

A P P E A R A N C E S

The Sole Member:

His Honour Judge Peter Smithwick

For the Tribunal:

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

Instructed by:

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Solicitor

For the Commissioner of
An Garda Siochana:

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

Instructed by:

Mary Cummins
CSSO

For Owen Corrigan:

Mr. Jim O'Callaghan, SC
Mr. Darren Lehane, BL

Instructed by:

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Lawlor Partners Solicitors

For Leo Colton:

Mr. Paul Callan, SC
Mr. Eamon Coffey, BL

Instructed by:

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For Finbarr Hickey:

Fionnuala O'Sullivan, BL

Instructed by:

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For the Attorney General:

Ms. Nuala Butler, SC
Mr. Douglas Clarke, SC

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CSSO

For Freddie Scappaticci:

Niall Mooney, BL
Pauline O'Hare

Instructed by:

Michael Flanigan
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For Kevin Fulton:

Mr. Neil Rafferty, QC

Instructed by:

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For Breen Family:

Mr. John McBurney

**For Buchanan Family/
Heather Currie:**

Ernie Waterworth
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Solicitors

NOTICE:

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

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**THE WORD "DOYLE" OCCURS TWICE
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I N D E X

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1 THE TRIBUNAL RESUMED ON THE 9TH OF FEBRUARY, 2012,
2 AT 11 A.M. AS FOLLOWS:

3

4 MR. HAYES: Good morning, Chairman. This morning, there
5 are a number of matters, I suppose more by way of an
6 administrative nature. The first matter that I propose to
7 deal with is an article from the *Sunday Express* which arose
8 in the context of the cross-examination of Kevin Fulton --

9

10 CHAIRMAN: Yes.

11

12 MR. HAYES: -- just before Christmas. And the second
13 matter is, you will recall that Brigadier Ian Liles gave
14 evidence on the 8th of December, and you said at the time
15 that you would make as much of his evidence as you could
16 public, and I intend to read his transcript this morning
17 into the record.

18

19 MR. O'CALLAGHAN: Chairman, I thought there was a third
20 matter, as well. I mentioned this to Mr. Hayes beforehand.
21 Last Tuesday, Mrs. Lavery said the following to you, just
22 after lunch she said: "*What is proposed to place before*
23 *you on Thursday, Chairman, are précis of intelligence that*
24 *have been supplied by the Gardaí, the information that was*
25 *provided in the year 1985 by Owen Corrigan as part of his*
26 *duties to the Gardai and to the Crime and Security Branch,*
27 *and, at his request and at the request of the Gardaí, we*
28 *intend to put them into the evidence. They are in précis*
29 *form and they will be read into the record on Thursday.*"

30

1 And I know, Chairman, we were anxious for that to go ahead.
2 I understand that Detective Superintendent Brunton, the
3 relevant witness, is here to give that evidence, and you
4 will know that I had urged upon the Tribunal that this
5 evidence should go into the public domain since it is very
6 helpful to Mr. Corrigan and the role he played in fighting
7 against the IRA, and I would ask that it be taken today,
8 or, if not being taken today, an explanation as to why it
9 is not being taken today.

10

11 CHAIRMAN: Yes, Mr. Dillon.

12

13 MR. DILLON: Chairman, could Mr. O'Callaghan, perhaps,
14 explain why -- what he means by it would be "helpful to
15 Mr. Corrigan".

16

17 MR. O'CALLAGHAN: Absolutely. First of all, the documents
18 with which we have been provided with, first of all,
19 disclose, in intelligence circles, that there was a member
20 of the IRA who shared the same name as Owen Corrigan and
21 who the intelligence authorities in An Garda Síochána
22 thought was a member of the Provisional IRA throughout the
23 1970s, the 1980s and 1990s. There is a whole series of
24 other intelligence reports that are available that should
25 be put before the Tribunal. Yesterday, Mr. Lehane had an
26 opportunity to inspect some of these documents, and they
27 reveal a great level of work carried out by Mr. Corrigan in
28 providing intelligence on the Provisional IRA to the
29 authorities. They are helpful to my case and I would like
30 them put before the Tribunal.

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CHAIRMAN: Yes.

MR. DILLON: Now, as regards the issue of there being another Owen Corrigan, that is our understanding as well. Now, we propose dealing with that in a different way. We have carried out other research, both this side of the border and north of the border, which would be of assistance to you, so that matter will be dealt with. However, this morning, we read the précis of intelligence, and, as such, they add absolutely nothing to your terms of inquiry, absolutely nothing at all. Now, insofar as they demonstrate that Mr. Corrigan was a diligent servant of the State, that has never been in doubt in this Tribunal; that has been said time and time again, both by counsel and indeed by yourself.

CHAIRMAN: Yes.

MR. DILLON: Mr. Corrigan was called to give evidence, and, on that occasion - I am afraid it seems to be that eaten bread is soon forgotten - but recommendations, letters of commendation were read into the record. Mr. Corrigan's exploits were reviewed. Mr. Corrigan was explicitly asked -- was given the floor to explain to you what he felt you should know about, and he sat before you for nearly a half an hour, going over a number of matters he was involved in. There can be absolutely no doubt but that, at a certain point in his career, Mr. Corrigan was a very diligent servant of the State, and we don't question that. These

1 précis add nothing to it. However, Mr. O'Callaghan now has
2 introduced a matter which is of concern to the Tribunal;
3 namely, that he was furnished with them. Now --

4

5 MR. O'CALLAGHAN: Inspected them.

6

7 MR. DILLON: I beg your pardon?

8

9 MR. O'CALLAGHAN: We had an opportunity to inspect them.

10

11 MR. DILLON: I see. I see. That is even more interesting.
12 The background to all of this, Chairman, is this: Peter
13 Kirwan, of the Camon-Kirwan report, gave evidence to you
14 sometime before Christmas, I can't remember the exact
15 dates. In the course of it, he mentioned that
16 Mr. Corrigan, during certain years, had provided, I think
17 he said either 90 or 93 items of intelligence. Now, by
18 letter dated the 31st of January, 2012, which is
19 encaptioned "Strictly private and confidential - addressee
20 only," the Tribunal was furnished with the précis which
21 Mr. O'Callaghan is referring to this morning.

22

23 CHAIRMAN: Yes.

24

25 MR. DILLON: There are two matters which arise out of this
26 letter: The first is that the solicitor for the Garda
27 Commissioner confirms that she has forwarded a copy of the
28 letter and enclosure to Lawlor Partners, solicitors for
29 Mr. Owen Corrigan. Now, what entitlement does the Garda
30 Commissioner have to share information which it is

1 providing to the Tribunal, to third parties? Leave aside
2 the fact that it is Mr. Corrigan. It raises a serious
3 question, in the Tribunal's mind: What other information
4 which the Garda Commissioner has provided to the Tribunal,
5 has he, in the past, shared with third parties? Why did it
6 happen on this occasion? And will there be an undertaking
7 that this won't happen again? Because otherwise, the
8 confidentiality of dealings between the Tribunal and the
9 Garda Commissioner is severely tainted, and that is a
10 situation that cannot be allowed to subsist.

11
12 The second item which arises out of this letter, and it is
13 a matter which Mr. O'Callaghan has referred to in his own
14 way, is that the Tribunal has been requested, by the
15 Commissioner, to read into the record these matters. The
16 Commissioner is here to defend -- or I shouldn't say
17 defend, because this is not an action, but to, as it were,
18 to look after the interests of the Force, the Garda
19 Síochána.

20
21 CHAIRMAN: Yes.

22
23 MR. DILLON: A remarkable feature of these hearings, and I
24 am sure it will not have escaped people's attention, is the
25 symmetry between the Garda Commissioner and Mr. Corrigan in
26 terms of their approach to witnesses. It happened time and
27 time again that a Tribunal witness, on being examined first
28 by Garda counsel, is quizzed in a manner designed to uphold
29 Mr. Corrigan, even though Mr. Corrigan has got his own very
30 competent legal team behind. Very often, when

1 Mr. Corrigan's team stands up, there is not much else they
2 can ask, except repeat the questions. But there is some
3 sort of relationship here between Mr. Corrigan and the
4 Garda Commissioner which clearly is fundamental to the way
5 they approach this Tribunal. Dare I say, it is fundamental
6 to your terms of reference, and you know nothing about it.
7 I suspect we will never know anything about it. But bring
8 that to one side. The issue of circulating information
9 provided to the Tribunal, to non-parties, is a matter that
10 must be addressed, and, for the reasons that I have
11 outlined, the one matter which we fully understand is of
12 interest to Mr. Corrigan, namely that there was a person
13 with the same name, circulating, that must be addressed,
14 and the Tribunal has every attention of addressing that,
15 but it is assembling material from both north and south of
16 the border to deal with that, and it is not ready yet to
17 deal with it. So, for these reasons, this matter will not
18 be going into evidence today. I am sorry that Mr. Brunton
19 has been inconvenienced. I genuinely did not know he was
20 coming down, otherwise we would have flagged this earlier
21 on so that he would not be inconvenienced. I do apologise
22 for that. I wasn't aware that he was going to be here. I
23 thought it was just going to be Tribunal counsel reading
24 into the record, which is -- it seems to be the way that it
25 could have been done, if it were to be done, but it is
26 simply not going to be done today, for the reasons that I
27 have mentioned.

28
29 CHAIRMAN: In any event, Mrs. Lavery, unfortunately, is
30 indisposed. She had tried to cope with it on her feet, but

1 it didn't do her any good and she is confined to bed today
2 and she is not here, and I don't think she will be
3 available until next week.

4

5 MR. DILLON: So be it. We certainly hope Mrs. Lavery will
6 come back as soon as possible. But the position is as I
7 have outlined. Thank you, Chairman.

8

9 MR. O'CALLAGHAN: Chairman, can I just make one comment in
10 respect of that. Mr. Dillon sought to deflect attention
11 from the issue here that I was raising with you. The issue
12 that I was raising is that your lead Senior Counsel, on
13 Tuesday, told you that this information was going to be
14 adduced. Now, I have no difficulty if it is not being done
15 today because of an inconvenience to Mrs. Lavery, I
16 wouldn't seek to push that; however, what Mr. Dillon said
17 to you is that there was a question-mark over whether this
18 information will ever, ever be put before you. Now, that
19 is a complete dichotomy between what Mrs. Lavery said to
20 you on Thursday [sic] and what Mr. Dillon said to you
21 today. And Mr. Dillon also seeks to criticise the
22 Commissioner, who can speak for himself in due course, and
23 my client, because there is some alignment. There is an
24 alignment. Of course there is an alignment. My client
25 said that he played no hand, act or part in colluding with
26 the Provisional IRA, and the Garda Commissioner says the
27 same, and we are not to be criticised for that. Mr. Dillon
28 may be suggesting that, in some respect, the Garda
29 Commissioner should be pointing a finger at Mr. Corrigan.
30 The reason they are not is not because of any arrangement

1 between us but because the evidence isn't there, and,
2 unfortunately, Mr. Dillon, at some stage, is going to have
3 to face up to that. I am very anxious, Chairman, that the
4 detail of the intelligence reports which shows that my
5 client was an excellent officer in providing information
6 about the Provisional IRA, should be put before you. It
7 contains information which shows that he provided
8 information that sought to protect the lives of members of
9 the RUC and that we believe saved the lives of members of
10 the RUC. That is clearly relevant to your inquiry.

