Garda officer. It would explain the great precision of the timing of the ambush. It would as well add credence to the second of the recent intelligence reports which spoke of a Garda source in the Dundalk station and, perhaps to a lesser extent, the third report which also spoke of a Garda leak.

- 2.161 The intelligence report received from the PSNI on 22 September 2003 must also be considered. It will be remembered that this report was received by the RUC in the mid 1980's from a person they considered to be a "fairly reliable source." It indicated that Garda B was passing information to PIRA. This might be found to constitute support for or confirmation of the statement of Kevin Fulton.
- 2.162.1 I have considered carefully all the relevant material, the relevant factors, the intelligence reports and the Fulton statement. I have concluded that the documents reveal evidence that, if accepted, could be found to constitute collusion. As a result there must be a public inquiry.
- 2.163 If it is found that there was a Garda officer or employee that provided information that facilitated the murder of Breen and Buchanan then that should be known. Obviously it is something of great importance to the investigation of their murders. As well it would be an important factor in considering the safety of the PSNI officers who today must cross the border in the course of their duties to liaise with the Gardaí. From what I have seen it would appear that there is now excellent cooperation between the Gardaí and PSNI. Nothing should be done or omitted that would jeopardize that cooperation.
- 2.164 I should add that I am satisfied that I have been provided with, or granted access to, all the relevant intelligence documents.

The basic requirements for a public inquiry

2.165 When I speak of a public inquiry, I take that term to encompass certain essential characteristics. They would include the following:

An independent commissioner or panel of commissioners.

The tribunal should have full power to subpoena witnesses and documents together with all the powers usually exercised by a commissioner in a public inquiry.

The tribunal should select its own counsel who should have all the powers usually associated with counsel appointed to act for a commission or tribunal of public inquiry.

The tribunal should also be empowered to engage investigators who might be police officers or retired police officers to carry out such investigative or other tasks as may be deemed essential to the work of the tribunal.

The hearings, to the extent possible, should be held in public.

The findings and recommendations of the commissioners should be in writing and made public.

The importance and necessity of holding a public inquiry in this case

- 2.166 During the Weston Park negotiations, which were an integral part of the implementation of the Good Friday Accord, six cases were selected to be reviewed to determine whether a public inquiry should be held with regard to any of them.
- 2.167 This case, like that of Finucane, Hamill, Wright, Nelson and the Gibsons was specifically selected as one of those to be reviewed to determine if there was collusion and, if so, to direct a public inquiry. In light of this provision in the original agreement failure to hold such an inquiry as quickly as possible might be thought to be a denial of the original agreement, which appears to have been an important and integral part of the peace process. The failure to do so could be seen as a cynical breach of faith which could have unfortunate consequences for the Peace Accord.
- 2.168 Further, if, as I have found there is in this case, evidence capable of constituting collusion, then members of the community would undoubtedly like to see the issue resolved quickly. Indeed a speedy resolution is essential if the public confidence in the police and the administration of justice is to be restored. In this case only a public inquiry will suffice. Without public scrutiny, doubts based solely on myth and suspicion will linger long, fester and spread their malignant infection throughout the Republic and the Northern Ireland community. No prosecutions appear to be contemplated. Therefore the public inquiry should proceed as soon as it is reasonably possible to do so.
- 2.169 Concerns may be raised regarding the costs and time involved in holding public inquiries. My response to that is threefold:
1. If public confidence is to be restored in public institutions then in some circumstances such as those presented in this case a public inquiry is the only means of achieving that goal.

2. The original agreement contemplated that a public inquiry would be held if the requisite conditions had been met. That there is evidence which if found to be true is capable of constituting collusion has been established in this inquiry. Thus, in this case, the requisite condition has been met.
3. Time and costs can be reasonably controlled. For example, a maximum allowance could be set for counsel appearing for every party granted standing. That maximum amount should only be varied in extraordinary circumstances duly approved by a court on special application.

Counsel and the Commissioner or Commissioners should undertake to devote their full time to the inquiry until it is completed.

If the Commissioner found that the actions of a counsel were unnecessarily and improperly delaying the proceedings the costs of that delay could be assessed against that counsel or his/her client.

2.169 These are simply suggestions for controlling the unnecessary expenditure of public funds. Obviously there are many variations that could be played upon the important theme of cost reduction of public inquiries. If implemented, they could reduce the burden on the public purse and lead to greater harmony and fewer discordant notes in the inquiry process.

2.170 The Good Friday Accord and the Weston Park Agreement, which set out the selected cases as an integral part of the Agreement, must have been taken by both governments to be a significant step in the peace process. Six cases were chosen and the Agreement was negotiated and entered into on the basis that, if evidence which could constitute collusion was found, a public inquiry would be held. In those cases where such evidence has been found, the holding of a public inquiry as quickly as is reasonably possible is a small price to pay for a lasting peace.

2.171 At the time of the Agreement, the parties would have had in mind a public inquiry as that term was known in 2001. Yet all reasonable people would agree that an inquiry should proceed as expeditiously and economically as possible. They are not designed,

and should not be considered, as a means of enriching the legal profession. No reasonable person could object to strictures being placed on the inquiry to ensure these goals. These strictures would benefit all.