



REPORT OF THE TRIBUNAL OF INQUIRY

Set up Pursuant to the Tribunal of Inquiry
(Evidence) Acts 1921-2002
into Certain Gardaí in the Donegal Division



CHAIRMAN:
The Honourable Mr. Justice Frederick R. Morris

REPORT ON EXPLOSIVES 'FINDS' IN DONEGAL
Term of Reference (e)

Solicitor to the Tribunal: Bernadette Crombie
Registrar to the Tribunal: Brendan O'Donnell



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Registrar to the Tribunal: Brendan O'Donnell

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Tribunal of Inquiry into complaints concerning some Gardai of the Donegal Division

Established by The Minister
for Justice Equality and Law Reform
by the Tribunals of Inquiry
(Evidence) Act 1921
(Establishment of Tribunal)
Instrument 2002



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Sole Member
The Honourable Mr. Justice Frederick Morris

My Ref: FM/SC

Your Ref:

If telephoning please ask for:-

Judge Morris

☞ July, 2004.

**RE: Tribunal of Inquiry set up pursuant to the Tribunal of Inquiry
(Evidence) Acts, 1921 – 2002 into certain Gardai in the Donegal
Division.**

Dear Minister,

I enclose herewith my Report in respect of Term of Reference (e) that is

**[Complaints that some Gardai in County Donegal may have been
involved in hoax explosives and bomb making equipment finds (in
particular discoveries on the 11th September, 1993, 19th November, 1993,
11th January, 1994, 14th March, 1994, 4th June, 1994, 13th June, 1994 and
18th July, 1994) and a review of the management and investigation of
these finds]**

As you are aware, Section 3 of the Tribunal of Inquiry (Evidence)
(Amendment) Act 2002 provides that if you consider that the publication of
this report might prejudice any criminal proceedings, then you may apply to
the Court for directions relating to the publication. With this section in mind,
the following observations may be of assistance.

On the 1st July, 2004, the Tribunal wrote to Superintendent Terry McGinn with
a view to ascertaining whether it was reasonably likely or reasonably probable
that criminal proceedings might be brought arising out of the circumstances
which are the subject matter of this module. Superintendent McGinn replied
on the 1st July, 2004. I enclose a copy of this correspondence.

In relation to eight of the twelve incidents identified in her reply,
Superintendent McGinn advises that no prosecution arises. In relation to the
remaining four, the following is the position

- Investigation number 5 (alleged false statement/report made by Eleanor McDermott on the 1st September, 1999) – while the report refers to this fact, it makes no finding whatever in relation to it.
- Investigation number 8 (making of silent phone calls - Adrienne McGlinchey and Eleanor McDermott) - again while the Tribunal refers to this incident, it makes no finding in relation to it.
- Unnumbered (issues arising from the Judgement of Mr. Justice Hardiman – Shortt Miscarriage of Justice Case) - while the report refers briefly to this matter; it makes no finding in relation to it.
- Unnumbered (alleged misappropriation of funds resulting from material found in the "Lennon Locker") – while the Tribunal refers to the material found, it makes no finding in relation to it. There is no reference at all to missing funds in the report.

Accordingly, it is my view that the publication of the report will not prejudice any criminal proceedings.

On the 20th April, 2004, the Tribunal recommenced hearing evidence in relation to Term of Reference (b) that is Investigations in relation to the death of Mr. Richard Barron. We have found it possible to include Term of Reference (a) into this hearing, that is, the Extortion and Hoax Telephone Calls made to the home of Mr. and Mrs. Peoples.

Yours faithfully,



Frederick Morris.

Michael McDowell, Esq., S.C.,
Minister for Justice, Equality & Law Reform,
Department of Justice, Equality & Law Reform,
94, St. Stephen's Green,
Dublin 2.

Tribunal of Inquiry into complaints concerning some Gardaí of the Donegal Division

Established by The Minister
for Justice Equality and Law Reform
by the Tribunals of Inquiry
(Evidence) Act 1921
(Establishment of Tribunal)
Instrument 2002



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Sole Member
The Honourable Mr. Justice Frederick Morris

My Ref:

Your Ref:

If telephoning please ask for:-

MT/GDA/MCG910-2/BC/SO/AML

PLEASE QUOTE OUR REFERENCE ON ALL CORRESPONDENCE

Thursday, 1st. July 2004

PRIVATE AND CONFIDENTIAL
STRICTLY ADDRESSEE ONLY

Superintendent Terry McGinn
Solicitor for the Commissioner of An Garda Síochána
Garda Liaison Office
c/o Morris Tribunal
Belfield Office Park
Clonskeagh
Dublin 4

RE: Module: Managing Explosive Finds – Term of Reference (e)
Actual or Potential Criminal Proceedings

Dear Supt. McGinn,

We refer to paragraph (e) of the Tribunal's Terms of Reference which reads as follows:

"[That the Tribunal shall inquire urgently into] complaints that some Gardaí in County Donegal may have been involved in hoax explosives and bomb-making equipment finds (in particular discoveries on 11th September, 1993, 19th November, 1993, 11th January, 1994, 14th March, 1994, 4th June, 1994, 13th June, 1994 and 18th July, 1994) and a review of the management and investigation of these issues."

As you are aware, this Tribunal is governed by the Tribunal of Inquiry (Evidence) Acts, 1921 – 2002. Section 3 of the Tribunal of Inquiry (Evidence) Act, 2002 reads as follows:

"(1) If, on receipt by the person to whom a tribunal is required, by the instrument by which it is appointed or any instrument amending it, to report of an interim or the final report of the tribunal, that person considers that the publication of the report might prejudice any criminal proceedings, that person may apply to the Court for directions regarding the publication of the report."

Solicitor to the Tribunal: Bernadette Crombie, LL.B., LL.M. Registrar to the Tribunal: Brendan O'Donnell

- (2) **Before the Court determines an application under subsection (1), it shall direct that notice of it be given to—**
- (a) **the Attorney General,**
 - (b) **the Director of Public Prosecutions, and**
 - (c) **a person who is a defendant in criminal proceedings relating to an act or omission that—**
 - (i) **is described or mentioned in the report concerned,**
or
 - (ii) **is related to any matter into which the tribunal concerned inquired and which is so described or mentioned,**
and the Court may receive submissions, and evidence tendered, by or on behalf of any such person.
- (3) **On an application under subsection (1) the Court may, if it considers that the publication of the report concerned might prejudice any criminal proceedings, direct that the report or a specified part of it be not published—**
- (a) **for a specified period, or**
 - (b) **until the Court otherwise directs.**
- (4) **An application under subsection (1) may be heard otherwise than in public if the Court considers that it is appropriate to do so."**

In the event that the Tribunal is in a position to furnish a report to the Minister within the next couple of days, it is important that we should be informed as to the reasonable likelihood of criminal proceedings being brought concerning the subject matter of paragraph (e) as set out above. You are in a unique position, having attended most of the public sittings of the Tribunal and having acted in a most helpful way as liaison officer between an Garda Síochána and the Tribunal, to assist us in this regard. We would therefore ask you to make inquiries as to whether it is reasonably likely or reasonably probable that criminal proceedings might be brought at this juncture arising out of the circumstances that are the subject matter of this module.

Thank you for your continued co operation with the Tribunal, and we await hearing from you.

Yours sincerely,

Bernadette Crombie
Bernadette Crombie
Solicitor to the Tribunal

An Garda Síochána

Oifig Idirchaidrimh na nGardaí,
Binnse Fiosrúchan Morris,
Páirc Oifig Belfield,
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Web Site: www.garda.ie

01 July 2004

Our Ref:
Your Ref:

PRIVATE & CONFIDENTIAL

Ms. B. Crombie, LLB, LLM,
Solicitor to the Tribunal of Inquiry,
Belfield Office Park,
Beaver Row,
Clonskeagh,
Dublin 4.

MORRIS TRIBUNAL

1 JUL 2004

Re: Tribunal of Inquiry into complaints concerning some Gardaí in Donegal.
Paragraph (c) – “Managing Explosives” Module.
Actual or Potential Criminal Proceedings

A Chara,

I refer to your correspondence dated 1st July 2004 in above matter.

The following matters pertaining to this module have been investigated, and the current position with each investigation is set out hereunder.

INVESTIGATION	CURRENT POSITION
Section 1, Main Carty Investigation: 1. All the Questioned Finds of Explosives.	DPP – No Prosecution.
2. Alleged Assault on Sheenagh McMahon by her husband on the 9 th June 1995.	DPP – No Prosecution.

In / Mírean An Garda Síochána

An Iribhéal Inseicthe is aird a bhaint amach maidir le Cosaint Phearsanta, Tiomantas don Phobal agus Stáidéal Stáit

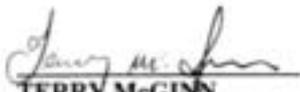
Mission Statement

To achieve the highest level of Personal Protection, Community Commitment and State Security

3. Alleged Assault on Garda Seamus Gordon by Detective Garda N. McMahon.	DPP – No Prosecution.
4. Unlawful Possession of Ammunition, Explosive Substances and Cannabis Resin by Detective Garda N. McMahon on the 13 th September 1999 at his home at 2 Kilty Court, Letterkenny, Co. Donegal.	DPP – No Prosecution.
5. Alleged False Statement/Report made by Eleanor McDermott on the 1 st September 1999.	File with DPP – Direction awaited.
6. Alleged False Reports by Adrienne McGlinchey – Rathmullan Incident.	DPP – No Prosecution.
7. Alleged Threat to Ciaran Waldron by Noel McMahon.	DPP – No Prosecution.
8. The making of “Silent” phone calls – Adrienne McGlinchey and Eleanor McDermott.	File with DPP – Direction awaited.
Alleged Assault/Intimidation of Karen McGlinchey on the 19 th April 1999 – Detective Garda N. McMahon.	DPP – No Prosecution.
Alleged Assaults of Sheenagh McMahon by Noel McMahon on the 16 th December 1998 and the 23 rd January 1999.	DPP – No Prosecution.
Issues arising from the judgement of Mr. Justice Hardiman – Shortt Miscarriage of Justice Case	File currently being prepared for transmission to the DPP.
Alleged Misappropriation of Funds resulting from Materials found in the “Lennon Locker”.	File with DPP – Direction awaited.

All concerned with the above investigations have been made aware of the importance of informing the Tribunal at an early date of the likelihood of criminal proceedings being brought concerning the subject matter of paragraph (e) of the Terms of Reference. I will inform you of any updates without delay.

Is mise le meas,


TERRY MCGINN
 SUPERINTENDENT

Is é Míशन An Garda Síochána

An t-ádhúl inrochtú is áird a bhaint amach maidir le Cosaint Phearsanta, Tíomantas don Phobal agus Slándáil Stáit

Mission Statement

To achieve the highest level of Personal Protection, Community Commitment and State Security

**PARAGRAPH (e) of the TERMS
of REFERENCE**

Pursuant to a resolution of Dáil and Seanad Éireann passed on the 22nd of March 2002 the Tribunal was set up to enquire urgently into:

- (e) Complaints that some Gardaí in County Donegal may have been involved in hoax explosives and bomb-making equipment finds (in particular discoveries on 11th September 1993, 19th November 1993, 11th January 1994, 14th March 1994, 4th June 1994, 13th June 1994 and 18th July 1994) and a review of the management and investigation of these issues.

NOTE TO THE READER

The reader will please note the following:

1. Quotations from the transcript are designated by a bold indented italic.
2. Quotations from documents are boxed.
3. Particularly important conclusions of the Tribunal are printed in a different colour.
4. A summary of the Tribunal's conclusions appears in Chapter 14 but this should be read in conjunction with the entire report.
5. Recommendations are set out in Chapter 13.

CHAPTER 1

APPROACH TO THE INQUIRY

The Inquiry

1.01. This Tribunal of Inquiry was set up by resolution of Dáil and Seanad Éireann passed on the 28th of March 2002. Following on the making of this resolution, I accepted the position of chairman and sole member of the Tribunal and set about gathering together a legal team to assist me. That legal team, consisting of three barristers, a solicitor and two research assistants, was in a position to begin work in the first week of June of 2002. Following on a comprehensive review of the documentation, a large number of meetings with various parties both in Ireland and abroad, and the setting in train of steps to afford parties likely to be represented their constitutional rights, the legal team, with my consent, proposed to make an opening statement. It is a fair measure of the complexity attached to the matter under inquiry that this opening statement ran to over eight hundred pages and took eight days to deliver at the courthouse in Donegal town from the 4th of November 2002.

Background

1.02. The Tribunal considers that at the outset it is important that the complaints that are made, and the circumstances in which they arise, be identified. To do so it is necessary to start by referring to events which occurred in Raphoe, County Donegal on the 14th of October 1996. At approximately 00.55 on that morning, the body of the late Mr. Richard Barron was found on the roadway at Townparks. It was initially believed that he had been the victim of a hit and run accident. The ensuing Garda investigation proceeded along those lines for a short time, before turning into a murder enquiry. The manner in which that investigation was conducted is the subject matter of other Terms of Reference upon which the Tribunal will report. It is sufficient for the purposes of this introduction to note that numerous complaints were made as to the manner in which the Gardaí pursued same.

1.03. These complaints resulted in the setting up of an investigation by Assistant Commissioner Kevin Carty into allegations that members of An Garda Síochána engaged in criminal and unethical behaviour in the course of carrying out enquiries into Mr. Barron's death. The investigation by Assistant Commissioner Carty became known as the "Carty Inquiry" and its personnel as "The Carty Team" and it will be so referred to in this report. It commenced its work in early 1999. Its remit was originally confined to the complaints relating to the Garda investigations into the death of Mr. Barron. This was originally unrelated to

Paragraph (e) of the Terms of Reference, upon which the Tribunal is now reporting. However, while the Carty Team were engaged in their work, it became aware of other allegations to the effect that explosives finds from 1993 and 1994, that were presented as excellent police work were planted by officers for later recovery to the enhancement of their reputations. Accordingly, the scope of the Carty Inquiry was extended to embrace these additional matters. It is with these explosives finds that this report is concerned; it is listed as Term of Reference (e). This is set out at paragraph 1.35 and the explanation of same is given at paragraph 1.36.

- 1.04. Anyone reading the complete Terms of Reference, and being familiar with the background documentation, will see that some of these paragraphs are obviously related to each other, while some are apparently disconnected. Apart from the Barron murder investigation and the explosives finds, many other matters were brought into sharp focus by internal Garda enquiries and have been made the subject of separate paragraphs of the Terms of Reference. On reviewing the papers available, prior to moving to hearings in March of 2003, my legal team and I decided that two very substantial modules of inquiry could be identified. Paragraph (e) requires that the Tribunal report on complaints that some Gardaí in Co. Donegal may have been involved in making hoax finds of explosives and bomb-making equipment. Paragraph (b), in contrast, relates to the investigation into the death of the late Mr. Barron, and Paragraphs (a), (c), (d), (f), (h) and (j) can be regarded as being in some way related to Paragraph (b). The remaining paragraphs are not obviously related to either set of issues.
- 1.05. It therefore made sense to me to consider commencing with either the issue of the investigation into the death of Mr. Barron, and related circumstances, or to attempt to dispose of the issue as to the allegedly hoax finds by some Gardaí of bomb-making equipment. For reasons which will become apparent I chose to commence with the latter. Our hearings commenced on the 4th of March 2003 and were focussed on the issue of allegedly hoax explosives finds. A break occurred over a period of weeks in June and July of 2003 before recommencing the explosives module in September of 2003 and finishing the hearings and submissions on that paragraph in April of 2004. There were strong reasons for beginning with this module and for interrupting it for a short time in order to commence the enquiry into the Garda investigation into Mr. Barron's death. A short explanation of it will here suffice. The full circumstances will become apparent when, in due course, the report in relation to the Barron module is available for publication.
- 1.06. The reasons for interrupting the hearing were as follows. A forensic pathologist did not examine the body of Mr. Richard Barron prior to his being interred

following upon his death in October of 1996. An exhumation took place in 2001, under an order from the Minister for Justice. Because of the serious issues as to the cause of his death which then arose, some partial remains of Mr. Barron were retained above ground. Understandably, the family was anxious for re-interment as early as possible. Following correspondence with Mr. Barron's family, who behaved with commendable dignity in their dealings with the Tribunal, it was felt that the hearing of the pathology aspect of this module should take place at the earliest course consistent with the available evidence. Since expert assistance was sought from the Home Office in Britain, that could only be disposed of during the summer months of 2003. Following upon the reception of that evidence, with the cooperation of the coroner for the north Donegal area, the partial remains were returned to the family for re-interment, as was their reasonable wish, in early course.

- 1.07.** The complaint that some Gardaí in Co. Donegal may have been involved in hoax explosives and bomb-making equipment finds was the earliest occurrence in terms of the dates inscribed on the Terms of Reference. On further examining same, the actual chronology in relation to this matter appeared to have commenced much earlier: as far back as 1988. Aspects of it, on the evidence as it was eventually heard, spilt over into 1997. Issues as to the conduct of the Carty Inquiry brought forward the scope of the Tribunal's investigations through to 2001. This was a thirteen-year period. It was logical to start with the issues which had arisen at the earliest stage in the investigations of the Tribunal. It was in October of 1996 that the events concerned with the investigation which resulted from Mr. Barron's death commenced. The events detailed in this report preceded those events, but to a certain extent overlapped with them. The allegations concerning the Barron investigation, as comprehensively presented to me by counsel in their opening statement, concerned the possible turning of a motor accident case, possibly involving criminal negligence, into a murder/assault enquiry; the abuse of arrest powers for the purpose of 'softening up' suspects; the taking of a fabricated 'confession statement'; and the negligent pursuit of a serious criminal investigation. It was necessary to know how the Gardaí were functioning in Donegal, in general terms, as of October of 1996. One important aspect of this concerned the manner in which the Gardaí were functioning up to that point. It would not have made sense to have started in the middle of a lengthy investigation into the Gardaí in the Donegal division by choosing to look at events which occurred in the middle of that time period. It made good sense to start at the beginning and then to move forward.
- 1.08.** Our investigators, Brian Steele Garvie, Chief Superintendent of the Royal Canadian Mounted Police, and Mr. Michael Finn, former Superintendent with An

Garda Síochána, and more lately Mr. Patrick Cummins, former Assistant Commissioner with the Royal Canadian Mounted Police, were therefore tasked to the re-investigation of this matter. Their inquiries have been of the greatest assistance to the Tribunal in discharging its functions. While interviews, written reports and the search for evidence is of assistance to an inquiry, it is only by the resolution of issues of fact, on oath and in the witness box, that the tangled web of facts, near facts, lies and deliberate confusion surrounding this module could ever be uncovered. The enquiries by the Tribunal have been lengthy and difficult. Let it be clearly stated that this happened because so many witnesses determined to persistently lie. It was necessary to point up the untruth of essential testimony by calling into focus all the evidence that could reasonably be thought to have some reliability.

A Basic Outline

- 1.09. I would ask the reader to note that members of An Garda Síochána are referred to, in respect of incidents in the past, by the rank which they held at that time. In referring to their evidence, I generally call them by the rank which they now hold, unless the context makes it less confusing to continue by reference to their historically relevant rank. We turn to the circumstances that led to an issue as to the genuineness of, and thus to public disquiet over, the ‘explosives finds’ noted in the Terms of Reference. Full detail in relation to all of these matters is set out in the main body of this report. A short biographical note on the main parties to the Tribunal is to be found in Chapter 2 of this document.
- 1.10. By 1999, the marriage of Mrs. Sheenagh McMahon and her husband Detective Garda Noel McMahon had broken down. The parties were in dispute over, among other things, the question of access to the children of the marriage. Mrs. McMahon was legally represented by her sister Ms. Moya Jane O’Doherty, solicitor. Ms. O’Doherty alleged that on the 15th of March 1999 Detective Garda McMahon had left a telephone message on her phone answering machine which she perceived to be of a threatening nature. It was claimed that she and Mrs. McMahon had felt intimidated by this message: it is fair to note that, in evidence, it was accepted that the message could be interpreted in a less sinister way. They reported what they felt at the time was a threat to them to the Gardaí at Buncrana Garda Station.
- 1.11. Both Ms. O’Doherty and Mrs. McMahon were interviewed by, among others, Superintendent Long and Chief Superintendent Fitzgerald. In the course of this interview Mrs. McMahon disclosed misconduct by her husband Detective Garda McMahon and Superintendent Kevin Lennon and others. Her complaints, as detailed in her evidence before the Tribunal, are referred to in the body of this

report. It is sufficient, for the purposes of this introduction, to record that Mrs. McMahon claimed that she observed Detective Garda McMahon and Superintendent Kevin Lennon bring plastic bags past the kitchen window of her residence during the hours of darkness and deposit them in the garage or the utility room. Later, as a result of comments made by her husband, she was told that what had been left in the garage or the utility room was “bombs or bomb-making equipment”. She was reassured by her husband that these objects were not primed and were thus safe. In her written and oral statements to Superintendent Long, repeated in her evidence before the Tribunal, she said that her husband brought home and left in a room adjoining the kitchen, a metal object. To any uninformed person this object might have the appearance of a piece of military paraphernalia similar to a rocket or a mortar. On another occasion she came into possession of a similar item through her husband. At her later insistence, her husband removed one of these items to the out offices of the house. Much later, when she and her husband had sold the family home in Buncrana, this needed to be emptied of the family’s possessions. When she and Sergeant Michael Brennan were clearing out her garage, she found objects which were identified to her as detonators. Mrs. McMahon went on to recount events, which, if correct, could be taken to implicate Detective Garda McMahon and Superintendent Lennon in manufacturing and planting caches of homemade explosives at a number of sites around County Donegal. This extended to those officers involving themselves in hoax subversive activities in Northern Ireland.

- 1.12. Mrs. McMahon alleged that these activities centred around a lady called Adrienne McGlinchey, a person represented to her at the time, and to the Gardaí generally in County Donegal, as an informer against the ‘Provisional IRA’. Ms. McGlinchey was interviewed by the Carty Team and further serious allegations emerged. She was later interviewed by the Tribunal investigators and by counsel. A detailed narrative of the evidence of Ms. McGlinchey appears, as to its relevant portions, in the body of this report. In order to give a guide to the report, I have set out the basic outline of Mrs. McMahon’s evidence and, for the same reason, I now propose to do the same in respect of the relevant allegations of Ms. McGlinchey and the relevant evidence about her.
- 1.13. At some stage, in or around 1988, Adrienne McGlinchey, a businesswoman, then working in her family’s restaurant business in Letterkenny, made the acquaintance of some Gardaí in Letterkenny. She says that a friendship developed when they called for refreshment to their late-night restaurant and she began chatting to them. Insofar as the Gardaí are concerned they say that she used the opportunity to attract their attention, both in the restaurant and when they drove past the restaurant, and intentionally imparted to them valuable information. This

was done out of either a sense of citizenship or a sense of mischief. Some kind of a relationship was established between her and certain members of the Detective Branch of An Garda Síochána stationed in Letterkenny. This might be regarded as phase one of the relationship between members of the Gardaí and Ms. McGlinchey and is dealt with in Chapter 4. In July of 1991 Ms. McGlinchey was arrested, for the first time, under Section 30 of the Offences Against the State Act, 1939. That arrest took place in the context of the foiling by Gardaí of a plan by the 'Provisional IRA' to explode a trailer attached to a lorry at a border checkpoint. It has been referred to in evidence and Garda reports as the 'Wachopes Bomb'. A disagreement with at least one of her parents followed upon what was regarded as the stigma of an arrest on suspicion of having information on this attempted outrage.

- 1.14. Adrienne McGlinchey responded to the row by leaving the family home in Letterkenny. She moved to Buncrana with a girl called Yvonne Devine, who was much younger than she. They took up residence there for the next three to four years: initially in a tent at the shorefront. Subsequently, they rented a flat at The Crescent, Buncrana. Their flat was on the first floor and was, by a strange coincidence, adjacent to the home of the grandmother of Sheenagh McMahan. Those years coincided with the second phase of Adrienne McGlinchey's relationship with members of the Gardaí and this is detailed in chapters 5, 6, 7 and 8. A core issue which the Tribunal had to enquire into was whether, following upon this move to Buncrana, that relationship was genuine or based on deceit. She alleges that the relationship was one of concerted lies. She had initially been interviewed by Detective Garda McMahan on her arrest over the Wachopes bomb. On her move to Buncrana, she claims that he sought her out on a pretext that she might be of assistance on various Garda enquiries related to the 'Provisional IRA'. At issue is whether she responded to him by giving information, be it false or genuine. He claims to have been in receipt of assistance from her that he categorised in evidence as being increasingly helpful. She was, according to him, a valuable but difficult informer. While he felt sure that even better information might be forthcoming from her, she required to be cultivated as a source to the extent that up to six hours per week of his time was spent talking to her in an attempt to induce her to cooperate.
- 1.15. During the latter part of 1991, Adrienne McGlinchey claimed that Detective Garda McMahan abused her trust in him and in the Gardaí. She asserted that he used his powers as a Garda in order to threaten her. She was made into an instrument of deceit with his colleagues and superiors. On leaving Letterkenny, she had accessed a current account for the family business. Her initial expenses were paid with cheques of doubtful legality. Learning of complaints to the Gardaí

by the holders of these worthless cheques, Ms. McGlinchey claims that Detective Garda McMahon offered to help her avoid prosecution, but at a price. This was to do his bidding in, firstly, deceiving his partner Detective Garda Danny Kelly and then other officers in Buncrana and in the district headquarters in Letterkenny. She was to pretend, on his precise instructions, to be a member of the 'Provisional IRA' and act as informer on them. While Detective Garda McMahon was with Detective Garda Kelly, she was to meet them and to pretend to feed them information that she had been briefed about beforehand, on terrorist activities. In order to enhance the credibility gap that might cause Detective Garda Kelly to be sceptical, she took charge of quantities of materials that would otherwise denote 'Provisional IRA' activities and disported herself in front of him as a subversive operative. These items were given to her by Detective Garda McMahon or were procured by her at his request.

- 1.16. She variously paraded in front of Detective Garda Kelly and other officers, with bullets, tripods as stabilisers for mortars, rockets, radio sets, circuit boards, wires, the insides of television sets, balaclavas, angle grinders, welding equipment and the rocket-like objects of which Sheenagh McMahon was later able to produce two examples. What needed to be bought was purchased, she said, on his direction. Where something needed to be made, then he showed her a plan and told her to go about having it manufactured. According to her, the money for this was supplied by him; though no documentation supporting this exists. Her first foray into this dangerous play-acting came in December of 1991, when she was seen in possession of several rounds of .22 bullets by Detective Garda Kelly. The bullets were recovered in her wake but she was never prosecuted. In failing to charge her with a criminal offence, Detective Gardaí McMahon and Kelly initiated a pattern that continued through multiple incidents of open and blatant criminality.
- 1.17. Adrienne McGlinchey asserts that she felt forced into this first serious breach of the criminal law because Detective Garda McMahon threatened her that if she did not follow his wishes she would be prosecuted for the cheque fraud incidents. Now that she had been spotted in possession of ammunition, she claimed, Detective Garda McMahon was able to use this further offence to make her engage in further and worse criminal activity on threat of prosecution for earlier offences. She would be safe only if she pursued his charade. He denies this. Adrienne McGlinchey testified that all of the rocket-like objects were made on his direction and in accordance with Garda manuals of 'Provisional IRA' weaponry that she was, she claims, shown by him. When an early batch turned out to be unconvincing, better ones were made. The Tribunal has had sight of only earlier versions as the latter have disappeared, if they ever existed.

- 1.18. Then a new phase of their relationship began. Detective Garda McMahon, she asserted, got her to begin grinding nitrate-based fertilizer in her flat. She also bought sugar, another component of a basic explosive mix. Coffee grinders were used over months in order to make up the basic elements of a convincing bomb. While Adrienne McGlinchey claims that Kevin Lennon, as Inspector or Detective Inspector, seemed not to initially know about the fraudulent and corrupt nature of this activity, he later dropped this pretence and enthusiastically joined in directing the illegal charade. He denies this. From September of 1993 up to July of 1994, if Ms. McGlinchey is believed, this background of activities was the lead-in to the various fraudulent finds detailed in the Terms of Reference. In short, one of the core issues is as to whether Adrienne McGlinchey, either alone or with Yvonne Devine, embarked on dealing with bomb-making equipment over a period of time shortly after their move into The Crescent in Buncrana, and up to and including July of 1994, so as to give the impression that major finds of explosives and bomb-making equipment belonging to a subversive organisation had been uncovered due to brilliant detective work.
- 1.19. From March of 1992, Kevin Lennon was the Inspector in Buncrana and was thus in command of Detective Garda McMahon. He claimed to know next to nothing about Ms. McGlinchey until, much later in 1993 when he had moved to Letterkenny, Chief Superintendent Sean Ginty asked him to supervise the McGlinchey-McMahon relationship.
- 1.20. There is no dispute that on the dates set out in the relevant Term of Reference, certain material was found and that this equipment, at face value, appeared to be bomb-making equipment. For ease of reference it is as well to set out these dates, and the common names by which they are mentioned in this report, at this stage. The first discovery was made on the 11th of September 1993 at Strabane in Northern Ireland. This is referred to in this report as ‘the Strabane incident’. The second find was made on the 19th of November 1993 at Ardchicken near Donegal town, and is referred to in that way in the rest of this report. The third find was made on the 11th of January 1994 at the roundabout beside the border crossing at Bridgend and is henceforth referred to under that place name. The fourth find was made on the 14th of March 1994 at Adrienne McGlinchey’s apartment at an address known as The Crescent, Buncrana. The fifth and sixth finds were made on the 4th of June 1994 and the 13th of June 1994, in the area of the McGlinchey family property in Letterkenny, at, respectively, Oatfield and Covehill. The seventh find was made on the 18th of July 1994 in two farm outhouses, some hundreds of metres apart, in the Rossnowlagh area of Donegal, which is to the south of Donegal town. These names are followed in this report.

- 1.21. The person planting those finds, as will have been noted, was Adrienne McGlinchey. During the period 1991 to 1994, Adrienne McGlinchey was an obvious presence in the town of Buncrana. She was drawing Garda attention to herself and Yvonne Devine in the most obvious manner. She was the subject of a claim that she had been kidnapped, she was seen prowling around with subversive paraphernalia in the dead of night and she ran away in an ostentatious manner whenever a uniform Garda car appeared near her or Yvonne Devine.
- 1.22. Terrorists, and more particularly informers on terrorist activities, are secretive and not attention seeking. The members of An Garda Síochána who have given evidence on this matter have been essentially divided into two camps. There are those who believed that Adrienne McGlinchey was a reliable police informer and that it was reasonable to rely upon her word, and in particular on the physical evidence uncovered, to conclude that she was a member of, or otherwise very close to, the 'Provisional IRA'. On the other hand there are those who were at the time, and continue to be, at least sceptical that Adrienne McGlinchey ever had any real involvement with the 'Provisional IRA'. She herself denies that she had. Another core issue was therefore whether she hoodwinked two experienced members of An Garda Síochána, namely Detective Garda Noel McMahon and the then Detective Inspector Kevin Lennon, or whether they, seeing an opportunity for promotion, self-glorification or building themselves a false status as leading investigators, made use of her intentionally for the purpose of deceit.
- 1.23. How could such a situation be allowed to continue for so many years? It was apparent to the Tribunal that if fraud and corruption had been involved in this then that situation might not have just been confined to those accused by Adrienne McGlinchey. Both corruption and negligence might be found on examination to have spread throughout those who apparently tolerated this extraordinary situation, perhaps amongst the highest ranks. Since information on the apparent finds was also immediately forwarded by telex to Garda Headquarters, the focus of the enquiries of the Tribunal needed to extend even that far. The Tribunal was in no way impeded by its Terms of Reference in investigating Garda Headquarters.
- 1.24. The Garda Síochána within the Donegal division, as elsewhere, operates within a structure. That structure involves both the necessity for members at lower rank to report to their superiors and for those superiors to take an active interest in the work of their subordinates. All members of An Garda Síochána are involved in the same task of saving lives, preserving the public peace, investigating crime and assisting the public generally within the terms of their remit as the primary agents of law enforcement. The focus of the enquiries of the Tribunal looked up the ranks to the Superintendents in charge of each of the five districts within the

Donegal division, to the Border Superintendent, answerable to the Chief Superintendent at Letterkenny, and to the divisional officer (the Chief Superintendent) and to Garda Headquarters.

Structure of Authority

1.25. It should be pointed out that during the timeframe under consideration the highest-ranking officer in the northwest of Ireland was the Chief Superintendent in each of the relevant Garda divisions of command. He reported directly to headquarters and, in relation to subversive crime, was answerable to the Assistant Commissioner over the Crime & Security Division in the Phoenix Park. The Chief Superintendent for the Donegal division for the relevant time was Chief Superintendent Sean Ginty. The county of Donegal was, at all material times, divided into five districts, namely Letterkenny, Ballyshannon, Bunrana, Milford and Glenties. Each one had as its district officer a Superintendent who, in turn, had one or more Inspectors, and under them a number of Sergeants, reporting to her or him. In addition, an office created by the Anglo-Irish Agreement was the Border Superintendent, who carried the rank of Detective Superintendent. This is a countywide appointment and a Detective Inspector reports to him or her. The helpful evidence of John O'Donoghue and Nora Owen, both former Minister for Justice, illustrated the role of the Department of Justice vis-à-vis the Commissioner of An Garda Síochána. In turn, the evidence of Commissioner Noel Conroy further underlined the cooperation which the Tribunal has had from An Garda Síochána to date in conducting its enquiries. It was during the time of Ms. Máire Geoghegan-Quinn as Minister for Justice that the idea was first mooted that Assistant Commissioners should be applied in authority to various regions of the country. The impetus for this move may have arisen partially out of the investigations into the Clare murders perpetrated by the Late Brendan O'Donnell, who was sought between two different Garda divisions, namely Clare and Galway. During the time of Ms. Nora Owen as Minister for Justice, this policy was further advanced so that by the time the internal Garda enquiries into this matter commenced in March of 1999, Assistant Commissioner Kevin Carty had assumed responsibility for the entire northern region. Therefore, the Chief Superintendents in Cavan, Monaghan, Sligo, Leitrim and Donegal were then reporting to him as the ultimate source of authority beyond Garda Headquarters in Dublin.

Judicial Approach

1.26. I now feel it appropriate to set out the approach I have adopted to the evidence in this case. As the report proceeds, I will comment on same in greater detail. When a jury retires, having been addressed by counsel and having been instructed as to the legal principles by the trial judge, they are at large as to the

approach they take to the evidence. The case law enjoins them to approach the evidence with shrewdness and commonsense.