11
12 CHAIRMAN: Yes.

13
14 MR. DILLON: Before My Friend replies on behalf of the
15 Garda Commissioner, I had made it perfectly clear, even
16 today - I don't know how many times we have put it on the
17 record - that Mr. Corrigan was -- toiled diligently on
18 behalf of the State. I don't know how often we have to say
19 this, Chairman. It just beggars belief that it is being
20 repeated again today.

21
22 Secondly, maybe I didn't make it clear, but we reviewed -
23 and it is quite possible, because I was focusing on other
24 matters - we reviewed the précis this morning, and
25 Mr. O'Callaghan is quite right to point out to the one
26 where there might be have been confusion between a
27 subversive and Mr. Corrigan, the Detective Guard, but,
28 otherwise, that adds nothing to your terms of reference,
29 and, for that reason, it's not being read into the record,
30 not by the Tribunal. There may be another way of dealing

1 with it, but it won't be done by the Tribunal. I don't put
2 it any further than that.

3

4 Now, the symbiosis, the symmetry between the two, is
5 illustrated by the fact that the Garda Commissioner has
6 effectively cut loose Mr. Colton and Mr. Hickey. He
7 doesn't ask questions, do you know anything about Leo
8 Colton passing information to the IRA, or whatever? That
9 never happens.

10

11 CHAIRMAN: Well, I think we must leave this for the moment
12 until Mrs. Lavery returns -- well, sorry, Mr. Durack.

13

14 MR. DURACK: Rather than just leave it unsaid. The
15 function of the -- that the Garda Commissioner has taken
16 throughout this inquiry, is to supply to the Tribunal all
17 relevant evidence that may be considered by you or should
18 be considered by you. Mr. Dillon provides an opinion, that
19 he, having read it, doesn't think it is relevant, but I
20 would have thought that it is a matter for you and for
21 Mr. Corrigan as to whether it is relevant. But can I just
22 make it very clear that it is not the function, and never
23 has been the function, of the Garda Commissioner, to
24 provide anything, any material to third parties, and he has
25 been condemned for it. This is, in fact, material
26 generated by Sergeant Corrigan and available in Garda
27 files. It seems to me it would be the most completely
28 unjust that he should not have access to material that he
29 generated during the course of his career, and, in fact --
30 and it is all, I think, in his handwriting, in fact. And

1 this is precisely the attitude that was taken in the Morris
2 and other tribunals, that anybody who generated
3 intelligence was entitled to see what they generated,
4 because they did not necessarily keep copies of it. I
5 think they were advised not to keep copies of it because of
6 its sensitivity. But having said that, again, as I say,
7 the Garda Commissioner's attitude is that there is no
8 evidence of collusion anywhere, and that insofar as that we
9 can -- sorry, yes -- that there is no evidence of collusion
10 that we can find anywhere. Now, that is not a matter for
11 us to decide; it is a matter for you, needless to say.

12
13 CHAIRMAN: Yes.

14
15 MR. DURACK: But certainly, the intelligence material that
16 has been generated is relevant to show an attitude, if you
17 like, because what is being suggested by some people in the
18 course of the evidence, is that Mr. Corrigan -- for
19 instance, Inspector Prunty condemned him as being a useless
20 person. Various other people who served with him said he
21 was extraordinary useful, and this evidence is there to
22 back up the position, and it is for you to make a decision
23 about that. As I say, I make no apology for furnishing to
24 the member the items which he, in fact, generated. He
25 hasn't been furnished with anything else. And he is, after
26 all, of course, a party to whom this information is
27 relevant.

28
29 CHAIRMAN: Yes.

30

1 MR. DILLON: Well, now, Chairman, that submission very
2 neatly side-steps the issue which was posed. You must put
3 to one side that it's Mr. Corrigan, information that was
4 given to -- given to the Tribunal, was given to a third
5 party. Now, it is suggested that Mr. Corrigan is entitled
6 to it because he generated it. If Mr. Corrigan had any
7 interest in this information, I am sure he would have asked
8 for it, rather than having it thrust upon it.

9

10 MR. O'CALLAGHAN: I did ask for it. Sorry, the whole
11 reason that went to ask -- that we inspected it is because
12 we asked to see it, because, unlike Mr. Dillon, we
13 recognised the relevance of it, and, contrary to what Mr.
14 Dillon says, they do not add nothing to your terms of the
15 inquiry; they are highly relevant to your terms of inquiry,
16 and, rather than spending a row snipping between lawyers,
17 Chairman, I suggest we try and arrange a date for this
18 crucial information to be put into the public domain so the
19 nonsense about Mr. Corrigan can, once and for all, be put
20 to one side and put to bed.

21

22 MR. DILLON: But the inspection was afforded once the
23 précis had been offered. That was the sequence of events,
24 as I understand it.

25

26 MR. O'CALLAGHAN: No, you are wrong, again.

27

28 MR. DILLON: Oh, sorry, if I misunderstood that, I
29 misunderstood that.

30

1 MR. O'CALLAGHAN: You are completely wrong.

2

3 MR. DILLON: Well, that wasn't made clear. I'm very sorry
4 about that. I apologise for that, but it wasn't made
5 clear. In all events, I have put my position -- made my
6 position quite clear.

7

8 CHAIRMAN: I think we should mention the matter next week
9 when Mrs. Lavery returns, we will mention the point anyway
10 on the first sitting-day of next week, and there will be
11 further updates available in the future.

12

13 MR. DILLON: Well, that depends, that depends, Chairman.

14

15 CHAIRMAN: Yes. Thank you very much, Mr. Dillon.

16

17 MR. DILLON: Thank you.

18

19 MR. HAYES: Chairman, then, if I could proceed to the other
20 matters of the day.

21

22 CHAIRMAN: Yes.

23

24 MR. HAYES: You will recall that, in the course of the
25 cross-examination of Mr. Fulton by Mr. O'Callaghan, there
26 was some issue raised in respect of a newspaper article
27 that related to an IRA group in Euro Disney, which was then
28 being constructed outside Paris, and there was some
29 relevance was being attached, I think, to the relevant
30 dates. Now, I intend to do no more.

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CHAIRMAN: I recall Mr. Fulton referred to that article but couldn't give a date to it.

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MR. HAYES: No, he couldn't give a date. Now, in respect of any significance that might be attached, I don't propose to comment, and I think that is -- perhaps would be a matter for parties to make in submission.

9

10

CHAIRMAN: Yes.

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12

SUNDAY EXPRESS ARTICLE READ INTO THE RECORD BY MR. HAYES AS

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FOLLOWS:

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MR. HAYES: But subsequent to it, we asked Mr. McAtamney, Mr. Fulton's solicitor, to furnish us with a copy of the article, and he has now done so. It is an article, Chairman, that comes from the *Sunday Express* from the 29th of September, 1991, and there is a front-page main headline that says "*IRA Gangs Move Into Euro Disney*," with a sub-headline "*Convicted terrorists found among workers on big building sites*". It is labelled as an exclusive by Barry Penrose. The article reports:-

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"The Provisional IRA has infiltrated members on to major construction projects in Europe, including the massive Euro Disney resort.

28

29

30

"The terrorists have also visited sensitive Ministry of Defence building sites in Gibraltar and one for next year's

1 *international Expo exhibition in Seville, Spain.*

2

3 *"A Sunday Express investigation has identified prominent*
4 *IRA men - some with convictions for serious terrorist*
5 *offences - among the 600 workers supplied to the Euro*
6 *Disney site near Paris."*

7

8 And under a paragraph headlined "Target," it reports:

9 *"They come from Ulster-based Mivan Overseas, which is now*
10 *the single largest contractor of the multi-million pound*
11 *project to build a Walt Disney theme park.*

12

13 *"It will open to 11 million visitors a year next April.*

14

15 *"The company is also supplying Ulster workers to the*
16 *Ministry of Defence in Gibraltar and Expo.*

17

18 *"Last night, a spokesman for the well-regarded Mivan and*
19 *Disney companies said that they had no inkling the IRA had*
20 *penetrated vetting and security procedures."*

21

22 Then, with a sub-headline of "Rackets", it continues:

23 *"Although Euro Disney is not an IRA target, MI6 fears the*
24 *Provisionals are smuggling weapons to the Continent in*
25 *vehicles taking building materials to the projects.*

26

27 *"It also believes the IRA disguises 'active service units'*
28 *as building workers to get them overseas easily.*

29

30 *"Last night, a Special Branch officer said, 'We are very*

1 concerned about this crowd. They are a hard crew. The
2 potential is enormous because the IRA has always penetrated
3 the building industry for money-making rackets'.

4 "Among the leading IRA men at Euro Disney are: Joe
5 Haughey, 38, a high-ranking IRA intelligence officer
6 convicted of kidnapping a driver whose taxi was then used
7 in the murder of a deputy prisoner governor; Jim Gillan,
8 46, once jailed for 12 years after police captured him with
9 a submachine gun; Peter Keeley, a prominent Provisional
10 from Newry; and then, finally, the IRA's operations officer
11 in Belfast.

12
13 "Last week, Haughey and a number of other Provisionals
14 could be seen working on the 'Thunder Mountain' ride, one
15 of the main attractions.

16
17 "Gillan, whose terrorist tasks have included identifying
18 IRA targets, returned to Belfast recently to visit his
19 family. Last night, Ivan McCabrey, Mivan's Chairman, said
20 his company had no record of the IRA making threats over
21 their current sites abroad.

22
23 "However, he added, 'It has received threats in the past
24 and the company no longer undertakes work for the Ministry
25 of Defence in the province'."

26
27 Then, with a sub-headline of "Bullet":

28 "Two years ago, one of its directors escaped death when a
29 bomb left beneath his car was noticed.