1.27. Every case has its building blocks. This inquiry is no exception to that. In a criminal case, when a jury has heard the evidence of an accomplice, they will receive a warning from the trial judge as to the dangers of relying thereon. A case may be built upon a confession. This requires an admonition by the trial judge to look to the presence or absence of corroboration in relation to that confession. Items of corroboration are pieces of evidence that can be seen as linking the accused to the commission of the crime, without necessarily proving the crime in themselves. A jury may also have heard items of circumstantial evidence which, taken together, or in conjunction with direct evidence, may satisfy them as to the guilt of the accused person. In the context of the matters which here come under discussion, circumstantial evidence assumes a high importance. Nothing of what has been found as a fact that follows in this report has been without the direct evidence of a witness, or of witnesses, claiming to have experienced an event at first hand. Every witness is, however, subject to infirmity. It would be folly to divorce a witness's testimony from the physical facts available on the ground in respect of any particular incident and from the accumulation of facts which together can make up circumstantial evidence.

1.28. Circumstantial evidence can allow an inference to be drawn through the accumulation of various pieces of evidence all pointing to a conclusion in a particular direction. Perhaps the best statement of the law, one recently approved by the Court of Criminal Appeal in *The People (DPP) v Catherine Nevin*¹, is to be found in Robert Sands' book *Criminal Law and Procedure in the Republic of Ireland*², which states as follows:

The testimony of a witness who actually saw the accused person kill the deceased is direct evidence, but if the prisoner has died of poisoning the pecuniary embarrassment of the prisoner, his buying poison and attempting to avoid an inquest and other such facts would be relevant as circumstantial or indirect evidence. See *R v Palmer (1856)*, Stephen's *History of the Criminal Law*, P389. Circumstantial evidence is very often the best evidence that the nature of the case permits of. It is evidence of surrounding circumstances which by undesigned coincidence is capable of proving a proposition with the accuracy of mathematics. It is no derogation of evidence to say that it is circumstantial; *R v Taylor* 21CAR21. A jury may convict on purely circumstantial evidence, but to do this they must be satisfied, not only that the circumstances were consistent with the prisoner having committed the act, but also that the facts were such as to

¹ Unreported, Court of Criminal Appeal [14th March 2003].

² Third edition [1951] page 177.

be inconsistent with any other rational conclusion than that he was the guilty person; AG v O'Brien CCA11-7-32; R v Hodge, 2 Lew 227; Halsbury, First Edition, Volume IX, Article 1190, page 588.

- 1.29. Ms. Adrienne McGlinchey, whether she was involved in a solo effort at hoodwinking the Gardaí, or acting under their direction in planting finds of subversive paraphernalia so that they might be easily recovered and reported as genuine finds, was acting unlawfully. Dealing with explosive material is a criminal offence pursuant to the Explosive Substances Act, 1876 and the Explosive Substances Act, 1884, as amended. It is also an offence to waste Garda time. No immunity, in that regard, is given to a person because certain members or sections of the Gardaí wish to conspire with other people in the abuse of public resources. From that point of view alone, her evidence had therefore to be treated with scepticism.
- 1.30. She was at all times an accomplice in her actions as to the matters which follow. It is fully appreciated that an explanation has been given by her that, following upon her move to Buncrana, and the taking of a chequebook from her mother's premises, she was subjected to the threat of prosecution by Detective Garda Noel McMahon. Nonetheless, there was a degree of willing participation by her in the events which followed. As will later be reported in the course of this document, she made many allegations of a wide-ranging kind against a number of members of the Gardaí which have later either not been supported by evidence or have actually been withdrawn by her. Some of this she seeks to excuse herself from on the basis of confusion, an exhausting series of interviews by the Carty investigators or by the misapplication of her words to facts or situations to which they were never intended to refer. The issue has been squarely put in submissions to the Tribunal that Ms. McGlinchey is completely unworthy of any belief and that the inquiry should therefore cease with a simple finding as to her unreliability. It would be wrong, however, not to proceed with the inquiry on a basis of considering her testimony against the vast bulk of evidence, heard over a period in excess of one hundred days and almost twenty thousand pages of transcript, before coming to a conclusion one way or the other. The Tribunal approaches her evidence with the utmost caution.
- 1.31. The other main witness, Mrs. Sheenagh McMahon, supported her complaint, at least in part, by producing to the Tribunal the rocket-like objects that were in her home in the context of her estranged husband's relationship with Adrienne McGlinchey. She claimed that she had taken them into her possession at a time when her marriage was breaking up and for the purpose of ensuring that she might later be believed as to the events to which she was a witness. Whereas her

evidence is of a much lesser compass, both in terms of time and in terms of the facts asserted, than that of Adrienne McGlinchey, nonetheless it is important to be mindful as to the potential difficulties that can arise where an estranged spouse gives evidence against another. The submissions of certain represented parties suggest that her testimony be rejected out of hand. I would regard it as folly to cease to look at that evidence and to analyse it in the context of the other evidence of a circumstantial kind that is available. Nonetheless, a warning as to its potential dangers must be borne in mind. More generally, even leaving aside these considerations, any testimony which attacks, and potentially destroys, the reputation of a citizen must be treated with circumspection, care and a constant regard to principles of fairness in judgement.

The Work of a Tribunal

1.32. When delivering the explanation of the Terms of Reference, required by law of every Tribunal of Inquiry, on the 15th of July 2002, I made some general remarks as to procedures. It seems to me that these are worth reproducing here as they provide the basic template upon which the work of this Tribunal was built. I therefore quote:

Hamilton C. J. in delivering the judgement in *Haughey v Moriarty* [1999] 3 I.R.1 defined the proceedings of the Tribunal as involving the following stages:

- (i) A preliminary investigation of the evidence available.
- (ii) The determination by the Tribunal of what it considers to be the evidence relevant to the matters into which it is obliged to enquire.
- (iii) The service of such evidence on persons likely to be affected thereby.
- (iv) The public hearing of witnesses in regard to such evidence and the cross-examination of such witnesses by or on behalf of the persons affected thereby and
- (v) The preparation of a report and the making of recommendations based on the facts established at such public hearing.

For some weeks past, Counsel on behalf of the Tribunal, Peter Charleton, S.C., Paul McDermott, S.C. and Anthony Barr, B.L. have been engaged with me in making a preliminary investigation of the material which is available at the present time. They have been assisted by Bernadette Crombie, solicitor to the Tribunal, and by the entire Tribunal team. As a result of this preliminary investigation, it has been decided that the Tribunal will address each of the paragraphs of the Terms of Reference

either in its entirety and alone, or in conjunction with another or other paragraphs, or it may address part only of a paragraph.

This is an enquiry. The Tribunal is not proceeding on the basis that certain people are accused of particular wrongs. It is attempting to ascertain what happened, why it happened and what might be learned from it. As it addresses each module, the Tribunal will identify persons likely to be affected by the available evidence. The Tribunal will contact all such persons who are legally represented and, if not legally represented, will make every effort to contact them personally. It is hoped that all persons likely to be affected by material arising in a particular module will be furnished where appropriate with a CD-Rom of all the evidence which is in the possession of the Tribunal relating to that module or where it is thought necessary of all the evidence in the possession of the Tribunal. They will also be furnished with a hard copy of the evidence which the Tribunal considers to be relevant to that particular module from which they can learn the manner in which they might be affected by that evidence. They may then consider this evidence and they may, if they wish, respond to it by making a written submission or a witness statement. The advantages of making such a witness statement or such a written submission are obvious, in as much as it will enable Counsel for the Tribunal to present and consider that response.

When I have determined that there is evidence of matters into which I am obliged to enquire, all the relevant evidence, if not already served will be served on all persons likely to be affected by the hearing of that module and then the public hearing will be held.

If at any stage during a hearing assertions are made or evidence is sought to be addressed which might damage the reputation or good name of any individual but of which the Tribunal had not notice then procedures will be put in place either by an adjournment of the hearing or otherwise to deal with this situation, so as to ensure that fair procedures are observed.

May I now deal with discovery of documents. It is the wish and the hope of the Tribunal that there will be full co-operation with the Tribunal in the carrying out of its work and this would include the making of voluntary discovery. It is hoped that the Tribunal will not find it necessary to use its powers to make an Order for Discovery of Documents. However, it draws attention to the fact that such a power is vested in the Tribunal. Moreover, this Tribunal has been given the additional power with the consent of the Minister for Justice, Equality and Law Reform and the approval of the

Minister for Finance under Section 6 of the 2002 Act to appoint "such and so many persons to be Investigators to perform the functions conferred on Investigators" by the section. These powers include the power to require a person to give the Investigators such information as may reasonably be required and to send them any documents or things in his power or control and includes a requirement to answer the Investigators' questions.

It is hoped that with co-operation it will not be found necessary to utilise these powers.

The Tribunal wishes to make it clear that prior to making any Orders for Discovery it will give the requisite notice identified by the Supreme Court in *Haughey v Moriarty*.

The Tribunal is charged under the instrument creating it to complete its work in as economical manner as possible and at the earliest possible date consistent with a fair examination of the matters referred to. With a view to establishing a procedure which will make the work of the Tribunal both orderly and assist in the completion of the work at the earliest possible date, the Tribunal would propose that where any party wishes to raise a matter of substance, either legal or factual, for the consideration of the Tribunal, it should in as far as possible, give notice to the Tribunal in advance, so that the attendance of witnesses can be dispensed with and the issue disposed of, either before the sitting of the Tribunal in the morning, or alternatively, later in the afternoon. The Tribunal does of course recognise that this may not always be possible, but the Tribunal would appreciate co-operation in this regard.³

- 1.33. The burdens placed upon a Tribunal of Inquiry by the relevant interpretation of the constitution in case law are extremely onerous. By far the strongest reason for the length of time that has been necessary to pursue the matters mentioned in this report has been the requirement of due process. Another, and only slightly less important reason, has been the extent to which parties before the Tribunal, and witnesses, have adopted lying stratagems which have needed to be painstakingly broken down through many hours of cross-examination by counsel for the Tribunal. Any judge, in any case, is entitled to accept or reject the evidence of a witness and, in doing so, may simply comment that the evidence of a particular witness was not believed or that the judge's view was that the person giving evidence before him or her was deliberately lying. That power exists, presumably for the greater benefit of the public good in the administration of justice, notwithstanding the fact that a particular witness is not represented. The purpose of a Tribunal inquiry, however, is to give the opinion of the Tribunal as to

³ This ruling is available on the Tribunal website: www.morristribunal.ie under the 'Opening Statement' link.

facts that are in dispute. This carries no civil or criminal consequences but it does affect the good name of a citizen, which is guaranteed under Article 40.3 of the Constitution. A Tribunal is entitled to characterise the evidence of any witness as untruthful without affording representation to that person. However, a Tribunal is not entitled to find as a fact that a citizen engaged in discreditable conduct without allowing that person representation.

- 1.34. Since the seminal ruling of the Supreme Court in *re Haughey*,⁴ the minimum rights which a citizen is entitled to expect, where he or she is in peril in terms of their reputation, include the right to be represented; the right to cross-examine relevant witnesses; and the right to make submissions in relation to matters of fact which potentially affect them. From the point of view of a Tribunal of Inquiry, the Tribunal is obliged to explain its Terms of Reference, to gather together, through a process of voluntary discovery and cooperation, or by using its powers pursuant to the Tribunals of Inquiry (Evidence) Acts, 1921 to 2002, all relevant documents. Where these affect a party, as aforesaid, that party has a right to see these documents. In modern terms, this means the gathering together and distribution to many disparate parties of a large collection of different documents. There is both a duty on a Tribunal to gather in documents which are material to the inquiry, and to distribute same to parties who are represented. Arguably, also, a Tribunal may be obliged to consider all relevant evidence. It may give an idea of the complexity of this module, alone, to indicate that by the close of hearings, the quantity of documents distributed to each represented party exceeded six thousand pages. As regards representation granted to parties on all of the paragraphs under inquiry, the number of persons represented exceeded one hundred and sixty. This has put a huge burden on our legal and administrative staff. I am happy to report that they met this challenge with great energy and efficiency. However, no-one who has not been through the process can appreciate how lengthy and burdensome the affording to persons of due process rights is. As to whether it is necessary to give to a person defending their reputation rights which are equivalent to those of an accused in a murder trial, it is not for me to comment.

The Term of Reference Explained

- 1.35. I now turn to Paragraph (e) of the Terms of Reference. The Tribunal is charged by the Oireachtas with urgently enquiring into:

Complaints that some Gardaí in County Donegal may have been involved in hoax explosives and bomb-making equipment finds (in particular discoveries on 11th September, 1993, 19th November, 1993, 11th January, 1994, 14th March, 1994, 4th June, 1994, 13th June, 1994 and

⁴ [1971] I.R.217.

18th July, 1994) and a review of the management and investigation of these issues.

1.36. As was necessary in law, I explained this Term of Reference in eleven numbered paragraphs on the 15th of July 2002, in the following terms:

The information which is available to the Tribunal contains allegations made by a number of persons that some members of An Garda Síochána 'planted' subversive paraphernalia and later purported to discover it or have it discovered by third parties.

The Tribunal proposes to

- (i) Enquire into and establish the facts in relation to these events;
- (ii) Enquire into and establish what 'finds' were actually made, if any;
- (iii) Identify the nature of the materials said to have been found on these occasions;
- (iv) Enquire into and establish the events and circumstances which led to the making of these 'finds';
- (v) Enquire into and establish the identity of such members of An Garda Síochána, if any, who acted with regard to these finds and attempt to discover whether their actions were proper or improper;
- (vi) Enquire into the normal Garda procedure and/or practice (if any) relating to the making of such 'finds' including practice and procedures relating to preservation of materials found, forensic analysis of same, the preservation and examination of the apparent crime scene, and any other follow-up procedures and practices applicable to such a find and consider whether such procedures and practices were followed in relation to these 'finds';
- (vii) Consider the adequacy of the procedures and practices applicable to the making of such 'finds' having regard to the facts which may be established in evidence at the Tribunal;
- (viii) Enquire into the course and management of the investigations relating to these incidents;
- (ix) Consider the use and role of informants in this matter: in that regard the approach already set out in relation to Term (b)(3) of the Terms of Reference will be applied;

(x) Enquire into and establish the manner in which the complaints made in relation to these events were dealt with by members of An Garda Síochána including complaints made to the Garda Síochána Complaints Board;

(xi) Enquire into and consider the relationship, if any, between the events which are the subject matter of this Term of Reference and any other Term of Reference.⁵

Breadth of the Tribunal's Investigation

1.37. This report is not concerned merely with Detective Garda Noel McMahon, Superintendent Kevin Lennon and Adrienne McGlinchey. It is concerned with the management of the police service provided by members of An Garda Síochána, of all ranks, to the people of Donegal, and more widely to the people of Ireland, over an approximately thirteen-year period from 1988. In themselves, the events in question in this module are comparable to the entire burden of work undertaken by many previous tribunals of enquiry. Paragraph (e) of the Terms of Reference identifies particular events. They did not occur in isolation from the activities of other members of the Gardaí in Donegal. If, as the Tribunal has been forced to conclude, members of the Gardaí were involved in hoax explosives 'finds' on those particular dates, this discreditable conduct did not occur in isolation from the rest of the force of which they were part. The enquiries of the Tribunal therefore had to focus more widely.

1.38. An Garda Síochána is a disciplined force subject to a structure of command based on ranks. It is composed, in the main, of intelligent men and women who are trained in modern police investigative techniques. The reader of this report will note the reasons why the Tribunal has been forced to come to the conclusions that it has adopted. In terms of the factual matrix, the persons who engaged in unlawful conduct involving the abuse of Garda time and resources for the purpose of perpetrating a hoax on the people of Ireland were part of a team. It was necessary for the Tribunal to enquire as widely as possible as to what other persons within the Donegal division may have been involved in these activities. This took time. In my opinion, however, it was a necessary expenditure of effort in order that the shocking facts which have been uncovered by the Tribunal would not lead to further justifiable public disquiet. If, as the Tribunal finds in this report, a number of Gardaí were involved in the planting and recovery of hoax explosives finds, the Minister for Justice, to whom this report is made, is entitled to know the extent to which the corruption of police work within Donegal had spread, or not spread, as the case may be.

1.39. Furthermore, even where corruption had been ruled out that could not legitimately have been the end of the enquiries of the Tribunal. The people of

⁵ See www.morristribunal.ie - under the 'Opening Statement' link.

Donegal, and the people of Ireland, are entitled to expect that the Garda Síochána serves them on a professional basis. Young men and women joining An Garda Síochána are entitled to expect that they will be joining a modern police force wherein the methods of training and promotion and the standards of its application to the duty of policing conform to the highest standards. An Garda Síochána has a high reputation and members have not shirked in the past even the sacrifice of their lives. This is a matter of justifiable pride. Ordinary decent serving Gardaí are entitled to expect that the good name of the organisation which they serve, many of them through a sense of vocation to the greater good of the community, applies to itself the highest standards of dedication to truthfulness and application. For a police force, corruption by its members is the worst stigma that can befall it. Corruption involves the abuse of statutory powers for self-gain, through monetary advantage, promotion or self-aggrandisement. Much evil is also perpetrated through a failure by people to do a proper and decent day's work in justification of their pay and pension rights.

- 1.40. The Tribunal was forced to ask itself to consider whether, in addition to corruption, the circumstances detailed in this report could not have flourished had there not been negligence, wilful blindness and sloth among certain higher officers in the Donegal division. **The Tribunal has reluctantly been forced to come to the conclusion that there was corruption among a small number of individuals within the Donegal division but it has also been compelled to find that this situation could not have flourished and gone unchecked had the leadership of the Donegal division not behaved negligently and slothfully. In the discharge of their duties certain senior officers, as detailed in this report, fell below the standards that the public might reasonably expect of them. It was as a result of a combination of corruption and negligence that the extraordinary events which are detailed in this report came to pass.**
- 1.41. The Tribunal has examined these events as thoroughly as possible in order to report on them with the finality that the effort and money expended on this exercise deserves. While these events are extraordinary, and may therefore never be repeated in the exact form in which they occurred, this report is not simply concerned with events which now have merely historical importance. It was a combination of corruption and sloth that brought these events about.
- 1.42. Corruption can occur in many guises: here it was the abuse of police investigation for personal self-aggrandisement through fraud. That can happen again. Equally, other forms of corruption, such as looking the other way, bribery, the taking of short cuts in investigations, the construction of cases based upon lies and many other examples can occur at any time. What is most serious about the situation

in Donegal is the lack of leadership shown by officers at senior level whereby obvious questions were not asked. In the result, a growing situation of deceit was allowed to blossom to its fullest extent when the application of discipline and the energetic pursuit of proper standards would have snuffed out that growth at an early stage. The most shocking aspect of the Donegal investigation has been the extent to which ill-discipline came to pervade the Gardaí through the abdication by senior officers of their duty to maintain the men and women under their command in good order and in the pursuit of standards based upon truth.

Recommendations

- 1.43. In considering what recommendations are appropriate the Tribunal believes that when this report reaches the Minister for Justice and Garda Headquarters, the actions which are necessary for the institutions of State to take on foot of its findings will be apparent. In addition to finding facts the Tribunal has, for the purpose of this module, confined itself to considering what recommendations might be necessary in respect of three main areas. Firstly, the Tribunal has looked closely at the issue of the handling of informers. I intend to return to this matter, as I am bound to, when I revert to the paragraphs of the Terms of Reference concerned with the investigation into the death of Mr. Barron. Secondly, I find it inescapable that An Garda Síochána is a disciplined force armed with wide statutory powers and authorised in the lawful use of force. I find it extraordinary that the Carty investigation team met with a lack of cooperation in respect of its necessary efforts, from members of An Garda Síochána. In giving his evidence, Superintendent Hugh Coll, who made Trojan efforts on behalf of that inquiry, told me that cooperation was forthcoming from the vast majority of members of An Garda Síochána interviewed. However, a number, I am forced to note, were completely uncooperative. **The Tribunal regards it as unacceptable that members of An Garda Síochána cannot be obliged to immediately give an account of their duties to a superior officer upon being asked. Thirdly, the Tribunal regards with disquiet the promotion to senior ranks of persons who were unwilling or unable to give to their vocation the energy and aptitude that it demands.**
- 1.44. The public are entitled to have confidence in An Garda Síochána. The men and women serving in a police force are entitled to have their efforts deployed in a disciplined manner directed by officers with qualities of leadership. This alone will restore public confidence in An Garda Síochána. As the work of the Tribunal proceeds in other important modules of the Terms of Reference, further express recommendations will be made. I regarded it as important to clear up the facts as to this Term of Reference as a matter of urgency. Other recommendations are also made.

- 1.45. In this regard, the Tribunal notes that it was necessary for counsel to the Tribunal to call and to examine in detail a great many witnesses who would otherwise not have been necessary had not the enquiries of the Tribunal been met with a blanket denial in respect of those suspected of corruption and a series of evasive and unhelpful answers by those who have been found to be negligent.

The Tribunal's Plea for Assistance

- 1.46. At the outset the Tribunal determined that it could best achieve fair procedures by assimilating all available information and, having distilled it into manageable proportions, preparing and delivering an opening statement outlining the work of the Tribunal. This was an attempt to identify the salient features which emerged from the assembled information. Having done so, the documents relevant to each party involved were circulated and these parties were invited to deliver any statement which they wished and to respond in such a way as it seemed to them to be appropriate to the opening statement.
- 1.47. The Tribunal can best describe the response to the opening statement as unsatisfactory. By far the biggest response was from members of the public requesting that the Tribunal look in to complaints of what they perceived to be improper Garda conduct, which fell outside the Tribunal's Terms of Reference. However, some statements were furnished which were of relevance to the Tribunal's work. With the exception of a few replies, virtually no realistic response was received from members of An Garda Síochána in the Donegal division, past or present. In the hope of obtaining help from these Gardaí whom, it was felt, must have information which would be of assistance to the Tribunal, a circular letter was sent by post to all past and present serving members of the Gardaí in the Donegal division suggesting that they cooperate with the Tribunal by furnishing a statement of any information which they considered to be of assistance to the Tribunal's work. Of the several hundred letters sent, the Tribunal received very few replies. In practically no case was any relevant information furnished. The bulk of the replies were negative.
- 1.48. A further letter was sent to the same persons in early 2003. This time the Tribunal request for assistance was couched in more positive terms. It was requested that each Garda member would identify each Term of Reference and respond either positively or negatively to each of these. If he or she felt that there was information available to the Tribunal, it should be given. Again, with the exception of some officers, the response was negative.
- 1.49. The Tribunal regrets that it must report that their disinclination to volunteer information by members of the Gardaí has been carried through into the

Tribunal's hearings. A phrase was used by Garda Martin Leonard which has struck a chord with the Tribunal. He said, in effect: "you don't want to hang your own". It was clear that this ethic was active among many witnesses in order to prevent the Tribunal making headway. This caused a terrible waste of valuable and expensive time. It has been, and remains, the belief of the Tribunal that many Gardaí who appeared before it have comprehensive information which would be of assistance to the Tribunal which they have declined to give. They frequently sheltered behind what I felt compelled to call 'the trigger syndrome'. Provided counsel for the Tribunal is inspired to ask precisely the question that will ignite the item of information, then that piece of information will be revealed and disclosed. If counsel is not so inspired, that information will remain undisclosed. Asking such people for assistance in terms of a general narrative on a particular issue evokes no useful response.

- 1.50. Moreover, the Tribunal is satisfied that information has been deliberately withheld by Gardaí and that efforts have been made by them to shelter behind 'Garda speak' in order to avoid giving this information. By the term 'Garda speak' is meant the practice which the judiciary have witnessed in the Courts for many years whereby Gardaí in the witness box will parry and fence with counsel in a well-recognised choreography to avoid answering counsel's question.
- 1.51. Given that this reluctance to confront the truth was recognised by the Tribunal it was in many cases available to the Tribunal to draw appropriate conclusions from the factual background to this case.
- 1.52. The habit of lying was not by any means confined to the Gardaí. Civilian witnesses resorted to the practice to advance the interests they represented. Having identified the stark reality that a piece of evidence was a lie it was possible for the Tribunal to move forward from that point.

Assistance

- 1.53. The Tribunal directly sought the assistance of the Commissioner of An Garda Síochána, the Department of Justice and a number of foreign police services. The Tribunal is happy to report that it received cooperation from all of these bodies. In particular, the Garda Commissioner appointed Superintendent Terry McGinn to liaise with the Tribunal and to assist in the furnishing of all relevant documents and information which might be of assistance to the Tribunal in pursuing its enquiries. Everything which the Tribunal asked for through Superintendent McGinn was furnished promptly. Every enquiry that was made by the Tribunal resulted in proper efforts being made, both within Garda Headquarters and in relevant Garda divisions, to uncover relevant information, insofar as that was possible.

- 1.54. The current Garda Commissioner gave evidence which the Tribunal regards as candid and helpful. Mr. John O'Donoghue, T.D. and Mrs. Nora Owen, both former Ministers for Justice,⁶ gave evidence to the Tribunal which was helpful in assisting the Tribunal's enquiries. A number of other former Ministers for Justice were also interviewed as were officials in the Department of Justice, Equality and Law Reform, the Attorney-General's office, the Director of Public Prosecutions and the Deputy Director of Public Prosecutions. Counsel also spent, between them, a number of weeks in Garda Headquarters. They were given reasonable cooperation. The cooperation of these institutions and individuals stood at times in marked contrast to the extensive time spent during Tribunal hearings in attempting to obtain the truth from some former members, and some serving members, of the Gardaí within the Donegal division. This criticism is not intended to be taken as general. Where a lack of candour and truthfulness has been identified in a witness, then same will be noted in the body of this report.

The Carty Investigation

- 1.55. The Tribunal commenced its work by hearing the evidence of Mrs. McMahon and Ms. McGlinchey together with their supporting or secondary evidence. This necessarily open procedure involved hearing evidence which was more reminiscent of the evidence to be heard in matrimonial litigation than that to be heard in a Tribunal of Inquiry. Having emerged from this area, the Tribunal was also required to attempt to address Ms. McGlinchey's status. That is to say to determine whether she was a Garda informer or not. The necessity to do so arose from one of the basic points raised by Superintendent Lennon and Detective Garda McMahon, namely that Ms. McGlinchey was a bona fide, 'Provisional IRA' informer and everything that they did was done in the furtherance of obtaining valuable information from her, or the hope of even better information being forthcoming.
- 1.56. Having passed from this segment of the Tribunal's inquiries, it embarked upon a detailed examination of each of the finds referred to in the Terms of Reference, together with numerous other incidents which help to throw light on the position which obtained in relation to the Gardaí at the relevant time.
- 1.57. A comparison was made of the manner in which incidents (both finds and other events) were dealt with in the Donegal division at the relevant time and established correct procedures. From the foregoing, adherence to and departures from correct procedures were identified which gave assistance in reaching conclusions. Finally, a review of the management structures at the relevant time was undertaken.

⁶ The current correct name is the Minister for Justice, Equality and Law Reform. By reason of the prior changes of name, a short reference to the Department and the Minister is generally made in this report whereby they are called the Minister for Justice and the Department of Justice.

- 1.58. The concluding chapters of this report summarise the conclusions which the Tribunal reached and the recommendations which it makes for the Minister's consideration. I am bound, in giving my opinion as to the matters in question, by the standard of probability. I am entitled, in approaching this matter, to set out my views in terms of the certainty of my mind either achieving probability in favour of or against a proposition, or of a higher standard of certainty. From time to time, when a higher standard than probability is achieved, I indicate my view.
- 1.59. The Carty Team completed its report on these matters and submitted it to the Commissioner and to the Department of Justice. However, a shadow was cast across the validity of this report as a result of alleged communications allegedly made by persons to (then) Deputy Jim Higgins, T.D., the Fine Gael spokesman on Justice and to Deputy Brendan Howlin, T.D., the Labour spokesman on Justice. The allegation, if correct, would support the view that the Carty Report was not to be relied upon by reason of the allegation that senior officers of An Garda Síochána, in the interests of self-preservation, would falsify the report's findings. A specific Term of Reference has been referred to the Tribunal on the issue of the independence of the Carty investigation, which is Term of Reference (h). This was but one criticism of the report. A second criticism of the report was that since the original remit of the Carty Team was to examine the quality and validity of the work of the Gardaí that investigated the death of Mr. Barron, the Carty Team should not in these circumstances include any members of the original team who carried out the investigation into Mr. Barron's death as they would in effect be investigating their own work. Some few members of the Carty Team were in fact among the original 'murder' investigating team. The Tribunal has examined the role which these officers played in the Carty investigation. I am satisfied that while it would have been desirable to avoid using the same officers for the Carty Inquiry, however insignificant their part may have been, no impropriety whatsoever has so far been uncovered because of the limited duties allocated to these members.
- 1.60. Throughout the hearing, Superintendent Kevin Lennon has argued that the accusations made against him are based on malice. He has stressed the meeting between Chief Superintendent Denis Fitzpatrick and Mr. Patrick Dorrian, solicitor, which occurred on the 22nd of March 1999. Mr. Dorrian gave evidence that a series of meetings occurred between himself and Superintendent Tom Long, which were designed to persuade him to seek a judicial appointment. These were followed up by four meetings with Chief Superintendent Fitzpatrick, in similar terms, the net effect of which were to urge him to submit a late application in 1999 for a then vacant Circuit Court judgeship.⁷ Chief Superintendent Fitzpatrick, however, gave evidence to the Tribunal that substantially accorded with the

⁷ Transcript, Day 163, pages 2-16, Day 165, pages 141-189.

interview that he had given to the Tribunal investigators. His position was that the meetings were initiated by Mr. Dorrian and that a range of topics were discussed, the most important of which concerned the conduct of Superintendent Kevin Lennon. Specifically, the recollection of Chief Superintendent Fitzpatrick was that Mr. Dorrian had told him that a number of finds of explosives and munitions belonging to the 'Provisional IRA' had been sourced by Superintendent Lennon in order to illegally hold bomb-making equipment so that it might be later planted, for discovery, at other locations. The purpose of this activity, it was clear, could only be to engage in false discoveries for the purpose of enhancing his own reputation. Specific mention was made of a find at Manorcunningham and a find at the Five Fingers Strand⁸. Instead of taking out the files in relation to these Garda investigations, or otherwise pursuing his own enquiries, Chief Superintendent Fitzpatrick reported these allegations to Garda Headquarters. The Tribunal accepts that Chief Superintendent Fitzpatrick told the truth as to the import of his meetings with Mr. Dorrian and rejects the evidence of Mr. Dorrian. The matter cannot, however, pass without a comment. All of these allegations were trumpeted in the national and local newspapers as allegations of apparent fact.⁹ Superintendent Lennon has made the point that the repetition of these assertions against him was both hurtful and damaging. The Tribunal cannot make any definitive finding as to who the source of the false information passed to the newspapers was, but it is impossible to believe that it was anyone other than a member of An Garda Síochána. Chief Superintendent Denis Fitzpatrick reported the matter to Garda Headquarters as a piece of information which came to him from a source. In the view of the Tribunal it was negligent for a report of this kind to be made by Chief Superintendent Fitzpatrick without any attempt having been first made by him to check any of the facts. The Tribunal regards this as a matter of serious carelessness but does not find that he acted maliciously.

- 1.61. A third complaint was that the Carty Team were activated by malice and prejudice against Superintendent Lennon as it was he, Superintendent Lennon, who had criticised the work of his colleagues who had investigated the death of Mr. Barron. He criticised their work in comprehensive terms and it was alleged that this had built up a resentment towards him. In these circumstances it was suggested that an element of revenge might have existed among the Carty Team.¹⁰ The Tribunal rejects those criticisms. From the point of view of perception, however, those re-investigating the Barron investigation would better have not been personnel originally involved. This was a matter of perception only. The Tribunal is satisfied that the Carty Team set out to do a professional job and pursued their investigation thoroughly. This report does not comment beyond

⁸ Transcript, Day 114, pages 72-95, Day 115, pages 3-24.

⁹ A series of extracts from newspaper articles appear in Tribunal documents, pages 4999-5004.

¹⁰ See cross-examination of Chief Superintendent Denis Fitzpatrick by Superintendent Kevin Lennon at Transcript, Day 115, pages 22-39.

that on the Carty Report. The hearings of this Tribunal were not an appeal from the Carty Report. The Tribunal was completely independent and answerable only to the Oireachtas.

- 1.62. It was in all these circumstances that the then Minister for Justice, John O'Donoghue, T.D. determined to obtain the opinion of Senior Counsel Shane Murphy. On the 30th of January 2002 Shane Murphy advised the Minister of the necessity to establish a Tribunal of Inquiry to examine and report on designated matters, among them Paragraph (e) in respect of which this report is now tendered.
- 1.63. The Tribunal feels that before commenting on the evidence in detail it is important to designate the more important individuals involved in the Inquiry by reference to a brief note on their backgrounds.

CHAPTER 2 THE PERSONNEL INVOLVED

2.01 Before moving into the particularities of the events in question a brief outline should be given of the background of the main persons whose conduct has been called into question as a result of the investigations of the Tribunal into this paragraph of its Terms of Reference. This short outline is confined to basic facts only.

Superintendent Kevin Lennon.

Kevin Lennon became a Garda in June of 1975 in Buncrana. He stayed there up until June of 1983 and then moved to Burnfoot where he was a Sergeant. In May of 1986 he became a Sergeant in Letterkenny. In March of 1992 he became an Inspector and moved to Buncrana. In January of 1993 he moved back to Letterkenny. On the 18th of May 1993 he became a Detective Inspector and on the 7th of February 1996 he became a Superintendent.

Detective Garda Noel McMahon.

He started his service in the Special Detective Unit in Dublin and stayed there up until June of 1986 when he moved to Letterkenny. From October of 1987 he was in Buncrana. Following difficulties, perhaps explained by Sergeant Jim Leheny, he was moved in June of 1997 to Letterkenny.

Sean Ginty.

Sean Ginty joined An Garda Síochána in 1957. He served in various stations around the country during his career. He was promoted to the rank of Chief Superintendent on the 17th of April 1984, and served in Tralee, Co. Kerry until his transfer to Letterkenny on the 21st of July 1987. He took up U.N. duty in Cyprus on the 11th of June 1994 and retired on the 18th of June 1995. He was succeeded as Chief Superintendent in Letterkenny by Denis Fitzpatrick.

Chief Superintendent Denis Fitzpatrick.

Denis Fitzpatrick joined An Garda Síochána in 1972. His early service was in Dublin and Mayo. He was promoted to the rank of Sergeant in 1983, serving for a year in Muff, Co. Donegal. He returned to Mayo division in 1984, and served there until his promotion to the rank of Superintendent in 1992. He took up duties as the Superintendent in Letterkenny Garda Station on the 4th of August 1992. He was further promoted to the rank of Chief Superintendent in Letterkenny on the 4th of August 1994. He was transferred to the Garda National Traffic Bureau in Garda Headquarters on the 10th of August 2000.

Superintendent John P. O'Connor.

John P. O'Connor joined An Garda Síochána in 1967. He transferred to Pettigo, Co. Donegal on promotion to the rank of Sergeant in 1973, before filling a vacancy in Letterkenny two years later. He was promoted to the rank of Inspector in 1986, and was transferred from Letterkenny to Bunrana on promotion to the rank of Superintendent on the 4th of August 1992. He transferred to Tralee, Co. Kerry on the 22nd of February 1996.

Superintendent John J. Fitzgerald.

John Fitzgerald joined An Garda Síochána in 1965. He served at a number of stations in the Sligo/Leitrim division before his transfer to Bunrana, on promotion to the rank of Inspector, on the 17th of August 1989. He was transferred to Letterkenny on the 4th of January 1990, and retained there on promotion to the rank of Superintendent on the 10th of March 1992. He transferred back to the Sligo/Leitrim division to fill a vacancy in Manorhamilton Garda Station on the 5th of February 1997, and is presently based in Sligo Garda Station.

Michael Duffy.

Michael Duffy joined An Garda Síochána in 1959. He served in Ballyshannon Garda Station, Co. Donegal from the 2nd of June 1981 until his retirement on the 28th of June 1998. He was promoted to the rank of Superintendent on the 29th of November 1989.

Inspector Patrick J. McMorrow.

Patrick McMorrow joined An Garda Síochána in 1972. He served in the Cavan/Monaghan division, before being transferred to Bunrana, on promotion to the rank of Inspector on the 18th of May 1993. He transferred out of the division on the 22nd of February 1996 and is now stationed in Monaghan.

Commissioner Noel Conroy.

He was Chief Superintendent in Crime & Security from the 11th of February 1992 to the 3rd of June 1994. He then became Assistant Commissioner in 'B' Branch (Personnel) and then became Assistant Commissioner in Crime & Security on the 1st of November 1994 where he stayed until the 21st of July 1996. He then became Deputy Commissioner. He became Commissioner in September of 2003.

Adrienne McGlinchey.

Adrienne McGlinchey was born on the 12th of June 1965 in Letterkenny. Throughout the entire of the matter under investigation her family home was at

Ashbrook, Port Road where she resided with her mother and sister. She comes from a family of two boys and three girls and is single. Apart from being at school, it appears that she spent her early life assisting in the family's restaurant business where family tradition necessitated application to hard work. Her mother and father separated during the 1980s. Adrienne McGlinchey left school and after a period of time in London, she returned to Donegal where she worked in a number of different occupations before returning in order to earn her living in the family restaurant at Port Road in Letterkenny. On the 8th of July 1991 she was arrested under Section 30 of the Offences Against the State Act, 1939, as amended. As a result of this a family disagreement ensued between herself and her mother. This led to her leaving Letterkenny and moving to Buncrana for a period of approximately three years. A family disagreement followed her move to Buncrana due to the allegation that she was engaging in unauthorised use of a chequebook, or was using an account that was not cleared for her use. Whatever difficulties existed, a reconciliation seems to have been affected, at least partially, by Christmas of 1991.

Yvonne Devine.

Yvonne Devine was born on the 13th of March 1975 in Letterkenny. She is thus ten years younger than Adrienne McGlinchey, whom she first got to know through working in her restaurant in Letterkenny. It appears that she left her family home in October of 1990 and formed a friendship with Adrienne McGlinchey that lasted over the next four years approximately. Through no fault of Yvonne Devine's, her uncle is Pierce McAuley, who escaped from Brixton Prison in 1991 and is currently serving a prison sentence in respect of the manslaughter of Detective Garda Jerry McCabe in Adare in 1996.

Sheenagh McMahan.

Sheenagh McMahan was born on the 1st of September 1960 in Buncrana. Mrs. McMahan's father, and her sister, were at the relevant time both practising solicitors in Buncrana. Having met Detective Garda Noel McMahan, the couple married in 1981. Unfortunately, their married life was unhappy due to a combination of circumstances, some of which were completely outside their control. A child of theirs died in 1990, a situation which caused enormous suffering to the couple. On the 9th of June 1995 Sheenagh McMahan applied for and obtained a barring order against her husband by consent at Merville Courthouse. Both parties spent some time in St. Patrick's Hospital for alcohol related treatment during that year. It would appear that both parties were back living together by the end of 1995. It would appear that both parties fell out a number of times in the following years involving one or other party temporarily

leaving the family home. The family sold their house in Porthaw, Buncrana when Detective Garda McMahon was transferred to Letterkenny in 1997. The Gardai were called to a number of incidents of domestic violence at the end of 1998 and the beginning of 1999. Mrs. McMahon had her first dealing with the Carty team in March of 1999. She withdrew a statement to the Carty team on the 9th of July 1999. For a short time then herself and her husband were reconciled and lived together. Mrs. McMahon had a further period of residential treatment from the 20th of August 1999 until the 10th of November 1999. On the 2nd of December 1999 she reinstated a statement to the Carty team which she had previously withdrawn. The McMahons were judicially separated in January of 2000.

CHAPTER 3 POLICE PROCEDURES AND STANDARDS

Expert Evidence on the ‘Provisional IRA’

3.01. In the context of a crime, explosives are manufactured for the purpose of causing death, terror and the destruction of property. The organisation in question, the self-styled ‘Provisional IRA’, which conducted a terror campaign up to the ceasefire which was called on the 31st of August 1994, with a further breach of that ceasefire and its re-institution later, used explosives of various kinds. On the evidence before me the kinds of explosive in use included semtex, gelignite and homemade explosives. That terror organisation was also armed with the munitions of a professional army. These are distinct from sporting weapons which are used to kill vermin or wild animals. The .22 bullet, for instance, had historically been found in a number of locations associated with training camps. By the 1990s, the period in question here, the ‘Provisional IRA’ had become equipped with man-killing weaponry. In the course of his evidence Detective Inspector Brendan McArdle gave the following testimony to the Tribunal:

... the IRA from the ... mid-70s, early 70s ... was largely supplied from American sources and the famous Armalite ... became a feature. It was noted that they had sufficient numbers of Armalites. The Armalite fires around .223 or 5.56 millimetre. At all times probably the IRA had adequate firearms; definitely from 1973 on. Approaching the 80s and sometime after the hunger strikes of the 1980/1981 era, they then sourced their munitions from Colonel Gaddafi in Libya and the shipments that came then in the mid-80s came with Kalashnikovs and the weapons that are being destroyed now in decommissioning are largely this part of this excess amount of weapons recovered. In other words ... they always had military assault rifles, as distinct from .22 sporting weapons.¹¹

3.02. Detective Inspector McArdle was also of assistance in relation to the apparent finds in this case. These consisted, in the main, of crushed agricultural fertiliser mixed with another substance, or associated with another substance, such as sugar or diesel oil. The ready availability of these materials led the terror organisation to use them to create large explosions. Homemade explosives were used in the terror campaign with a booster charge of commercial explosives and a suitable detonator. The Tribunal is satisfied from the evidence that these kinds of explosions were caused by the ‘Provisional IRA’ into the 90s and during the

¹¹ Transcript, Day 93, page 94. It should be noted that quotations from the transcript have been checked against the Tribunal’s notes. Spelling, punctuation and grammar have occasionally been corrected to allow the sense of a passage of evidence to come through.

period in question. Therefore, the recovery of similar materials by the Gardaí might naturally have led to the initial inference of the involvement of the 'Provisional IRA'. This kind of explosive substance is usually referred to by the shorthand ANIS. This stands for "ammonium nitrate icing sugar". Ammonium nitrate is mixed with a percentage of sugar. In order to react, the ammonium nitrate must be crushed. Fertiliser usually comes in slow-release pebbles that are spread on land in that form. Powdered nitrates are what are required for bombs. In country areas this crushing process was done using agricultural crushers powered by a motor commonly run off the electric mains or, more usually, by power taken from the shaft of a tractor.¹² The Ballistics Section of An Garda Síochána has, in addition, come across coffee grinders. These, however, are not the kind of domestic coffee grinders that one might find in anyone's flat or home. The coffee grinders associated with this kind of material would be commercial, wholesale or retail coffee grinders.¹³

Police Procedures and Standards

3.03. The Garda Síochána in the Donegal division are a body of professional men and women. They act on the basis of their training to enforce the law while, at the same time, respecting it. There is inherent in the investigation of crime, and in dealing with situations pertaining to crime, both a recognised code of conduct and a professional discipline. It would not be correct to embark on any criticism without laying the groundwork, which has been put before me in evidence, as to the standards of professional police conduct which are applicable. These matters come into focus at this point for two reasons. Firstly, professional standards and practices operate as a template against which some of the events in Donegal may be judged. Secondly, insofar as an unjustifiable departure from these standards and practices is shown, in respect of any particular incident, then same must be explained. The fact that the same people are found to have responsibility in respect of a number of disparate incidents may give rise to inferences. Where a very bad mistake was made in respect of one event, negligence may be an appropriate explanation. Where the events in question, however, multiply to several, all of which have their origin in the same people, then the accumulative pattern of evidence may point towards corrupt practice.

3.04. It was therefore important for the Tribunal to have available expert testimony as to the manner in which the internal practice, tradition and training of An Garda Síochána dictates how an investigation in particular circumstances should be conducted. The Tribunal was not content to leave the matter at that level. Since it was entirely possible that the standards of An Garda Síochána either deviated from, or fell below, international standards some further expert assistance was

¹² Transcript, Day 93, page 96.

¹³ Transcript, Day 93, page 96.

needed. An international perspective was provided by Chief Superintendent Brian Steele Garvie of the Royal Canadian Mounted Police. His evidence was of great assistance. That evidence was not challenged in any respect by counsel on behalf of the Garda Commissioner.¹⁴ Counsel for the Commissioner accepted the evidence in its entirety.¹⁵

- 3.05. From within An Garda Síochána a number of Detective Gardaí, and Detective Sergeants, have in the course of their evidence given helpful comments on the standard procedures which are in place with a view to ensuring the integrity of an investigation and its proper disposal. In addition, I have had the benefit of the evidence of Inspector Michael Finan;¹⁶ Detective Inspector McArdle of the Ballistics Section;¹⁷ Superintendent Hugh Coll;¹⁸ and Detective Superintendent Tadhg Foley.¹⁹
- 3.06. This internal Garda evidence, and external expert evidence, was directed to two issues. Firstly, the proper way to conduct an investigation where a potential explosives find was concerned. Secondly, comments were made on the correct way to handle sources of information in a police context.

Hiding Explosives

- 3.07. The 'Provisional IRA' pursued their terrorist activities in a structured way. First of all, they recruited personnel. Secondly, they planned terrorist operations. Thirdly, they gathered together the materials necessary for the pursuit of murder and destruction and fourthly, they executed criminal deeds. Since weaponry was necessary, and since that weaponry was unlawfully in their hands, it was necessary for them to hide munitions away from the enquiries of An Garda Síochána and the eyes of the general public. The Tribunal received much useful evidence on the activities of the 'Provisional IRA' and their typical behaviour in the context of the construction and maintenance of hides of munitions. As in most aspects of life, the behaviour of terrorist organisations can be regarded as typical, but only to a degree. Clearly, a terrorist organisation has the advantage of secrecy. Because its object is the spreading of terror, its targets are often too random to be predicted.
- 3.08. The Tribunal is satisfied, on the evidence, that it made sense for the 'Provisional IRA' to prepare bombs for use and to leave them for collection in the short term by their operatives intent on a criminal enterprise. In the longer term, materials that might be made up into a bomb had to be hidden in long-term hides. It was usually the case that both forms of hides would be placed in a situation where

¹⁴ Chief Superintendent Garvie's evidence appears in Day 95 in its entirety and Day 96 through to page 32.

¹⁵ Transcript, Day 96, page 22.

¹⁶ Transcript, Day 93, pages 9 to 79.

¹⁷ Transcript, Day 93, pages 80 to 98.

¹⁸ Transcript, Day 93, pages 90 to 154, Day 94, pages 87 to 174, Day 96, pages 34 to 159 and Day 97, pages 3 to 98.

¹⁹ Transcript, Day 97, pages 100 to 138.

they were not subject to the likelihood of spontaneous discovery. It made little sense for a terrorist organisation to place munitions into the farm outbuildings of an 'unsympathetic' farmer who might discover them in the ordinary course of his or her business. It also made sense for them to place their hides away from the public gaze so that their operatives could come and go as they pleased without the obvious danger of detection. A hide by the side of a main road would not make much sense, in that context. In remote areas there would usually be some 'sympathiser' in the vicinity of a hide to note, and report, unusual activity. This was not invariably the case. Useful evidence on the activities of the 'Provisional IRA' was given by Chief Superintendent Tom Monahan. He dealt in particular detail with the use made by the 'Provisional IRA' of transit hides, which were short-term places for the storing of munitions. As to the kind of places that might be used, he said:

It would be some place that would be convenient probably to a roadway, it would be dry, it would be secure but it would still be off the beaten path as such. And some place again ... that would be under some level of control by the IRA or some of their people. And it would be a very short-term situation with a bomb made up maybe. It may be in a vehicle that would be parked in a shed or it may be in a beer keg, or prior to that you had milk churns, which were very commonly used back in the seventies and eighties, and you might have a number of these made up with the explosives material all in situ, ready to be primed and a timing device attached to it. So they would be very short-term hides ... If the materials hadn't been mixed it would be a long-term hide, in my view. If they were mixed and ready for priming, with a timing device and a detonator, that would be a transit hide. The actual mixing of ... the homemade explosives took some time and it took space because of the quantities involved. You would have to mix it almost akin to mixing cement with a shovel or else using a small cement mixer to get the ingredients properly mixed ... So if they weren't put together, if the homemade explosive wasn't mixed with either fuel oil, which is the ... ammonium nitrate fuel oil ingredient, or with sugar, or with nitrobenzene, there were three or four ingredients that were utilised by the IRA ... if they weren't in some container to be used to convey the bomb, it was normal they'd be either in a vehicle or in a beer keg, a creamery can or something of that nature. Sometimes very large bombs were found to fill a whole tractor-trailer maybe of four or five drums, oil

*drums maybe. But if they weren't, if the HME wasn't made up and contained in some container like that then it would take some considerable time to get that process ready.*²⁰

- 3.09. In the light of all the evidence heard by the Tribunal, and in particular of the expert assistance given by Chief Superintendent Monahan, quoted above, the Tribunal became sceptical as to the 'Provisional IRA' hiding material a few yards off the main road between south and north Donegal at Ardchicken in November of 1993.²¹ The Tribunal also regarded it as utterly unlikely that materials would be placed in farm sheds, then actively in use, at Rossnowlagh in July of 1994. It was also peculiar, in the context of the Oatfield and Covehill finds of June of 1994, that materials would be left in what had variously been described as holdall bags and cardboard boxes, practically by the side of the road and adjacent to a factory premises. The failure to ask appropriate questions, and to pursue them to their logical conclusion, is a recurring fault of senior management within the Donegal division.

Subversive and Ordinary Crime

- 3.10. A distinction has been sought to be drawn by some witnesses between ordinary crime (murder, rape, drug trafficking etc.) and subversive crime. The Tribunal is satisfied that while there are some distinctions, the similarities between the two types of crime are such that common principles must be seen to apply in terms of their investigation. Forensic procedures are common to both, surveillance may be considered as an option in respect of both and both need to be thoroughly investigated. Organised crime can be for profit or the imposition of political structures through terror. Whether it be one or the other, however, it is vital to try and uncover information as to the personnel involved, to check clues as to their identity with existing records, to debrief informers and to pursue all possible lines of inquiry with a view to uncovering information of a quality that can empower law enforcement agencies to pursue those involved in any form of crime. The Tribunal is satisfied that where a Superintendent is appointed over a district, he or she assumes the responsibility for all of the activities of the men and women under their control. It does not matter whether they are dealing with subversive crime or ordinary crime. The responsibility of the district officer remains the same. They may, of course, consult with their Chief Superintendent or call in the services of the Border Superintendent but the availability of these resources does not lessen their responsibility. In that context, the attempt to draw such a distinction made by Superintendent John P. O'Connor, to distance himself from the responsibility which he had over the Buncrana district at the relevant time, the Tribunal found to be disingenuous.

²⁰ Transcript, Day 164, pages 13-15.

²¹ Note that the road is now realigned so that the main traffic does not have to go through Donegal town.

The Crime Scene

- 3.11. A find of contraband material gives rise to almost automatic reactions by any police force. In addition, the crime investigation manual of the Garda Síochána is instructive as to the basic steps which ought to be taken in these circumstances.²² The Tribunal is satisfied that a find of explosives requires that the area should first of all be protected. Two purposes are served here. Firstly, suspected explosive material, which might otherwise be moved and utilised for an imminent act of terror, is neutralised through a Garda presence. Secondly, the integrity of the scene is preserved. This is done in order to allay the fears of a judge or jury that forensic evidence uncovered at the scene has resulted from tampering while it was unguarded. It removes the possibility of interference by unauthorised or unqualified personnel. The principle is that a major crime scene should be subjected to steps which neutralise the danger of material there being used for crime and which protects its integrity for the purpose of later investigation and trial.
- 3.12. A crime scene is a fertile source of potential evidence. This can be yielded by way of trace elements, of fingerprints and of other larger clues such as clothing or footprints in the mud. DNA trace evidence may even have a bearing where there has been body contact, for instance where an envelope has been licked. Where people are arrested on a reasonable suspicion of being involved in a crime, they should be tested forensically. This can involve taking DNA samples, clothing and hair analysis samples and removing trace elements from, for instance, under the fingernails. The results can be compared with evidence gathered at the scene or from other sources. Clearly, no such step can be taken without a point of reference, namely the scene, being first thoroughly investigated.²³ At a minimum, the integrity of the crime scene must be preserved and consideration must be given to a detailed forensic examination. Where prisoners have been taken in the course of a search, or if there was prior intelligence, the expected level of detailed forensic examination is a prelude, in good police operations, to an effective interrogation, or, in the case of intelligence, to a review of the trustworthiness of a source. Assistance was again derived by the Tribunal from the evidence of Chief Superintendent Tom Monahan:

Over my period, my experience on the border is that in visiting scenes of crime and where material may or may not be found, you would always know instinctively if trace evidence was likely to be easily found at that location or whether the circumstances of where the material was stored was likely to make that difficult, if not impossible. And I instance the find in which a device was used by the IRA from time to time, which was burying a plastic drum of

²² Evidence of Detective Superintendent Tadhg Foley, Day 97, page 104.

²³ Evidence of Detective Superintendent Tadhg Foley, Day 97, pages 101-129.

the fruit container type, with screw on caps, in the ground, are used extensively at various times by the IRA to conceal weapons or explosives or ammunition and that, and with the passage of time, depending on how long it was concealed, it might start to condense or weep inside and it would be very wet. It made it quite difficult to find trace evidence in these circumstances. If it was indoors, the situation was certainly different. If it was dry and it was stored in relatively good conditions, the chances of finding trace evidence and success was better.²⁴

- 3.13. Since the finds at Rosstown and Ardchicken were made in relatively good conditions the failure to pursue forensic examination, in the context of checking through the intelligence material supposedly available from Adrienne McGlinchey, is inexplicable. The fault in this regard rests with the senior officers involved. The finds at Covehill and Oatfield were treated in such a bizarre way, in the context of what might be expected, as to be a grade even beyond extreme negligence.

Fingerprints

- 3.14. One of the most vital tools of police investigation since Victorian times has been fingerprint evidence. Good Garda practice therefore dictates that a crime scene should be thoroughly examined for fingerprints. If necessary, this can be done by dusting. In the case of plastic, a material associated with many of the finds, possible sources of fingerprints can be sent to Garda Headquarters for treatment by machinery available there which can result in the development of prints. Not every scene needs to be examined for potential fingerprint evidence. If an allegation were made, for example, that an accused may have used a public phone, readily accessible to all, then the presence of his fingerprint in the days or weeks following a crime might be of very little, or no, significance because he, like any other member of the public, might have used that phone booth at any time. On the other hand, the packing of explosive material into clear plastic bags, the transportation of those bags to a rural location and their storage in an isolated house can, if a fingerprint is yielded, give rise to a compelling inference of involvement by a suspect.

Munitions

- 3.15. Where guns or bullets are found, good police practice indicates that these should be recovered, recorded as to numbers and any other identifiable marks, photographed and sent to Garda Headquarters for testing. Again, fingerprint evidence may be yielded. The test firing of guns with appropriate ammunition may yield patterns on the bullets which might be compared to other munitions

²⁴ Transcript, Day 164, pages 9-10.

recovered at incidents elsewhere. No rifles were found in the context of these alleged finds in Co. Donegal. However, a number of finds of ammunition occurred in a context where certain basic steps could have been taken but were not.

- 3.16. The integrity of a crime scene can only be preserved for a relatively short time. The investigation of crime involves its disturbance. Hence, the appearance of a Garda photographer and the ability of such a trained person to freeze a scene through photography is an essential element before investigations alter what has been found.

Explosives

- 3.17. Where explosives or drugs are found, samples of these should be taken and passed for urgent analysis to the Forensic Science Laboratory. Such an analysis will confirm the presence or absence of particular drugs and will show the components of alleged explosives in such a way that evidence can be presented in court to form the foundation of a charge. To fail to take basic steps required for proper investigation of an offence puts any potential prosecution in jeopardy. While tons of apparent explosives stored in a remote farmhouse, apparently ready for use, cannot be assumed to be an innocent substance, like a domestic detergent, unless an analysis is done its unlawful nature cannot be proven. It is therefore necessary to take random samples from multiple, but not from every, bag or separated portion of a substance for the purpose of laying the necessary foundations for an investigation and potential charge.
- 3.18. In the case of explosives, a tragic case in the 1980s led to a standard Garda instruction that no suspected explosives of any kind should be brought back to Garda stations.²⁵
- 3.19. That case, which was referred to in evidence, was one where a courageous Garda lost a limb in the context of the presence of explosives in a Garda station. The appropriate procedure, in the case of a suspected explosives find, is therefore to call in the assistance of the Army ordinance officer. He or she, in conjunction with the scenes of crime officer, will ensure that appropriate sampling is pursued, after fingerprinting, trace gathering and photography has been completed. The explosive material is then taken away for destruction.

The Crime File

- 3.20. Garda procedure involves the opening of a file in respect of every crime. An appropriate report should be made to the Superintendent in charge of the district by the officer in charge of the investigation. Where the crime is a serious

²⁵ The relevant circulars have been furnished by Garda Headquarters to the Tribunal. See Tribunal Documents, pages 5598-5600. See also the section on 'Handling Explosive Materials' in Chapter 12.

occurrence, the Superintendent, under the Crime Investigation Manual, assumes responsibility for the investigation and disposal of the investigative file in relation to same and its proffering for decision to the Director of Public Prosecutions.²⁶ There can be no excuse for not making an initial report when a crime is uncovered and commencing the compiling of an investigative file. The evidence of Inspector Michael Finan has been of considerable assistance. His testimony was that in relation to the key incidents mentioned in the Term of Reference, investigation files were not commenced. Certainly, no trace of them can now be found and no evidence has been proffered that anyone ever opened same. The Tribunal is satisfied that it is for the local Superintendent to designate an officer to commence an investigation, to direct jobs to be done by other officers and to begin the compiling of a file. According to Detective Superintendent Tadhg Foley, the relevant person to take charge of an investigation, where he or she comes on the scene and is involved in the investigation, is the district Inspector or the Detective Inspector of the division or, if he or she is not there, the Detective Sergeant associated with the find. Detective Superintendent Foley gave the following evidence:

*At the end, responsibility lies with the district officers, but a Detective Inspector carries a certain responsibility as well and ... [as such] you would be expected to carry out an investigation. You are assigned to the division so therefore you would assist the district officer in compiling an investigation or commencing an investigation ... If I went to a scene [as Detective Inspector] I would commence the investigation myself and assist the district officer. ... Sometimes a Superintendent would direct you to investigate it. If, we say a Sergeant, the Superintendent would direct him to investigate it or the Inspector would direct him to investigate it but as a Detective Inspector you hold a certain rank and he would be expected to assist.*²⁷

The Investigation

3.21. Paramount to any criminal investigation is that there should be an investigation. Police forces exist in order to identify those who are responsible for crime. There can be no rationality to a policy of simply removing the instruments of crime, such as drugs or explosives, and not pursuing those behind such finds. Crime is committed by people. The motivation to kill is more important than the instrument used. Intention is the driving force of criminal conduct. Extraordinarily, in Donegal a policy of removal without investigation operated. This policy was referred to during our hearings as the “hoovering-up policy”. On the evidence,

²⁶ Crime Investigation Techniques Manual, 2nd Edition, Chapter 16, paragraphs 17-23.

²⁷ Transcript, Day 97, pages 116-118.

Donegal was unique in this respect. The Tribunal cannot accept that such a policy conforms to basic professional police standards. As Chief Superintendent Monahan said in evidence:

*... Every scene had a potential to produce trace evidence.*²⁸

- 3.22. It is not enough simply to Hoover up finds without attempting to identify those involved. As was explained, by Superintendent Coll and by Detective Superintendent Foley, it is not the material in itself which causes death and destruction but its use by malicious and evil-minded people. It is vital therefore to commence an investigation with a view to finding out who they are so that knowledge may begin to circumscribe their activities. Superintendent Coll gave the following evidence:

*If there was a bomb factory or finds of that nature recovered ... the scene would be preserved. Depending on the circumstances, surveillance would be carried out in areas of such a find if we had information in relation to such a find to try and establish who was moving, or using the materials to identify the people involved which would be very important. ... More than to try and take out maybe a number of bags of fertiliser that could be replaced fairly easy, it was more important to try and identify the people involved to take those out of commission.*²⁹

- 3.23. The loss of material such as homemade explosives, in itself, would only be a slight blow to a well-organised terrorist organisation. However, the continual loss of material, and the inevitable frustration of what, in genuine circumstances, must have been the preparation of explosives for their imminent use, could be frustrating in both senses of the word. The following up of informers through appropriate debriefing must be a vital step in uncovering information as to who else may have been involved; what plans were afoot and the location and identity of those organising the crushing, preparation and transport of materials. Insofar as it has been alleged in evidence that the Donegal division followed a practice of not investigating but disposing of finds, this does not square with the evidence of Superintendent Hugh Coll who, through wide experience in the Cavan/Monaghan area, indicated that such a practice was never in place during his time in the Detective Branch. That failure is not the responsibility of anyone other than the Superintendents and the Chief Superintendent in County Donegal.

²⁸ Transcript, Day 164, page 12.

²⁹ Transcript, Day 97, page 84. See also evidence of Detective Superintendent Tadhg Foley at Day 97, page 111.

Surveillance

- 3.24. In the context of this report, surveillance is of importance. Any professional judge or practitioner will be aware of a number of cases which were tried before the Special Criminal Court where Gardaí operated surveillance upon a location with the result that persons came there and were caught in possession. An example is *The People (DPP) v O’Neill*.³⁰ A number of accused persons went into a shed located in a remote rural area. After a number of minutes the Gardaí closed in. The door through which the accused had entered had been locked. On realising that the Gardaí had arrived, a shout went up of “we are all caught”. A number of accused persons then jumped over a partition wall, some of them wearing gloves, or having gloves on their person. Behind the partition wall was an area which was full of explosives concealed under agricultural apparel. Firearms were also present in bags or in vehicles in the shed. All of the accused, except for one who gave an excuse of having been called to the location for the purpose of fixing a tractor, were convicted at trial. That conviction was upheld by the Court of Criminal Appeal, and also by the Supreme Court.
- 3.25. Evidence has been given that in rural areas a ‘minder’ is often in place to ensure that any interference with a stash of munitions is notified back to the terrorist organisation. While that may be so, there are circumstances where surveillance might possibly yield at least reasonable results and ought to be tried. Again, the evidence has been that this was not the practice in Co. Donegal. Further evidence, however, from Chief Superintendent Tom Monahan, from Detective Superintendent Tadhg Foley and from Superintendent Hugh Coll indicates that there are instances where surveillance should at the very least be considered where the locations are suitable. In this regard, we quote the evidence of Chief Superintendent Monahan:

Certainly, surveillance would be very desirable, and indeed feasible in some cases. Sometimes it would be difficult in rural Ireland. The IRA had, we discovered over a period of time that they had – when you would analyse where something was found you would very often discover that the scene was protected by some of their own friends or they would have somebody living close by or overlooking the site. So surveillance was difficult or could be difficult. But if surveillance was possible and likely to produce results, then certainly it would be the way to go with it in order to get some people associated with the materials and get sufficient evidence to bring charges. It would be part and parcel of normal policing practice and procedures [that would be considered on a case by case basis, depending on the circumstances]. ... Certainly, if

³⁰ Court of Criminal Appeal [21 December 1994].

*you found a primed bomb, say, hidden in what we used to term transit hides, you would be fairly confident that somebody was going to pick that up in the short-term and move it on to a target. So the natural thing to do then was to try and keep it under discreet surveillance until somebody came and tried to pick it up and then intercept those people.*³¹

- 3.26. The evidence of Chief Superintendent Martin Callinan, of the Crime & Security Division of Garda Headquarters, was to the effect that security is expensive in terms of manpower. Such resources are limited. However, while I accept that resources are necessarily finite I do not accept that the frequency and magnitude of the finds in Donegal did not justify at least some attempt to consider surveillance. Some of the locations with which we are concerned should at least have been considered for the purpose of a surveillance and entrapment operation. This might be regarded as being particularly desirable where information, or the circumstances surrounding the find, indicated an imminent use of same. The information available concerning the find at Ardchicken, in November of 1993, and that at Rossnowlough, in July of 1994, were prime examples of situations where an entrapment operation through surveillance could have been set up. Instead of appropriate action, that simply was not considered. The fault in this regard lies with the higher officers in the Donegal division.

Informers

- 3.27. An issue which has loomed large in relation to this inquiry has been the relationship of members of An Garda Síochána to their sources of information. Under old Garda manuals, the word informer was differentiated from the word informant. The former seems to have meant a casual passing of information from a person who might have knowledge of a crime, whereas the latter seems to have referred to a person communicating some form of inside information on a crime. This distinction was not continued in evidence or in submissions on the part of the Garda Commissioner. The words were used interchangeably in the evidence, as they are in the report until we come to the issue of recommendations. A more rational scheme is suggested in this chapter for classified sources of information which is drawn from the Canadian experience. Under the law of Ireland, any citizen can communicate in confidence with a member of An Garda Síochána for the purpose of informing them as to a criminal offence.³² There is a privilege, which exists for the benefit of the informer, against disclosing his or her identity. The information in question, passed on by the informer, should, of course, be investigated. With a view to preserving the

³¹ Transcript, Day 164, pages 12-13.

³² Ward v Special Criminal Court [1998] 2 ILRM 493; DPP v Special Criminal Court, High Court, unreported [13 March 1998] Carney J.

privilege this must be done in such a way that the informer's identity is not revealed. The advice of counsel to the Tribunal is that an informer can voluntarily divest himself or herself of the privilege attaching to confidential communications in one of two ways. Firstly, he or she may, with full knowledge, consent to the waiver of the privilege attaching to the communication. Secondly, where an informer has given a written statement in confidence, to which informer privilege attaches, that privilege can be voluntarily waived through agreeing to become an open witness as to those same facts. Such a waiver would not occur, however, where, for example, an informer makes a witness statement in relation to a different matter.

- 3.28. Some confusion may arise in relation to what is known as the 'innocence at stake exception'. The exception obliges the prosecuting authorities to disclose information which tends to show that an accused on trial is innocent. If the disclosure identifies the informer without his permission, then the case cannot proceed.³³ This was helpfully discussed by the Supreme Court of Canada in the case of *R v Leipert*³⁴ and a quote from that case will help to elucidate the true nature of the principle:

Informer privilege is of such importance that, once found, courts are not entitled to balance the benefit inuring from the privilege against countervailing considerations, as in the case, for example, with Crown privilege or privileges based on Wigmore's four-part test ... The common law has made secrecy regarding police informers subject to a special system with its own rules, which differ from those applicable to Crown privilege ... in summary, informer privilege is of such importance that it cannot be balanced against other interests. Once established, neither the police nor the court possesses power to abridge it. The privilege belongs to the Crown ... however, the Crown cannot, without the informer's consent, waive the privilege either expressly or by implication by not raising it ... This follows from the purpose of the privilege, being the protection of those who provide information to the police and the encouragement of others to do the same. This is the second reason why the police and courts do not have a discretion to relieve against the privilege.

- 3.29. The implied authority to release information on the source of police enquiries through giving an open witness statement on the same issue, in this case to the Carty Inquiry, was considered by the Tribunal with circumspection. The matter has not yet been finally decided. Where a privilege was waived, the Tribunal required a written document to be signed by the person in question.

³³ *Marks v Beyfus* [1890] Volume XXV QB 494 at 498.

³⁴ [1997] 2 LCR 260.

Categories of Assistance

3.30. The Tribunal understands that under the previous Garda training in relation to this matter a distinction was drawn between an informant and an informer. An informer was a citizen who, out of a sense of civic duty, offered assistance to the Gardaí in order to pursue the solving of a crime case. An informant, on the other hand, was someone from within a criminal gang, or close, by way of friendship or blood relationship, to members of a criminal gang, who for their own reasons, not necessarily laudable ones, chose to inform the Gardaí as to the crimes committed, or the plans in hand of that gang, or of an individual criminal. It is probable that this distinction is outdated and it was not consistently referred to in evidence before the Tribunal.

3.31. Much useful evidence as to the current practice in relation to the giving of information to police forces was provided by Chief Superintendent Garvie of the Royal Canadian Mounted Police. The Tribunal is satisfied to regard him as an expert on this issue, and as a person of wide experience. I note that he has given lectures at the Canadian Police College, on a regular basis, and has been involved in the development of in-service training courses on the handling and development of informers. Chief Superintendent Garvie classified sources of information into three categories:

A. It is the duty of a police officer to cultivate on a friendly basis taxi drivers, milk delivery men, people working in restaurants, people working in bars and shops with a view to eliciting information that could potentially be of use in solving a crime case. These would be called 'casual contacts'. A person working in a public place might, in addition to seeing or hearing things that might come to the attention of any other citizen, also have regular, but innocent, contacts with criminals. That person might, through close association, develop into the second classification of 'informant'. Chief Superintendent Garvie said:

The casual contact ... could possibly ultimately be developed into someone that I would consider an informant, where in certain circumstances they may give information, as would anyone else, about again for example the movement of drugs ...³⁵

A casual contact would probably expect to remain anonymous simply by virtue of the position that they might hold and the exposure that they might have to people intent on criminal conduct.

B. The second classification is that of an informant. Chief Superintendent Garvie usefully gave the following description:

... an informant is usually closer to crime and able to provide more direct information about the activities of ... criminals. There are

³⁵ Transcript, Day 95, page 14.

expectations usually from an informant that there would be some type of remuneration or benefit possibly for providing that information. Whether it would be, again, monetary, a reduced charge or some expectation, whereas a casual contact, generally, and on most occasions, would provide that information being a good citizen or an individual willing to help the police.³⁶

An example of an informant would be someone who is a girlfriend of a drug operative. Such a person would be in a position to give information to the police on a confidential basis indicating particular activity on particular occasions relevant to the police enquiries.