30

1 *"Not only has the IRA infiltrated the sites, but it has*
2 *allegedly prevented some men from working on them. Simon*
3 *Treanor and Gervase Henry were stopped from taking up*
4 *labouring jobs Mivan gave them at Euro Disney after they*
5 *fell foul of the IRA.*

6
7 *"Threatened that they 'would get a bullet' if they did not*
8 *leave Ulster, they were offered jobs in France.*

9
10 *"When they went home to collect their passports, they were*
11 *spotted by IRA men.*

12
13 *"At the airport, they received a message from Mivan saying*
14 *they were unable to provide them with security passes.*

15
16 *"'The IRA is running that site as a closed shop', said one*
17 *relative."*

18
19 And that, Chairman, is, then, the end of that article.

20
21 The next matter, then, Chairman, to deal with, is the
22 evidence of Brigadier Liles. You will recall that
23 Brigadier Liles gave evidence for a second time on the 8th
24 of December last. That evidence was heard in private,
25 given the possible nature of the matters that might have
26 been discussed. Given the source of the Brigadier's
27 knowledge gleaned from -- gleaned during his career as an
28 army officer and given that he had consequent legal
29 obligations, it was considered appropriate to seek the
30 agreement of his employer, the Ministry of Defence, to his

1 giving evidence. It should be noted that such agreement
2 was readily forthcoming. Also, that the MOD did not seek
3 to be told in advance, and nor were they told, what the
4 Brigadier's evidence was to be. In agreeing to the
5 Brigadier giving evidence, though, the MOD requested that
6 they be allowed an opportunity to raise any concerns that
7 they might have in advance of the evidence being made
8 public. The understanding was that you would listen to any
9 concerns and that you would decide how to accommodate them,
10 if at all. It should be made clear, though, that once big
11 Brigadier Liles' testimony was given in private, it became
12 part of the evidence that you have heard and that could not
13 be undone by any concerns raised by the MOD. At the time,
14 you had indicated that you would make the evidence public
15 as soon as you reasonably could, and, unfortunately, that
16 has taken somewhat longer than expected.

17
18 MOD did raise a small number of concerns, and, in respect
19 of three of these, you have decided to make minor
20 adjustments to the text so as to take account of those
21 concerns. While I can say no more about the nature of the
22 adjustments, other than to reiterate that they are minor
23 and the substance of the evidence behind the adjustments is
24 being made public. In respect of the remaining four
25 concerns, you made no adjustment at all. And with that,
26 Chairman, then, I propose to commence reading the
27 transcript as slightly adjusted, as the most
28 straightforward way of putting the Brigadier's evidence
29 into the public domain.

30

1 TRANSCRIPT OF EVIDENCE OF BRIGADIER IAN LILES WAS READ INTO
2 THE RECORD BY MR. HAYES AS FOLLOWS:

3
4 "Question: I think, Brigadier, you told us on the last
5 occasion that you had served as an officer in the British
6 Army for 36 years?

7 Answer: That's correct.

8 Question: And that for 14 of those years you served for
9 various times in Northern Ireland?

10 Answer: That's correct, yes.

11 Question: And that you served for three of those years in
12 south Armagh?

13 Answer: That is correct.

14 Question: And that you had arrived in south Armagh some
15 months after the murders of Chief Superintendent Breen and
16 Superintendent Buchanan and that you stayed there for -- I
17 think at that time for a period of two years?

18 Answer: Just over two years, yes, that's right.

19 Question: I think at that time you were SO G2 to 3
20 Infantry Brigade, HQ, is that correct?

21 Answer: Yes, I was a Staff Officer, Grade 2. G2 in
22 Headquarter 3 Infantry Brigade, yes.

23 Question: Yes. And I think what was the significance of
24 G2?

25 Answer: G2 was just a moniker for intelligence.

26 Question: For intelligence. So you were involved in
27 intelligence in --

28 Answer: In 3 Infantry Brigade, yes.

29 Question: And did you have any role also in relation to
30 working with the Task Coordinating Group?

1 *Answer: I was the, what was referred to as green army, so*
2 *uniformed army liaison officer to the Task Coordination*
3 *Group South, which was based in Portadown.*

4 *Question: In Portadown, in Mahon Road?*

5 *Answer: In Mahon Road, that's correct.*

6 *Question: And I think at the time, am I correct, that Ian*
7 *Phoenix was the regional head of TCG?*

8 *Answer: He was.*

9 *Question: And I think the late Chief Superintendent Frank*
10 *Murray was the head of Special Branch in south region?*

11 *Answer: That's correct, as well, yes.*

12 *Question: Yes. And you were based, I think, at the time,*
13 *were you, at Dromad Barracks?*

14 *Answer: The headquarters was at Dromad Barracks, yes.*

15 *Question: And just by way, I suppose, of general*
16 *background, I think there were three military brigades in*
17 *Northern Ireland at the time, is that correct?*

18 *Answer: That's correct, yes.*

19 *Question: One based in Belfast?*

20 *Answer: Yeah, 39 Brigade was in Belfast.*

21 *Question: And 8th Brigade?*

22 *Answer: 8th brigade was Londonderry and west Tyrone. And*
23 *3 Brigade was, at the time, it was called the Border*
24 *Brigade, and it was responsible for the border, really,*
25 *from Newry around to just south of Londonderry, including*
26 *Fermanagh, of course.*

27 *Question: And what was -- what was the size of 3 Brigade?*
28 *How many battalions was it composed of, can you recall?*

29 *Answer: Yes, there were two Resident Battalions, as far as*
30 *I remember, three Royal Battalions and three UDR, I*

1 believe, Royal Irish Battalions.

2 Question: Now, in 1989, specifically on the 20th of March,
3 you told us on the last occasion, of course, that you
4 weren't in Northern Ireland, but when you took up your post
5 sometime later, did you have any opportunity to access
6 materials of an intelligence-based nature, or otherwise, in
7 respect of the murders of Chief Superintendent Breen and
8 Superintendent Buchanan?

9 Answer: Yes, I did when I arrived, some weeks after it.
10 The follow-up inquiries and collation of intelligence was
11 still very much going on, and what could be learned from it
12 was really the order of the day.

13 Question: Did you have an opportunity to see any
14 intelligence analysis in respect of the day?

15 Answer: I did, yes.

16 Question: And what was it that you saw?

17 Answer: In short, after a considerable analysis, it was
18 quite clear that this was an IRA operation, that it started
19 between 11:30 and 12:00 hours that morning. It involved up
20 to 70 personnel. Not all of them would have known what was
21 happening, there is no doubt about that, and this would
22 have included what were referred to as dickers, look-outs,
23 people checking for helicopters, checking roads for army
24 and police patrols.

25 Question: Take it step by step. When you say that the
26 operation commenced sometime between 11:30 and midday, what
27 was your basis for that?

28 Answer: Well, that was when the intelligence traffic
29 started.

30 Question: Yes. And that is when the operation was picked

1 up by the army, is that correct?

2 Answer: Yes.

3 Question: Yes. Is it fair to say that that is when the
4 outward signs of the operation were visible?

5 Answer: That was the time that there was communications
6 that would have been related to IRA activity started on
7 that day.

8 Question: Yes. Do you believe that the operation started
9 in advance of that time?

10 Question: I mean, I suppose I should be clear. When --
11 this is when the activity began on the ground from army
12 observation?

13 Answer: This is from -- this is when there were first
14 signs of the operation beginning. It may well have started
15 before, before those tangible signs.

16 Question: Now, you say that there were up to 70 people,
17 perhaps, involved, including such like as dickers. What
18 role would the dickers have played?

19 Answer: Watching for helicopter movement out of Bessbrook,
20 watching for troops coming out of the bases at Crossmaglen,
21 Forkhill, Bessbrook, Newry, clearing roads to ensure that
22 there were no army patrol that had been missed doing VCPs
23 or line-up patrols. Really to make sure the whole area was
24 as clean as possible for an operation to go in and have
25 every chance of success and, more importantly, of them
26 getting away.

27 Question: What sort of people were the dickers?

28 Answer: They would have been very low-level people and,
29 almost certainly, would have had no idea what the operation
30 was about; in fact, not almost certainly, definitely

1 wouldn't have had any idea what the operation was about.

2 Question: And was that the, as far as can be ascertained,
3 the first step in the operation was to scout the ground to
4 see if there were any troops about?

5 Answer: Yes, no top-rate IRA team would just drive into an
6 uncleared area to kill two policemen that were transiting
7 through without first being pretty certain that there were
8 no army patrols on the ground, there were no helicopters
9 about transiting. As I say, they would want the area as
10 clean as they could possibly get it to ensure their getaway
11 more than anything else.

12 Question: And is the next step then, the weaponry has to
13 be assembled for the operation, is that correct?

14 Answer: Yes. Yes, well the vehicles would have to be
15 assembled. The radios themselves, of course, would have to
16 have been assembled. Weapons would have to have been got
17 out of hides and ammunition, indeed, got out of hides.
18 People would have to have met up. All the dickers would
19 have to have reported that there were no helicopters out,
20 no army patrols or police patrols in the area, as far as
21 they could ascertain, and, really, all of the battle
22 procedure that south Armagh, in particular, were
23 exceptionally good at.

24 Question: How straightforward a thing was it for them to
25 recover their weapons?

26 Answer: In this specific case, I can't talk specifically,
27 but I can say generally that weapons were not kept in
28 houses as a rule. They would be kept in cleverly
29 constructed hides, either underground in waterproof
30 containers or built into dry stone walls, and in fact one

1 of, at least one of the weapons used in this incident was
2 recovered some months afterwards hidden in a barrel in a
3 dry stone wall. So, no, weapons were not sat under
4 people's beds or easily accessible. They had to be taken
5 out of cleverly concealed hides.

6 Question: And when they were removing them from the hides,
7 can you say what manoeuvres they used to transport the
8 weapons from the hides to the point of use?

9 Answer: Yes, generally they would go through a more minor
10 version of clearing the area to make sure there are no army
11 OPs or patrols in the area. And they would take
12 precautions, when moving the weapons, to ensure that they
13 did not meet any patrols.

14 Question: And these were not the people then who were
15 going to subsequently use them, in most cases?

16 Answer: Rarely.

17 Question: In respect of, for example, the radio equipment
18 that the IRA used on the day, was that generally stored in
19 homes or was that stored off-site as well, do you know?

20 Answer: I think it was a combination of both. I think if
21 you were an IRA suspect and you generally knew if the RUC
22 were aware of your existence, that you would avoid having
23 anything that could be linked to paramilitary activity in
24 your house, because that could mean a trip to Castlereagh
25 pretty shortly afterwards. Most of the terrorists led a
26 fairly clean life, certainly in Northern Ireland, because
27 of the amount of house searches and security-force
28 activity.