C. The third category, recognised in Canada but not so far legally analysed in Ireland, is that of ‘police agent’. Chief Superintendent Garvie provided the following description:

An agent is an individual who, in the role of an informant, takes direction and actually acts on behalf of their [police] handler and in those circumstances I would expect that such a witness would probably be a compellable witness. So, in such circumstances an individual, under proper supervision, although not a police officer, is purchasing narcotics and has received direction with respect to particular targets and it would be expected that individuals subsequently would testify in court with respect to that. And in such cases they may well receive remuneration. In my view such an individual taking that direction as an agent of the police or an agent of the State, would be classified as an agent.³⁷

Informers – Pitfalls and Advantages

3.32. The Tribunal relies upon the evidence of Chief Superintendent Garvie, and upon its own researches, in concluding that without informants the possibility of success in police work would be very much diminished. It is probable that, in common with the rest of society, criminal organisation is becoming more complex. In this country, over the past thirty years, we have seen prime examples of how the organisation of criminal gangs devoted to terror can carry the potential to unleash almost limitless destruction. Similarly, where criminals organise themselves into gangs many of the characteristics of subversive organisations are carried over. Criminals of both kinds operate under the premise that once one is admitted to a gang one has a ‘duty of silence’ towards other gang members and their activity. The breach of that ‘duty of silence’ is regarded as an ‘offence’ of the first seriousness. The penalty, as we have often seen, is

³⁶ Transcript, Day 95, page 15.

³⁷ Transcript, Day 95, page 16.

death by murder. Without persons who are close to criminal gangs, or are actually members of them, being willing to come forward and provide information, organised crime could not be undermined. The maintenance of informer privilege is vital in the struggle against terrorism, organised crime and ordinary crime. The Tribunal notes the setting up of a witness protection programme in the aftermath of two notorious murders in 1996. Perhaps the only way in which informers who agree to become witnesses might be protected is through relocation and new identities.

- 3.33. Informers are therefore vital to police work. However, they are also subject to major pitfalls which, if not guarded against, can both undermine their usefulness and lead to an immense waste of valuable resources. As Chief Superintendent Garvie told the Tribunal:

Informants and agents can be treacherous; they can be distrustful; they can be dishonest; they can utilise their position with the police handlers for their own gain; and generally it is an accepted premise that almost every informant or agent has an ulterior motive ... of some kind.³⁸

Safeguards as to Informers

- 3.34. In Canada there are a number of safeguards in place with a view to guarding against the abuse of informers by police and vice versa. Any member of An Garda Síochána who is to handle an informer should receive specific training with respect to handler relationships and the development of informers.³⁹ There should also be in place reporting by the handler to a superior officer who is both experienced and trained to a higher level. The general principle, operated in Canada, is that a second handler should be assigned to an informer, especially where a member of the opposite sex is involved.⁴⁰ It is to be noted that as regards Adrienne McGlinchey, her immediate handler, Detective Garda Noel McMahon, received no training whatsoever. We understand that none was available at the time. As regards the superior to whom he was reporting, the then Detective Inspector Kevin Lennon, he went on an agents' handler's course in London over four days from the 30th of August to the 3rd of September 1993.
- 3.35. The final safeguard, which is in place in Canada, and was not in place in Ireland at the relevant time, is the use of a formal review process. This involves a senior officer, outside the relationship of handler and supervisor, engaging in an annual assessment of the informer's activities. During the period in question the absence of a review procedure markedly diminished the effectiveness of informer analysis. What might have been possible at that time, but which was not in fact carried

³⁸ Transcript, Day 95, page 13.

³⁹ Transcript, Day 95, page 107.

⁴⁰ Transcript, Day 95, page 109.

out, was a kind of informal review process. This was described by Chief Superintendent Martin Callinan in the following way:

If a situation arose where the level of the information was such that it would require further expertise then I think it would be enquired into. And if the information was such that it required somebody else handling the particular informant other than the person who was doing that, and involved in that exercise, then that's another situation that might be enquired into.⁴¹

- 3.36. In Canada, the formal review process requires that a meeting should be held to assess the informer's credibility. The relevant files and documents should be gone through closely. Issues as to credibility, anonymity and payment should be considered in detail in the context of motivation, usefulness and reliability. This process of gathering information from those close to criminal gangs must be closely controlled. The public are entitled to feel confidence that the structures in place in relation to handling informers are adequate. Again, the evidence of Chief Superintendent Garvie, in this respect, has proved of great benefit:

Q. Why is perception important?

A. Perception is important because if – it simply opens up the opportunities for abuse.

Q. So you are attempting to preserve the integrity of the police process?

A. That is correct.

Q. Right. So people can't make snide comments that might possibly be true?

A. That is in fact correct, yes. There are a number of pitfalls in the use of an informant. One is the lack of experience that results in inappropriate relationships or a relationship that lacks appropriate control. It is possible for an informant to instigate an offence or act in such a way as to implant in others the intent to commit a criminal offence. An informant can give information solely with the intent of eliminating a rival in a criminal enterprise. In fact, an informant can provide worthless information in an attempt to ascertain how much the police know about his or her activities or the activities of their associates, or an informant can deliberately provide false or misleading information so the suspicion is diverted from his or her criminal activities or activities

⁴¹ Transcript, Day 154, pages 123-124.

of associates. So, there are a number of pitfalls involved and there are a number of reasons why individuals become informants and it is not always in the best interest of society nor is it always in the best interest of the police. There is usually an ulterior motive for an informant doing what they are in fact doing.

It is my view that an informant must be supervised so that where possible misleading information is not disseminated resulting in inappropriate conduct. Inconsequential investigations or the misuse of police time and resources. A lack of supervision resulting in inappropriate conduct consequently can result in any of these pitfalls occurring and can call into question the credibility of the handler and those police officers involved in the investigation of a police agency. Therefore, supervisors must supervise and should make appropriate comments, give appropriate direction and record such comments or direction in an appropriate way. So, if a supervisor provides direction to a subordinate regarding an informant that should be recorded.

Now, an officer who is responsible for the review of any major investigation involving an informant or who is responsible for reviewing debriefing reports, should not be involved in the handling or direct supervision of that source. This ensures that the officer can be objective with respect to his or her assessment of the information that is being supplied by the informant and any subsequent direction that is given is more likely to be objective as well.

In consideration of the reasons stated above there must be safeguards in the use of an informant. Before an informant, and more importantly an agent, is used an extensive background check should be conducted. This should include any previous activity, if any, as an informant. Their criminal record should be looked at. Their personal history, their apparent motivation, and a realistic assessment of their ability to provide information about or to penetrate a criminal or subversive organisation. That is only to say that I think it is important that a handler have a very good sense of the potential that the informant has.

Consideration should also be given to issues that may arise as a result of them providing information such as obviously protection or relocation at the end of the day.⁴²

⁴² Transcript, Day 95, pages 110, 111, 112 in answer to Mr. Charleton.

- 3.37. The Tribunal has heard evidence from officers involved in the Crime & Security section of Garda Headquarters. The Tribunal notes that there have been certain changes in the procedure dealing with informers and that these were instituted upon the commencement of this Tribunal. The Tribunal is not, however, satisfied that these changes take sufficient cognisance of the necessity for safeguards with regard to informers. The Tribunal is of the view that the direction of Crime & Security was not such as to inspire confidence in the Tribunal. The physical location of the section involves cramped working conditions. The section appears to be under resourced in terms of the staffing of the section with officers of the highest ability. With the growth of modern threats of terrorism, what has proved to be inadequate in the past, in the context of the matter under investigation by this Tribunal, will not pass muster under changed and even more dangerous conditions.

Controlling informers

- 3.38. Apart from working for an individual, it should be noted that an informer is working for the entire police organisation to which he or she is reporting. This is borne out by the facts which are considered in detail in the pages subsequent hereto. Information from Adrienne McGlinchey supposedly led to the recovery of finds of homemade explosives put in place for imminent use by terrorists within the 'Provisional IRA'. These finds were reported to Headquarters on the basis that the 'good work' pursued inured to the benefit of An Garda Síochána. Interviews were given to the media as to the finds I will be detailing in this report. Details of those finds were passed to the Garda Press Office in Dublin. The finds in question were made the subject of reports under the inter-governmental conference between Ireland and Britain. In one instance, that of the Rosstown finds in July of 1994, Garda work was made the subject of a laudatory and effusive letter from a Minister of State at the Northern Ireland Office.
- 3.39. It is important that a system of informing Headquarters as to the activities of informers, and their information, should be kept in place because a larger picture may emerge in the context of intelligence units working in an attempt to place individual occurrences into a wider picture. The task of analysing information on terrorists falls to the Crime & Security section of Garda Headquarters. In the modern era, it is obvious that this section should be properly resourced.
- 3.40. Informers should be specifically warned that their relationship does not give rise to an immunity to commit crime. Consideration will be given in this report to what has been called the "Hands off" Policy. This has been explained to be a policy whereby other Garda officers, who are seen as attempting to gain for themselves the glory of handling an informer, were warned off interfering with

the existing relationship between Adrienne McGlinchey and her handlers, Noel McMahon and Kevin Lennon. Evidence has been given by Sean Ginty, the former Chief Superintendent for the Donegal division from 1987 through to June of 1994, that it was never his intention that an impression should be given either to Ms. McGlinchey or to any member of An Garda Síochána that she could commit crime with impunity. Any such policy would be clearly wrong and contrary to the fundamental principle of the rule of law applying to all. An argument could be made, however, in the context of Adrienne McGlinchey being directed by members of An Garda Síochána in respect of certain of her activities, that insofar as they occurred pursuant to that direction, a potential defence might have been created for her on some of the charges.⁴³ However, I would have the gravest doubts that such a defence would be entitled to succeed on its merit in the cases I have considered as part of the Tribunal's work.

Search Warrants and Arrests

- 3.41. A search warrant, or an arrest, might reasonably be predicated on the evidence of an informer. While the issue as to what constitutes reasonable suspicion, referred to in Canada as probable cause, has not been considered in the case law of this jurisdiction, the Tribunal considers it worthwhile to quote the criteria set out in the Canadian case of *R v Debot*.⁴⁴ In that case, a reliable informer told the police that the appellant and two others were going to meet to complete an illegal drug deal and take delivery of substantial amounts of 'speed' being brought into the area by a supplier. The informer had obtained this information in conversation with one of the persons who was to be a party to the deal. All the individuals named were known by the police to have had an involvement with drugs in the past. Two officers, on orders from an RCMP Sergeant, intercepted and searched the appellant's vehicle shortly after it left the house where the transaction was to occur. A constable told the appellant that he had reasonable and probable grounds to believe that the appellant had 'speed' on him and proceeded with a warrantless search as authorised by the relevant criminal statute. A quantity of drugs was found and the constable placed the appellant under arrest.
- 3.42. According to that case, police action may be taken on the word of an informer, which infringes on the inviolability of a citizen's dwelling, or on his liberty, both constitutional rights, where certain minimum standards are met. On the analysis of the Supreme Court of Canada these fixed criteria must be considered prior to action being taken. We quote from that judgement:

At least three concerns must be addressed in weighing whether or not the evidence relied on by the police justified a warrantless search. First, was

⁴³ *D.P.P. v Nock* [1978] AC 279.

⁴⁴ [1989] 2 SCR 1140.

the information predicting the commission of a criminal offence compelling? Secondly, where a 'tip' originated from the source outside the police, was that source credible? Finally, was the information corroborated by police investigation prior to making the decision to conduct the search? Each factor does not form a separate test. Rather, it is the 'totality of the circumstances' that must meet the standard of reasonableness. Weaknesses in one area may, to some extent, be compensated by strengths in the other two.

The information received by the police was compelling. It was sufficiently specific to warrant their attention and did not take the form of bald conclusory statement or 'mere rumour or gossip'. Two caveats, however, must qualify the use of reputation as germane to the issue of a reasonable search. First, the reputation of the suspect is based on hearsay rather than police familiarity with the suspect, its veracity cannot be assumed. The police here appear to have relied on both direct experience and hearsay.

The informant whose credibility is most critical is the one who provided the details of the anticipated transaction. The evidence of previous dealings with the informant in this case tended to validate the decision to treat the informant as credible. Where the police rely on an anonymous tip or on an untried informant, the quality of the information and corroborative evidence may have to be such as to compensate for the inability to assess the credibility of the source. The police need not confirm each detail in an informant's tip so long as the sequence of events actually observed conforms sufficiently to the anticipated pattern to remove the possibility of innocent coincidence. The level of verification required, however, may be higher where the police rely on an informant whose credibility cannot be assessed or where fewer details are provided and the risk of innocent coincidence is greater. Given the quality of the information and the reliability of the informant, the police surveillance yielded sufficient corroborative evidence to warrant the belief that a drug transaction had occurred.⁴⁵

Structure of the Report

- 3.43. Having introduced basic principles of police procedure, this report will now move into the narrative of the various matters that are germane to the inquiry that is being conducted. The Tribunal will make findings of fact as to the culpability involved in these events in later chapters which refer back to the detailed account of the relevant documents and evidence which now follows. Finally, at this stage

⁴⁵ R v Debot [1989] 2 SCR. 1140 at pages 1143-1144.

in its enquiries, the Tribunal feels competent to make a limited number of recommendations in relation to particular areas. The Tribunal emphasises, however, that its role is essentially fact-finding. The declaration of facts, as detailed in this report, calls for action by the Garda authorities and the Department of Justice. I now proceed to a detailed account and appraisal of the evidence heard before me. It is necessary to set out all of the elements of this inquiry in order to present a comprehensive review of the facts. My intention is that there should be no necessity for any other person or body to have to revisit this controversy.

CHAPTER 4

ADRIENNE MCGLINCHEY IN LETTERKENNY

Introduction

- 4.01. The resolution of one of the major issues in this whole inquiry requires the Tribunal to decide the question of whether Ms. McGlinchey was a Garda informer. There was a serious conflict of evidence on this point. Ms. McGlinchey absolutely denies any involvement with the 'Provisional IRA' or with the Gardaí as an informer. Many members of the Gardaí, including those who claimed to have handled her as an informer, gave evidence in contradiction of this. They told the Tribunal that she was an informer and they gave detailed evidence of the information which she gave.
- 4.02. It is important to note that not one of these Gardaí gave evidence that she was a full member of the 'Provisional IRA'; in other words, that she was 'sworn in' to the organisation, but willing to break ranks with them and to inform on them to the Gardaí. What was claimed by most of the witnesses was that she associated with hardened members of the 'Provisional IRA': this was either on the basis of an amorous involvement or, possibly, she was entrusted by them to perform mundane tasks on their behalf and so became aware of 'Provisional IRA' information that she passed on.
- 4.03. Ms. McGlinchey said that she was unable to account for the fact that so many Gardaí believed that she was an informer. She claimed that her only involvement with the Gardaí was to chat to them when they called to the late-night restaurant in Letterkenny. Their chats would often extend to gossip which she had picked up from other visitors to the restaurant, and in particular visiting traders who might have been seen to have some acquaintance with terrorist suspects. In such circumstances, she would not be regarded as an informer but merely as a source of casual information. She would therefore fit into 'category A' noted in Chapter 3. Adrienne McGlinchey instanced one occasion when a passing trader, of which there were many, asked her to let a flat in the rear of the restaurant to a handful of men from Northern Ireland. In the course of her chats with the Gardaí she spoke casually of this. It transpired that her tenants, or some of them, were believed by the Gardaí to have connections to a subversive organisation. Ms. McGlinchey's case on this incident is that the chat and gossip which she engaged in with the Gardaí has resulted in her being branded as an informer, which she is not. So far as the Gardaí are concerned, evidence has been given by a number of Gardaí who claimed to have no doubt but that Ms. McGlinchey passed on valuable information to them.

- 4.04. The importance of determining the status of Ms. McGlinchey lies in the fact that Superintendent Kevin Lennon and Detective Garda Noel McMahon both claimed in evidence that it was she who furnished them with the information which led to the majority of the finds. The relevant Chief Superintendent and district Superintendents also claimed to have viewed her as an informer. Ms. McGlinchey denies that. She says that, far from giving them information, she was not only forced against her will to cooperate in the preparation of the materials which were planted at various locations, but to put part of it in locations determined by them so that its later discovery could be reported as a 'Provisional IRA' find.
- 4.05. The determination of which account is correct required that the Tribunal determine, in the first instance, if Ms. McGlinchey had a connection with the 'Provisional IRA' and was, in consequence, capable of being an informer. If she was not, there could be no substance in the case made by Detective Garda McMahon and Superintendent Lennon that it was as a result of her information that they discovered the various finds. On the other hand, if she was a Garda informer, then the Tribunal was required to decide on the quality of the information to which she might have had access. Since the location of large quantities of homemade explosives dumps would be limited information to which only a very limited number of people in the 'Provisional IRA' would have access, Adrienne McGlinchey would have had to have been one of them, or an associate of one of them, who regularly spoke out of turn. The Tribunal is of the view that those knowing such information in respect of several arms dumps had to be drawn from among the ranks of active terrorists who were high within a terror organisation. It is to be remembered that no-one suggested in evidence that Adrienne McGlinchey was a member of the 'Provisional IRA'. The alternative possibility was therefore mooted that because of some association that she might have had with such a person she would be enabled to be party to such information. Shortly, if the information could not have come from Adrienne McGlinchey, then the case put forward by Detective Garda McMahon and Superintendent Lennon could not be correct.
- 4.06. Accordingly, in Chapters 5 and 6 of the report, detailed consideration is given to the evidence available touching on Ms. McGlinchey and her activities while she was in Buncrana. After July of 1991, she moved with Yvonne Devine to Buncrana. Those chapters deal not just with Detective Garda McMahon and Superintendent Lennon, but also Chief Superintendent Fitzpatrick, Superintendent John P. O'Connor, Superintendent Michael Duffy and other officers.

The Protocol as to Documents

- 4.07. Reference is made in these two Chapters to a protocol, which governs the

conduct of proceedings before the Tribunal. This protocol came about because of the need of the Crime & Security section of An Garda Síochána to maintain confidentiality in relation to all matters affecting informers. This was a duty which was readily recognised by the Tribunal. However, it was obvious that the Tribunal could not carry out its work without access to these documents. Accordingly, an arrangement was negotiated which met the Tribunal's requirements. The arrangement was that the Chairman and the Tribunal legal team would have full access to all this documentation and that it could be referred to at the hearings of the Tribunal, but under strict circumstances of secrecy. Only those persons immediately and directly affected by the information contained in these documents were allowed to be present at the hearings where these documents were discussed and where evidence was taken relevant to these documents. This procedure became known as 'the protocol' and the Tribunal is satisfied that the arrangement worked satisfactorily. Because of a waiver of privilege, informer privilege was not breached.

- 4.08. Because of the protocol, it is now not possible to make reference to these documents in detail. However, as stated elsewhere in this report, in reaching its conclusions, the Tribunal has had full regard to all the information contained in these documents. The absence of a specific reference to any particular document or an extract from it should not be allowed to cast any doubt upon the validity of the views expressed in this report.
- 4.09. Finally, it should be said that the reluctance on the part of the Crime & Security section of An Garda Síochána to make available to public scrutiny these documents stems from matters entirely outside of their control. Informers who supply information in confidence to the Gardaí are entitled to have their identities protected. Exceptions can arise but these are not relevant here. A different attitude might undermine the supply of information to An Garda Síochána, a situation not to be contemplated.

Adrienne McGlinchey in Letterkenny

- 4.10. Firstly, the Tribunal must turn to the interaction between Adrienne McGlinchey and various members of An Garda Síochána in the period 1987 to 1991. Normally where a person provides information to the Gardaí, they will become a 'Garda informant'. As such they will be entitled to certain protections, designed to ensure that their identity and status as an informer will not be revealed to the general public. The Gardaí keep secret the identity of their informers with great care. An individual Garda, who has an informer, is not obliged to identify his source to anyone, save that he can be called on to identify the source to the Garda Commissioner, or his nominee, in certain circumstances. The information

which a Garda receives from his or her informer can be transmitted to the Crime & Security Branch at Garda Headquarters by means of a C.77 form. On this form the Garda is identified by his own personal identification number. The source of the information is not identified at all. In the body of the form, the Garda gives the bare bones of the information which he has received. He is permitted to leave out details, if it is possible that by giving them, the informer may be identified.

- 4.11. The Gardaí are permitted to claim privilege against production of documents which come from information supplied by their informers, or which concern the informers. The Garda authorities will always claim privilege in respect of the production of any C.77 forms. In this case the Garda Commissioner was prepared to allow limited access to the C.77 forms which had been submitted by various Gardaí apparently as a result of information supplied by Adrienne McGlinchey, and by her alone. Material was also noted by Superintendent Lennon as a result of reports, it was claimed, from her. This was called the ‘Lennon locker’ material as it was discovered in a document store. Adrienne McGlinchey had specifically waived any privilege which might attach to her. She had also made numerous statements on the same subject matter to the Carty Inquiry.⁴⁶ A waiver was furnished in a number of letters to the Tribunal from Messrs. Gallagher Shatter, the solicitors acting for Ms. McGlinchey. The relevant paragraph was in the following terms:

In a spirit of full cooperation with the Tribunal, and so that the truth will be publicly established, we are firmly instructed that our client has no objection whatever to waiving whatever privilege might be attributed to her in relation to the ‘Lennon locker’ documentation and the C.77 documentation. This waiver is not to be taken to be an acknowledgement or admission that Adrienne McGlinchey was an informer or informant.⁴⁷

- 4.12. When the waiver had been obtained from Adrienne McGlinchey, an agreement was entered into between counsel acting on behalf of the Tribunal and counsel acting on behalf of the Garda Commissioner. The production of the documents before the Tribunal was agreed subject to certain conditions. This agreement was incorporated into a document known as the Privileged Documents Protocol dated the 5th of March 2003. This document governed the use which could be made of the C.77 forms and other documentation which was furnished by the Crime & Security Branch at Garda Headquarters. All of the parties to whom the documents were shown have had to sign undertakings to the effect that they would be bound by the terms of the agreement. It is not necessary to set out all the terms of the protocol; it suffices to state that the Tribunal is bound by its terms, as well as the parties who appeared before the Tribunal. Clauses 4 and 5 of Part 1 of the protocol are of relevance to this report:

⁴⁶ Any issue as to whether this constitutes a waiver of privilege was not decided by the Tribunal.

⁴⁷ Letter to Tribunal dated 27/2/2003. Further letters in almost identical terms were sent on 12/3/2003 and 13/3/2003.

4. The Tribunal Chairman will use in his Report only such information gleaned from C.77s as has been debated in open session.

5. If any C.77 is to make its way into the Report, the Chairman will furnish a draft copy of the relevant passage to counsel on behalf of the Gardaí, in order to allow a claim of privilege to be made, even at that late stage, or to allow for a suggestion by way of amendment in order to protect a witness.⁴⁸

- 4.13. The narrative which follows in this chapter will be confined only to evidence given in open session of the Tribunal, or to evidence given in private session which does not concern the content of any C.77 form. The reader of this portion of the report is being presented in this chapter with the conclusions which the Tribunal has reached and which are set out at the end of the chapter. They are based on a consideration of all the evidence, that has been heard, both in open session and closed session of the Tribunal.

Adrienne McGlinchey and Sergeant Bobby Mullally

- 4.14. Detective Garda Bobby Mullally was stationed in Letterkenny from 1978 until July of 1990. He then went to Carrigans station on promotion to the rank of Sergeant. He returned to Letterkenny station in 1995, where he has served until the present time. He became aware of Ms. Adrienne McGlinchey while he was in Letterkenny prior to his posting to Carrigans. During this early period of 1987 to 1990 he was a frequent visitor to a restaurant/café in Letterkenny called 'Steers'. This premises was one of the businesses run by the McGlinchey family in Letterkenny. At the relevant time, Adrienne McGlinchey worked there.
- 4.15. Detective Garda Mullally described the first occasion on which Adrienne McGlinchey allegedly furnished him with information. He had gone into her restaurant in Letterkenny with Garda Michael Barry. Adrienne McGlinchey came over to their table. In the course of their conversation, she stated that the 'Provisional IRA' was using her 'to do runs'. In evidence he described the encounter as follows:

She sat down beside us and chatted to us, she alleged to us that PIRA were using her. She inferred to us that because of the fact that she had the McGlinchey name there would have been an assumed prestige to this. She said that the Gardaí wouldn't stop her and that they were using her car, had her driving the car and that they were using her for trips and this type of thing.⁴⁹

⁴⁸ Privileged Documents Protocol dated 5/3/2003. There is a typographical error in Clause 4, which has been corrected in the portion quoted.

⁴⁹ Transcript, Day 43, page 8.

- 4.16. It appears that Detective Garda Mullally did not take this encounter very seriously. He stated:

It's a long time ago, however, my feeling now is that at that time, that I didn't – the feeling I got from what she was saying was that she wasn't – she may not have been genuine about what she was saying. That is she may not have been 100% correct, or she may have been just making up a story, something like that, is the feeling, I think. At that time I didn't take it that serious.⁵⁰

- 4.17. He reached this conclusion from her demeanour at the time. His colleague, Garda Barry, may have taken a different view. Detective Garda Mullally stated that he thought Garda Barry may have mentioned this encounter to the Collator. This officer was tasked with the important task of receiving and filing all sightings of terrorist suspects. In turn he might have mentioned it to the Chief Superintendent, Sean Ginty. While it is not at all clear, this may have been the beginning of the time when Adrienne McGlinchey was seen by some members of An Garda Síochána as being connected with the 'Provisional IRA'. As matters unfold it will be seen that this was a view which came to be held by a significant number of Gardaí in the following months and years. However, even at the inception of the relationship between Adrienne McGlinchey and the Gardaí, there were two camps: there were those who took her seriously, and those who did not. It will be seen that this was a pattern which repeated itself time and again.
- 4.18. On the 13th of November 1987, Detective Garda Mullally and Garda Michael Barry submitted a C.77 in respect of information supplied by Adrienne McGlinchey. That information could not be regarded as being of great significance or as valuable intelligence.
- 4.19. However, some time later, Sergeant Mullally received a map from Adrienne McGlinchey. The map had markings on it. Ms. McGlinchey did not know the significance of the markings. Detective Garda Mullally made copies of the map and returned it to Ms. McGlinchey. He forwarded the map to Crime & Security.
- 4.20. Subsequently, Detective Garda Mullally received further information from Adrienne McGlinchey as to the possible owner of the map. He stated that Ms. McGlinchey seemed somewhat fretful and anxious about the fact that she had allowed him make a copy of the map. She also gave him other information on a different subversive matter at that time. All of this information was forwarded on a C.77.
- 4.21. On another occasion he received another map together with further information

⁵⁰ Transcript, Day 43, page 11.

from Adrienne McGlinchey. He again forwarded it to Crime & Security by way of a C.77 form. On this occasion, Detective Garda Mullally photocopied the documents which he had received from Ms. McGlinchey and sent the copies to Crime & Security. He kept the originals. These were furnished to the Tribunal in April of 2003. He stated in evidence that he did not fingerprint these documents for fear of exposing his informer. The Tribunal has had the documents tested for fingerprints, with negative results.

- 4.22. It is appropriate to break the narrative of the dealings between Sergeant Mullally and Adrienne McGlinchey at this point, in order to examine the perception of Ms. McGlinchey which was held by the Gardai in general at that time. In 1988, Ms. McGlinchey's movements were attracting the attention of the Gardaí. It is clear that they regarded her as possibly being in some way connected to the 'Provisional IRA'. The following entry concerning Adrienne McGlinchey was made on the 23rd of September 1988 in the Daily Record Sheet held by the Criminal Intelligence Section at Letterkenny Garda Station:

Re: Motor car 87 DL 1558, a purple Peugeot, the property of Adrienne McGlinchey, Port Road, Letterkenny, Co. Donegal

Information received states that motorcar 87 DL 1558, the property of Ms. Adrienne McGlinchey was missing from home for 2 or 3 days over the weekend of 9/10/11 of September 1988. It is possible that the car was used by (portion redacted) Donegal over this period as Ms. McGlinchey would be (portion redacted) to the (portion redacted) and has been known to associate with (portion redacted) in the past.⁵¹

- 4.23. On the 23rd of September 1988 Detective Garda Mullally was asked by Detective Superintendent J.T. Halloran for a report on Adrienne McGlinchey's vehicle. He furnished the following report on the 21st of December 1988:

Re: Car 87 DL 1558, property of Adrienne McGlinchey

Ms. McGlinchey sold the above vehicle on 15/10/88 to Farren's garage in Buncrana. She is now in possession of a beige Fiat Panda reg. no. (redacted). She has been for some time now a regular visitor to (redacted). I have been informed that she also associates with (redacted). I do not know nor can I ascertain where she was on 9/10/88 but she has been known to spend weekends in Dublin and some time ago was in Belfast. (car registration number) is not in possession of PIRA.

Ms. McGlinchey is sympathetic towards Sinn Féin. It is possible that she would loan her vehicle to (redacted). I recommend that vehicle registration number (redacted) be placed on the suspect list on computer.⁵²

⁵¹ Tribunal Documents, page 3204.

⁵² Tribunal Documents, page 3205.

- 4.24. On the 28th of December 1988 a background report was submitted by Detective Inspector J. Connor, acting on behalf of the Detective Superintendent, to the Chief Superintendent, Sean Ginty. It states as follows:

Re: Adrienne McGlinchey, Port Road, Letterkenny

Reference to yours of 29/9/88 and 19/12/88 in above matter. I am to report that subject is a daughter of Bernard McGlinchey, Fianna Fáil member of Donegal County Council and former Senator. She is aged approximately 22 years and is employed in a cafe owned by her mother, Liz McGlinchey, at the Port Road, Letterkenny.

She is on friendly terms with (redacted), Letterkenny. Whether this friendship is based on political or platonic grounds cannot be determined. In either case it is considered possible that she would loan her car to (redacted). She is considered to be sympathetic towards the Sinn Féin cause.

Ms. McGlinchey was the registered owner of m/car 87-DL-1558 up to 15/10/88 on which date she traded it in to Farren's garage, Bunrana. She is now the owner of m/car, (redacted) a beige coloured Fiat Panda.

There is no information as to where Ms. McGlinchey spent the weekend of 9th, 10th, or 11th September 1988. It is considered possible that she visited Dublin or Belfast as she has done so in the past.

McGlinchey's relationship with (redacted) is well known to members and her movements and associates are being monitored. Particulars of her newly acquired vehicle have been given to the Collator.⁵³

- 4.25. When forwarding that report to the Assistant Commissioner in the Crime & Security Branch at Garda Headquarters, Chief Superintendent Sean Ginty wrote the following addendum:

The above report from the Detective Inspector at Letterkenny is forwarded for information.

Any further useful information coming to notice in relation to the subject will be reported in course.⁵⁴

- 4.26. The significance of the above documentation is that it tends to establish that by 1988 Adrienne McGlinchey was seen in two different lights by the Gardaí. On the one hand she was providing information to Detective Garda Mullally. This was a totally confidential relationship. He did not tell any of his colleagues that he was receiving information from Adrienne McGlinchey. He did not tell Crime & Security

⁵³ Tribunal Documents, page 3208.

⁵⁴ Ibid.

that she was his informer. He merely passed on the information received from her by way of C.77 forms.

4.27. At the same time, Adrienne McGlinchey was coming to the attention of Gardaí in Letterkenny as someone who appeared to have some connection to the 'Provisional IRA'. This was, to some extent, as a result of the report submitted in relation to her vehicle. Her possible association with the 'Provisional IRA' was brought to the attention of Crime & Security branch at Garda Headquarters in December of 1988.

4.28. The Garda practice of monitoring Adrienne McGlinchey's movements and submitting same to the Collator in Letterkenny continued throughout 1989. On the 15th of September 1989, the following entry occurs:

At approximately 12 midnight on 15/9/1989 observed (redacted), Rahan at Upper Main Street. He was on foot. At traffic lights on Ramelton Road, he was picked up by Adrienne McGlinchey who was driving (car registration redacted). (Redacted) got into the back seat and they went towards Lower Main Street.⁵⁵

4.29. On the 4th of October 1989, Garda Declan Martyn reported the following sighting of Adrienne McGlinchey entering the Sinn Féin office in Letterkenny:

Observed Adrienne McGlinchey, Port Road, Letterkenny opening the door of the Sinn Féin office, go in and exit again a short time later. She had a key. Time 12.07 a.m. on 4-10-89. She appeared to be carrying something when she left the office. Not in a position to search her. She is living in a flat on her own over Steers restaurant. For your information please.⁵⁶

4.30. There is an entry that on the 7th of October 1989, Adrienne McGlinchey and another person were stopped and searched on Pearse Road at 00.25 hours. It would appear that the search was carried out with negative results. On the 9th of October 1989 there is an entry to the effect that Adrienne McGlinchey was seen going into the flats at Rahan at 00.10 hours. This location is significant because that area contained a number of houses. In one of these some friends of Ms. McGlinchey lived while in another terrorist suspects resided. Two days later, Detective Garda Mullally submitted a report concerning an incident where Ms. McGlinchey's vehicle had been followed by a Garda car. When her vehicle was stopped, two youths had been seen alighting from the vehicle and running away. This report is significant and in particular the last paragraph thereof:

⁵⁵ Tribunal Documents, page 3211.

⁵⁶ Tribunal Documents, page 3212.

Re: PIRA activity Letterkenny area

Ms. McGlinchey has been associating with (redacted) in Rann for the past 4 or 5 years. She first got to know (redacted) through a (redacted) when they both worked in the potato factory at Ballyraine. She has since then been visiting Rann, she also visits the (redacted) next door to the (redacted).

She is regularly giving lifts to (redacted) dropping him home at night and also (redacted). Both individuals spend most of their time in the pubs and the bookie's office. Ms. McGlinchey has also been seen to give lifts to local criminals, some of whom are settled itinerants. She constantly drives about Letterkenny town at night and indeed invites Garda attention to her activities. It appears that she hates her father Bernard McGlinchey and goes out of her way to bring discredit to the name.

(Redacted) is a brother of (redacted) who is Adrienne McGlinchey's best friend and is presently doing a course in the (redacted). (Redacted) regularly travels in Ms. McGlinchey's car and used to do so with his sister (redacted). (Redacted) died of cancer about ---- years ago. (Redacted) used to work in (redacted) last year and has been seen recently in McGlinchey's car. His house is situated beside (redacted) at Rann.

It is my opinion that neither (redacted) are in any way involved with (redacted). I believe that on the morning in question the chase commenced at Rann (not in the Oldtown), the Gardaí were driving an unmarked Branch car, (redacted) was dropping (redacted), both youths had been passengers prior to picking (redacted) up. She partly invited the chase from Rann and instructed the youths to run when she stopped at Oldtown. (Redacted) made no attempt to leave the car. She was later heard saying that the reason she told the (redacted) to run was because she did not want them to be associated with the likes of (redacted), this I believe is partially true.

I believe that it is very likely that the PIRA are and will use A. McGlinchey and especially her vehicle in their activities in the county. I recommend that her car be put on the suspect list on computer.⁵⁷

- 4.31. At the time of writing that report, Bobby Mullally was a Detective Garda. He sent the report to his Sergeant, who in turn forwarded it to the Detective Superintendent in Letterkenny.
- 4.32. Returning to the alleged exchange of information from Adrienne McGlinchey to Detective Garda Mullally; he stated in evidence that in June of 1990 he had a

⁵⁷ Tribunal Documents, pages 3209, 3210.

further chance meeting with Adrienne McGlinchey on the street in Letterkenny. At this meeting, Ms. McGlinchey indicated that she had important information concerning a threat to the life of a person living in Northern Ireland. She had a photograph of the person concerned. Detective Garda Mullally made a deal with Ms. McGlinchey that he would take a photograph of the photograph which she had in her possession. She agreed to this. They met by arrangement in a forest, where the officer took a photograph of Adrienne McGlinchey's photograph. He subsequently forwarded the relevant information to Crime & Security by way of a C.77 form. He also forwarded the film separately.

- 4.33. This was the last occasion on which Detective Garda Mullally submitted a C.77 form concerning information from Adrienne McGlinchey. This was due to the fact that he transferred to Carrigans station in July of 1990, on promotion to the rank of Sergeant. In January of 1991, he received a letter from Assistant Commissioner O'Dea in Crime & Security asking him to try to develop his source, who was referred to as someone who seemed to be close to a well-known republican figure. He replied some days later, stating that it would be difficult for him to maintain contact with his informer, but that any information which he did receive would be sent up on a C.77. However, as events transpired, Sergeant Mullally did not send up any further information received from Adrienne McGlinchey.
- 4.34. In evidence, Sergeant Mullally described Adrienne McGlinchey as an extrovert, who liked attention. He assessed that not all her information was true. He assessed it as being true 60% of the time.⁵⁸
- 4.35. In his testimony Sergeant Mullally also described one occasion, subsequent to July of 1990, when Adrienne McGlinchey visited him in Carrigans station. She asked him whether it was illegal to be caught in possession of a tripod. He got the impression that she might have been caught in possession of a tripod. He was not able to put a precise date on the visit. He stated that he did not know if Ms. McGlinchey was being serious in relation to her enquiry. He did not take her question very seriously.⁵⁹ A tripod in itself is, of course, a harmless object, capable of a variety of uses connected with bird watching and photography. However, it may also be used in connection with the use of firearms or for the purpose of supporting rocket launchers or machine guns. Ms. McGlinchey's enquiry is to be seen in this context: which, in all probability is what she wanted her question to be understood as.
- 4.36. It should be noted that Adrienne McGlinchey, through her counsel, categorically denied that she was the person who provided any of the information submitted by the then Detective Garda Mullally to Crime & Security. It was put to him that his evidence was merely an effort on his part to come to the rescue of Detective

⁵⁸ Transcript, Day 43, pages 59 and 60.

⁵⁹ Transcript, Day 43, page 58.

Garda Noel McMahon and Superintendent Kevin Lennon, being the persons against whom allegations had been made by Adrienne McGlinchey. The thrust of the cross-examination was directed at the suggestion that by connecting Ms. McGlinchey to a subversive group, he was supporting the argument that Detective Garda McMahon and Superintendent Lennon were not only justified in accepting her as a genuine member of the 'Provisional IRA', but that they were in fact correct in so doing. Sergeant Mullally strenuously denied that this was the case.⁶⁰ He was adamant that the five C.77s which had been sent up by him, and which were discussed in evidence, came as a result of information supplied by Adrienne McGlinchey.

- 4.37. In the cross-examination by counsel on behalf of Adrienne McGlinchey, Sergeant Mullally admitted that he had kept no notes of his various meetings with Ms. McGlinchey.⁶¹ He stated that he only made brief notes when he was given information by Ms. McGlinchey, which information he sent up on C.77 forms. He did not make any note of their conversations in his Garda notebook. He stated that he did not regard her as a true informer, i.e. someone within the 'Provisional IRA'. He described her position as follows:

My personal impression of her was that she was somebody that had gained access somewhere to information, and was possibly getting information through a second party, or a third party, but with regards to her being on the inner circle, I could never imagine her – I couldn't imagine the IRA consciously taking her on board.⁶²

- 4.38. During the hearings it was put to Sergeant Mullally that the incident in Sallaghgrane forest, when he alleged that he had taken the photograph of Ms. McGlinchey's photograph of a man in uniform, simply did not happen. He stated that it certainly did occur. It was put to him that part of his C.77 form in relation to this incident was incorrect insofar as it referred to him receiving a film from his source. He stated that that was so, but stated that he had put it in the C.77 in that way, on advice, so as to protect the identity of his source.⁶³ He said that he was told that this was the proper way to submit the photograph in the interest of secrecy. He could not recall definitively who gave him this advice. He thought that it might have been Detective Superintendent Tom Monahan. He thought that he had given the film to Detective Superintendent Monahan to bring up to Crime & Security in Dublin.
- 4.39. Later on in the same cross-examination, he was asked as to why he thought Adrienne McGlinchey was giving information to other Gardaí at the time that he came to leave Letterkenny in 1990. He stated that he held that belief because

⁶⁰ Transcript, Day 44, page 146.

⁶¹ Transcript, Day 44, page 26.

⁶² Transcript, Day 44, page 30.

⁶³ Transcript, Day 44, page 47.

Adrienne McGlinchey had mentioned the name Hugh Smith and he had a feeling that she might be passing information to other Gardaí:

I said I had a feeling – she was the type of person that would – she was an extrovert, she liked to talk, she liked to think she was important.⁶⁴

4.40. He was asked why he had not given his information to the Carty team, which was investigating this matter and was based in Letterkenny Garda Station from 1999 onwards: a time when he was also based in that station. He stated that he had not gone to the Carty team because they were investigating events after 1990, by which time he had ceased to have any dealings with Adrienne McGlinchey. It was put to him that he hadn't gone to the Carty team because he had nothing to offer them:

Q. Could it be a reason that you didn't go to the Carty team was because you had nothing to tell them at that stage?

A. I believed that at that time that anything I had was before all these things occurred; therefore, I believed it wasn't relevant.

Q. And as I understand you were leaving it to your fellow members of the detective team to tell the Carty team that you also had dealings with her?

A. I didn't believe that it was a secret that I had dealings with her.

Q. You were leaving it to Detective Barry who was in the United States, is that so?

A. I don't agree with what you are saying.

Q. Were you leaving it to Detective Sergeant Smith and Detective Garda Tolan, neither of whom mentioned you in their statements?

A. I believed myself that it was no secret that I would have had dealings with her. With regard to confidential information, it is not something that you would be going around shouting about.

Q. It appeared to be a secret until 2003 when you come up with the goods, a sketched map which had been kept in your wardrobe for eight years and other items of information?

A. As I say, when I was asked I had no difficulty in saying that I had it, yes.⁶⁵

⁶⁴ Transcript, Day 44, page 119.

⁶⁵ Transcript, Day 44, page 130 and 131.

- 4.41. Support for the evidence given by Sergeant Mullally was provided by retired Chief Superintendent Sean Ginty who, when asked by counsel for Adrienne McGlinchey as to when he first heard that she was allegedly giving information to Sergeant Mullally, replied:

I believe it was the latter part of 1987. ... In the Collator's office. In the Collator's office in Letterkenny Garda Station. ... The collating system was not as tight as the C.77 system, it was not as secretive. So what went into the Collator's office could be learnt say by other members of the Gardaí. Not necessarily names, right enough, but it was quite within the realms of possibility that the name would have been made available. ... What I am saying is that it was conveyed to me by one of the Collators that Bobby Mullally had brought it to notice that Adrienne McGlinchey was prepared to give information.⁶⁶

- 4.42. Mr. Ginty confirmed that he did not speak directly with Sergeant Mullally about Adrienne McGlinchey being an informer. When the relevant C.77s were put to him, he had only a vague recollection of seeing them at the time.

Conclusions on the Mullally Relationship

- 4.43. There is a conflict between Adrienne McGlinchey and Sergeant Bobby Mullally, as to whether he received any information from her as alleged. He says that he did receive the information from her and sent it up on the C.77s which have been produced to the Tribunal and on which evidence was given in closed session. Ms. McGlinchey categorically denies that she was ever an informer providing information to Sergeant Mullally. She denies that she supplied any of the information, or documentation, referred to in the relevant C.77 forms. Having observed Sergeant Mullally give evidence over three days, the Tribunal is satisfied that he gave his evidence in an honest and accurate manner. Accordingly, the Tribunal accepts his evidence that Adrienne McGlinchey supplied him with the information and documentation set out in the relevant C.77 forms in the period 1987 to 1990. Whether that information was genuine is quite another matter. It is possible that the information was made up by Ms. McGlinchey to impress the Sergeant.
- 4.44. Having had the opportunity of observing Ms. McGlinchey in the witness box, the Tribunal is satisfied that she has a curious approach to the Gardaí. She is, or was, deeply interested in their activities and appears to have been on familiar terms with a large number of members of An Garda Síochána to a far greater extent than is normal. The Tribunal is of the view that she gave this information, be it valid or otherwise, in the hope and expectation that it would allow her to become

⁶⁶ Transcript, Day 103, pages 52 and 53.

more closely involved with the Gardaí. However, the Tribunal is satisfied that Sergeant Mullally believed that the information which he submitted to Crime & Security was genuine information concerning subversive activity and that he was justified in keeping Headquarters informed.

4.45. There are two further findings which can be made at this juncture. Firstly, the Tribunal is satisfied, on the evidence, that the information which Ms. McGlinchey furnished to Detective Garda Mullally was provided by her in a free and voluntary manner. She was not coerced in any way into providing this information to the Gardaí. This is relevant having regard to the assertions made by Ms. McGlinchey concerning the voluntariness of her subsequent dealings with Detective Garda Noel McMahon in Buncrana in the period after July of 1991.

4.46. Secondly, the Tribunal accepts the evidence of Sergeant Mullally that on leaving Letterkenny to take up a position in Carrigans station, he did not take any steps to hand Ms. McGlinchey on to any other Gardaí based in Letterkenny. When asked about this, his reply was as follows:

No I did not, no. I don't believe she was the type of person that you could pass on. She wasn't the type of source that you could pass on to somebody as such because at that time I would have believed that she would have been communicating with other people, apart from me, in the Detective Branch ... I recall her making mention of Hugh Smith, I believe, she mentioned him to me. She would have mentioned, I think she mentioned Noel McMahon to me. .. I'm not .. I'm talking about around 1990, I believe. I recall her mentioning to me how she was stopped up in Rahan, beyond Rahan somewhere by Hugh Smith. She had made mention of him. I cannot now at this stage tell you exactly who told me what, but I believe that it wasn't a question of passing her on as a source, you don't do that because she was too volatile a type of personality for that sort of thing. She wasn't somebody that accepted money from me and I never offered her money nor did she ever ask for money, so she wasn't a paid informant as such. I felt that she had to be handled delicately insofar as in that regard. But she had .. around that period of time I would have lost contact with her and I do know that she was in difficult, she seemed to be in some financial difficulties, she was in Buncrana, there was talk she was in a tent, we are talking around that period of time where she would not be approachable. I used to see them thumbing lifts on the side of the road, that type of thing also when I would be coming home from work.⁶⁷

⁶⁷ Transcript, Day 43, pages 55-57.

- 4.47. Rahan was referred to frequently during the course of the evidence and in the documentation before the Tribunal. As will be recalled, some ‘Provisional IRA’ members lived in this general area.
- 4.48. The reference, therefore, to an individual being absent from “Rahan” means that that person might be taken to be involved in subversive activities at the time. Conversely, when he was noted to be present in the house, he was presumably otherwise engaged.
- 4.49. Let me now return to the view of Adrienne McGlinchey, which appeared to be common among the Gardaí at that time, that she had some involvement with the ‘Provisional IRA’. It appears that, with the exception of the Collator, Chief Superintendent Ginty and possibly Detective Superintendent O’Halloran, nobody else was aware that she was supplying information to Sergeant Mullally. During 1990 reports of sightings of Ms. McGlinchey continued to be made to the Collator, which led to the suspicion that she was in some way connected with the ‘Provisional IRA’. In an entry for the 10th of July 1990, she was described as “Adrienne McGlinchey, PIRA suspect”.⁶⁸ On the 27th of September 1990 the following entry was sent to the Collator concerning Adrienne McGlinchey:

10.30 p.m. 88-IH missing from Rahan. Adrienne McGlinchey let male youths off at Hide Out Pub, drove towards Rahan and returned to the town.⁶⁹

- 4.50. From the documentation supplied to the Tribunal, it would appear that a C.77 concerning Adrienne McGlinchey was forwarded to Crime & Security in October of 1990. Chief Superintendent Ginty did some form of report on that C.77. On the 2nd of November 1990, Detective Chief Superintendent M.P. Byrne, acting on behalf of the Assistant Commissioner at Crime & Security, wrote to Chief Superintendent Ginty as follows:

Re: Adrienne McGlinchey, Port Road, Letterkenny

Your report dated 24th October 1990, relative above, has been noted.

Ms. McGlinchey’s activities should continue to receive attention.

Please forward her date of birth in course.⁷⁰

- 4.51. Later that month, on the 22nd of November 1990, Chief Superintendent M.P. Byrne, on behalf of the Assistant Commissioner at Crime & Security Branch, requested the observations of Chief Superintendent Ginty in relation to the C.77 which had been sent up concerning Adrienne McGlinchey. In December of 1990 a report was furnished concerning the earlier activities of Ms. McGlinchey. It was

⁶⁸ Tribunal Documents, page 3216.

⁶⁹ Tribunal Documents, page 3217.

⁷⁰ Tribunal Documents, page 3218.

signed by Detective Inspector John Fitzgerald on behalf of the Detective Superintendent. It stated as follows:

Re: Ms. Adrienne McGlinchey, Covehill, Letterkenny

With reference to CS Branch minute of 22/11/1990, C.77 number (redacted) and this office report of 30/11/1990, I am to report that the informant observed this activity and reported the matter immediately.

Gardaí were alerted and went to the area but did not encounter the motorcycle.

There is no reason to doubt the information and whether or not she was carrying any illegal items on this date will remain unresolved. However she is a close associate of PIRA members living in flats at Crievesmith, Letterkenny. She is the type that would do 'runs' for the PIRA and as a result of information received from other sources regarding her activities I am satisfied that she is doing 'runs' for the PIRA. Her activity on 24/9/90 is viewed here with the utmost suspicion.

She is receiving very close attention from D/Branch members.⁷¹

- 4.52. Therefore, on the evidence, it would appear that by 1990, Adrienne McGlinchey was being referred to in Garda documentation as a "PIRA suspect". Her movements were being noted and reported to the Collator. She was believed to be connected with the 'Provisional IRA'. She was believed to be a person who would do 'runs' for that organisation.

Adrienne McGlinchey - Hugh Smith and Matt Tolan

- 4.53. In 1990 Hugh Smith and Matt Tolan were both Detective Gardaí working in Letterkenny. Their unit Sergeant was Detective Sergeant Sylvie Henry. John McLoughlin was the Detective Superintendent at the time. Hugh Smith was promoted to the rank of Sergeant and transferred to Castlefin in 1991. He returned to Letterkenny as a Detective Sergeant in 1994.
- 4.54. The evidence of Detective Sergeant Smith and Detective Garda Tolan was generally the same as each other in relation to their dealings with Adrienne McGlinchey. Insofar as there were divergences in their recollection of events, these do not appear to the Tribunal to be significant. In essence, their dealings with Adrienne McGlinchey were in the period October of 1990 to July of 1991; Detective Garda Tolan maintained that he did have limited contact with Adrienne McGlinchey as late as the early months of 1992.

⁷¹ Tribunal Documents, page 3222.

- 4.55. Detective Sergeant Smith and Detective Garda Tolan both described the first time they obtained information from Adrienne McGlinchey as having occurred on the evening of the 11th of October 1990. It appears that, while out on patrol in the Detective Branch car, they noticed Adrienne McGlinchey suddenly turn her car across their path and travel at some speed down a long cul-de-sac. They said that they followed to see what she was up to. They did this because her movements were generally a matter of concern to the Gardaí in Letterkenny at that time due to the facts that have already been noted.
- 4.56. Detective Sergeant Smith and Detective Garda Tolan stated that when they came upon Ms. McGlinchey's vehicle in the cul-de-sac, it was stationary at the side of the road. Detective Garda Tolan said that when he approached the car he saw Ms. McGlinchey stuffing papers between the front driver's seat and the front passenger's seat. They searched the car and found two maps. One was a street map of Derry city with markings on it. The second map was an area of the border with an x marked at a particular place. Adrienne McGlinchey stated that she did not know the significance of the markings on the maps. Detective Sergeant Smith said that she seemed nervous and agitated.⁷² Both officers stated that Adrienne McGlinchey said that she was merely delivering the maps from Strabane to a person in Rahan. Detective Sergeant Smith continued his description of their encounter as follows:

As I said, she seemed agitated and worried and we pressed her on the markings on the map and she said she didn't know what they signified. I put it to her, what if some poor innocent man gets blown up or shot at these locations. ... And she said, I don't know nothing about that. We asked her further about where she got them, she couldn't identify the person who gave them to her but she said she received them when she was standing on the footpath outside the Classic Bar in Strabane. ... That's a pub in Strabane. She said the message she was told to deliver with the maps was that the party was off for a week, or that the party was off, something to that effect. ... I informed her that I was going to take possession of the maps and she was worried that if she didn't deliver the maps to the location she was going to deliver them she would be in trouble. ... So we came to an agreement whereby we would take the maps into the station, photocopy them and give her back the originals ... and we did that.⁷³

- 4.57. In his evidence, Detective Sergeant Smith stated that it was only because Adrienne McGlinchey turned across the road in front of their car that they thought of following her and stopping her. He said that if she had continued

⁷² Transcript, Day 24, page 91.

⁷³ Transcript, Day 24, page 92 and 93.

straight along the road in the direction of Rahan, they probably would not have stopped her. When it was put to him that perhaps Ms. McGlinchey had carried out the manoeuvre with the aim of attracting his attention and the attention of Detective Garda Tolan, he stated as follows:

Well, it did attract our attention and had she continued on, as you said earlier, straight towards Rahan, we probably wouldn't have stopped her. ... I felt at the time that the IRA were probably using her as a sort of messenger maybe, to take messages from A to B.⁷⁴

- 4.58. In a statement made to members of the Carty team, Adrienne McGlinchey stated that the maps which she permitted the two Gardaí to copy on that occasion were merely maps which she required for her pastime of canoeing. In her evidence, she gave the following explanation in relation to the maps:

The only thing I remember about maps was, when I was coming down from Rosie's house [in Rahan], that they stopped my car and they took out my canoeing maps, that is the only maps they ever seen in my car. And it was not even my car, it was my mother's car. I have never handed nothing over to them.⁷⁵

- 4.59. In evidence, Detective Sergeant Smith stated that while that may have been her excuse, in relation to the maps, from his recollection there were no rivers or waterways close to the markings on the maps. In his evidence, Detective Garda Tolan stated that the issue of canoeing was not mentioned at all. He stated that Adrienne McGlinchey said that she did not know what the maps were for, or what they related to.⁷⁶ There is a strange feature of the evidence related to the 'finding' of the maps. The Tribunal got the distinct impression from the evidence of the Gardaí, at first, that they had searched and found these maps. Later, the impression given was that Ms. McGlinchey had given them the maps. The Tribunal believes the latter. She had deliberately attracted their attention by driving as she did. She had a remarkable story, true or false, ready for them. This was not a random stop or search. It was set up by Ms. McGlinchey.
- 4.60. Detective Gardaí Smith and Tolan sent up a joint C.77 to Crime & Security outlining their meeting with Ms. McGlinchey on this occasion. They also gave an account of certain other information which cannot be divulged in this section of the report.
- 4.61. The significance of the maps which were obtained on the 11th of October 1990 can be seen in the light of an incident which occurred some days later. On the 23rd of October 1990 an outrage occurred at the border crossing point at Coshquin. At approximately 04.00 hours a civilian, who had been kidnapped

⁷⁴ Transcript, Day 24, page 95.

⁷⁵ Transcript, Day 14, pages 107 and 108.

⁷⁶ Transcript, Day 24, page 125.

from his home, was forced to drive a vehicle containing explosives to the vehicle checkpoint. His family were being held hostage by the 'Provisional IRA' at the time. Upon reaching the checkpoint, the vehicle exploded, probably caused by a trigger mechanism which set off the bomb when the door of the vehicle was opened. The driver and five British soldiers were killed.

- 4.62. Detective Sergeant Smith gave evidence concerning a chance meeting which he had on the street in Letterkenny with Ms. McGlinchey on the afternoon of that atrocity:

I saw her coming up the pavement when I was heading into the shop. I didn't expect her to speak to me, but she did speak. ... I don't think it was remorse, she just says "I never thought the maps had anything to do with it". ... I was heading into the shop. I had locked the driver's door. She kept walking, I told her to keep going.⁷⁷

- 4.63. He stated that he told Ms. McGlinchey to keep on going because his view was that she was merely carrying the maps. He believed that she did not know if the maps were in any way significant. He stated that he did not believe for one moment that Adrienne McGlinchey had any knowledge about the bombing at Coshquin. Detective Garda Smith did not send up any C.77 about this encounter, but he says that he did inform Detective Sergeant Henry and Detective Superintendent McLoughlin about it. This evidence is supported by the evidence of Detective Sergeant Henry, who stated that he was told of the encounter between Detective Garda Smith and Adrienne McGlinchey on the street on the day of the bombing, although he could not recall when exactly he was given this information.⁷⁸

- 4.64. The Tribunal finds it hard to find any excuse for Detective Garda Smith, Detective Sergeant Henry, and especially Chief Superintendent John McLoughlin's failure to react to the knowledge that they had supposedly received. One of the worst terrorist outrages of these troubled years had occurred hours earlier. Someone who might reasonably have been believed to have been a courier for the perpetrators was known to them. She, it would appear, on their case, had delivered papers to a third party which possibly related to the event. Yet, no steps were taken to engage with Ms. McGlinchey in relation to the matter. The Tribunal listened carefully for any justification in their answers to counsel's questions as to their lack of response. None was forthcoming. As the senior officer, Chief Superintendent McLoughlin's attitude to this matter was inexplicable and is regarded by the Tribunal as negligent.

⁷⁷ Transcript, Day 30, pages 134 and 135.

⁷⁸ Transcript, Day 72, pages 111 and 112.

- 4.65. The next encounter with Adrienne McGlinchey was some two weeks after the bombing at Coshquin. Detective Sergeant Smith stated that he stopped her on Pearse Road, Letterkenny. He said that he told her that he wanted to speak to her about the maps. He said that Adrienne McGlinchey was quite agreeable to meeting up with them. When they met subsequently, she indicated that she had photographs which she had had in her possession since the time that she had been stopped on the 11th of October 1990. She stated that she would hand them over to Detective Gardaí Smith and Tolan. At a subsequent meeting, she did hand over photographs of the housing estate where the driver of the vehicle that had been used in the Coshquin bombing had lived. The number of the victim's house and arrows showing directions to his house were added to the photograph in manuscript. Adrienne McGlinchey did not require the return of the original photographs. Detective Sergeant Smith said in evidence that he made copies of the photographs and handed the originals to Detective Superintendent McLoughlin for inclusion on the investigation file. Detective Sergeant Smith produced to the Tribunal the copies of the photographs, which he had retained. The Tribunal was informed by the legal representatives of the Garda Commissioner that, despite a search by the Garda authorities, the originals of the photographs could not be located.
- 4.66. Detective Sergeant Smith testified that he handed the photographs to Detective Superintendent McLoughlin when they were received some two weeks after the bombing. Detective Sergeant Sylvie Henry was clear in his recollection that Detective Gardaí Smith and Tolan did bring in the photographs of the housing estate where the deceased had lived. He said that this was about two to three weeks after the bombing. He told the Gardaí to send the photographs to Detective Superintendent McLoughlin, who was leading the investigation. He presumed that this was done by the Gardaí concerned.⁷⁹ Detective Sergeant Henry was sceptical about the production of the photographs by Adrienne McGlinchey, he stated:

As I say, it was doable. It was very easy when you knew where somebody had come from, the papers and everything else, it was very easy to go and get photographs afterwards. Had it been beforehand, then alarm bells would be ringing a lot louder in my ear. ... I can't remember what conversation I had with Hugh Smith and Matt Tolan at that time. I just can't remember. But, you know, it was my view and it was one that I held pretty early on when I saw them, I thought to myself, this is something that could have been got afterwards. ... I suspected that it was probably herself. ... What better way to put herself in a high standing with the guards, to have something that looked good. ... That was a view I held to

⁷⁹ Transcript, Day 72, page 113.

myself, yes. ... At that time I suppose I had a good bit of service, I had a good bit of experience and it was my gut feeling that this is what possibly was happening. As I say, if we had got the maps prior then she shouldn't have had them, but at the point, at the stage – and I am saying two weeks, maybe it was longer, at that time the dogs in the street knew where Mr. McGillespie was from ... Sergeant Smith told me where he got them, he got them from Adrienne McGlinchey⁸⁰

- 4.67. Detective Superintendent McLoughlin's recollection was somewhat different. He did recall receiving the photographs, which he described in his journal as "maps", but thought that that didn't occur until January of 1991. Adrienne McGlinchey, for her part, denies that the encounter on the street ever occurred. She also denies ever providing any photographs to Detective Gardaí Smith or Tolan.
- 4.68. Insofar as there is a conflict between Adrienne McGlinchey and Detective Sergeant Smith and Detective Garda Tolan concerning whether she actually furnished the photographs, the Tribunal is satisfied that she did furnish them to the two Gardaí concerned. Insofar as there is a conflict between the Gardaí as to when they were brought to the attention of Detective Superintendent McLoughlin, the Tribunal prefers the evidence given by Detective Sergeant Smith and Detective Sergeant Henry in this regard. Accordingly, the Tribunal finds that in all probability they were brought to the attention of Detective Superintendent McLoughlin in or about the month of November of 1990.
- 4.69. Detective Sergeant Smith and Detective Garda Tolan maintain that in the following months they had extensive contact with Adrienne McGlinchey. They described how they would meet up with Ms. McGlinchey: they would drive up the road where her premises was situated; if Adrienne McGlinchey was outside her premises, they would pull into a nearby restaurant car park (known locally as the Grill) which was on the opposite side of the street. If she wished to speak to them, she would cross the road and tell them that she had something to say to them. She would then proceed on through an alleyway and meet the two Gardaí in either the courthouse car park or the post office car park. Alternatively, she would arrange to meet the Gardaí at one of these car parks at a later time. Very occasionally, she would sit into their car in the Grill car park. They stated that they did not ever drive her from the Grill car park to one of the other car parks, due to the fact that there was a one-way street system, with a set of traffic lights at the top, which would have meant that she would have been seen with them. They stated that their meetings took place in one or other of the car parks mentioned. These locations were selected because they were not used greatly at night, although Detective Garda Tolan did concede that they could be used by

⁸⁰ Transcript, Day 72, pages 114 and 115.

persons going to the cinema, or going to nearby pubs, or staying in local guesthouses. Detective Sergeant Smith's recollection was that they only picked up Adrienne McGlinchey in the car parks, whereas Detective Garda Tolan felt that they actually held their meetings there. They both agreed that all their meetings with Adrienne McGlinchey took place in the unmarked Garda car. Detective Sergeant Smith stated that on average these meetings would last for thirty to forty-five minutes, but there were longer ones, which took place when they went on trips to places such as Ballyshannon and Clonmany. They both estimated that they had thirty to forty meetings with Adrienne McGlinchey in the period from October of 1990 to July of 1991.

4.70. Both Gardaí described Adrienne McGlinchey as being difficult to handle. They described how she would indicate that she had something to tell them, but would then be very slow to impart the information. Alternatively, she would drop some snippet of information and then prove unwilling, or unable, to elaborate upon it. The Gardaí described spending a lot of time talking to Adrienne McGlinchey in an often fruitless attempt to extract information from her, or else in an attempt to elaborate on pieces of information already given.

4.71. To a limited extent, Adrienne McGlinchey accepts that she did have dealings with Detective Gardaí Smith and Tolan. However, her account of her dealings with them is substantially different from their account. It differs in three important respects. Firstly, she states that any conversations which she had with Gardaí Smith and Tolan took place openly in her restaurant. She categorically denies that there were any meetings held in the Detective Branch car, either in car parks or elsewhere. She does accept that she accompanied them on one trip to Ballyshannon, which will be described later. Secondly, she states that she never gave any first-hand information from her own knowledge. Instead, at the request of the Gardaí, she merely relayed what a certain man, identified to the Tribunal under a pseudonym, said concerning various matters of subversive activity. She maintained that this was usually in relation to items which appeared on the news. This person was a man who frequented her restaurant. Thirdly, she denied ever furnishing any documents to Messrs. Smith and Tolan. This denial was subject to the exception of the maps furnished in October of 1990, which she maintained were canoeing maps. In order to set out Adrienne McGlinchey's position with sufficient clarity, it may be useful to quote her stance on this subject, which was put by her counsel in the course of his cross-examination of Detective Garda Tolan:

Just for the purpose of clarification, hopefully this will elaborate matters. Ms. McGlinchey fully accepts that she passed on snippets of information given to her by the (deleted). She says that she did

that in the restaurant when Detective Garda Tolan and Detective Garda Smith were in the restaurant. She says, in fact, that it was not just confined to those officers, but those are the officers we are dealing with today. It may well be that that information forms the subject matter of some of the C.77s which are before this Tribunal. I do not know because for obvious reasons it is up to the members in question, when compiling their C.77s, to say what the information was and who gave it to them. What I am saying, fairly and squarely, is that she did not give them information privately, outside the restaurant. She did not give them photographs and she did not give them maps at any stage.

So, for the purpose of clarification, I am simply saying that Ms. McGlinchey fully accepts that she had conversations with the two officers in question in the restaurant when they came in. It may well be at this remove she simply cannot say that some of that information forms part of the subject matter of the C.77s. What she is categorical about is that both C.77s, which relate to photographs, maps etc., simply do not derive from information which she passed on.⁸¹

- 4.72. Detective Sergeant Smith in his evidence in chief told the Tribunal that while he was aware of the existence of the person in question, he did not accept that Adrienne McGlinchey was merely relaying to them what she had been told by this man:

I believe that what she was relaying to myself and Detective Garda Tolan was genuine. I wasn't of the opinion that she was relaying a conversation between herself and (deleted)... She introduced the (deleted) man into the conversations ... we didn't know he existed prior to meeting Adrienne.

Q. What did she tell you that he was telling her?

A. She didn't tell us ...

Q. Chairman: I am not quite clear. It has been suggested, for your comment, that all she was ever doing was telling you what the ...man told her; is that true or not?

A. That may well have been what she was doing but I didn't get that impression from the conversation.⁸²

⁸¹ Transcript, Day 28, pages 76 and 77.

⁸² Transcript, Day 24, pages 98 and 99.

- 4.73. Detective Sergeant Smith and Detective Garda Tolan have given evidence that during the months of November and December of 1990 and January of 1991, Ms. McGlinchey furnished them with a significant amount of information during the course of their many meetings. This information was transmitted by them to the authorities in Crime & Security by means of C.77 forms. Evidence concerning the information received, and the submission of the reports thereon by way of C.77 forms, was given in closed session of the Tribunal. It is therefore not possible to set out any of that information in this chapter. It is however, possible to set out a number of incidents involving Detective Sergeant Smith and Detective Garda Tolan which were dealt with in open session of the Tribunal, or information which did not form any part of the content of any C.77. All the Tribunal can record, in a general way, is that in the period October of 1990 to July of 1991, a total of eight C.77s were submitted by Messrs. Smith and Tolan in respect of information which they maintain came from Adrienne McGlinchey. None of this information led to the seizure of any arms or explosives, or to the arrest of any persons.
- 4.74. One of the incidents which can be described in this report, concerns the renting of a flat above her shop by Adrienne McGlinchey, in February of 1991, to three men, who at the time were thought of as 'known republicans'. Detective Garda Tolan described this event as follows:

She approached us, I can't remember the day, I don't remember the time, probably early '91. She informed us that there was three people coming to stay in the flat. She was renting the flat to them. A (deleted) man had asked her to let the flat to these three individuals. ... No, the transaction had been done at that stage, these people were actually arriving, I think, the following Sunday. ... I remember those people arriving on a Sunday afternoon. As far as I recall, she arrived with them in her car. I don't know where she picked them up, but I remember fairly clearly it was Sunday afternoon. ... Yes. She named these people for us and we knew they were ... I know. She named them for us and she told us exactly who was coming to the place. On checking them we knew exactly who they were.⁸³

- 4.75. It appears that the occupants of the flat were of sufficient importance to the Gardaí that it was decided to call in the services of the National Surveillance Unit to mount an observation operation at the flat. The surveillance team, which was headed by the now Assistant Commissioner Kevin Carty, watched the flat for a period of approximately a week.

⁸³ Transcript, Day 24, pages 127 and 128.

- 4.76. There is not a great deal of controversy about this incident, save that Adrienne McGlinchey maintained that when she told Detective Garda Smith and Detective Garda Tolan that she had been asked by a person who she named would she make the flat available to the three people, she stated that she was encouraged by Messrs. Smith and Tolan to do so. They denied this, stating that the arrangement had already been put in place when they were told about it. In any event, all are agreed that nothing of great significance came out of the surveillance. It was called off when Adrienne McGlinchey became aware of it.
- 4.77. Another incident to which reference can be made concerned a trip to Ballyshannon made by Detective Garda Smith, Detective Garda Tolan and Adrienne McGlinchey for the purpose of retrieving a gun. In his evidence to the Tribunal, Detective Sergeant Smith gave an outline of the event as follows:

She told us at one or two meetings that she had possession of a gun that was taken from an RUC man. Now, I got the impression from our conversations at the time, rightly or wrongly, that it was a handgun. ... She was kind of drip-feeding us, I suppose, at that stage, but eventually she did tell us that this gun was in the attic in a flat in Ballyshannon. ... She promised that she would take us down and get the gun for us. I felt that if she could produce the gun it would support some of her previous things she had told us of what she knew and what she done. So, on one particular night we arranged that we would go over to Ballyshannon with her to retrieve this gun. And I recall she sat into the back of the patrol car and she was in a good enough humour, all our meetings were friendly, we had no problems with the girl. She produced a small bottle of vodka from her inside pocket. ... She started taking sips of it. As time passed on, I realised she was getting drunker and drunker. When we reached Ballyshannon she asked us not to pull up at the flat, we didn't know where this flat was, she gave us directions where to park and told us to wait for 10 minutes. ... We sat in the patrol car, she disappeared for 10 or 15 minutes, maybe less, and she returned and said she can't go in because a certain person was in the flat. ... So we returned to Letterkenny. ... She kept putting off the trips. I suspected maybe that the gun didn't exist, rightly or wrongly again, but we never went back to Ballyshannon after that.⁸⁴

- 4.78. Adrienne McGlinchey's recollection of this event was that she had been with a named person on one occasion when driving through Ballyshannon. He pointed out a flat and said that there was a gun there. She said that when she returned

⁸⁴ Transcript, Day 24, pages 100 and 101.

with Messrs. Smith and Tolan, she wasn't able to locate the flat and that that was why the trip was unsuccessful. She denied that she had been drunk on that occasion. Detective Sergeant Smith accepted in cross-examination that in relation to the Ballyshannon trip, they had been brought on a wild goose chase by Adrienne McGlinchey.