29 Question: Can you tell us what was the nature of the
30 activity that was monitored or that was noticed between

1 *half past eleven and twelve?*

2 *Answer: It was unusual activity in it was during the hours*
3 *of daylight and certainly the morning. That early in the*
4 *morning was extremely unusual. The apparent number of*
5 *people on the ground was also very unusual. And at this*
6 *stage I think I ought to say that, so there is no*
7 *confusion, that this is not listening to straightforward*
8 *conversations. They were very clever how they used their*
9 *communications and it took a great deal of understanding*
10 *and analysis to really reach a conclusion on what was going*
11 *on. I don't want anyone to leave here with the impression*
12 *that there were people sat there listening verbatim to*
13 *everything that was said by the IRA or that, indeed, they*
14 *had normal conversations as though you and I were talking*
15 *on a phone. It wasn't like that at all.*

16 *Question: They weren't as helpful as to announce their*
17 *plans?*

18 *Answer: No, no, certainly not.*

19 *Question: If, at half past eleven, or thereabouts, or*
20 *sometime between half past eleven and twelve, that type of*
21 *activity has been noted and if their radios are perhaps*
22 *stored off-site, and certainly their weapons are stored*
23 *away from site, is it likely that the actual, if you like,*
24 *the preparation for the operation is already underway by*
25 *half past eleven?*

26 *Answer: It's got to be.*

27 *Question: When do you think, from your own knowledge and*
28 *from the observations that you had access to, what is the*
29 *least amount of time that the IRA could have, or the latest*
30 *time in which the IRA could have set about putting this*

1 operation into place?

2 Answer: I mean, the absolute latest, nine, ten o'clock
3 that morning.

4 Question: And if it had begun at nine or ten o'clock that
5 morning, is that sufficient time for them to do the
6 operation as they would like?

7 Answer: It really depends whether it was an operation that
8 had been in the planning for some time. From flash to
9 bang, i.e. we are going to do it now with no warning, no
10 preparation, no discussion of this, I'd say no, that even
11 that would be almost impossible. But if this is something
12 that may have been prepared before, or they had a little
13 bit more time to think about it, then, yeah, I would say it
14 is just possible.

15 Question: You have made reference to it being unusual to
16 have that level of activity noted in daytime?

17 Answer: Mm-hmm.

18 Question: Could you explain that to the Chairman, what do
19 you mean by that?

20 Answer: Smuggling was the other activity where
21 communication was used. That would mainly go on at night
22 and may actually involve the same group of people. In
23 fact, we believed it was, in the main, the same group of
24 people. But for there to be a concerted period of daytime
25 activity would have been very unusual. And again, I don't
26 want to give the opinion that it was all sort of bang,
27 everything was all suddenly up and running; it is a general
28 build-up all the way through.

29 Question: Was there a pattern of activity in relation to
30 radio, and whatnot, similar in respect of their smuggling

1 activities as to their IRA activities?

2 Answer: Some of it was and some of it wasn't.

3 Question: Did they use one to mask the other as best they
4 could?

5 Answer: I can't say that categorically, but that is a
6 possibility, yes.

7 Question: Now, there has been some suggestion that this
8 operation had been mounted on previous occasions. From
9 what you observed at that time, can you make any comment in
10 relation to that?

11 Answer: I don't recall seeing intelligence that would
12 suggest that was true, although I do recall that a similar
13 amount of similar intelligence, and I am sure this was
14 sometime before that day, that similar intelligence had
15 been received, but I can't categorically say yes, this was
16 a rehearsal or, yes, a similar operation had been run, I
17 really couldn't make that statement.

18 Question: Was there any indication that this operation had
19 been run, for example, the week before?

20 Answer: Not that I'm aware of, no.

21 Question: Had it been a speculative operation where the
22 IRA were aware that these two officers or one or two of
23 these officers travelled reasonably frequently across the
24 border and decided we will put an operation in place for a
25 number of days and see if they happen to drive by, would
26 you have expected to have seen similar patterns to the
27 patterns you saw on the 20th of March?

28 Answer: Yes, similar, certainly.

29 Question: And you have no recollection of having seen such
30 patterns?

1 Answer: No, no.

2 Question: I think you have a recollection that there was a
3 suggestion that on one previous occasion that there may
4 have been something similar?

5 Answer: Something similar, but I cannot -- there was never
6 a suggestion that there was a dry-run or that that exact
7 operation had been tried before.

8 Question: Can you say whether the previous occasion,
9 insofar as you can remember it, was at the time connected
10 to either Chief Superintendent Breen or Superintendent
11 Buchanan?

12 Answer: No, no.

13 Question: Can you recall whether the intelligence matters
14 that you had access to after the fact included a look back
15 through recorded activity over the preceding months to see
16 if there was any similar pattern?

17 Answer: I cannot recall seeing intelligence that showed an
18 absolute identical -- sorry, a similar pattern that would
19 point to a similar operation being mounted against Breen
20 and Buchanan, no. And I don't recall any discussion about
21 it and I don't -- I didn't see any intelligence either.
22 That is not saying it didn't happen, I didn't see it.

23 Question: Well, was there any indication as to how many --
24 you have told us that perhaps 70 men were involved, 70
25 people were involved from the dicker looking up at
26 Bessbrook to the gunmen?

27 Answer: Mm-hmm.

28 Question: Was there any indication as to how many gunmen
29 were involved or how many units were involved?

30 Answer: No, not how many gunmen, but there was a theory

1 from the collated intelligence that there were three hit
2 teams available to the IRA that day.

3 Question: And if there were three hit teams, would they
4 all have, in respect of getting their weapons, have a
5 similar process as you described it?

6 Answer: Absolutely.

7 Question: And they would all similarly require vehicles
8 and radio communication?

9 Answer: Yes.

10 Question: And would each unit have known that the other
11 units were there?

12 Answer: Not necessarily, no.

13 Question: Possibly and possibly not?

14 Answer: Possibly. Well, again, with south Armagh PIRA,
15 the operations were kept as tight as possible between
16 trusted groups. And if there was no need to tell a group
17 seven or eight miles away, then they won't tell them. In
18 the same way you could have people in the operations that
19 knew absolutely nothing about it and may not even have
20 known it was smuggling or not smuggling. They had a
21 paranoia for security and as a result their security was
22 normally absolutely watertight. So, no, one group may not
23 even have known there were other groups there.

24 Question: The information that you had access to, what was
25 the status of that information? I mean, in respect of when
26 it was gathered, was it analysed at the time as it came in
27 or was it material that was analysed after the fact?

28 Answer: No, there was dirty analysis done on it
29 straightaway but it still wasn't realtime and the delay
30 could be anything from half an hour to two hours on

1 transmission forward. Again, you know, just for the
2 record, sir, this was before the age of the computer and it
3 was still hand logs, as you know, telephone calls, signals
4 rather than e-mails, so this was not instantaneous
5 information that was being received, and sometimes there
6 could be hours delay before it got to people that could
7 action it on the ground, if that was a decision that was
8 going to be made.

9 Question: If the army had been in a position to pick up
10 the activity at the time at half past eleven, say, would
11 they have -- what would their likely or what would you
12 expect their reaction to an observation that there was
13 increased activity on the ground be?

14 Answer: The first thing would be to look at what troops
15 were on the ground to see if it was them that were being
16 targeted - by troops I mean RUC as well - to see if there
17 had been any notification of VIPs moving, judges perhaps
18 moving to Dublin, any -- really what were the IRA looking
19 at? Was there a lot of helicopter activity? Could it be
20 that they were targeting helicopters? So the analysis
21 really was to save life, that was the number one issue, to
22 save life. And then secondly, we would look at exploiting
23 what the IRA were doing in terms of preventing them or
24 making an arrest, if that was the decision that was made.

25 Question: Would it cause men to go out onto the ground to
26 see what was happening?

27 Answer: Not necessarily, no, not at all. And you always
28 had to be careful with anything you received about the IRA,
29 that their aim wasn't to get you on the ground on their
30 terms rather than on your own terms.

1 Question: From any material that you saw after the fact,
2 are you aware or can you tell the Tribunal whether the army
3 was aware that the two RUC officers were travelling to
4 Dundalk that day?

5 Answer: I would think, I would have thought it highly
6 unlikely that the army knew and, in fact, I would have said
7 they didn't know because, I don't know if I can mention it,
8 but subsequently by sheer chance I bumped into the
9 commanding officer of the battalion that was on the ground
10 at the time of the incident and I asked him and he said,
11 no, they did not have a clue that Breen and Buchanan were
12 in Dundalk that day, and although they knew them both, they
13 were not routinely made aware of when the two were
14 travelling. And I think I have already told the Inquiry
15 before, the more people you told about travelling, the more
16 people that knew, the more chance there was of a security
17 leak. As I think I said in my last evidence, I would have
18 been surprised if the army knew. I can now confirm, having
19 spoken to the commanding officer that was on the ground,
20 they didn't know.

21 Question: And just in reference then to your previous
22 piece of evidence, had the army been aware that the two RUC
23 officers were going to Dundalk or were in the area in
24 combination with the observation of increased activity,
25 would that have provoked a reaction from the army?

26 Answer: I mean, if you -- looking at that question on face
27 value, yes of course it would. Whether that would ever --
28 whether the two would have been put together and whether
29 the fact that there was not realtime reporting have meant
30 that you could have come to that conclusion, checked up

1 then to see whether they had gone, got hold of the right
2 people that did know, and I don't think that there were
3 many people even in the RUC knew that they had gone that
4 day at that particular time, so double-check that
5 information. I am not sure that the timeframe, even with
6 an 11:30 start, would have allowed for a massive reaction,
7 other than perhaps a phone call to Dundalk to say --
8 telling them not to leave. But at face value, that seems a
9 very simple question, but it was never as straightforward
10 as that.

11 Question: Do you think that the army could have found out
12 that they were going?

13 Answer: The army wouldn't ask actually, no. The army
14 would not say -- I mean, they would assume that if Breen
15 and Buchanan had concerns about what they were doing, they
16 would let the people in south Armagh know. But of course,
17 as I said earlier, if you have a man that's going, the army
18 know, there were cleaners in Bessbrook, you assume they
19 knew, there were cleaners in Newry, there were people
20 passing through the police station, anybody can hear
21 things. So the best way was to keep it as tight as
22 possible for your own personal security.

23 Question: You have told the Tribunal about the increased
24 activity seen sometime between half past eleven and twelve.
25 In your opinion that, really, the operation couldn't have
26 started any later than ten o'clock?

27 Answer: No.

28 Question: I think that on the previous occasion you
29 addressed the point, or Brigadier Smith addressed the point
30 about the van that was used in the operation having been

1 *stolen the previous Saturday night?*

2 *Answer: Mm-hmm.*

3 *Question: Can you assist the Chairman, if the operation*
4 *was taking place and commenced on the ground, certainly by*
5 *midday, what significance that has in relation to, for*
6 *example, say, the officers being seen either leaving Armagh*
7 *or leaving Newry or arriving in Dundalk?*

8 *Answer: Well, I don't recall that the actual times that*
9 *each of those events happened. It couldn't have been on*
10 *them arriving in Dundalk because I think the activity*
11 *started before they'd even left Northern Ireland. Correct*
12 *me if I am wrong, but from my memory, that's correct.*

13 *Question: Again from recollection, I think Chief*
14 *Superintendent Breen left Armagh station sometime around*
15 *half past twelve?*

16 *Answer: That would mean the activity had started before*
17 *then.*

18 *Question: And they left Newry in or around half past one?*

19 *Answer: That would mean the activity definitely started*
20 *between 11:30 and 12:00.*

21 *Question: The Chairman has heard evidence also that the*
22 *meeting was arranged that morning by a series of telephone*
23 *calls which commenced sometime shortly after nine o'clock*
24 *when there was an exchange of phone calls, in the first*
25 *instance, between Superintendent Buchanan and Garda George*
26 *Flynn, who was the clerk in the Superintendent's office;*
27 *that then the Superintendent telephoned back and*
28 *Superintendent Buchanan was advised that he should phone*
29 *the Chief Superintendent directly, and I think the meeting*
30 *was finally arranged sometime after ten o'clock in the*

1 morning. At ten o'clock in the morning it would seem that
2 the only person who knew of the actual time and date of the
3 meeting, as opposed to the fact that a meeting was sought,
4 was the Chief Superintendent himself. His evidence was
5 that he then told one or two of his other officers in a
6 discreet way in the canteen in the garda station sometime
7 after eleven o'clock that morning. So, do you have any
8 observation to make in relation to those timings and the
9 commencement?

10 Answer: I wasn't aware of those timings and when I say ten
11 o'clock was the absolute drop dead time, that would be the
12 drop dead time. The only exception to that and how they
13 might have been able to do it from a start at 11:30, 12:00
14 is if the policemen had been targeted; they were pretty
15 sure they were going to come within a week and they had
16 started an operation and were waiting for a trigger, then
17 perhaps you could have a start of eleven o'clock. So a lot
18 of preparation had been done. But it couldn't have been
19 done from a cold start, and I stick by what I said at the
20 previous tribunal on this one.

21 Question: If I could just go back to the weapons, and we
22 know certainly that one of the weapons used was a weapon
23 that was used in Silverbridge in, I think, 1991?

24 Answer: Yes.

25 Question: That, I think, obviously, that was a weapon that
26 had been used in a number of high profile attacks,
27 including, if I am correct, the attack in Kingsmills in
28 1976?

29 Answer: As far as I recall that's correct, yes.

30 Question: As a high profile weapon, is that likely to

1 *have, so far as you are aware, likely to have been stored*
2 *more securely perhaps than other weapons or were they all*
3 *stored as securely as they could?*

4 *Answer: They were all -- weapons were always secured*
5 *safely, securely in containers that were waterproof and, in*
6 *some cases, airproof as well. And I think I said before,*
7 *south Armagh weapons, you didn't see rust, you didn't see*
8 *worn paths, dirty barrels, the weapons were kept in*
9 *immaculate condition. They considered themselves as*
10 *soldiers and cared after their weapons in that manner.*

11 *Question: So they were carefully stored?*

12 *Answer: Yes.*

13 *Question: Generally well hidden?*

14 *Answer: Very few were found in south Armagh, so yes, very*
15 *well hidden.*

16 *Question: Was there ever a habit before an operation of*
17 *perhaps removing them from deep hides into a more easily*
18 *accessible hide to make for earlier access when the*
19 *operation actually began?*

20 *Answer: That is a very interesting question, and there*
21 *were deep hides and they were deep, deep hides that weren't*
22 *easily accessible and were known to very few people, and*
23 *there were interim hides for weapons used regularly but*
24 *they were still exceptionally well hidden,*
25 *non-attributable, for absolutely obvious reasons, and would*
26 *not be something you could access in a couple of minutes,*
27 *you know. They were either underground, in dry stone*
28 *walls, so there was dismantling to be done, unscrewing, and*
29 *before anybody went near it the ground would have to be*
30 *cleared and beaters, is what we used to refer to them,*

1 would come out and beat the hedges and make sure there were
2 no ambushes, troops in OPs, and then the weapons would be
3 taken out. Those are the weapons kept in the north. I
4 can't comment at all about any weapons in the south.

5 Question: So to remove a weapon from its deep hide, you
6 require fellows to go out and beat the hedges and clear the
7 area. Presumably that is not something that can be done in
8 a short time, is it?

9 Answer: No, it couldn't be done in ten, fifteen minutes,
10 no. And again, we have got to be careful about deep hides.
11 The weapons that were used in this operation probably
12 didn't come out of deep hides, they were probably in
13 interim hides, which are still exceptionally well prepared
14 and well hidden. Again, I may be wrong, but I think the
15 weapon that was used that we have just spoken about was
16 recovered in Silverbridge hidden in a dry stone wall in a
17 blue barrel, it was hermetically sealed, and there were
18 other weapons in it, and again that is not a two or
19 three-minute job.

20 Question: If that weapon was stored in the same place all
21 the while, where is the location of Silverbridge as
22 concerning Jonesboro?

23 Answer: It's on the other side of what we would call the
24 mountain, so if it was in the same hide, and it may or may
25 not have been, again the weapon has to be recovered,
26 transported, crossed to the other side of south Armagh,
27 taken to the RV point, met up with the shooter. So again,
28 this isn't something that happens in minutes. And the
29 drive alone from the middle of Silverbridge down to where
30 this operation would have started, again is probably half

1 an hour drive along some of the small roads down there.

2 Question: If it had been previously moved, say, from
3 either a deep hide or interim hide to, I suppose, a shallow
4 hide, would that indicate anything to you?

5 Answer: I don't know that it had, but if weapons were
6 moved from deeper hides to interim hides, they are moved
7 for one reason and one reason only, to carry out
8 operations. Although weapons were kept in what we are now
9 calling interim hides in south Armagh, we believe all the
10 time, but again they were very well hidden,
11 non-attributable, and the IRA were very good at it.

12 Question: The Tribunal has previously been told by a
13 former RUC witness that the late Frank Murray had told him
14 that sometime before midday there had been an increase
15 noted in radio activity. Did you know Chief Superintendent
16 Murray?

17 Answer: I knew him very well indeed, yes.

18 Question: I think in one of your roles, in fact as liaison
19 with the RUC in intelligence matters, is that --

20 Answer: Yes. And he was the main man I liaised with.

21 Question: He, as you told us earlier, he was the head of
22 Special Branch in south region?

23 Answer: Yes.

24 Question: And did he have access to the same intelligence
25 analysis that you had access to?

26 Answer: He did.

27 Question: And I think just to be clear, I think that the
28 intelligence analysis you saw was analysis that was made
29 after the fact, is that correct?

30 Answer: That's correct, yes.

1 Question: Did Chief Superintendent Murray have any opinion
2 that he ever relayed to you about the guards in Dundalk?

3 Answer: Yes, he generally didn't trust the guards in
4 Dundalk because he believed that they had leaked
5 information to the IRA and would much rather deal with
6 Dublin, who he seemed to have more confidence in.

7 Question: He had confidence in the guards in Dublin?

8 Answer: Yes.

9 Question: When the IRA were, particularly the IRA, I
10 suppose, in south Armagh, were planning operations of this
11 type, do you know whether or not they could be planned and
12 mounted on their own authority or did they require the
13 authorisation of Northern Command?

14 Answer: Certainly during the period that I worked there,
15 they had authority to work off their own initiative, and
16 smaller groups didn't necessarily even tell other groups in
17 south Armagh what was going on. So yes is the simple
18 answer, they did have authority to have the capability of
19 working on their own.

20 Question: Do you know whether in this case, in the murders
21 of Chief Superintendent Breen and Superintendent Buchanan,
22 whether any authority was either required or sought?

23 Answer: I don't know about required, but I did see limited
24 intelligence that suggested that it was known within
25 Northern Command.

26 Question: Were you or are you aware of when that
27 authorisation was sought?

28 Answer: No.

29 Question: Whether it was sought on the morning or in
30 advance?

1 Answer: No, I'm not aware.

2 Question: And can you recall when that intelligence was
3 created?

4 Answer: No, I am sorry, I can't.

5 Question: Are you aware of the relationship in general
6 terms between the guards and the IRA?

7 Answer: Certainly the guards along the border and
8 particularly in Dundalk, I think had a difficult job to do
9 at that particular time in the Troubles. It was
10 predominantly an unarmed force. Living in the same town,
11 frequenting the same bars, families shopping in the same
12 places, and I think that they had an extremely difficult
13 task, given that they lived amongst these people and these
14 people knew who they and their families were. And I have
15 seen reports, again I couldn't exactly date them, but over
16 the period I was there, of intimidation of Garda Síochána
17 officers by IRA members in the Dundalk area.

18 Question: Can you recall what the nature of such
19 intimidation was?

20 Answer: Basically, "Stay out of my way or your family gets
21 it. I know where you live." It is as simple as that.
22 When you think about putting yourself in that position,
23 they had a really difficult job.

24 Question: I just want to ask you about just a number of
25 things to see what comment you have to make about those?
26 First of all, in relation to the book 'Bandit Country' by
27 Toby Harnden, and I think that what I have is the second
28 edition, certainly it is the paperback edition, it's at
29 page 219. When he is talking about these murders, what he
30 says is: 'There was also technical information which

1 confirmed that the IRA had been contacted by someone within
2 Dundalk Station.' Did you ever see technical information
3 that confirmed whether the IRA had been contacted from
4 someone --

5 Answer: Certainly not, no

6 Question: If such technical information, if such technical
7 information had existed, do you think that you would have
8 seen it?

9 Answer: I would say that there would have been a very good
10 chance that I would have heard about it but maybe not seen
11 it, and not seen the intelligence but heard about the
12 intelligence, and I certainly didn't hear that.