- 4.79. Detective Sergeant Sylvie Henry gave evidence that Messrs. Smith and Tolan had told him that Adrienne McGlinchey had brought them to Ballyshannon to retrieve a gun. She had apparently told them that an RUC man had lost his gun. Detective Sergeant Henry made enquiries of the RUC, but learnt that no report of any of their constables losing his firearm had been made. He didn't attach a great deal of significance to the information which had been supplied by Adrienne McGlinchey on this occasion.⁸⁵
- 4.80. There were other fruitless trips. Detective Gardaí Smith and Tolan allege that they made four trips to the Clonmany area with Adrienne McGlinchey looking for an arms dump of which she was supposed to have had knowledge. Nothing came of these trips. On one occasion Adrienne McGlinchey brought them to Rathmullan to retrieve an item. All they found was a balaclava hidden in a wall.⁸⁶
- 4.81. When challenged about the veracity of the information which she had provided, Detective Garda Tolan stated that Adrienne McGlinchey would ramble on about different things and give different explanations for what she had said. He described her as a "good bluffer".⁸⁷ When asked did he ever think that she might be playing games with them, he stated:

Q. So what was going on, she was playing you in some way? Did you ever think about that?

A. Yea. Well I would agree she liked that attention, but at the same time she had the information that we could not ignore.

Q. So, did you ever explore with her, did you ever ask her why she was doing that?

A. No.

Q. Why are you wasting our time? Why are you bringing us up to stone walls and balaclavas on a mischievous exercise? What is this all about?

A. No, while as I say she had a certain amount of information, we could not ignore it. Anything else she came up with we had to explore it.⁸⁸

⁸⁵ Transcript, Day 72, page 127.

⁸⁶ Transcript, Day 29, page 25.

⁸⁷ Transcript, Day 29, page 76.

⁸⁸ Transcript, Day 29, page 28.

4.82. It is fair to say that after the Ballyshannon trip, both Detective Garda Smith and Detective Garda Tolan began to harbour doubts about the veracity of some of Adrienne McGlinchey's information. She had also told them that she had driven known republicans on a frequent basis to a place which she identified. They stated that they kept the area under surveillance, but never saw her dropping anyone off, or collecting anyone, at that place. They never saw her entering or leaving the republican house at Rahan, although her car was seen frequently in that area. They never saw her in the company of any known republicans, notwithstanding that Adrienne McGlinchey would frequently mention the names of such people. Detective Garda Tolan expressed the emergence of his doubts to the Tribunal as follows:

We were possibly doubtful about it. That is why we made efforts to try and establish whether it was in fact happening. ... There was doubt at times, yes. ... Well, a lot of the information we couldn't put it one way or the other. We had nothing to prove that it was true. We took it on its merits at the time and forwarded it to Crime & Security. But, in fairness, we did have doubts at times and we went so far as to do surveillance on Adrienne McGlinchey herself.⁸⁹

4.83. He stated that his Detective Sergeant was made aware of their doubts. He also presumed that the Detective Superintendent was aware of the doubts as well.

4.84. On one occasion Detective Gardaí Smith and Tolan did surveillance on Adrienne McGlinchey herself to see what she was doing. They came across her late at night digging a hole in the ground in a forest. They observed her from a distance. They stated that they did not mention this to Adrienne McGlinchey, but waited to see if she would ever mention it to them. She did not bring up the subject. On the following day, together with Detective Sergeant Henry, they went out to the forest and inspected the dug area. Nothing of interest was noted. They make the point that the fact that they went so far as to put surveillance on Adrienne McGlinchey was indicative of the degree of suspicion which they had towards her at that time. They were not sure if she was acting on behalf of the 'Provisional IRA', or just being mischievous in an attempt to attract Garda attention.⁹⁰

4.85. Detective Garda Tolan gave evidence that on the 6th of July 1991, which was a Saturday night, he received a telephone call from Adrienne McGlinchey stating that something was going to happen on the following Monday night. She was unable to be more precise at that time. He was not rostered for work that weekend. He had intended making contact with Adrienne McGlinchey when he started his shift on the following Monday evening. However, in the early hours of the Monday morning, a large bomb was found by the Gardaí on a lorry in the

⁸⁹ Transcript, Day 26, page 54.

⁹⁰ Transcript, Day 26, page 58-60.

yard of a premises. It was primed for detonation. Detective Garda Tolan had told nobody about the information which he had been given by Adrienne McGlinchey. The discovery of the bomb had nothing to do with her. At first sight, it might appear that Adrienne McGlinchey gave the Gardaí significant information on this occasion. However, the Tribunal is satisfied that the information was not significant. What she had told the Gardaí was to the effect that something was going to happen on the following Monday night. This was followed by the discovery of a bomb at a farm premises as a result of work that was completely unconnected with Ms. McGlinchey. It would therefore be wrong to associate anything which she said about the bomb without some more definite connection.

- 4.86.** The Tribunal is satisfied that it was, at best, pure coincidence that the vague “something” coincided with the consequent discovery. This is to be put down to good detective work. This incident is yet another example of the vague and uncoordinated hints which characterise what Adrienne McGlinchey passed on to her handlers. No evidence has been given that anything was ever found as a result of information coming from her. There is, of course, an exception to this which is the finds that are the subject of the Tribunal’s enquiries. On this particular point, Detective Garda Tolan stated that the information from Adrienne McGlinchey was too vague to have been of any real value to the Gardaí. Adrienne McGlinchey had been arrested that morning at 07.45 hours, while apparently on her way back from the flats at Rahan. She was released after questioning by Detective Gardaí Danny Kelly and Noel McMahon. Detective Garda Tolan stated that he spoke to Adrienne McGlinchey briefly in the Garda Station, but she refused point blank to discuss the information which she had given to him. For her part, Adrienne McGlinchey denies that she ever made such a telephone call to Detective Garda Tolan, or provided him with any information concerning that incident.
- 4.87.** Shortly after that arrest, Adrienne McGlinchey left Letterkenny to reside for a number of years in Bunrana. The circumstances of this are detailed in the next chapter of this report. Neither Detective Sergeant Henry, Detective Garda Smith or Detective Garda Tolan took any steps to keep in contact with her, nor did they take any steps to hand her over as an informer to any Gardaí operating in the Bunrana area.
- 4.88.** Before setting out the conclusions of the Tribunal on this part of the narrative, it is necessary to deal with some further relevant evidence in relation to this period. Three further C.77s were submitted by Detective Garda Tolan in January and February of 1992. He gave evidence that the information contained in those documents was supplied by Adrienne McGlinchey. In his statement to the Carty

team, he had stated that he had had no further dealings with Adrienne McGlinchey after July of 1991. He explained this assertion as being an error. This he only subsequently spotted when he had sight of the C.77s submitted by him to Crime & Security. He identified two C.77s submitted in January of 1992 and one in February of 1992 as having come from information supplied by Adrienne McGlinchey. He was positive that the information came from her. It is not possible to set out the details of this information. Suffice to say that Detective Garda Tolan stated that the information was taken seriously, as was evidenced by the fact that static surveillance was mounted on a particular premises over a number of weekends as a result of the information received from Adrienne McGlinchey, as reported in one of the C.77 forms.⁹¹

- 4.89.** Both Detective Sergeant Smith and Detective Garda Tolan accepted that during their encounters with Adrienne McGlinchey in Letterkenny she was never found in possession of walkie-talkies, electrical components, tripods, steel items, or any other equipment of a subversive nature. The only exception to this was the evidence given by Sergeant Bobby Mullally to the effect that in 1989 Adrienne McGlinchey was somewhat erratic. She carried a bag which she claimed came from a 'Provisional IRA' dump. He tried, without success, to get a sample of the material in the bag for testing.⁹²
- 4.90.** Detective Garda Tolan was asked in cross-examination whether he ever warned Adrienne McGlinchey against doing anything illegal. He stated that he gave no such warning to her, as she was not engaged in any illegal activities to his knowledge while she was in Letterkenny. He pointed out that her first arrest was in July of 1991.⁹³
- 4.91.** The second portion of relevant evidence concerning this period was given by Ms. Rosaleen O'Donnell and her brother, Mr. Mark O'Donnell.⁹⁴ They lived with their parents in a house in the Rahan area. Ms. O'Donnell gave evidence that she was resident in England during the period 1988 to 2000. She had known Adrienne McGlinchey for many years, having gone to primary school with her. She also worked in Adrienne McGlinchey's restaurant on a number of occasions prior to emigrating to the U.K. She gave evidence that she had been a good friend of Adrienne McGlinchey's for a long period of time. While she lived in England, she used to come back to visit her family in Letterkenny a number of times each year. Usually she would spend about two weeks on each visit. During these visits home, Adrienne McGlinchey would call up to her house frequently to meet up with Ms. O'Donnell and also for the purpose of giving her lifts, if they were going out for the night. Ms. O'Donnell stated that she never saw Adrienne McGlinchey entering or leaving the republican house in Rahan.

⁹¹ Transcript, Day 28, page 62.

⁹² Transcript, Day 54, page 165.

⁹³ Transcript, Day 30, page 49.

⁹⁴ Transcript, Day 125.

- 4.92. Mr. Mark O'Donnell worked in Adrienne McGlinchey's restaurant for two periods of six months in the early 1990s. He stated that he worked two nights at the weekend and three nights during the week. He stated that during the week his work shift would end at approximately 00.00 hours, whereas on the weekend nights he could be working until 03.00 or 04.00 hours. He gave evidence that Adrienne McGlinchey would drop him home in her car after his work shift had ended. He stated that she would often drop members of staff to their homes after work. Like his sister, he had never seen Adrienne McGlinchey going into the republican house. This evidence was not challenged by any of the parties present before the Tribunal.
- 4.93. It is necessary to set out how the various members of An Garda Síochána viewed Adrienne McGlinchey at the time that she came to leave Letterkenny in the summer of 1991. Detective Superintendent McLoughlin stated that he was of the opinion that she was a Grade A informer. He based this view on some of the information which came from Adrienne McGlinchey and which had been forwarded by Messrs. Smith and Tolan by way of C.77 forms. He stated that this information was accurate and had been confirmed as such by the RUC. Chief Superintendent Ginty stated that he was first aware of Adrienne McGlinchey giving information to the Gardaí, to Detective Garda Mullally in particular, in the latter part of 1987. He stated that he was also aware that she was providing information to Detective Garda Smith and Detective Garda Tolan. He thought that the information concerning the threat to the life of a man from Northern Ireland who was coming into this jurisdiction, was accurate. He thought that, in providing this information, Adrienne McGlinchey had provided a valuable service to the Gardaí.⁹⁵ He felt that if she had documents which concerned Coshquin, then she could be a useful person for the Gardaí to cultivate. It was his belief that she was close enough to the 'Provisional IRA' to be in a position to obtain some useful information.⁹⁶ However, the unsuccessful trip to Ballyshannon caused him to have doubts:

I don't remember a great deal about Hugh Smith and Matt Tolan's association with Ms. McGlinchey, but I do remember distinctly one item where she was to take them to Ballyshannon to recover a rifle which was supposed to be in hiding in a house there, but it didn't materialise. I think, if memory serves me right, that we began to suspect that maybe she wasn't as valuable – at least they began to suspect that she wasn't as perhaps as valuable a contact as perhaps we had previously thought. I think Hugh Smith had some doubts about her at that point. .. I'd say that, you know we are not dealing with absolutes here by any means and that the situation

⁹⁵ Transcript, Day 103, page 62.

⁹⁶ Transcript, Day 103, page 129.

was let drift somewhat and we will be guided – at least, I wasn't consciously involved, but that my perception is that the Gardaí concerned would be guided by what developed rather than to adopt a mechanical approach and say that we will drop her as a contact or come to any absolute conclusions about her value as a contact. This is my belief, again. ... Well, again, you know, I'd have to know the times that Hugh Smith expressed some reservations about her and the time that John McLoughlin was referring to. Because I myself thought that she was a good – well when you talk about grades, I didn't grade people in that way, but I wasn't even aware there was such a classification as Grade A or a Grade B or anything else. But, I did think of her as a useful contact, but let me put it that way, but what, how John McLoughlin came to his conclusions at any given time and how others came to their conclusions at any given time is a matter which I think will have to be studied with regard to the timeframes involved.⁹⁷

- 4.94. Superintendent John Fitzgerald was a Detective Inspector at the relevant time. He was aware that Adrienne McGlinchey was giving information to Detective Garda Smith and Detective Garda Tolan from time to time, but he was not aware of the content of that information. He presumed that the C.77s that were submitted by these Gardaí resulted from information furnished by Adrienne McGlinchey. There was a note on one of the C.77 forms, which suggested that Superintendent Fitzgerald had a view on Adrienne McGlinchey, but he was unable to say precisely to what the note referred. He had a vague recollection of the Gardaí concerned travelling to Ballyshannon with her. He held the view that she was the type of person who could be used by the 'Provisional IRA' without her necessarily being a member of that organisation. He stated that he had seen her on one occasion in a vehicle with a well-known republican figure.⁹⁸
- 4.95. Detective Sergeant Henry's view can be summarised as follows: that he felt that a lot of what Adrienne McGlinchey was providing was "doable", by which he meant that it was material which was capable of being manufactured by Adrienne McGlinchey herself. Accordingly, he harboured doubts about her as a genuine informer. However, he accepted that there were certain pieces of information which seemed too significant for the Gardaí to ignore. He saw his position, and that of the Gardaí handling her, as being obliged to pass on all relevant information to Crime & Security Branch and to let them analyse it and ascertain its accuracy. He stated that he felt that he could not ignore any information coming from Adrienne McGlinchey, as he did not want it on his conscience if he were to ignore any specific piece of information, lest it should

⁹⁷ Transcript, Day 103, pages 133 and 134.

⁹⁸ Transcript, Day 124, page 67.

turn out to have been accurate information which might in turn have enabled lives to be saved. He accepted that he did not communicate any of his doubts concerning Adrienne McGlinchey to any senior officers.

4.96. Detective Sergeant Hugh Smith stated his views as follows:

I believed her at that time, that she had a tentative connection with the IRA, be it small, but information she had given us, I couldn't disprove it wasn't factual. Like, some other stuff she gave us was checked out and found to be true. I did not [report my doubts about her to anyone], I sent up my reports to Headquarters. If I had doubts that they weren't true, or misleading, I possibly would not have sent them up in the first place. I was quite maybe wary about some aspects of different things but I believed all in all that what we were getting was genuine ... I still believe that what we got was genuine.⁹⁹

4.97. Detective Garda Tolan stated that as a result of the incidents with the maps on the 11th of October 1990 and the letting of the flat to known republican figures in February of 1991, he regarded Adrienne McGlinchey as a reliable informer. However, over time his doubts emerged. He expressed his doubts to Detective Sergeant Henry. He and Detective Garda Smith did surveillance on Adrienne McGlinchey to ascertain whether she was in fact that which she portrayed herself. His doubts about her were never resolved. Neither Detective Sergeant Smith nor Detective Garda Tolan took any steps to keep in contact with Adrienne McGlinchey when she left Letterkenny.

4.98. Insofar as Crime & Security Branch are concerned, it would appear that they were aware of Adrienne McGlinchey's existence as an informer, certainly from very early in 1991. They were well aware of Adrienne McGlinchey's alleged association with the 'Provisional IRA'. This was as a result of communications and reports sent up to them as detailed earlier in this chapter. They should also have been aware of her identity as a result of the surveillance carried out on her flat in February of 1991.

Conclusions on the Letterkenny Period

4.99. While the preceding narrative does not refer to C.77 reports in detail, as provided by the terms of the Protocol agreed with Crime & Security, the conclusions which are set out hereunder are based on a consideration of the totality of the evidence given on this aspect. **Having considered all of the evidence given in both public and private sessions of the Tribunal and having regard to the documents produced from the relevant period and in particular having**

⁹⁹ Transcript, Day 24, page 103 and Day 31, pages 134 and 135.

considered the relevant C.77 forms, together with the attachments thereto, the Tribunal has come to the following conclusions concerning the period 1987 to July of 1991:

- (a) As already stated, the Tribunal is of the opinion that Sergeant Mullally gave his evidence in an honest and accurate manner. The Tribunal finds that he had dealings with Adrienne McGlinchey in the period 1987 to 1990. She did furnish to him the information and documents which he in turn furnished to Crime & Security by way of the five C.77 forms which were examined in evidence.
- (b) Adrienne McGlinchey was not asked specifically about any dealings she may have had with Detective Garda Mullally. She did not mention him in her evidence to this Tribunal. Whether this was a calculated decision taken by her, having regard to the rather curious paragraph in the Carty report which stated that there was “unconfirmed information that she had dealings with a Detective Garda Bobby Mullally” and that he had retired from An Garda Síochána, the Tribunal does not make any specific finding.¹⁰⁰ In any event, her position in the matter was put forcefully by her counsel during his cross-examination of Sergeant Mullally. It was to the effect that she denied having any dealings with him whatsoever. The Tribunal rejects that proposition. The instructions furnished by Ms. McGlinchey in this regard do not constitute an accurate account of her dealings with Detective Garda Mullally.
- (c) The Tribunal is satisfied that Adrienne McGlinchey’s dealings with Detective Garda Mullally were engaged in freely and voluntarily by her, without any threat or coercion on the part of Detective Garda Mullally.
- (d) The Tribunal accepts that when Sergeant Mullally left Letterkenny for Carrigans in 1990, he did not take any steps to hand Adrienne McGlinchey over to any Gardaí in Letterkenny as an informer. Insofar as she came to be handled by Detective Garda Hugh Smith and Detective Garda Matt Tolan, this was solely as a result of actions on her part. The Tribunal is also satisfied that all her subsequent dealings with these Gardaí were activities undertaken freely and voluntarily by her.
- (e) The evidence given by Detective Sergeant Smith and Detective Garda Tolan concerning all of their dealings with Adrienne McGlinchey was tested at great length, and in great detail, by counsel for the Tribunal

¹⁰⁰ Carty report, para. 1.28.

and also by counsel acting for Ms. McGlinchey. While the casual method of meeting her for the purpose of obtaining information was not what one would have expected when dealing with a 'Provisional IRA' informer, the Tribunal is nevertheless satisfied that the meetings did take place in the manner described by Detective Sergeant Smith and Detective Garda Tolan. It is also satisfied that the information and the documents which they forwarded on C.77 forms did emanate from Adrienne McGlinchey. Insofar as she denies the extent of her dealings with these Gardaí, or the production by her of any documents, other than the maps retrieved on 11th of October 1990, the Tribunal prefers the evidence of Detective Sergeant Smith and Detective Garda Tolan to that of Adrienne McGlinchey, and accordingly, her evidence on these matters is rejected.

- (f) The Tribunal accepts that Detective Garda Mullally, and after him Detective Garda Smith and Detective Garda Tolan, believed the information supplied by Adrienne McGlinchey was genuine at the time that they forwarded it to Crime & Security. The position was best summarised by Detective Sergeant Sylvie Henry, whose evidence was that while there were doubts in the unit about the veracity of Adrienne McGlinchey's information, they felt that some of her information was too serious for them to ignore. He stated that they felt that it was not for them to disregard a particular piece of information, when it could prove to be of significance to officers in Crime & Security who may have additional information from different sources. The Tribunal accepts this evidence as regards the state of mind of the men on that unit at the relevant time.
- (g) The question as to whether the information supplied by Adrienne McGlinchey was in fact genuine, or was merely based on pieces of information picked up by Ms. McGlinchey and passed on as being significant subversive information, is a difficult question to answer. The position in this regard was best summarised by the evidence of Detective Sergeant Henry. He said that while some of the information appeared of significance, he held the suspicion that it may not have been genuine, because, in his words, it was "doable"; meaning that it was something which a mischievous person could produce if they wanted to impress people, or if they wanted to pass themselves off as an informer. He took the example of the map obtained prior to the Coshquin bombing. It had a mark on it, which was in the general area where the bombing occurred. He postulated that perhaps Ms.

McGlinchey may have simply overheard something to the effect that something was going to happen in the Burt area. She could have placed the mark on the map herself. It would only be with the benefit of hindsight that people would read a significance into the maps, which was in fact far greater than it merited. It seems to the Tribunal that on the balance of probability this is a more likely scenario than that put forward by Ms. McGlinchey, namely that the maps were merely innocent in nature and connected with her enthusiastic pursuit of the sport of canoeing.

Similarly, with the photographs of the housing estate, which were produced some two weeks after the bombing, Ms. McGlinchey mentioned that she had received these photographs at the same time as she had received the maps during her trip to Strabane on 11th of October 1990. This begs the question that if she had had the photographs and was willing to hand them over, why would she have had to wait two weeks after the bombing to furnish same to the Gardaí? It also begs the question as to why the 'Provisional IRA' would need pictures of the housing estate, or why they would retain same in a dump for a period of two weeks after the bombing had occurred. One certainly has the suspicion that the production of these photographs was something which was very "doable" by a person who was prepared to go to considerable lengths to deceive those to whom the photos would be produced. The Tribunal is of the opinion that Adrienne McGlinchey is such a person.

Adrienne McGlinchey has given evidence that she was not involved with the 'Provisional IRA' in any way. To an extent this is supported by the evidence of Ms. Rosaleen O'Donnell and Mr. Mark O'Donnell as regards their never having seen Adrienne McGlinchey enter the republican house at Rahan. Although Mr. O'Donnell did state that on occasion a known republican sympathiser would get lifts home from Adrienne McGlinchey to the Rahan area, the Tribunal is satisfied that she did not have any significant connection to the 'Provisional IRA'. While the Tribunal is also satisfied that the information which Detective Gardaí Mullally, Smith and Tolan received came from Adrienne McGlinchey, it is prepared to draw the inference that the vast bulk of this information was based on small snippets of gossip or information which Adrienne McGlinchey may have overheard. To this she added considerable fabricated material, in order to portray herself as a 'Provisional IRA' informer. In this regard, the Tribunal is

satisfied that Adrienne McGlinchey set out on a deliberate course to tell lies and produce fabricated documents with a view to inducing her Garda handlers to believe that she was a 'Provisional IRA' informer. The Tribunal does not know what possible motivation she may have had, beyond mischief, for engaging in such conduct.

- (h) The Tribunal is strengthened in its view that she was not a genuine informer, by virtue of the fact that none of her information led to any tangible results in the form of arrests of any subversive personnel, or the seizure of any subversive material or armaments, during the period in question.
- (i) The Tribunal is further satisfied that her visits to Rahan were for an innocent purpose. Whether she knew that the Gardaí were attaching significance to such journeys is another matter. It is quite probable that these trips were used by her for a dual purpose, namely, the innocent purpose of visiting her friends and also another purpose: insofar as they served to convince the Gardaí of her connections to 'Provisional IRA' personnel living in the area.
- (j) The Tribunal is satisfied from the evidence of Detective Sergeant Smith and Detective Garda Tolan that Adrienne McGlinchey consciously set out to give the impression that she was well connected to the 'Provisional IRA' by mentioning the names of well-known 'Provisional IRA' figures in Letterkenny. One did not have to have a connection to the 'Provisional IRA' to know these people. She would have known that her visits to Rahan were supportive of the impression that she was anxious to portray in this regard.
- (k) In terms of the view which was held of Adrienne McGlinchey by various members of An Garda Síochána at the time when she left Letterkenny in July/August 1991, the Tribunal finds the following:

The Tribunal is satisfied that she was seen by the Gardaí in general as being a useful, but somewhat low-grade informer. Evidence has been given by Detective Superintendent McLoughlin that he saw her as a Grade A informer. There has been no evidence called which would tend to show that he did not hold this opinion. In the absence of such evidence, the Tribunal makes no finding as to whether he did in fact hold that view. Suffice to say that if he did hold that opinion of Adrienne McGlinchey, there was no rational basis on which such a view could be held. The Tribunal does not accept that she was ever a

first class informer. Therefore the Tribunal rejects his evidence. The Tribunal accepts the evidence of ex-Chief Superintendent Sean Ginty and Superintendent Fitzgerald that they were aware that she was providing information to the Gardaí regarding 'Provisional IRA' activities. The evidence of Detective Sergeant Sylvie Henry that she was seen by him as someone whose information had to be treated with suspicion is also accepted. It was perhaps unfortunate that he did not communicate these doubts to higher authority. Such doubts were based on sound common sense.

- (l) The Tribunal also accepts the evidence of Detective Sergeant Smith and Detective Garda Tolan that they too harboured serious reservations about the veracity of some of Ms. McGlinchey's information. It is accepted that they thought that the information which they passed on to Crime & Security on the relevant C.77 forms was genuine. The Tribunal is satisfied that neither of them took any steps to hand Ms. McGlinchey over to any Gardaí when she left Letterkenny for Bunrana. As far as they were concerned, once she had gone, that was the end of her as a regular informer. They did not seek to pursue her as an informer.
- (m) The Tribunal accepts the evidence of Detective Garda Tolan in relation to the three further pieces of information which he received from Adrienne McGlinchey in the months of January and February of 1992 and which he forwarded to Crime & Security by way of the three additional C.77 forms.
- (n) The Tribunal is satisfied that if any review had been undertaken in 1991 of Adrienne McGlinchey's role as an informer, the decision would have been made to dispense with her services as an informer. It is indeed regrettable that such a review was never carried out. Such reviews ought to have been a feature of the involvement of any professional police force with an informer. It was a serious failure not to review the veracity, reliability and motivation of Adrienne McGlinchey as an apparent police informer. The responsibility for not having a review process in respect of informers lies with Garda officers of Superintendent rank in Donegal. In addition, Garda Headquarters ought to have insisted on the general and nationwide implementation of a review of informers policy on a thought-through basis. This ought to have been supported by proper directions issued in the form of a manual.

- (o) In summary therefore, the Tribunal is satisfied that what Adrienne McGlinchey was doing was getting whispers from the people in Rahan, or their satellites, which enabled her to put together these highly imaginative stories. She was, at the same time, preparing her own brew of ‘information’ which had no basis in reality at all.
- (p) The Tribunal finds that whatever motive Adrienne McGlinchey may have had for doing what she did, she became a marginal fringe fellow traveller of the ‘republican movement’ based at Rahan in Letterkenny, though not visiting them there, and thus picked up a few scraps of information, which she augmented and passed on to the Gardaí. The Tribunal finds that she did this for no reason associated with republicanism, but only for the excitement and the attention which it generated.
- (q) Much of the evidence given by Adrienne McGlinchey to the Tribunal was mischievous, motivated by a desire to muddy the waters and simply untrue.

4.100. It follows from this analysis that the Tribunal was required to treat Ms. McGlinchey’s testimony on the ‘finds’, which are the subject matter of the enquiry, with appropriate caution. The Tribunal was therefore drawn into a lengthy and painstaking analysis of every fact pertaining to the relationship between members of An Garda Síochána and Adrienne McGlinchey while she resided in Buncrana. This necessitated a careful scrutiny of all of the circumstances surrounding her dealings with the Gardaí from the time when she moved from Letterkenny to Buncrana. In the result, an enormous expenditure of time and effort by the Tribunal legal team became necessary if the truth as to this matter was to be found.

CHAPTER 5

MS. MCGLINCHEY AND MS. DEVINE IN BUNCRANA

Introduction

- 5.01. The Tribunal has been satisfied that by the time Adrienne McGlinchey was first arrested in the wake of the discovery and frustration of a terrorist threat, known as the Wachopes bomb, her status as an informer, or believed informer, was as has been set out at the conclusion of the last chapter. It transpired, however, that after she moved to Buncrana, where she lived for approximately three years, her personality, insofar as it was manifest from her conduct and actions, changed. She started to drink even more excessively than before. She was arrested for public order offences on a number of occasions and, in her daily life, began to behave in a bizarre way. It would seem to be a reasonable inference from the conduct which is to be described in this chapter that she wanted the Gardaí to believe that she was a subversive. She hid herself deliberately when they appeared, she concealed or threw away items that she was carrying. She was stopped by Gardaí and found to be carrying objects which might normally be associated with members of the 'Provisional IRA'. As will be seen from the details of this chapter, some included balaclavas, circuit boards, tripods, radio communication equipment and even unusual and bulky objects such as an angle grinder.
- 5.02. Contemporaneously with this strange behaviour, Ms. McGlinchey's association with Detective Garda Noel McMahon commenced. As will be detailed in the narrative which follows, Ms. McGlinchey maintained in evidence that he oppressed her into playing the part of a subversive and that it was in these circumstances that the activities that would otherwise seem strange, but which might be regarded as appropriate to a subversive, were brought about. In other words, she claims that she was forced to carry the strange objects and behave in the queer way that she did. Detective Garda McMahon denies this. He says that he took her on, at this time, as an informer whose performance had already been established in Letterkenny. He testified that he had no part in her bizarre behaviour and that he himself experienced her as an informer who was extraordinarily difficult to handle because of the volatility of her personality and behaviour.
- 5.03. It was because of this change of context, as between Letterkenny and Buncrana, that the Tribunal was required to consider again the question of Ms. McGlinchey and her status as an informer. The matrix in which the events, detailed in the following chapters, took place involved a change of management of the Gardaí primarily involved in handling Ms. McGlinchey. The Tribunal had the responsibility

of examining that wider context. As and from August of 1992, John P. O'Connor was the Superintendent in charge of Buncrana. His deputy, appointed the previous March, was Inspector Kevin Lennon. This latter appointment lasted up to January of 1993. Superintendent John P. O'Connor remained in place as district officer at all relevant times. Inspector Patrick McMorrow was the deputy in Buncrana by the time the events of the 14th of March 1994 unfolded. Sean Ginty remained the Chief Superintendent, and divisional officer, up to June of 1994 when he was replaced. All of these were reporting to Garda Headquarters as the system of having a regional Assistant Commissioner was not yet in place.

5.04. It will be remembered that Detective Garda McMahon and Superintendent Lennon made the case that the finds which they made of subversive material came about thanks to Ms. McGlinchey's information. It is the view of the Tribunal that up to the time that Adrienne McGlinchey moved to Buncrana she was not sufficiently well placed as a possible fringe associate of some members of the 'Provisional IRA' to have had access to the knowledge which would have enabled her to report information to the Gardaí as to the location of dumps of homemade explosives. Nor would she have known of the movement of such bomb-making equipment across the border and nor would she have been sufficiently close to this terrorist movement to have been entrusted with the possession of prototype pieces of armaments. It was necessary for the Tribunal to consider this second phase of the relationship of Adrienne McGlinchey to members of An Garda Síochána in detail, approaching her evidence with appropriate scepticism. The main issues became the status and reliability of the information allegedly coming from Adrienne McGlinchey, her relationship with Detective Garda Noel McMahon and Superintendent Kevin Lennon and, crucially, in the light of whatever conclusions the Tribunal reached, the management of the Donegal division by those so entrusted.

5.05. For these reasons it became necessary for the Tribunal to examine in detail events which surrounded Adrienne McGlinchey and Yvonne Devine. There was, however, a further reason for this detailed examination. During this period, a spotlight was shone upon the interaction of members of the Gardaí in Donegal with one another. While many of these issues may seem to revolve around a person who has been found to be mischievous and deceitful, the reality had to be examined as to how the events which will be set out in this report could have occurred under the stewardship of senior members of An Garda Síochána and in a context where professional policing should have been what the people of that county were entitled to expect. It is thus necessary for the Tribunal to comment in a wider sense on the quality of the performance of other members of An Garda Síochána in the county of Donegal apart from Kevin Lennon and Noel McMahon.

The Move to Buncrana

- 5.06. Whatever status a member of An Garda Síochána might have believed Adrienne McGlinchey to have while she was resident in Letterkenny, the situation changed when she moved to Buncrana in July of 1991. At 07.45 hours on the 8th of July 1991 Adrienne McGlinchey and Yvonne Devine were arrested along with another person while driving from an area of Letterkenny called Rahan. Gardaí were investigating the Wachopes bomb: an incident to which none of the occupants of the car were connected. The sole ground for suspicion for an arrest, noted to have been made pursuant to the Firearms Act, related to the background of those arrested, the place from which they were believed to have come, and the coincidence in time of the discovery of a terrorist event.¹⁰¹ The records available to the Tribunal indicate that Adrienne McGlinchey was detained for a period of 13 hours and 49 minutes. During this time she was interviewed by Detective Gardaí Noel McMahon and Danny Kelly. This was her first encounter of any length with these two detectives. By whatever means, other members of her family got to hear of the arrests. They inferred that there must be no smoke without fire. Whether or not Adrienne McGlinchey had been involved in any suspicious activity, there was a concern as to whether their status might be diminished in the local community as a result of this arrest.¹⁰² It would appear that, on her return home, a family row broke out.
- 5.07. Adrienne McGlinchey decided to leave her comfortable home in Letterkenny and to move to Buncrana. Initially, this was supposed to be a break of a number of days to allow for a cooling-off period. There was a family connection with Buncrana and it was close to, but far enough away from, Letterkenny. Adrienne McGlinchey invited Yvonne Devine, who was then in her mid-teens and employed in one of the McGlinchey family businesses, to accompany her. Adrienne McGlinchey was at the time in her mid-twenties. It would appear that Yvonne Devine agreed for mixed motives relating to her own relationship with her family and out of a desire to pursue an unfettered life, at least for a time. They bicycled to Buncrana, purchased a tent in a local camping shop and then pitched it on the shorefront of Lough Swilly. While there is no official documentation, it would appear that the use by the two ladies of this accommodation lasted only a number of weeks. During that period Adrienne McGlinchey claims that her mother visited, or attempted to visit, her. Such records as are now available indicate that up to Christmas 1991, Adrienne McGlinchey was arrested four times for various offences related to public drunkenness.¹⁰³ In evidence, she admitted that drink did not agree with her

¹⁰¹ Words in McGlinchey's account, see Transcript, Day 10, page 140.

¹⁰² Transcript, Day 10, pages 143-145.

¹⁰³ The arrests are 13/7/1991 Buncrana, Section 49, Road Traffic Act, Garda Vaughan, held for 14 hours and 18 minutes; 9/8/1981 Ballyderowen, Section 59, Road Traffic Act, Garda Kay Brolly, held for 50 minutes; 24/11/1991 Burnfoot, Section 59, Road Traffic Act, Garda Guckian, Burnfoot (no details as to time in custody); and 23/12/1991 Buncrana, Breach of the Peace, Garda James Canning (no details of time spent in custody). See Tribunal Documents, pages 4836-4837.

because it had a disproportionate affect on her personality. She claims to have given up drinking after learning a salutary lesson from these experiences and the records in relation to her arrests disclose no further public order type arrests from 1992 on.