13 Question: There is just one other matter. The evidence of
14 Denis Dullaghan, Chairman, which was day number 26, the 1st
15 of September, and Mr. Dullaghan, Brigadier, was a man who,
16 with his wife, was on the 20th of March, 1989, driving
17 along the Edenappa Road and he stopped at McGeogh's Filling
18 Station and filled his car with petrol and continued on his
19 way, and, as he got up the hill, he met a farmer, or what
20 looked to him like a farmer, who was putting bailing twine
21 across the road so as to cordon it off, and told him that
22 there were men that were shot up above, and he turned and
23 went back to Dundalk, and he timed as best he could, he
24 timed his arrival at McGeogh's at in or around ten to
25 four, and he timed his arrival at the top of the hill at in
26 or about four o'clock, and, insofar as we know, the murders
27 took place sometime in or around a quarter to four, a
28 quarter to four or ten to four. And what Mr. Dullaghan
29 said, first of all, in a statement that he made to the
30 guards, and the statement he made on the evening of the

1 20th of March, 1989, presumably at that point everything
2 was as fresh as it could possibly be, and he said he had
3 left Dundalk about 3:50, he'd arrived at McGeough's about
4 4:05 and 4:10, and he was back in Clanbrassil Street in
5 Dundalk at 4:30 p.m.. He said: 'I recall that I saw two
6 army helicopters in the distance towards Mike and I was
7 there approaching McGeough's Filling Station on my way out
8 --as I approached McGeough's Filling Station on my way
9 out.' And he was asked about that when he gave evidence.
10 First of all, he was being questioned by Mrs. Laverty, and
11 he said: 'There seemed to be a helicopter, a British
12 helicopter, I think, floating around. I can vaguely
13 remember a helicopter in the sky.' And then he was
14 questioned some more about that by Mr. McGuinness, counsel
15 for the Garda Commissioner, and he said: 'When you say I
16 saw two army helicopters in the distance towards Mike as I
17 approached McGeough's Filling Station on my way out, do you
18 mean on your way up the Jonesboro Road having just got the
19 petrol?' He said: 'No, because if you are coming back
20 from being up, the helicopters wouldn't be visible, you
21 would have to be on your way to the station.'"

22 Mr. McGuinness then asked him again: "'So, I mean, that is
23 correct, that is further up north?' And he said, 'Yes.'
24 So as he was approaching McGeough's, perhaps coming up to
25 four o'clock, he saw two helicopters. In further
26 examination by Mr. Robinson for the Chief Constable of the
27 PSNI, he couldn't relate the location of the helicopters to
28 the scene of the shooting, he just said that there were two
29 helicopters. He identified them as being British Army
30 helicopters and they were north of him. The murders took

1 place at approximately ten to four. Can you say would the
2 army have had helicopters in the air before four o'clock in
3 relation to this incident?

4 Answer: The only way I think there could have been
5 helicopters in the air is if one of the towers reported
6 hearing gunfire and it was decided to look. Having said
7 that, at the time I was there, which was not long after
8 this, you heard a lot of gunfire in south Armagh. There
9 were a lot of phone calls trying to entice us out on the
10 ground, so before you sent helicopters out there were --
11 you had to analyse what was going on so that you weren't
12 sending the helicopters out in an anti-air ambush, and at
13 that time, in particular, the IRA publicly stated that they
14 wanted to bring a helicopter down in south Armagh. So you
15 didn't necessarily send helicopters to every suspicious
16 piece of activity in south Armagh, for that very reason. I
17 know they weren't -- those helicopters were not deployed as
18 a result of the information I had been speaking about.
19 They may just have been transiting helicopters.

20 Question: Did helicopters normally travel in pairs?

21 Answer: Because of the anti-air threat, yes.

22 Question: And finally, I suppose, just if you could
23 summarise -- or, I suppose, before that; on foot of what
24 you have told us and on foot of the analysis that you saw
25 in 1989, did the army or had the army on foot of that
26 formed any conclusions as to how this operation had taken
27 place?

28 Answer: I think the main thing coming out of this, other
29 than a lot of understanding of IRA tactical operations, was
30 that the operations started to be mounted between 11:30 and

1 12 o'clock, and therefore, it was being mounted against
2 something they knew that was going to happen later that
3 day, so they certainly knew it at least by 10 o'clock that
4 morning, at least by 10 o'clock that morning. And I think
5 that was the main thing that came out of the study, that
6 this was not, this was not the two policemen driving into
7 the police station and the IRA suddenly mounting an
8 operation to hit them on the way back. The operation
9 started that morning between 11:30 and 12:00.

10 Question: And it started, I think, as you have said,
11 before they left Northern Ireland and before they had
12 arrived in Dundalk?

13 Answer: Yes, which we subsequently know, yes, absolutely.

14 Question: Just going back to the helicopters for one last
15 time. Do you know how long had there been a helicopter on
16 the ground, how long it would take to get it into the air
17 to go and look at that site, should that have been
18 required, should that been, in fact, what happened?

19 Answer: From being ordered?

20 Question: From being ordered, to get into the air and
21 arriving at the scene?

22 Answer: It would probably take seven or eight minutes for
23 it to take off and then another seven or eight minutes for
24 it to get there, so 15 minutes."

25
26 And that was the end, then, of my examination-in-chief of
27 the Brigadier.

28
29 He was then cross-examined by Mr. Durack, on behalf of the
30 Garda Commissioner.

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Mr. Durack began:

"Question: As you say, this activity, and I know it is not conversation, starts at 11:00 or 11:30?"

Answer: 11:30/12:00.

Question: 11:30, or thereabouts. And I think you said you had information that about 70 people in all were involved. Was that intelligence information or merely drawing from the activity?"

Answer: Merely drawing from the activity.

Question: And I think you mentioned that there were three hit-teams?"

Answer: That was the conclusion that had come from the analysis, yes.

Question: And then that is from the radio analysis as well?"

Answer: Yes.

Question: Or, sorry, there was intelligence that appears that suggests the actual team that committed the murders involved two men who were on the roadway stopping traffic and four men who got out of the back of a white Liteace van in front of the officers and shot them there and then. So that appears to be a team of five, seven altogether, as a hit-team. Would that have been a standard sort of size of team?"

Answer: Each group did it differently, but, yes, as a rule of thumb, that would have been. But remember, part of the hit-team would also involve forward cutoffs and rear cutoffs, not just the stoppers.

1 Question: Yes. I'm really just focusing on the weapons.

2 Answer: Sure.

3 Question: And I know we know from history that, in fact,
4 there were bunkers underground and there were containers
5 buried --

6 Answer: Dig deep hides, yes.

7 Question: -- that had very, very large quantities of
8 weapons in them. In the ordinary course of events where
9 you have a hide, be it a barrel or a pipe, or whatever it
10 is, how many weapons would be in it?

11 Answer: On average, two or three, rarely more than that,
12 because, again, you are minimising in each hide, you want
13 to minimise the amount of weaponry that is found other than
14 the deep hides, which, of course, are unfindable.

15 Question: And may I take it then that you are not going to
16 find a number of these small hides, the two or three ones,
17 in the same immediate area; they are going to be
18 well-separated?

19 Answer: Usually, yes, usually.

20 Question: Because if a search takes place, it will involve
21 a search team that will cover a significant area?

22 Answer: Yes.

23 Question: And that area might be half a mile or it might
24 be less, or whatever?

25 Answer: Yeah, it might.

26 Question: So, on that basis, and if we assume there are
27 three teams, and that there are six weapons involved in
28 each team, that is 18 weapons that have to be collected
29 from six to eight, six to nine different locations?

30 Answer: Yes. That is if they are in the north. If the

1 *weapons were held in the south, they may well have been a*
2 *lot closer and not as in deep hides because there wasn't*
3 *the risk of, and this isn't a criticism of the south, there*
4 *just wasn't the security-force action on that side of the*
5 *border as in the north of the border.*

6 *Question: But, in fact, just to gather the weapons itself,*
7 *would have been a very significant operation?*

8 *Answer: Yes, it would have taken time.*

9 *Question: And would have required some people to go and*
10 *get them, some people to check the area where the hides*
11 *were, some people to drive them, some people to be the*
12 *scout car when they are getting there, so that then, of*
13 *course, you have to get the actual unit in place and to*
14 *whatever location it is supposed to be at?*

15 *Answer: Mm-hmm.*

16 *Question: So there is a lot of organisation in it. And is*
17 *that your understanding, or I mean from your own*
18 *experience, that this may have been a dry-run or more --*
19 *once, or more times, may have occurred previously?*

20 *Answer: No, I can't say that. All I can say is that I*
21 *recall, and this is being told, not seeing, that there may*
22 *have been something similar some weeks previously, but not*
23 *necessarily the same operation.*

24 *Question: I can understand that. What I am really*
25 *thinking in terms of, is that an unarmed movement of people*
26 *and units around to see how long it takes to get from A to*
27 *B to see what the likely difficulties are, and basically to*
28 *research it, much as an army would attempt to do before*
29 *going into an incident?*

30 *Answer: Yes.*

1 Question: And is it reasonable to expect that that may
2 have happened as an unarmed unit?

3 Answer: Yes, but it wouldn't -- if you are an unarmed
4 unit, you don't need to have dickers and helicopter
5 watches. You know, if you are the hit-team, you want to go
6 and reckon the Edenappa Road, you can get three of you in a
7 car and go and do it and that is reasonably easy. It is if
8 you start to do it with weapons that it becomes more.

9 Question: No, but presumably you have to rehearse, equally
10 the actual going for the weapons, coming back, seeing what
11 the potential difficulties might be?

12 Answer: I mean, they had set procedures for clearing
13 hides. That didn't need rehearsing, as far as I am aware.
14 They knew where their weapons were hidden and they knew you
15 didn't go in there and take them, because if there was an
16 army patrol lying in a bush, you would, in best case, get
17 arrested. So they didn't just go to hides; you cleared the
18 ground around them to make sure they were safe, and it was
19 always put back, as well. So it is not just a matter of
20 taking it out; everything was meticulously put back.

21 Question: You had to have escape routes planned as well?

22 Answer: Yes.

23 Question: I think there appears to have been a suggestion
24 from the papers we have seen that there was some
25 intelligence that, in fact, there were four roads watched
26 approaching the scene, you know; that, as one comes from
27 Dundalk, that there were a number of other roads?

28 Answer: I can't say I saw that, not four roads, no.

29 Question: You think three?

30 Answer: Yes.

1 Question: And you said that there was a suggestion that
2 there had been, that there was intelligence that Northern
3 Command had been made aware of the intention to carry out
4 the --

5 Answer: Yes.

6 Question: Presumably, they would have known it immediately
7 after it happened?

8 Answer: Absolutely.

9 Question: And are you aware as to -- "

10 And then there was an interjection.

11 "Answer: Hang on a minute. Let me just -- because this
12 intelligence was sometime after it. It may have been
13 intelligence that said Northern Command were aware, rather
14 than that they were aware at the time, sorry on the day of
15 the attack. I just want to make that clear.

16 Question: Sorry, immediately as the attack had happened,
17 they clearly were going to be aware because it was
18 everywhere?

19 Answer: Yes.

20 Question: So to make any relevance --

21 Answer: What I mean is, I'm not saying that Northern
22 Command were told that day.

23 Question: Oh, I see. It could have been sometime
24 previously?

25 Answer: It could have been, you know, that, we are
26 targeting two RUC officers, or an RUC officer, and, if we
27 get the opportunity, we will kill him.

28 Question: Yes, but it does appear certainly that, I mean,
29 the previous week, that Mr. Buchanan had been down in
30 Dundalk and was, that he tended to come across the border a

1 couple of times or two or three times a week, and, in terms
2 of such intelligence reports, what intelligence reports do
3 you know are still extant relating to this issue?

4 Answer: I haven't a clue.

5 Question: And where might we ask?

6 Answer: Again, this is 20-whatever years ago. I wouldn't
7 have a clue where they are now, or even if they exist.

8 Question: So you have, anyway, an element of a very
9 unusual activity starting at half eleven. Did you know
10 that there had been an out-of-bounds order on the Edenappa
11 Road that was just lifted around that time?

12 Answer: I mean, I am inclined to say that is almost
13 irrelevant. The Edenappa Road was in and out of bounds for
14 a whole host of suspicious activity being reported by
15 people. Gunshots heard. Edenappa Road, Concession Road.
16 All of those roads that link down onto the border were
17 regularly put out of bounds, and it could be anything from
18 suspicious activity, a member of the public phoning in.

19 Question: I was just wondering whether there had been, in
20 fact, an army operation there, and that, as soon as that
21 was lifted, that this operation started? There appeared to
22 be a remarkable coincidence in times, is what I am saying
23 to you?

24 Answer: With the number of out-of-bounds areas that go in
25 and out of south Armagh, I think you could draw that
26 coincidence for any day of the week for that period, to be
27 perfectly honest.

28 Question: The level of radio activity was very unusual?

29 Answer: Yes.

30 Question: And it was persistent from 11:30 on?

1 Answer: Well, yes, it was all linked, yes.

2 Question: What I mean is, that it was constant, it wasn't
3 a case it was just happening at 11:30; it started at 11:30
4 and continued until the operation was over?

5 Answer: Absolutely. But again, and I don't want to give
6 the impression, this is people constantly talking, and it
7 is pretty obvious what they are up to. It is not like
8 that.

9 Question: It was enough for it to be regarded as unusual?

10 Answer: Yes.

11 Question: And I am just wondering if it was enough to be
12 regarded as unusual, wouldn't that have been passed on to
13 the next line up from the towers?

14 Answer: I didn't say it was passed to the towers. I don't
15 know where you got that from.

16 Question: Sorry, I had assumed it had been signaled that
17 it came from the towers?

18 Answer: No, the assumption is -- no, I won't go any
19 further.

20 Question: I see. Well, are you in a position to tell us
21 anything about what the towers were doing? It appears they
22 certainly had aerials, they certainly had binoculars?

23 Answer: I am not able to answer questions on the *modus*
24 *operandi*, that's all.

25 Question: It has been suggested by the last witness that
26 they had long-range binoculars, that they probably had
27 night vision things and that they certainly appeared to
28 have an awful lot of electronics, and he was there."

29 From recollection, Chairman, the witness Mr. Durack was
30 referring to was Chris Ryder, who had given evidence that

1 morning.

2

3 CHAIRMAN: Yes.

4

5 MR. HAYES: Mr. Durack's question continued:

6 "Question: *But in any case, what they are doing is they*
7 *are monitoring activity and, in this case -- "*

8 The Brigadier interjected: "Who are?"

9 Question: *The towers, or wherever you are getting your*
10 *information from?*

11 Answer: *Well, I don't think I said that.*

12 Question: *I may have jumped to a conclusion, but I*
13 *understood that somebody somewhere was monitoring this*
14 *activity?*

15 Answer: *Yes, activity. Yes, activity was being monitored.*

16 Question: *And you can't say where it was monitored from?*

17 Answer: *No.*

18 Question: *Now, you were there, you were - was it SO2 G2?*

19 Answer: *Yes, SO2 G2.*

20 Question: *And your rank at the time was?*

21 Answer: *Major.*

22 Question: *Who was your predecessor? I mean, if you don't*
23 *say the name publicly, I don't mind.*

24 Answer: *Yes, I do know it, I do know his name."*

25

26 And, at that, Mr. Durack asked him if he would write it
27 down and hand it in, which he did.

28

29 Then, Mr. Durack continued:

30

1 "Question: There has been evidence given by Witness 51 on
2 the 8th of November, 2011, who was involved in the Special
3 Branch, and he gave evidence that he was in Gough Barracks
4 and that he received a phone call from Frank Murray on the
5 day, inquiring about what was going on in the area in south
6 Armagh and that his query at that stage was what operations
7 were on or did they have an operation on at that stage.

8 Answer: Sorry, did who have an operation on?

9 Question: Well, basically, was the army doing anything or
10 were the police doing anything in south Armagh. At that
11 stage, just, basically, what is going on. And he came
12 because he was aware that there was, that there was
13 increased radio activity. However he became aware of it,
14 it appears to be sometime before 3 o'clock and that they
15 checked with the army in Portadown to find out what was
16 happening, but it is not entirely clear that they were told
17 what was going on or that they knew what was going on and
18 that the check was with your predecessor. You don't know
19 anything about that?

20 Answer: No. As I say, the most important thing, I think,
21 in all of this, is saving life, and it may have been Frank
22 Murray was phoning up to see if there was any core signs on
23 the ground from both the army and the police. I mean, I
24 don't know, but that would be fairly normal.

25 Question: But I suppose the query, really, that I'm
26 interested in, is that if all of this was very unusual at
27 the time and it wasn't unusual to put the Edenappa Road out
28 of bounds, was there any particular reason why it wasn't
29 put out of bounds on the day, I mean, once the activity, it
30 was clear, became unusual?

1 Answer: Well, no, because what would have been the point?

2 Question: Well, because both Newry and Armagh stations
3 would have been advising, presumably, all the other
4 stations?

5 Answer: But there was no movement through south Armagh
6 without reference, or there shouldn't have been movement by
7 uniformed personnel through south Armagh without tying it
8 through Bessbrook Ops.

9 Question: Well, the evidence that we have heard is that
10 the information that a place was out of bounds would have
11 been conveyed to the stations, and the evidence was that --
12 the evidence was suggested that, in fact, Mr. Buchanan or
13 Mr. Breen would have checked that before they left, and it
14 doesn't appear to have been done?

15 Answer: Sorry, I am not with you, because I thought you
16 said earlier that the Edenappa Road was out of bounds.

17 Question: It had been out of bounds until half
18 eleven/noon.

19 Answer: Well, I doubt if they would have been in a
20 position to know that it was taken out of bounds.

21 Question: Well, it is in the records.

22 Answer: What I am saying is, how would they know that it
23 was taken out of bounds?

24 Question: They, being the IRA?

25 Answer: No, sorry, you said it was out of bounds until
26 half eleven -- I don't know, I am just trying to give some
27 expert opinion here because I wasn't there on the day, but
28 you are saying that the Edenappa Road was out of bounds
29 until half eleven and Superintendent Breen and Buchanan
30 should have checked the out-of-bounds map before they went.

1 I don't know how they would have known that it came back
2 into bounds if they had set off from --

3 Question: But the point I am making is that what had
4 happened or what was starting to happen at half eleven was
5 still happening at the time they left Newry, but it doesn't
6 appear -- no information appears to have been passed into
7 Newry or to the other stations that there was something
8 wrong?

9 Answer: As I've said, half past eleven was the start of
10 the operation. That probably wasn't reported until, and
11 again I am guessing now, half past twelve. It would have
12 been minor, minor stuff at that stage, and then it grew
13 into crescendo, which, after analysis, was quite clear what
14 had happened. So I think even if you probably turn the
15 clock back and you had what was happening at half eleven,
16 you probably would have done nothing anyway until you saw
17 how it developed, because, you know, it is not until you
18 analyse these thing that you realise what is going on.
19 This was not real-time reporting, and, had it been, the
20 Superintendents would probably still be alive.

21 Question: How close to real-time reporting would it have
22 been?

23 Answer: That could have been anything from half an hour to
24 three hours.

25 Question: The point, really, that I suppose -- the
26 relevance of it is that once this is going on for some
27 time, even if it is only -- if it's going on for two hours,
28 say, it is now, clearly, unusual?

29 Answer: Yes.

30 Question: And it would be passed up the line to the next,

1 whoever was the next analyser or controller?

2 Answer: Yes.

3 Question: It may not be Headquarters, but it would have
4 been passed up the line, and, if it had, if the area had
5 been declared out of bounds before twenty to two, which is
6 when the men left Newry, they would have known at that
7 stage that they shouldn't be up there?

8 Answer: Well, again, when you say "the area," which area
9 do you mean?

10 Question: I am talking about the Edenappa Road?

11 Answer: Yes, but there was nothing at that stage saying it
12 was going to happen on the Edenappa Road, and that I can
13 categorically state. It covered an area from Newry to
14 Bessbrook to Cullyhanna to Slieve Gullion and down onto
15 BCP1, so that would have meant that the whole of south
16 Armagh being put out of bounds. I mean, you are talking to
17 me as though, you know, I am saying that all of this
18 activity was centred on the Edenappa Road, why didn't we
19 put it out of bounds? That is not the case and I don't
20 think I ever said that.

21 Question: No, you didn't. And we have already agreed that
22 there are at least two units on other roads, but there
23 clearly was enough to cause some serious concern because it
24 was so unusual?