Cheque Frauds

5.08. Neither Adrienne McGlinchey nor Yvonne Devine had anything other than small change on moving to Buncrana. It is to be inferred that both Adrienne McGlinchey and Yvonne Devine enjoyed the freedom which their new situation gave them. They therefore decided to extend their stay away from Letterkenny on an indefinite basis. Both of them had worked within the McGlinchey family businesses and were now without gainful employment. There was a dormant bank account relative to one of the family's enterprises and Adrienne McGlinchey decided to meet her expenses by writing out cheques chargeable thereto. Adrienne McGlinchey claims to have been acting foolishly, as opposed to criminally, in obtaining certain necessities, including food and camping equipment, on foot of an account which was inoperative. Documents in the Tribunal's possession¹⁰⁴ indicate that Adrienne McGlinchey was arrested on the 5th of December 1991 and brought to Letterkenny Garda Station by Gardai investigating a cheque fraud. As a result, the McGlinchey family became aware, and responded by offering appropriate support. The evidence indicates that they visited the traders who were at a loss and took steps to make good any financial damage. The Tribunal notes these complaints were made after a meeting with Detective Garda McMahon. However, the Tribunal is also satisfied that the bouncing cheques were talked of in Buncrana and among the Gardai before those complaints were made. At an early stage, in drinking with Detective Garda McMahon and Kelly, Adrienne McGlinchey used cheques taken from the 'borrowed' chequebook.

5.09. Insofar as it could be alleged, as it has been by Adrienne McGlinchey, that she was in fear of being prosecuted in respect of criminal offences related to cheque frauds, it would appear that the entire matter was cleared up prior to Christmas of 1991. While the prospect of a prosecution was reasonably possible, some Gardai in Buncrana were anxious to pursue the matter. Adrienne McGlinchey claims that as a result of this she renewed her contact with Detective Garda Noel McMahon. She claims that he shielded her from an imminent arrest while, at the same time, drawing her into an abusive relationship with him. Specifically, he represented himself as trying to 'get her off' any potential charge related to cheque fraud while at the same time he manipulated her by increasing her fears as to the possibility of a criminal charge.¹⁰⁵

¹⁰⁴ Tribunal Documents, pages 5198-5200.

¹⁰⁵ Transcript, Day 11, pages 14-28.

- 5.10. Detective Garda McMahon was at that time working with Detective Garda Danny Kelly and the allegation made by Adrienne McGlinchey is that she was schooled by Detective Garda McMahon in appropriate lies to tell Detective Garda Kelly, first of all vis-à-vis the cheques but then afterwards in relation to giving him fictitious accounts of her involvement with terrorist activity.¹⁰⁶ There is nothing in the account of Detective Garda Danny Kelly which suggests that he was aware of any manipulation being practiced on him either by or through Adrienne McGlinchey. He recalls his first meeting with her as being unrelated to cheque frauds. She presented herself as someone who might have a good knowledge of republican activity and, in consequence, he felt it proper to seek to cultivate her as a casual contact.¹⁰⁷ While he was aware, from Ms. McGlinchey, of a problem relating to a cheque book, he took no part in any investigation of this matter.¹⁰⁸ From the inception of their contact with each other, Detective Garda Kelly regarded Adrienne McGlinchey as someone who might usefully be cultivated and who might, in time, assist in the discovery of evidence relating to a major terrorist crime. This included the possibility of uncovering a major arms dump. However, he had doubts about her credibility, as he said in evidence:

It's hard to know [if I regarded her as being credible during these times], as she said herself to me one time ... I think the words she used was "60% of the stuff I'm telling you is rubbish". So I thought to myself, the other 40% was good enough to me.¹⁰⁹

- 5.11. Adrienne McGlinchey claims that Detective Garda McMahon "hooked her" by the abuse of his position as a Garda purportedly investigating cheque frauds. She also claims that prior to the 5th of December 1991 arrest on that issue, Detective Garda McMahon had inveigled her into giving the appearance of being involved in much more serious criminal activity. She claims that he gave her a bag of .22 bullets and asked her to set up a charade whereby she was seen in possession of these by his colleague Detective Garda Kelly. The purpose of this plan was to make him believe that she was deeply involved with the 'Provisional IRA'.

Bullets in the Convent Grounds

- 5.12. Detective Garda Kelly has given evidence that he saw Adrienne McGlinchey carrying a bag which he later recovered and found to contain bullets. He places this incident in or around Christmas of 1991, which broadly coincides with Adrienne McGlinchey's evidence. The reason that the timing of the incident is so vague is that no effort was made by Detective Garda Kelly to note the incident, to log it for criminal investigation or to enter the bullets as property recovered in the relevant book kept at Garda stations.

¹⁰⁶ Transcript, Day 11, pages 28-50.

¹⁰⁷ Transcript, Day 45, pages 32-34.

¹⁰⁸ Transcript, Day 45, page 37.

¹⁰⁹ Transcript, Day 45, page 38.

5.13. This is how he describes the incident:

Myself and Detective Garda Noel McMahon ... drove into the convent grounds, saw Ms. McGlinchey, she was either carrying a bag or after dropping the bag, I would not be definite on it. I remember getting the bag anyhow and looking inside it and there was .22 bullets and a couple of cartridges, shotgun cartridges. And I remember asking her where did she get them ... I would not be definite if she dropped them but I think she did drop them ... she stayed in the vicinity. She didn't deny ownership, no, but would not say where she got them ... I seized the bag, had it in my possession ... Well, after careful consideration I decided not to report the matter ... I took a number of points into factor. One would have been, she always talked about a large arms dump, especially two in the Buncrana district, one being at Culdaff and the other being in a place called The North Pole. I thought to myself, well, if I charge her in relation to these bullets I'm never going to find these. Another reason, .22 bullets were not bullets that were used by subversives, they are ordinary bullets that can be bought ... with a firearms licence to be used in hunting or so. Another reason, Ms. McGlinchey was attention seeking and I said to myself, is this another way of keeping in touch with us ... I didn't think the find significant enough at the time to report the matter ... in hindsight I may be wrong ... I made the decision that time that I would not report the matter and I made it by myself. There was no influence in it whatsoever, I might have been wrong but it's a decision that I have to live with now ... the bullets I kept in my possession until such time as the Carty team asked me about them and I handed them over to them.¹¹⁰

5.14. At the time of this incident Detective Garda Danny Kelly was a less experienced member of An Garda Síochána than Detective Garda Noel McMahon. Although he claims not to have been influenced by any other party, this incident was a departure from his normally conscientious way of carrying out his duties. His account of the conversations he had with Adrienne McGlinchey do not reveal any hint that he was aware that he may have been the subject of some form of a confidence trick either by her, or by another person acting through her. His actions were wrong but his response to the Carty team inquiry was immediate. He did not make any attempt to disguise his misjudgement when giving evidence before the Tribunal.

¹¹⁰ Transcript, Day 45, pages 37-46.

- 5.15. What becomes immediately obvious about this incident is that the scale of criminality has moved upwards by a number of increments. A cheque fraud involving out-of-pocket traders made good by one's family is at a much lower level of seriousness than the possession of a bag of bullets. Adrienne McGlinchey sought to justify her activities on the basis that Detective Garda Noel McMahon first of all drew her in to acting the role of a more serious criminal by wielding threats in relation to the cheque matter and then, when she had been found in possession of bullets, pressurised her into continuing at that serious level, or moving upwards to a pretence of being involved in even more serious behaviour, by threatening her with a firearms charge as an alternative to cooperating with his schemes.¹¹¹ In circumstances where this is being proffered as an excuse for behaviour which lasted, broadly, from July of 1991 through to July of 1994, some independent confirmation must be sought. In the course of an interview with Adrienne McGlinchey by Detective Garda John O'Keeffe on the 18th of May 1993, to which reference will shortly be made, he attempted to make her realise the serious position that the arrest had apparently put her in. To this she replied: "I am being blackmailed."¹¹²
- 5.16. She also claimed that she had gone to the State Solicitor in Donegal and complained to him about being trapped into this kind of a relationship. However, the Tribunal is satisfied that while she visited the State Solicitor in Buncrana, it was in the context of seeking advice in relation to the cheques matter.¹¹³ The Tribunal is satisfied that the State Solicitor, Mr. Ciarán MacLochlainn, behaved absolutely properly in relation to his dealings with Adrienne McGlinchey and that he merely recommended to her that she should visit another solicitor because of his conflict of interest in the matter. The Tribunal rejects Adrienne McGlinchey's account of a meeting between her and the Donegal State Solicitor as deceitful.

Treatment of Adrienne McGlinchey

- 5.17. Visits by Ms. McGlinchey to the McMahon residence, or a location in its vicinity, occurred on a quite regular basis.¹¹⁴ In the course of her evidence, Sheenagh McMahon described a number of meetings between her husband, Detective Garda Noel McMahon, and Adrienne McGlinchey either in, or in the vicinity of, their residence near Buncrana. On a few of these occasions Kevin Lennon was also present. On one occasion an amount of alcohol was consumed in the house prior to Adrienne McGlinchey, Kevin Lennon and Noel McMahon leaving the house and entering a motor vehicle parked just outside it. This is what Mrs. McMahon describes:

... Adrienne McGlinchey was taken in the front door and Noel and Kevin Lennon then came up to the kitchen ... so what happened

¹¹¹ Transcript, Day 11, pages 38-51 and 73-80.

¹¹² Tribunal Documents, page 2438.

¹¹³ Transcript, Day 19, pages 143-155.

¹¹⁴ Transcript, Day 6, pages 142.

was I went down and brought Adrienne down a cup of tea down to [her sitting room] ... She was quite embarrassed actually that evening. But she was fine when she arrived at the house and she was pleasant enough to me. We would not have had much of a conversation, I just gave her a cup of tea and that was it and I went back off down to the kitchen and Noel and Kevin Lennon then went down to the sitting room to her ... They were having a meeting with her. I did not get into any of that ... it was just work. Then I was going down the hall, I was going to bed and I met Adrienne in the hall and she was terribly, terribly drunk ... maybe an hour later. But she was actually legless drunk at that stage. She was trying to find the bathroom ... she could hardly walk ... but I showed her where the toilet was and I went on down and I went into the sitting room and Noel and Kevin Lennon were there and they were laughing and they were pouring more drink into her glass and they thought the whole thing was extremely funny. I did not think it was funny. I actually passed the comment that it was not right what they were doing ... I went on into my bed then and later on that night, then maybe an hour later, ... there was an outside light in our house that came on when there was anything passed it and our bedroom window was looking out onto the front of the house and all I seen was – I heard a kind of a commotion outside and then I seen Adrienne McGlinchey and Noel and Kevin Lennon in a car. At one stage I seen Adrienne trying to jump between the two passenger seats and I do not know which one it was but I seen her being flung back into the back seat and they drove off ... It probably was the following day, we probably talked about it ... he just said it is the way you get information out of her, she will talk to you when she is drunk. But he did not tell me what they talked about or did not talk about.¹¹⁵

- 5.18. Detective Garda McMahon denied that any such violent incident had occurred.¹¹⁶ Superintendent Lennon, in giving evidence, had this passage put to him. He denied that he had ever been a party to, or had witnessed, any assault by Detective Garda McMahon on Adrienne McGlinchey.¹¹⁷

Mischief

- 5.19. The Tribunal has had an opportunity of hearing the evidence of everyone involved in this alleged incident. It is common case that Adrienne McGlinchey, Kevin Lennon and Noel McMahon were all present in the McMahon home and that, on

¹¹⁵ Transcript, Day 6, pages 145-150.

¹¹⁶ Transcript, Day 134, pages 101-103, Day 135, pages 34-36.

¹¹⁷ Transcript, Day 144, page 28; Day 150, pages 28-29; Day 146, pages 177-180.

this occasion, Ms. McGlinchey became so intoxicated that it was impossible for her to find her way home unaided. It is also common case that she and the two Gardaí drove away from the McMahan house in order to bring her home. On this evidence alone the Tribunal is forced to conclude that Superintendent Lennon and Detective Garda McMahan acted improperly in allowing their allegedly professional relationship with a lady that they claimed to be an informer to become so personal. The Tribunal is also satisfied that whereas Superintendent Lennon has suggested to the Tribunal that his role was one remote and apart from Ms. McGlinchey, and whose only function was to analyse information gathered by Detective Garda McMahan, this is untrue. On the contrary, it is apparent that Kevin Lennon's involvement with Ms. McGlinchey was direct and personal.

5.20. Whatever need there was in Adrienne McGlinchey for notice, it was fed off by Detective Garda Noel McMahan and by Inspector, later Detective Inspector, Kevin Lennon. It would be wrong to describe her involvement as being a rational response to blackmail. In part it was due to her deeply needy personality. This was obvious to those in the kind of intimate contact into which Detective Garda McMahan inveigled himself with Adrienne McGlinchey and it would also have been perfectly obvious to Inspector Lennon. However, another factor must be regarded as coming into play when one considers the voluntary nature of the vast bulk of the almost inexplicable conduct which Adrienne McGlinchey felt free to engage in during her period of approximately three years in Buncrana. That factor is the deeply mischievous nature of Adrienne McGlinchey's personality makeup.

5.21. Mr. Francis Crawford lived, at the relevant period, at No. 3 The Crescent in Buncrana. The Tribunal observes that this is a fine terrace of Victorian houses which are both attractive and spacious. Adrienne McGlinchey was, of course, a resident in No. 5 The Crescent from the autumn of 1991 to the spring of 1994. The Crescent comprises five family residences. No. 5 was divided into three self-contained flats and there was an owner/occupier, John Mackey, who frequently came to check on his investment. It is fair to say that Francis Crawford was horrified by the activities of Adrienne McGlinchey and Yvonne Devine in terms of the effect he felt that they were having on the peace of his neighbourhood. He also was disturbed by behaviour which he found "unsavoury".¹¹⁸ This is what he described:

Well, generally, this would have to be seen to be believed, it was so strange, you know. I used to get out of the house and at times I used to say, this place is getting worse than Hawaii 5-O, as I would have described it. These girls would go down and they would stand in The Crescent gate or they would cross over to the convent

¹¹⁸ Transcript, Day 23, page 50.

grounds and when the patrol car would come along, without fail the girls would either run – if they were at The Crescent gate they would run across the road to the convent grounds, if they were in the convent grounds they would come another route, and without fail the patrol car would turn around and chase them. I have never seen them doing it without the patrol car coming around and following them ... I felt they were living out a fantasy, but I could never understand and to this day I can't understand, why, when the girls set the bait, the [Gardaí] always chased them ... It dominated The Crescent while they were there ... People just kept their tongue in their cheek and hoped that this would pass and maybe go away ... I couldn't see how two mature adults could behave in this fashion or why they would be behaving in this fashion. It would be like grown-ups playing cowboys and Indians ... there wouldn't have been a day, I'd go as far as saying, that there wouldn't have been any day but the guards were in and out or the guards would come in and turn around, or at times they would sit over at the convent watching ... the thing went on and on and on.¹¹⁹

- 5.22. It is fair to say that every member of An Garda Síochána who was asked the question offered the opinion that this kind of behaviour was utterly inconsistent with membership of a terrorist organisation. As Detective Garda James Breslin stated:

It wouldn't be the behaviour that you would normally associate with someone being a PIRA member. They would try to be a lot more discreet, they definitely wouldn't be bringing attention on themselves.¹²⁰

Angle Grinder

- 5.23. It is difficult to believe that all the behaviour of Adrienne McGlinchey and Yvonne Devine was inspired by some form of threat. For instance, an angle grinder is a large and extremely heavy object. Sensible members of the Gardaí may have had suspicions in relation to Adrienne McGlinchey's involvement with the 'Provisional IRA' for a number of months after her arrival in Buncrana but, as Detective Garda Breslin indicated in evidence, these suspicions dissipated to be replaced by a state of puzzlement as to how this person, at the same time as engaging in these bizarre activities, could be supposedly a source of information to Detective Garda McMahon. He, and his colleagues, therefore tended to pay her less and less attention.

¹¹⁹ Transcript, Day 23, pages 51-56.

¹²⁰ Transcript, Day 75, page 89.

- 5.24. On a date which is difficult to place, Detective Garda Breslin and Detective Garda Noel Jones saw Adrienne McGlinchey carrying a heavy bag. They checked it out and discovered that she was lumping around an angle grinder.¹²¹ Although she says that this activity was inspired by Detective Garda McMahon, it seems more likely that a more dominating factor in her mind was her own determination to draw attention to herself through acting mischievously. This is borne out by the number of times apparently invented information was passed to Detective Gardaí Kelly and McMahon by Adrienne McGlinchey. All of this, she claims, was at Noel McMahon's behest. However, the appearance of apparently supporting, but easily obtainable, documentation is further evidence of her determination to pursue a life of mischief-making.¹²² In this regard, Adrienne McGlinchey was willingly supported by Yvonne Devine. She, however, was younger than Adrienne McGlinchey and easily led. This does not entirely excuse her conduct as an associate of Adrienne McGlinchey.
- 5.25. During these first eight months when Adrienne McGlinchey and Yvonne Devine were residing in Buncrana, Kevin Lennon was a Sergeant attached to the traffic corps in Letterkenny. In March of 1992, however, he was promoted to Inspector and therefore assumed the number two position of command in the Garda division of Buncrana. It is impossible for the Tribunal to date when Detective Garda Danny Kelly was moved aside from his role in accompanying Detective Garda McMahon in 'handling' Adrienne McGlinchey but it may have been in or around this time. Detective Sergeant Walsh, his unit Sergeant, told him that "Letterkenny was taking it over".¹²³ The impression of Sheenagh McMahon, was that Detective Garda Kelly was moved aside and that Inspector Kevin Lennon then moved into his place.¹²⁴ In or around the same time, the documents discovered to the Tribunal indicate that a search warrant pursuant to Section 29 of the Offences Against the State Act 1939, as amended, was issued to Detective Sergeant Des Walsh in respect of the McGlinchey/Devine flat at The Crescent in Buncrana.¹²⁵ It seems probable that this search was conducted in good faith in the context of an attempt to check out the situation as regards Adrienne McGlinchey, her attention seeking behaviour and her, much advertised, role within a terrorist organisation. No details, however, of this exist and Detective Sergeant Walsh has no recollection of the search at this stage.
- 5.26. In his evidence before the Tribunal, Superintendent Lennon has claimed that he knew virtually nothing of Adrienne McGlinchey during the period March of 1992 to January of 1993 when he was transferred to Letterkenny. He knew nothing, for example, about her attention seeking activities which would undermine, in

¹²¹ Transcript, Day 75, page 95.

¹²² The reference is to documents which the Tribunal has seen and which have been debated in closed session and which therefore cannot be quoted here.

¹²³ Transcript, Day 45, pages 91-92.

¹²⁴ Transcript, Day 6, pages 143-144.

¹²⁵ Tribunal Documents, page 2289.

the mind of any reasonable person, a notion that she was a terrorist. He was, however, told that she was an informer to Detective Garda McMahon and Detective Garda Kelly. In evidence, he said:

I went to Buncrana in March '92, she was residing there, some time later on that year I was told she was an informer to Detective McMahon and Detective Garda Kelly and it was Detective McMahon who told me that. I never went into it in any great detail because I didn't pry into informer roles or functions or whatever at that time.¹²⁶

Inspector Lennon

5.27. In cross-examination, a series of incidents were put to Superintendent Lennon in order to test his avowed testimony that he had nothing to do with Adrienne McGlinchey. The Tribunal is satisfied that the net effect of his response to these questions, and his demeanour, is that his evidence must be rejected. The Tribunal is satisfied that he had some kind of connection with Adrienne McGlinchey from an early stage during his time as Inspector in Buncrana and through an association with Detective Garda McMahon. It was the task of the district Inspector to check the occurrence book. The Tribunal, for instance, finds it incredible that events of September, October and November of 1991 were not reported to the new Inspector when he arrived in Buncrana. The occurrence book of the 18th of November 1991 states:

A few minutes ago a man emerged in front of the houses at The Crescent and started to throw stones at the end window. Lights went on, the man was then joined by two others, all dressed in combat gear. They entered the house. Shouting and roaring came from within. The men, he thinks, are still there. They approached from the Embankment area. Messenger on the telephone wishes to remain anonymous.¹²⁷

5.28. The Tribunal is satisfied that the multiplicity of references to Adrienne McGlinchey and Yvonne Devine in the occurrence book would have drawn to the attention of any diligent Inspector that there was an extremely strange sequence of activities centred around these ladies and their flat at The Crescent in Buncrana. Further, it was the role of the Inspector to sign off on the occurrence book on a weekly basis.

Seven Bullets

5.29. On the 30th of April 1992 Gardai David Murphy and Frank Togher were patrolling Buncrana at around 20.00 hours. They saw the two women acting "a little

¹²⁶ Transcript, Day 144, page 43.

¹²⁷ Tribunal Documents, page 5498. This document was quoted during the course of the hearing at Day 144, page 52.

strangely” at one end of the main street.¹²⁸ After a period of discreet observation, lasting possibly an hour and a half, the suspects disappeared. In their wake a blue anorak was left which contained seven rounds of .22 ammunition. Whereas it could not be said for certain that Yvonne Devine was wearing that coat on that night, it was very like the garment which Garda Murphy had become familiar with from seeing her on previous occasions.

- 5.30. These items were placed in an evidence bag, labelled and returned to Buncrana Garda Station. Detective Garda Denis Doherty and Sergeant Michael Murphy then viewed the ammunition. It is to the credit of Gardaí David Murphy and Frank Togher that the paperwork in respect of this incident is meticulous. Insofar as any question can arise as to why Ms. McGlinchey and Ms. Devine were not prosecuted in respect of this incident, then it can be resolved either on the basis that there was insufficient evidence to justify a charge or on the basis that having reported the matter, higher ranks decided to take no interest. When they had reported the matter to Detective Branch the two Gardaí returned to the area where they had last seen Adrienne McGlinchey and Yvonne Devine. A contemporary report by Garda David Murphy reads as follows:

The members left the scene at 12.15 a.m. on 1st May 1992. The scene was kept under observation by myself, Sergeant Murphy and Garda Togher. The two suspects returned to the scene later, as if to collect something. They remained in the vicinity of the car park and the old church from 12.30 a.m. until 2.30 on the 1st May 1992, during which time they were kept under strict observation by the 3 said members. They went over to where we found the coat and ammunition and searched around the area in search of same. They would stand on the footpath along St. Mary's Road and when they would see the lights of an oncoming car they would hide behind a wall near the car park and come out when same had passed. They were in and out of a private driveway of a house and it looked that they were either hiding or looking for something. They eventually left the scene at 2.30 a.m. The follow-up search of this area was conducted by Garda Togher and myself, revealing nothing. Earlier, when the two suspects returned to the scene, Adrienne McGlinchey was carrying a holdall bag. At this stage Garda Murphy stopped her and searched the bag, but there was nothing in it. We did not mention anything to them about the ammunition find but they did appear to be in a nervous state, which I found to be most unusual of them, in that they were usually calm and collected when they were stopped by members of the Force.¹²⁹

¹²⁸ Transcript, day 80, page 136.

¹²⁹ Tribunal Documents, page 2312.

- 5.31. In evidence, Sergeant David Murphy characterised these encounters as being “attention seeking”. The incident lasted from around 20.00 hours until around 02.30 hours. As Inspector in Buncrana, Kevin Lennon forwarded a report to Chief Superintendent Ginty in Letterkenny following on the completion of the relevant paperwork. This was done meticulously in contrast to the sparse paperwork attendant on the suspicious finds which are the subject matter of Chapters 7, 8 and 9 of this report. Inspector Lennon’s report is dated the 20th of July 1992 and it is worth quoting in full:

CONFIDENTIAL

DO 1900/92
122/92

Chief Superintendent,
Letterkenny.

Re: Discovery of seven (7) rounds of .22 Rifle Ammunition at St. Mary’s Road, Buncrana, Co. Donegal, on 30th April, 1992, - Adrienne McGlinchey and Yvonne Devine, PIRA Buncrana – suspects.

The attached file is forwarded for your information.

On the night of 30th April, 1992, uniformed Gardaí at Buncrana became suspicious of the activities of the above named, Adrienne McGlinchey and Yvonne Devine, both members of the PIRA.

At about the hour of 10.15 p.m. the members stopped the patrol vehicle adjacent to the two suspects who fled to nearby fields. A search was carried out at a location close to where the suspects were approached, the members discovered a blue jacket similar to that normally worn by Miss Devine. Adjacent to that jacket were seven rounds of .22 calibre ammunition. Meanwhile the suspects had fled to the Main Street.

A thorough search of the area was carried out but nothing further was located. The area was kept under Garda surveillance and at 12.15 a.m. on the 1st May, 1992, both suspects were observed returning to this location. They appeared to be searching for something. However, they were not approached by the Gardaí on this occasion and were not detained.

Both were subsequently interviewed with negative results. The ammunition is stored in the Strong Room at Buncrana Station and I have instructed that it be conveyed to Dublin at the next opportunity when a vehicle is travelling to Garda Headquarters.

A report in accordance with Code 65.25 has now been forwarded on separate file.

There is no evidence to sustain charges against the suspects in this case.

A full background report on both suspects is appended to this file.

(Kevin Lennon) Inspector.¹³⁰

- 5.32. In light of what we learned from subsequent events, it is possible to interpret this report on the basis that it had two objectives. Firstly, in order to protect Ms. McGlinchey from prosecution he is dismissive of the evidence gathered in the investigation of the event. Secondly, for his own reasons he advances her as a member of the 'Provisional IRA'. However, wider conclusions cannot be drawn by the Tribunal from this evidence standing on its own.
- 5.33. In evidence, Superintendent Lennon was closely questioned as to the opinion expressed in this memo that it was impossible to prosecute Yvonne Devine or Adrienne McGlinchey on the basis of the reports to hand. He said:

Well, I made a management decision on that based upon the evidence presented before me and the evidence was that there was a jacket, of which I understand Ms. Devine denied to be the owner of, correct me if I'm wrong on that. Secondly, the bullets were on the footpath adjacent to the jacket and I believe and I am subject to correction on this, that you have to have either constructive possession or actual possession before you can be prosecuted for it.¹³¹

Detective Sergeant Walsh's Memo

- 5.34. In this instance, in contrast to other incidents which had occurred, namely the possession of bullets in the grounds of the convent in Buncrana and the cheques incidents, it would be fair to say that there was little evidence to sustain a charge. However, it would be incorrect to say, as Inspector Lennon does in his report, that there was "no evidence to sustain charges against the suspects". On two occasions, in the course of this report, Inspector Lennon refers to Adrienne McGlinchey and Yvonne Devine as being "both members of the PIRA". This is in marked contrast to the opinion which any civilian, member of Uniform Branch, or member of Detective Branch of An Garda Síochána in Buncrana held at that time. That contrast is brought out in a report by Detective Sergeant Des Walsh forwarded to the Sergeant in charge of Buncrana and dated the 7th of July 1992. Again, this document is worth quoting in full:

¹³⁰ Tribunal Documents, pages 1251-6.

¹³¹ Transcript, Day 144, page 63.

Sergeant i/c.,
Buncrana.

Re: Background report on ADRIENNE McGLINCHEY and YVONNE DEVINE presently residing at Flat 2, The Crescent, Buncrana

The above named are well known to the Gardaí in Buncrana since their arrival in August, 1991.

Adrienne McGlinchey is a Daughter of Bernard McGlinchey who operates The Golden Grill a well known place of entertainment in Letterkenny. He is also a Fianna Fail County and Urban District Councillor for that area.

Before coming to Buncrana Miss McGlinchey set up residence in a Flat at Port Road, Letterkenny and in October, 1990 Yvonne Devine joined her in the Flat. Both subjects came to the notice of the Gardaí when they were seen to associate with known members of the PIRA in Letterkenny. Miss McGlinchey visited (blank) of Rahan who is a listed member of the PIRA.

Yvonne Devine is a Daughter of John Joe Devine a native of N. Ireland and is well known to the Gardaí in Letterkenny...

Suspects Mother is a native of Fountain St, Stabane and a sister of Pearse McCauley who escaped from Brixton Prison in August, 1991 ...

Since coming to Buncrana subjects have been seen to associate and visit Swilly Terrace, Buncrana a place which is occupied by members of the PIRA mostly on the run from Security Forces in Northern Ireland.

At times while being checked out both ladies had in their possession, Combat Jackets, Bala-clavas, Walkie-Talkies and Torches. Also member of the PIRA have visited their Flat at No. 2. The Crescent, Buncrana. This Flat was recently searched under the provisions of Section 29. O.A.P.A. 1939 with negative results.

While both ladies are running around the Town until the early hours, some times with bags, etc, one wonders if they are only trying to attract the attention of the Gardaí. One cannot rule out the possibility that they are being used by the PIRA at certain times. Both are presently employed in the Jatbee Clothing Factory, Carndonagh.

Their names came up recently in relation to a number of Gardaí cars being damaged but at this point in time there is no hard evidence that they were involved.

The movements of both parties will receive ongoing attention and any developments worthy of notice will be reported in course.

At the present time it is not believed that subjects are members of the PIRA.

For information.

(T.D. Walsh) D/Sergeant. ¹³²

- 5.35. There was good reason for the comments made by Detective Sergeant Walsh. Apart from what has already been detailed, another incident occurred on the 28th of May 1992. Sergeant Michael Murphy was on mobile patrol accompanied by Garda John Forkan when Ms. McGlinchey appeared “acting suspiciously” and carrying a holdall bag.¹³³ They stopped and searched her. The Gardaí found a number of walkie-talkies and aerials, a torch, a 9-volt battery, assorted electrical equipment and balaclavas in a bag. It would appear that Ms. McGlinchey deliberately refused to give any explanation as to why she had them in her possession. She was arrested on suspicion of being a member of an illegal organisation. On foot of a warrant obtained pursuant to Section 29 of the Offences Against the State Act 1939, as amended, Sergeant Murphy searched her flat at Buncrana but recovered only a detachable aerial.¹³⁴ An arrest under Section 30, and a subsequent interview, yielded no further material which would justify a prosecution.

Point Inn

- 5.36. Between June and August of 1992 an undercover operation was mounted by certain members of the Gardaí at the Point Inn, which is situated at Quigley’s Point, on the east of the Inishowen Peninsula. The Tribunal proposes not to make any comment in relation to this matter and is not being influenced by either the Court of Criminal Appeal judgement on this matter¹³⁵ or anything else in relation to same which has been alluded to in evidence. Any reference to this incident during the course of evidence, or in the Tribunal documents, had no impact on the matters under investigation.¹³⁶ It is important to note that Adrienne McGlinchey claimed to have a close involvement with an attempt by certain members of the Gardaí to pervert the course of justice in relation to an investigation into those managing the Point Inn. The nature of her involvement changed radically from her early statements to the Carty investigation team to the actual testimony which she gave before the Tribunal. In submissions, it was

¹³² Tribunal Documents, pages 2278-2279.

¹³³ Transcript, Day 43, page 92.

¹³⁴ Transcript, Day 43, pages 91-97.

¹³⁵ *The People (DPP) v Shortt (No. 2)* [2002] 2 I.R.696.

¹³⁶ References were made in the transcript to this incident, but in the context of a contrast between evidence given to the Court of Criminal Appeal by Detective Garda McMahon or Superintendent Lennon, and statements made to the Carty investigation team and to the Tribunal investigators and in evidence before the Tribunal.

urged by interested parties that this was but an example of the untrustworthy nature of Adrienne McGlinchey as a witness as to fact. The Tribunal allowed this collateral allegation as to credit to be explored to a limited extent in order to test the weight which might be attached to Adrienne McGlinchey's evidence in the light of the many different accounts of many different issues which she gave. The Tribunal is of the view that her so-called assistance to the Carty investigation team on this and other issues was an appalling waste of Garda time. With appropriate scepticism as to her evidence the Tribunal scrutinised the surrounding factors of all of the events of importance to the mandate given to it by the Oireachtas in an attempt to uncover the truth. In the final analysis the Tribunal is satisfied that what is written here is accurate.

Tripod Drawing

5.37. The incidents involving Adrienne McGlinchey and Yvonne Devine in July of 1992 were no less strange than those which had gone before. On the 20th/21st of July 1992, Detective Garda Brendan Regan was working the nightshift from 17.00 hours to 01.00 hours. As it turns out, he was on his own and travelling in the official patrol car from Lifford to Letterkenny. To convey the essence of these incidents it is best to quote his own words:

There is a roundabout at the end of the dual carriageway, known locally as the Manor roundabout. I approached that from the Lifford direction and I noticed two ladies standing on the roundabout, one I recognised as Ms. McGlinchey. The time was approximately 12 midnight or shortly after it, there or thereabouts. When the two girls seen me they took off running out the Derry road and they disappeared. I seen a package in Adrienne McGlinchey's hand, a small package, and I radioed to Letterkenny for assistance. The Detective Branch members, Sergeant Moylan and Garda Joe Foley, arrived. Shortly after that the two girls came out again, back onto the road and I arrested Adrienne McGlinchey and Sergeant Moylan arrested Ms. Devine. I knew very little about them. I probably was aware that Ms. McGlinchey had been arrested previously under Section 30 ... I arrested them under Section 30 on suspicion of being a member of an illegal organisation ... Adrienne McGlinchey had a package in her hand. When she came back out onto the main road from the field area, on searching her, I found two walkie-talkies in her possession ... I took it on the night that they were actually trying to escape from me, that they weren't looking for attention ...¹³⁷

¹³⁷ Transcript, Day 75, pages 3-5.

- 5.38. Adrienne McGlinchey was questioned. The field from which she had come was searched. A drawing of a tripod¹³⁸ was found. Adrienne McGlinchey accepted in evidence that she prepared this document.¹³⁹ To add to this extraordinary conduct, Adrienne McGlinchey was found on the 21st of July 1992 with a tripod in a black plastic sack.

Men in Black

- 5.39. In June of 1992, an entry in the occurrence book in Buncrana Garda station notes the following:

Anonymous male reported suspicious activity at The Crescent. Five men or possibly more dressed completely in black seen coming through the hedge carrying bags and heading up into Devine's flat.¹⁴⁰

- 5.40. Superintendent Lennon was questioned as to his knowledge of this matter and the earlier related incident of the 18th of November 1991. He said the following:

I didn't know about these things but it wouldn't sound a reasonable activity to be at, to be throwing stones at a flat ... that sounded like something very suspicious was going on ... yes, that would be very suspicious. It does not appear anything was done ... I don't know the mindset of the people who were dealing with it, but it certainly didn't come to my knowledge.¹⁴¹

- 5.41. The Tribunal finds it impossible to believe that this incident was not associated with the incident of the 18th of November 1991, where people were at the same flat dressed in combat clothes, in the minds of Gardaí at Buncrana. Superintendent Lennon came across as an intelligent man who is well capable of pursuing issues diligently. The Tribunal believes that this incident had to have come to his attention and his lack of reaction to it is a matter from which, coupled with other evidence, an inference can be drawn as to his state of mind.

Another Tripod

- 5.42. Five days later, on the 26th of July 1992, Adrienne McGlinchey was arrested by Sergeant Liam Tighe for carrying a tripod around Lifford. At 00.20 hours, shortly after midnight on that date, Sergeant Tighe went to inspect a licensed premises known as The Central Bar. It is best to quote his testimony:

As I was walking in the door I met Ms. McGlinchey coming out of the premises. She was carrying a black plastic refuse sack and I was suspicious as to what was in it ... She was a bit boisterous ... she

¹³⁸ Tribunal Documents, page 2285.

¹³⁹ Transcript, Day 12, page 37.

¹⁴⁰ Transcript, Day 144, page 56.