25 Answer: Concern, yes.

26 Question: And as I am saying, I would have expected that
27 concern to have been passed up the line?

28 Answer: I think it was, was it not?

29 Question: And the concern would, therefore, be given to
30 the police?

1 Answer: *I think it was passed to the police, was it not?*

2 Question: *It doesn't appear so, because certainly, as I*
3 *say -- sorry, the inquiry was made by Frank Murray sometime*
4 *before 3 o'clock, because he was concerned that there was*
5 *something odd going on?*

6 Answer: *Well, he can only have been told that by the army*
7 *at that stage.*

8 Question: *Yes. He contacted the army at that stage?*

9 Answer: *No, but he could only have been told that by the*
10 *army.*

11 Question: *Well, he appears to have been in communication*
12 *with the army at that stage?*

13 Answer: *As I say, none of this is in real-time, so, you*
14 *know, we can't -- although this started at half eleven, and*
15 *I can't recall when it was actually reported. A two-hour*
16 *or a three-hour delay could be absolutely right. This is*
17 *not real-time reporting.*

18 Question: *I appreciate it is not real-time reporting. But*
19 *I suppose what I am thinking of is, the men were still in*
20 *Dundalk at ten past three, or thereabouts, and we know for*
21 *definite that found in the car after the event were both*
22 *the walkie-talkie and a BT pager, so that they were*
23 *contactable. And really, the question I raise is, that if*
24 *this was sufficiently odd, is there any reason why they*
25 *couldn't have been told?*

26 Answer: *Well, as an ex-army officer, I can't answer that*
27 *question because the army did not control the movements of*
28 *the Superintendents.*

29 Question: *Oh, no, I appreciate that.*

30 Answer: *And the army didn't know that they were in Dundalk*

1 that day.

2 Question: No, I appreciate that also. But what I am
3 saying is, the level of information communication, put it
4 that way, between the army and the police, as to what was
5 going on, should have enabled, I suggest to you, some alert
6 to have been raised in relation to this case?

7 Answer: As I say, there is a time delay, and you would
8 need to get the actual logs from that period to look at
9 what time -- what that time delay was. It is clear that
10 Chief Superintendent Murray - you tell me; I wasn't aware
11 of this - was made aware at some stage, and made a phone
12 call at ten to three.

13 Question: Yes, there appears to have been some
14 communication at about ten to three.

15 Answer: Well, I don't find that at all unusual. But that
16 was the first the RUC knew of it, because that may have
17 been the first time it was reported down to 3 Brigade.

18 Question: I see. I appreciate that there was the time
19 delay. But when does it become unusual? Does it only
20 become unusual activity when it's after half four and when
21 the thing is over? I mean, the assessment has to be made
22 at some stage?

23 Answer: No. As I said, the analysis of everything that
24 happened did not happen on that day, and yes, it might have
25 been unusual that there was traffic at half eleven in the
26 morning, but that traffic may not have been at that time of
27 such an intensity to say, hang on, there is something
28 really big going on here. And it is the analysis after the
29 event where you can say, and it is very easy, hindsight is
30 the most fantastic tool in the world where you lay

1 everything on a desk and you say, well, Superintendents
2 Breen and Buchanan have done this, this intelligence came
3 in, well it's quite obvious, the police should have been
4 phoned immediately, contacted Dundalk and told them to
5 stay. If only it was as simple as that.

6 Question: I appreciate that. It is a matter, though,
7 also, that there is little point in analysing the
8 occurrence after the event?

9 Answer: No, there is very good point in doing it.

10 Question: Except that you might find out how it was done?

11 Answer: A, you find out how it was done; and, B, you
12 recognise it when it is happening, or similar things are
13 happening in the future, to save life.

14 Question: And are there records kept in relation to what
15 happens, I mean in relation to this log, should I say?

16 Answer: I don't know. I don't know what has been kept and
17 what hasn't been kept and I don't know what was actually
18 logged at the time, because we were a recipient of the
19 information and not originators of it."

20

21 And that was the conclusion of Mr. Durack's
22 cross-examination.

23

24 The Brigadier was then cross-examined by Mr. O'Callaghan,
25 on behalf of Detective Sergeant Corrigan, and he commenced:

26

27 "Question: Looking back with the benefit of hindsight, and
28 with the benefit of the analysis, is it your evidence, sir,
29 that, as of 10 a.m. that morning, that the IRA had started
30 its operation to murder the two officers?

1 *Answer: No, I would say 11:30, and that is when there were*
2 *the first signs that this operation was being mounted, in*
3 *hindsight and after analysis.*

4 *Question: Okay. But I thought you said in your evidence*
5 *that although -- "*

6 The Brigadier interjected, and he said: *"It is my opinion*
7 *that it would need to have started by 10 o'clock that*
8 *morning.*

9 *Question: Okay. It is just it is an important piece of*
10 *evidence. And your evidence is very valuable, sir, from*
11 *the point of view of the Tribunal, because the first*
12 *occasion upon which a member of An Garda Síochána in*
13 *Dundalk becomes aware that the officers on -- arrival is at*
14 *10:15 a.m., so it is an important piece of evidence and*
15 *that is why I am putting it to you. You mentioned, also,*
16 *that you heard that there may have been something similar*
17 *some weeks previously?*

18 *Answer: Mm-hmm.*

19 *Question: I just want to inform you of the fact that a*
20 *retired RUC officer, Charles Day --*

21 *Answer: What was his name again?*

22 *Question: Charles Day. This is evidence he gave. It may*
23 *be relevant from the point of view of you commenting on it.*
24 *Because he travelled with Superintendent Buchanan to*
25 *Dundalk on the 14th of March, which was six days*
26 *previously. He gave evidence to the Chairman that he*
27 *remembers the journey, because, on the way back up, he*
28 *remarked to Superintendent Buchanan that he thought they*
29 *were being followed by a Hiace van which did not follow*
30 *them over the border past the checkpoint. He also gave*

1 evidence that a similar incident had happened when he had
2 travelled with Superintendent Buchanan to Monaghan and back
3 several months before. So I just wanted you to be aware of
4 that evidence. I don't know if you have any comment to
5 make on it?

6 Answer: No. It is quite possible that they were followed,
7 or it is quite possible that he was a jumpy officer, and
8 quite rightly so.

9 Question: Should the army have been told, sir, that the
10 two murdered officers were travelling to Dundalk?

11 Answer: No. We did not -- the army did not necessarily
12 need to be told about plain-clothes RUC movement. But
13 uniform movements, yes.

14 Question: You mentioned evidence in respect of Northern
15 Command. Is that a reference to the Provisional IRA's
16 Northern Command?

17 Answer: Yes.

18 Question: And you said that Northern Command had been made
19 aware. What do you believe they had been made aware of?

20 Answer: As far as I recall, they had been made aware that
21 this operation was going to happen -- or that, sorry, or
22 that an operation would be mounted to kill an RUC senior
23 officer that had been visiting Dundalk.

24 Question: And was the officer identified?

25 Answer: Not that I recall in that intelligence, no.

26 Question: And you mentioned that there was an RUC, a
27 senior RUC officer who had been visiting Dundalk?

28 Answer: Yes.

29 Question: Finally, what do you -- I know -- I don't mean
30 to be critical in any respect of the two deceased officers,

1 but what do you, from your knowledge of south Armagh, think
2 of their decision to use the Edenappa Road on the way back?
3 Do you have any comment to make on that?

4 Answer: I personally would not have used the Edenappa
5 Road, ever, and think if I was doing those trips, I would
6 just use one route in south Armagh, which would be the A1,
7 and at great speed, and I would use Monaghan as the other
8 route.

9 Question: And why would you not use the Edenappa Road?

10 Answer: A, it is not -- well, it wasn't particularly
11 well-covered by the observation towers; and, B, the IRA had
12 a history of operations in that area."

13

14 That concluded, then, Mr. O'Callaghan's cross-examination.
15 And none of the other parties, Chairman, then had any
16 questions.

17

18 By way, then, of re-examination, I asked him; I said:

19

20 "Question: Mr. O'Callaghan made reference to the evidence
21 of Charles Day, which I had intended to bring to your
22 attention and I am grateful that he had. Charles Day was
23 an Inspector based in south Armagh and he had given
24 evidence that, the week before, as Mr. O'Callaghan pointed
25 out, that they noticed a Hiace van following part of the
26 way. Would that indicate any previous planning or attempt,
27 to you at all?

28 Answer: It could do, but, taken on its own, it could just
29 be a jumpy officer or somebody that was looking to be
30 followed, and it was very easy to do that, but he could

1 *have been right, they may well have been followed.*

2 *Question: While you say that your own preference would*
3 *have been, if you were travelling back from Dundalk, would*
4 *be to travel as fast as you could up the A1, was there any*
5 *merit, do you think, in travelling along different routes*
6 *if you were travelling frequently to Dundalk?*

7 *Answer: That is what you are taught to do, and everybody*
8 *is taught that. Just, my personal view is, I would not*
9 *like to have gone the Edenappa Road at any stage, even to*
10 *vary my route. I would rather have taken the risk at 75*
11 *miles an hour on the A1, to be honest.*

12 *Question: Mr. Durack was asking about the number of units,*
13 *and that it was your view that perhaps there was three, and*
14 *further, that there was some suggestion that, in fact,*
15 *there had been four roads covered. Would it have been*
16 *possible for one unit to have covered two roads?*

17 *Answer: It would have been pretty tight.*

18 *Question: Could, for example, the unit that actually*
19 *murdered the two officers have covered both the Edenappa*
20 *Road and the main road from a base in Jonesboro?*

21 *Answer: I suppose they could have done, yes, I suppose*
22 *they could have done. But again, you know, you are*
23 *over-complicating the operation, particularly if you have*
24 *chosen the ambush point, and so forth.*

25 *Question: And then, just finally, could the army have*
26 *stopped these murders, do you think?*

27 *Answer: No.*

28 *Question: And why is that?*

29 *Answer: Firstly, they were unaware that Superintendents*
30 *Breen and Buchanan were in Dundalk that day, and, having*

1 spoken to the commanding officer only a week ago, he
2 confirmed that. I don't believe that Superintendents Breen
3 and Buchanan routinely told the uniform army what they were
4 doing anyway, for good reasons of security, and we have got
5 to be very careful, as I have said, all the way along,
6 about thinking what I have told you about what was
7 received, telling in this nice little story book that you
8 opened up -- that you opened it up and said: Oh, yes, the
9 IRA led an operation on the Edenappa Road, we know that
10 Superintendent Breen and Buchanan are in Dundalk, let's
11 stop it. It wasn't like that. The answer is categorically
12 no."

13
14 That, then, Chairman, concluded the Brigadier's evidence.

15
16 CHAIRMAN: Thank you very much, Mr. Hayes. Have we
17 anything else?

18
19 MR. HAYES: I think that, then, concludes the business for
20 today.

21
22 CHAIRMAN: Very good. So, tomorrow is Friday, and our
23 evidence will begin at 11 o'clock tomorrow.

24
25 MR. HAYES: Yes, 11 o'clock tomorrow morning.

26
27 THE PROCEEDINGS THEN ADJOURNED UNTIL THE FOLLOWING DAY,
28 FRIDAY, THE 10TH OF FEBRUARY, 2012, AT 11 A.M..

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