¹⁴¹ Transcript, Day 144, pages 57-58.

was very intoxicated actually ... I took up the bag and I saw what appeared to be a lightweight tripod. I asked her what was it for and what was she doing with it, I was suspicious of it ... She was very intoxicated and was laughing and, you know, a big joke, this was all a big joke. So I asked her a couple of times what's this ... and I wasn't happy at all with her explanation for what it was ... She was giggling and laughing ... She was with young ... Yvonne Devine ... I was suspicious that it was a component part maybe of some sort of device that could be used by terrorists.¹⁴²

- 5.43. Both were arrested. Most people would regard this as upsetting but, to use Sergeant Tighe's words, "they thought it was hysterical".¹⁴³
- 5.44. Any subsequent attempt to interview them became impossible because of the attitude of hilarity with which the ladies responded to this ordinarily very serious situation.¹⁴⁴ Ms. McGlinchey's response to questions was that her interrogators should ring Noel McMahon. He was telephoned and told Sergeant Tighe that "she had been giving him information".¹⁴⁵ Sergeant Tighe regarded this as irrelevant to a criminal investigation and tried to pursue the matter. Ms. McGlinchey was released the following morning and the tripod was handed to Detective Sergeant Henry at Letterkenny Garda Station. Detective Sergeant Henry brought the tripod to the Garda Technical Bureau where it was examined by Detective Garda Eugene Gilligan.¹⁴⁶ Sergeant Tighe was left feeling that there were matters occurring in North Donegal to which he was not being made privy.¹⁴⁷
- 5.45. In evidence, Detective Garda Noel McMahon denied that he had any involvement at all in the mysterious release of Adrienne McGlinchey. The Tribunal rejects that evidence. Detective Garda McMahon claims that he merely dealt with the incident, having been phoned by Sergeant Tighe, by noting that there was some matter which he needed to ask Ms. McGlinchey in the future. He said:

I would have questioned why, once again, she done something without telling me and I would not in my opinion have looked for her release because I would have been very annoyed ... But as I said, sir, I fail to understand why the member in charge cannot account for her release ... I was aware of it, whether through a phone call or afterwards ... she maintained it was one of her – another one of her decoy missions ... on the Lifford border.¹⁴⁸

¹⁴² Transcript, Day 73, pages 3-7.

¹⁴³ Transcript, Day 73, page 7.

¹⁴⁴ Transcript, Day 73, pages 13-14.

¹⁴⁵ Transcript, Day 73, page 12.

¹⁴⁶ Detective Garda Gilligan's evidence in relation to his examination of this tripod can be found at Transcript, Day 82, pages 69-71.

¹⁴⁷ Transcript, Day 73, page 21.

¹⁴⁸ Transcript, Day 131, pages 64-65.

- 5.46. It also seems difficult to fathom that a Detective Garda could order the release of a prisoner who had been validly arrested by another officer of superior rank without consultation with that officer. It is fair to infer that another party of higher rank was involved in releasing Adrienne McGlinchey from custody. The Tribunal cannot say who this was.
- 5.47. Chief Superintendent Sean Ginty commented on this arrest in a document sent to Headquarters. The relevant portion reads:

McGlinchey had the tripod in her possession when first arrested on Tuesday, 21st of July 1992 but was permitted to retain same pending further developments. This is not generally known and was not known to the arresting member on the second occasion ... McGlinchey and Devine are living between Letterkenny and Buncrana and could be described as 'living rough'. They have come under notice for drunkenness and disorderly behaviour. They are used by the IRA for running errands etc. ¹⁴⁹

- 5.48. The episode in the tent at the shorefront in Buncrana had continued for not more than a month the previous summer. Therefore Chief Superintendent Ginty was inaccurate in describing Ms. McGlinchey and Ms. Devine as living rough. They were then living in an ordinary flat. Someone had to have implanted in his mind the notion that they were "running errands" on behalf of the 'Provisional IRA'. Their behaviour was completely inconsistent with this. It was wrong to send a report to Headquarters without having facts checked out. If Adrienne McGlinchey was believed to be a courier on behalf of the 'Provisional IRA', then her behaviour should have been monitored. Certainly, some systematic approach to understanding what exactly her activities were, and how they did, or did not, intermesh with the terrorist operations conducted across the border, should have been pursued. The absence of any action on this matter was a serious failure.

A 'Kidnapping'

- 5.49. In August of 1992 there were two major appointments within the Donegal division of An Garda Síochána. John P. O'Connor, who had previously been an Inspector in Letterkenny, and previously a Sergeant in Pettigo, became the divisional officer for the Buncrana/Inishowen area. He had never previously served in Detective Branch. Denis Fitzpatrick became the Border Superintendent, with the rank of Detective Superintendent. He had previously served in Co. Mayo. Both of these appointments markedly contributed to the continuing decline of standards of leadership within An Garda Síochána in Co. Donegal. Having heard both officers giving evidence in the witness box over many days it is hard to imagine how it could have been thought that they had the necessary training or experience to fill these positions effectively. It is necessary to have a full account

¹⁴⁹ Tribunal Documents, page 2350.

of items of evidence which occurred under their stewardship as, cumulatively, they underline the lack of leadership in the Donegal division at that time.

- 5.50. On the 7th of August 1992 Yvonne Devine reported that Adrienne McGlinchey had been kidnapped. The virtually contemporaneous report of Superintendent John P. O'Connor to the Chief Superintendent in Letterkenny reads as follows:

At 2.55 a.m. Ms. Devine called again to Buncrana Garda Station and complained that her flatmate Ms. McGlinchey was believed by her to have been abducted from their flat by three males with Derry accents, following a heated argument. The three men and McGlinchey were arguing about items she had in her possession and under her control and believed to be the property of the PIRA. At 3 a.m. D/Inspector Thomas J. Long was contacted by Sergeant Murray because of this officer's previous knowledge of this subject matter. The district officer was also informed and came to the station. On the assumption that Adrienne McGlinchey may have been abducted appropriate Garda action, under the direction of the district officer, was put into effect. The RUC in Derry were also notified. The Gardaí were also on the lookout for a small red car, in which Ms. McGlinchey may have been abducted. At 4.30 a.m. approx., Gardaí found Ms. McGlinchey walking, in a distressed state, in the vicinity of her flat, at The Crescent, Buncrana. She immediately refuted any allegation that she had been kidnapped, and had no complaint to make. As you are aware this lady is believed to be involved with the PIRA and also assists the Detective Branch of An Garda Síochána. When interviewed by D/Garda Noel McMahon, Buncrana, this morning, she outlined that she had certain tasks to perform for the PIRA. She handed over a role of film to the D/Garda which will be developed by D/Inspector Long as soon as possible. McGlinchey has further tasks to perform in the Lifford area for the PIRA and has undertaken to keep in contact with D/Garda McMahon. You will be kept informed of any further developments ...¹⁵⁰

- 5.51. Earlier Ms. McGlinchey and Ms. Devine had claimed to have been attacked by a drunken male on the shorefront at Buncrana. Whether that happened or not, the entire kidnapping incident was a fiction. Adrienne McGlinchey claims that Detective Garda McMahon had told her to get Yvonne Devine to report that she had been kidnapped by the 'Provisional IRA'. She was supposed to stay away for a few hours. She went to the beach but became hungry and tired of the entire episode so she returned. She claimed not to have been distressed:

*That is total rubbish that I was any way distressed. I was more distressed coming back so soon because he was mad at me.*¹⁵¹

¹⁵⁰ Tribunal Documents, page 5275.

¹⁵¹ Transcript, Day 12, page 42. The episode is dealt with at Day 12, pages 40-44.

- 5.52. Yvonne Devine claimed in evidence to have had no recollection of this entire episode.¹⁵² However, it is impossible to conclude anything other than that she was equally involved in the mischief that this incident represented, though led on by Adrienne McGlinchey. The incident had the apparent effect of making Superintendent John P. O'Connor believe that Ms. McGlinchey was deeply involved in the 'Provisional IRA' and reinforced the similar view that already existed, as is apparent from the previously quoted document, of Chief Superintendent Sean Ginty. There was no real attempt made to investigate this matter. If there had been, it would have been possible to consider arresting both women. If this had been attended to, the waste of Garda time and resources involved in this false alert could and should have led to a criminal charge being preferred against both Ms. McGlinchey and Ms. Devine. The District Officer failed to investigate this incident properly, or at all. The incident was fobbed off, in evidence by Superintendent John P. O'Connor to the Tribunal, as worthy of no particular comment. The explanation given by Superintendent John P. O'Connor to the Tribunal is unsatisfactory. In his evidence John P. O'Connor stated:

Well at the time I saw nothing peculiar. If I was aware of all these arrests. But at the time I – and as they progressed obviously over the years I saw nothing. And, again, as I say I'm not trying to avoid the issue or get out of it. My role as district officer didn't relate to the actual analysing of Ms. McGlinchey or her intelligence information or anything like that, that was a matter for – I'm not trying to avoid the issue.¹⁵³

- 5.53. As the above indicates, Superintendent John P. O'Connor kept himself well away from any attempt to analyse either the documents quoted above, the previous history of Ms. McGlinchey, or to speak to his officers as to the concerns which they had concerning her genuineness. As will be apparent, as this narrative proceeds, when approaches were made to him, he was not willing to engage in a dialogue on this issue. Detective Garda Noel McMahon was questioned on this incident but denied that he had any involvement in putting up Adrienne McGlinchey to stage a kidnapping in order to enhance her credibility as a major terrorist suspect.¹⁵⁴ The Tribunal completely rejects all of the evidence given by Superintendent John P. O'Connor, by Detective Garda Noel McMahon, Adrienne McGlinchey and Yvonne Devine on this incident. It is but one example of the impossible situation faced by the Tribunal in attempting to reach some conclusion on the basis of truth in the face of witnesses who are determined to back as far away from that concept as was possible.

¹⁵² Transcript, Day 20, page 36.

¹⁵³ Transcript, Day 118, page 138.

¹⁵⁴ Transcript, Day 131, page 84 on.

The Gun Incident

- 5.54. Another incident involving the recovery of a tripod, or similar items, in late 1992, from Adrienne McGlinchey has enabled the Tribunal more accurately to date an event, involving the brandishing of a firearm in the Day Room of Buncrana Garda Station, the timing of which had been left unclear in counsel's opening statement on this matter. Garda Seamus Gordon has been attached to Buncrana Garda Station since March of 1990, having joined An Garda Síochána in 1975. Garda Gordon linked the production of the firearm to a diary entry which he had made on the 4th of September 1992.¹⁵⁵ While it is possible that this incident was mixed up, in terms only of when it occurred, with the incident where Garda John Murphy brought a metal object back to Detective Garda Noel McMahon's house,¹⁵⁶ the Tribunal is satisfied that the date given is one of the possible dates of this incident. The Tribunal is satisfied that as a matter of probability the event occurred during the autumn or early winter of 1992. At 23.00 hours on this occasion Garda John Murphy contacted Buncrana station indicating that he had seen Adrienne McGlinchey carrying a black plastic bag. Assistance was summoned and she was seen coming down the main street in Buncrana and turning down an alleyway. When she was later observed she was not carrying this object. A search revealed that a black plastic bag in which there was a tripod had been left in her wake. It had been discarded behind a wall which was approximately seven feet high. The Tribunal has not seen this object but is satisfied that it is one of the metal objects, perhaps a tripod, or part of a tripod, that Adrienne McGlinchey had made and which had become characteristic of her in terms of her activities. This was returned to the station. Gardaí, who were then on their meal break at some time around 01.00 hours, learned that Inspector Kevin Lennon was on his way to the station.
- 5.55. A number of Gardaí were relaxing in the day room. The Tribunal is satisfied that Detective Garda Noel McMahon and Inspector Kevin Lennon then came in. A discussion arose in relation to the find which was initially cordial. The Tribunal is satisfied that Detective Garda McMahon was concerned about who would take care of the object and suggested in a positive way that he would do so. This turned the discussion into an argument: the issue was as to whether he and Inspector Lennon would "deal with it".¹⁵⁷ The idea was that the ballistics section in Dublin would examine the item in order to give a view on it.¹⁵⁸ Members of Uniform Branch felt that they should take whatever credit was due to this find, something to which exception was taken by Detective Garda Noel McMahon. According to those present, the evidence from whom the Tribunal accepts, Detective Garda McMahon then drew his standard issue revolver from his holster

¹⁵⁵ Tribunal Documents, page 5201.

¹⁵⁶ Which, while the date is again disputed, is probably referable to a diary entry of Superintendent John P. O'Connor for the 5th of October 1992. See Tribunal Documents, page 1791.

¹⁵⁷ Transcript, Day 80, page 182.

¹⁵⁸ Transcript, Day 81, page 157.

and pointed it straight at Garda Gordon's face. Garda Michael Galvin described the scene as follows:

I remember distinctly Detective Garda McMahon's thumb up around the ... hammer area. I have heard evidence already that the weapon was cocked on three occasions but I cannot say for sure. I have no recollection of the gun being cocked, I remember the gun being pointed and Detective McMahon holding the gun in the position with his thumb up around the hammer area and that lasted for approximately, I would say, at least twenty seconds. And I remember then ... Inspector Lennon, who had his back to the wall and was to the left of Garda Gordon, clearly saying, "put that gun away Mac" and Detective Garda McMahon put the gun away and reholstered the gun ... I was actually stunned by what happened ... at the time. I don't believe I considered it a prank. I have heard ... from Detective Garda McMahon's counsel, that he regarded it as a prank and it's well known in the station that Detective Garda McMahon would have been a bit of a prankster but at that time, I can't say what was on his mind.¹⁵⁹

- 5.56. Garda Gordon described being in a situation where he, to use his own words, "froze".¹⁶⁰ He also described that Detective Garda McMahon cocked the hammer and then released it under the control of his thumb on a number of occasions. The result of cocking the hammer was that a slight pressure on the trigger mechanism would have caused the gun to go off with lethal effect.¹⁶¹ The Tribunal accepts this evidence. It is hard to overstate the nature of the breakdown in morale that could have precipitated such an incident. Garda Tom McDonagh, who witnessed the incident, described it as follows:

I suppose probably the word to describe it would be stunned that this episode had taken place. It is something that I never saw take place before and hopefully I will never see again. We would have been stunned.¹⁶²

- 5.57. His presumption was that a disciplinary investigation would commence in relation to the matter.¹⁶³ This extremely nasty incident was inspired by a desire to ensure that communications with Headquarters concerning Adrienne McGlinchey should be confined to Detective Garda McMahon and Inspector Lennon. On the part of Inspector Lennon there was a desire to keep matters quiet. The abuse of a colleague in this fashion and the misuse of a lethal weapon called for a serious

¹⁵⁹ Transcript, Day 81, pages 159-160.

¹⁶⁰ Transcript, Day 80, page 185.

¹⁶¹ Transcript, Day 80, page 185.

¹⁶² Transcript, Day 127, page 102.

¹⁶³ Transcript, Day 127, page 104.

response. In cross-examination Superintendent Lennon had suggested before the Tribunal that in the aftermath of the incident, he had administered an admonishment, or ticking off, to Detective Garda McMahon, and that the matter was then left there.¹⁶⁴ As the second in command in the Inishowen area was present, the uniformed Gardai who witnessed the incident could only have taken the matter further by appealing to the Superintendent or the divisional officer. They were entitled to presume that the commanding officer present, Inspector Lennon, would have dealt with the matter appropriately. He did not. Chief Superintendent Ginty never learned of the event. His view, when questioned before the Tribunal, was that it warranted immediate action. This would have involved the confiscation of the weapon, the investigation of the incident and an immediate report of the matter to the Chief Superintendent so that the issue of suspension of the member and the pursuit of the matter as a criminal offence, ultimately through a report to the Director of Public Prosecutions, could have ensued.¹⁶⁵

- 5.58. Inspector Finan has given evidence that there is no file or documentation concerning this incident.¹⁶⁶ None of this paperwork was done and it should have been done. During the Court of Criminal Appeal hearing into the Frank Shortt case, on the 7th of June 2002, the following exchange occurred between Superintendent Lennon, giving evidence on behalf of the State in that case, and Mr. Justice Hardiman:

Q. There seems to be a time and I do not know when it was, when it was alleged that Garda McMahon had pointed a firearm at another Garda in a Garda Station, did you become involved in that?

A. That is alleged, I didn't become involved.

Q. When was that alleged?

A. That was supposed to be between 1992 and 1994.

Q. At some stage between 1992 and 1994?

A. Yes.

Q. Who was the Garda who made that allegation?

A. Garda Gordon.

Q. Yes? (Ms. Reynolds). Are you aware of how that turned out or would you have any involvement in that at all?

A. No.¹⁶⁷

¹⁶⁴ Transcript, Day 181, pages 117-118

¹⁶⁵ Transcript, Day 102, page 82.

¹⁶⁶ Transcript, Day 93, Q.104.

¹⁶⁷ See the cross-examination of Superintendent Lennon on this issue, Day 144, page 105 on.

Later on, the following exchange occurred:

Q. Certain of the allegations made are not dissimilar in character to certain of the things Ms. McGlinchey and perhaps another witness says, the production of a gun to another Garda in a Garda Station?

A. Yes, I understand that, My Lords.

Q. I take it that would be a very serious matter?

A. It would. Yes.

5.59. The denial by Superintendent Lennon of involvement in the Gordon gun incident is mirrored by a failure to be honest with the Carty inquiry. In an interview on the 25th of May 2000, Superintendent Lennon was asked about this matter and in the course of this he said “of all the accusations levied against me, it seems to be one which has a bit of substance”. However, the matter is later still referred to as an “allegation”.¹⁶⁸ Superintendent Lennon exhibited a complete lack of candour in dealing with this incident. The Tribunal rejects his evidence.

5.60. Detective Garda Noel McMahon gave evidence which, while admitting that the incident occurred in a manner something similar to that described, claimed that the production of a gun on this occasion was a joke. Both Superintendent Lennon and Detective Garda McMahon claimed it had nothing to do with the recovery from Adrienne McGlinchey of a metal object, be it a tripod, a metal tube, or some kind of a metal tube made up to look like a rocket. They further claim that there was no discussion as to who should have been credited for this ‘find’ or who should be charged with the responsibility for bringing the item to headquarters. The Tribunal completely rejects their evidence on this matter. In particular, the Tribunal finds it ludicrous for Superintendent Lennon to have said:

*As far as I recall now, and I am subject to correction on this, it was a bit of slagging about Detective Branch being a better force than the uniform force ... a bit of nonsense is right, Sir. That was a regular event in fun in the station where they were all saying you would think you were better than us.*¹⁶⁹

5.61. While there is a conflict of evidence as to whether there was a suspicious object recovered from Adrienne McGlinchey on the occasion of these shocking events, be that object a portion of a tripod, a tube or a rocket, the Tribunal is satisfied that some suspicious object was recovered from Adrienne McGlinchey. It was taken by Detective Garda McMahon from the day room, with the full connivance of Inspector Lennon. The simultaneous arrival of Inspector Lennon and Detective Garda McMahon in the Day Room was not an accident. They were tipped off by

¹⁶⁸ Tribunal Documents, page 1707.

¹⁶⁹ Transcript, Day 144, pages 73-74.

somebody, possibly Adrienne McGlinchey, though the identity of this person is unknown. Their arrival at the Garda Station was in the context of protecting their operative. The row in the Garda Station was a serious breakdown in discipline precipitated by Noel McMahon's emotional reaction to the thought that his illicit handling of Adrienne McGlinchey as an informer might be exposed in a way over which he had no control. Inspector Lennon abused his position as a superior officer by allowing bullying to take place, in the form of an assault, against a subordinate and diligent Garda. The incident was covered up by both men. The Tribunal strongly doubts that any form of admonition was ever administered by Inspector Lennon to Detective Garda McMahon as it heard about this only for the first time during the course of the Tribunal hearings, a matter not commented on previously to the Carty investigation team. The incident also shows that Kevin Lennon, while a uniformed Inspector, had an involvement with, and an interest in protecting, Adrienne McGlinchey. That interest could only have arisen from some determination of his own to illicitly use her for his own self-interest.

- 5.62. The Tribunal considers this to be a landmark event because it shows a close relationship between Detective Garda McMahon and Inspector Lennon at that time which the Tribunal is certain was a considerable time before the latter was appointed as supervisor over Detective Garda McMahon in his handling of Adrienne McGlinchey. The Tribunal notes their arrival at the same time and their leaving together. The Tribunal is satisfied that Detective Garda McMahon was treated by Inspector Lennon with unbalanced leniency in respect of his outrageous misconduct, which amounted to a serious psychic assault. In claiming that he admonished Noel McMahon, on his own evidence, Superintendent Lennon displays a complete lack of professionalism. The Tribunal is satisfied that it also shows the importance which Detective Garda McMahon attached to the protection of Ms. McGlinchey from questioning in connection with the object. None of the objects, of a rocket-like and tripod-like kind, which the Tribunal has seen could possibly pass scrutiny from an experienced ballistics specialist. These were manufactured by Adrienne McGlinchey at the behest of Detective Garda McMahon. It was therefore of the utmost importance to Detective Garda McMahon that the object should not be brought to the attention of the Garda authorities at Headquarters because thereby its origin might be revealed. His determination to protect it extended even to threatening a fellow officer with a gun. Detective Garda McMahon explains his conduct as being in some way a 'joke' or a bit of a 'prank'. I reject this explanation out of hand. It was a threat. When asked, he was unable to outline the circumstances in which his actions

could possibly form part of jocose conduct. His intention was to acquire the object.

- 5.63. The question must also arise as to why Inspector Lennon treated Detective Garda McMahon in such a manifestly improper manner. There were no circumstances offered by way of explanation as to why this happened. In evidence, Superintendent Lennon submitted that it was the correct course for him to adopt. I reject this. I believe that there was some other motive or explanation for his behaviour. The inference arises that at this time he and Detective Garda McMahon were joint conspirators in the enterprise of using Adrienne McGlinchey as a tool to promote their interests. Ultimately, further facts allow the conclusion to be drawn that this took the form of using her as an informer credited with leading them to serious finds of subversive material.
- 5.64. As one goes through the events detailed in these pages one becomes aware of more events involving Detective Garda McMahon and Inspector, later Detective Inspector, Lennon where the ordinary procedures were not followed. One of these was the influence which Inspector Lennon brought to bear on a situation involving Ms. McGlinchey and Ms. Devine which obviously called for the issue of a search warrant pursuant to Section 29 of the Offences Against the State Act 1939, as amended. The Tribunal is satisfied that as a result of his influence that warrant was not issued and that, again, the illegal activity of Adrienne McGlinchey was protected against the ordinary course of the law and the bizarre nature of her behaviour was covered up in favour of a fantasy that she was working for the 'Provisional IRA'. This all took place against a background of neglect by those charged with leading the Gardaí in Donegal.

More Metal Objects

- 5.65. As regards members of the Uniform Branch, their attitude towards Ms. McGlinchey and Ms. Devine became more circumspect. For instance, Garda John Murphy recounted to the Tribunal how he and Garda Galvin were working from 22.00 hours on the evening of the 5th of October 1992. Adrienne McGlinchey and Yvonne Devine were spotted. Ms. McGlinchey was carrying a bag. They disappeared down a side street and the bag was found in their wake. Looking into the bag they found a two-inch galvanised steel item which was one to two feet long and had holes bored in it. Because Garda John Murphy was aware that Adrienne McGlinchey was supposed to be giving information to members of Detective Branch, something which he should not have been aware of under any circumstances if Ms. McGlinchey had been treated as a genuine informer, he

telephoned Detective Garda McMahon. The Tribunal is satisfied that Detective Garda McMahon then took possession of the item at his house. This was brought there pursuant to a direction by him over the telephone and the Tribunal is also satisfied that Detective Garda McMahon said that he would contact Inspector Lennon.¹⁷⁰ It is possible that this item is one of the items kept by Sheenagh McMahon in a bank vault since around this time up to 1999 when she first revealed the existence of same, and handed over same, to the Carty investigation team. However, it could have been a different hoax object. Garda John Murphy cannot be faulted for accepting an assurance that the district Inspector and a senior Detective Garda would take over the handling of this matter.

- 5.66. It would appear that Superintendent John P. O'Connor became aware of this event because a Section 30 arrest resulted from it. He was under the impression that a tripod had been found and felt it best that the Detective Branch in Letterkenny should deal with it. He described his own role as "acting as a conduit at that time into Letterkenny for their assessment".¹⁷¹ The Tribunal cannot accept this evidence. Detective Garda McMahon's evidence to the Tribunal, on this issue, was as follows:

As I said, Detective Garda Murphy did ring me on two or three occasions regarding Ms. McGlinchey as he was a person that I got on well with, could trust and yes he did ring me but he couldn't have rang me on that night ... not that I recall. Not about that item ... I can never – and I can say this with total righteousness, that mightn't be the right word, if you can get the meaning. No, Sir, I can never recall anybody bringing an item to my house.¹⁷²

- 5.67. The Tribunal rejects this evidence. The Tribunal is satisfied that Detective Garda McMahon took possession of a steel item at his house on this occasion.
- 5.68. On the 18th of November 1992 Detective Sergeant Sreenan spoke to Superintendent John P. O'Connor in confidence. He felt that Detective Garda McMahon was behaving in an irresponsible fashion due to having an alcohol problem. The response by Superintendent John P. O'Connor was to request Detective Sergeant Sreenan to keep the matter monitored.¹⁷³ A follow-up report was received by the Superintendent in confidence on the 24th of January 1993. **This was another example of Superintendent O'Connor doing nothing when he should have acted. In effect, he declined responsibility. In other aspects, he treated the Detective Branch as a separate group over which he exercised no jurisdiction. In truth, his proper function was to take all the appropriate steps which the situation demanded as the officer in charge of the district.**

¹⁷⁰ Transcript, Day 37, pages 129-138.

¹⁷¹ Transcript, Day 119, page 18.

¹⁷² Transcript, Day 131, pages 113-114.

¹⁷³ Transcript, Day 119, pages 19-20.

Walkie-talkies

5.69. On the 23rd of December 1992 Adrienne McGlinchey was arrested. She had been found by Garda Cyril Meehan in possession of two walkie-talkies. Historically, these had been stolen from Buncrana fire station on the 8th of September 1992 at a time when the fire brigade had been called out on a false alert. On being arrested, Ms. McGlinchey was brought to Buncrana Garda Station where Detective Sergeant Jim Leheny attempted to question her. The Tribunal is satisfied that, to every question, Ms. McGlinchey suggested that Detective Garda Noel McMahon should be contacted.¹⁷⁴ Detective Sergeant Leheny was puzzled by such a response from a prisoner, so he contacted Detective Garda McMahon. Mr. Leheny recounted the interview and subsequent phone call in the following manner:

...I cautioned her and I explained to her fully the circumstances in which the radios were stolen and I explained to her that it was a serious offence to be found [in possession of stolen property] ... Her reply to me was that Detective Garda Noel McMahon of Buncrana could inform me of why she was in possession of the radios ... She requested that I contact Detective Garda McMahon ... To each question I would put to her her reply was "Noel McMahon will fill you in on them – will tell you all about them" ... After about an hour or so, I knew I was getting no place and I decided upon my own initiative to contact Detective Garda Noel McMahon ... I explained to Detective Garda McMahon the circumstances [in which we] .. arrested the two girls, the possession of the radios by them and exactly how the radios were stolen ... He told me he was fully aware of the circumstances of how and why McGlinchey had possession of the radios but would not inform me when I asked him. He then requested that I release both ladies forthwith and he was very strong on that; he wanted me to release them from custody.¹⁷⁵

5.70. In evidence, Detective Garda McMahon stated:

Detective Sergeant Leheny was aware that I was dealing with Ms. McGlinchey and he asked me what he should do. I had strong feelings about where the walkie-talkies came from and I felt in all honesty that she should be charged with possession of these stolen walkie-talkies, being the walkie-talkies from a much needed emergency service. He wanted to know should he charge her and I said to him that he would have to consult someone higher and

¹⁷⁴ Transcript, Day 84, pages 134-137.

¹⁷⁵ Transcript, Day 84, pages 134-136.

that I had no say in what should happen her. I don't know if I particularly mentioned Chief Ginty. I won't say I didn't. But he did go to Chief Ginty ...".¹⁷⁶

- 5.71. The Tribunal is satisfied that this evidence is wrong. The Tribunal is further satisfied that Detective Garda McMahon did everything in his power to persuade Detective Sergeant Leheny to drop the matter and to release Ms. McGlinchey.
- 5.72. This was resisted by the arresting and interviewing Gardaí who, naturally enough, felt that they had the solution to a crime within their grasp. Detective Garda McMahon suggested that Chief Superintendent Ginty should be called. Detective Sergeant Leheny then called to his home. Chief Superintendent Ginty gave a direction that Ms. McGlinchey should be released. This is how he excused the matter in evidence before the Tribunal:

I considered that matter, I didn't regard it as a serious crime. We had possession of the property which could be given back to the owner and when McMahon, whom I trusted at the time, asked that she – suggested, I don't know did he directly ask or was it by way of inference that I came to the conclusion that he wanted her released. I felt I could trust his judgement to do so. I felt a bit uneasy about that, I must admit. But I felt that it didn't frustrate further investigation or the bringing of charges had that been decided at a later stage. But I know that my mind at the time was that the more we can keep her out of the public eye the better and to put her before the courts could expose the whole thing and actually endanger her and we would lose her as a source of information as well.¹⁷⁷

- 5.73. The Tribunal is of the view that Chief Superintendent Sean Ginty should have used this further opportunity to make a detailed exploration of the activities and usefulness of Adrienne McGlinchey. Instead, his decision was made on an ad hoc basis on the word of a Detective Garda. It was not followed up by any assessment of Adrienne McGlinchey. Nor was it followed up by any investigation, and it is a very thin excuse to put forward the proposition that once she had been released, having been caught red-handed, that any investigation of the matter was a real possibility in the light of the attitude which he had taken to her. The Chief Superintendent might also usefully have asked himself the question as to what the 'Provisional IRA' were doing in stealing walkie-talkies from a fire station. He might have questioned as to what the role of Adrienne McGlinchey was with the 'Provisional IRA' when this further opportunity presented itself to him. His failure to do this cannot be accounted for on any basis that is consistent with the exercise of leadership.

¹⁷⁶ Transcript, Day 131, page 141.

¹⁷⁷ Transcript, Day 102, page 69.

- 5.74. Inspector Lennon moved from Buncrana to Letterkenny in January of 1993. Almost immediately he commenced a three-week course in Templemore Garda College. The position of Detective Inspector in Donegal became available shortly afterwards. Inspector Lennon made a successful application and he was appointed to that post on the 18th of May 1993.

A Hoax Call

- 5.75. On the 31st of January 1993 an armed incident is supposed to have taken place near Bridgend National School. This is something which Adrienne McGlinchey claims, at this stage, not to have any recollection of apart from claiming that she buried a tripod, in or around this time, on the instructions of Detective Garda McMahan.¹⁷⁸ It is certainly the case that at 23.30 hours on that night Superintendent John P. O'Connor was informed of an incident, as a result of which he wrote in his officer's journal:

At approximately 11.30 p.m. I was informed of an armed incident near Bridgend National School. Armed man, van, lady, scanners. Directed full alert and got army. In liaison with RUC. Protection taken overnight. Full faxes to Headquarters.¹⁷⁹

- 5.76. A search was conducted and a tripod was uncovered. Superintendent John P. O'Connor cannot recall ever seeing that tripod. The Tribunal is satisfied that if any Garda with experience of terrorists in the Detective Branch had viewed the recovered tripod they would have regarded it as useless. Detective Garda Eugene Gilligan examined one of the tripods recovered from the activities of Ms. McGlinchey. The tripod which he in fact examined came from a seizure on the 26th of July 1992 in Lifford. However, from the descriptions proffered to the Tribunal of the items found in Ms. McGlinchey's possession, all seemed to have been similar. None of them were commercially made tripods manufactured for the purpose of holding video cameras or heavy photographic equipment. All were handmade pieces of metal tubing with improvised hinges that were so unstable as to necessitate chains linking the legs at ground level. The Lifford tripod has a stabilising effect that is close to zero. One might, in some circumstances, be better off holding a weapon in the hand rather than attempting to use such an ill-made object. As a piece of weaponry, the Lifford tripod was useless. It is also reasonable to assume that the other tripods found as a result of Ms. McGlinchey's activities were little better. On the morning following the incident, Superintendent John P. O'Connor visited the scene. In evidence before the Tribunal, he claimed that he would have been horrified if Garda, army and RUC time had been wasted in pursuit of a hoax. That possibility, he claims, did not occur to him until he read the papers distributed by the Tribunal. Ms.

¹⁷⁸ Transcript, Day 12, pages 54-58.

¹⁷⁹ Tribunal Documents, page 2407. Quoted in Transcript, Day 119, page 92.

McGlinchey initially blamed this escapade on Detective Garda McMahon. Under cross-examination by Mr. Brian Murphy, counsel for that party, that allegation was withdrawn.

Theft of Car Registration Plates

- 5.77. On the 22nd of February 1993 Garda Denis Swift was on mobile patrol in Buncrana. He saw Adrienne McGlinchey and Yvonne Devine. Ms. McGlinchey was carrying a white plastic bag. On seeing the patrol car she attempted to conceal this bag under her jacket: a ridiculous exercise. The driver, Garda Tom Lynch, stopped the car. When the Gardaí got out Ms. McGlinchey dropped the bag and ran away. Garda Swift caught up with her after 50 yards. She claimed that she was up to nothing. He picked up the bag and it contained four car registration plates which later investigations indicated had, as regards two of them, been recently ripped off parked vehicles. Garda Swift properly reported the matter and an impressive investigation file was compiled with the assistance of Sergeant Brian O’Sullivan.¹⁸⁰ There was sufficient evidence to prosecute Ms. McGlinchey in respect of this incident. Two of the owners of the number plates had definitely identified them as being their property. She was found in possession and therefore either a handling or a theft charge was appropriate.
- 5.78. An officer of the Director of Public Prosecutions later decided that larceny by finding might be a more appropriate charge. Privilege was waived in respect of the decision of the Director of Public Prosecutions not to prosecute and the documents indicate that this decision was largely influenced by the petty nature of the charge. It was at a level where it did not need to be referred to the Director of Public Prosecutions as to whether to prosecute. However, Superintendent O’Connor had recommended that no prosecution should take place. His reasons are mystifying. They were set out as follows:

I feel the evidence though circumstantial is insufficient to warrant a prosecution in this case which would be likely to be defended by McGlinchey. There is weakness in the absence of evidence of positive identification by the injured parties of their individual number plates; there is weakness in the absence of evidence that the number plates found by the Gardaí were the actual ones stolen from each of the four vehicles. I recommend no criminal prosecution in this matter. McGlinchey is aged twenty-six, single, a factory worker with no previous convictions.¹⁸¹

- 5.79. He denies being influenced by another party in relation to this decision¹⁸² and it would not be fair to expect him to have any detailed recollection of it, apart from the documents which he authored, at this stage. However, the event was yet

¹⁸⁰ See Tribunal Documents, pages 1251-22, 21, 18, 17, 16, 11, 10 and 9. See also the evidence of Garda Swift, Transcript, Day 100, pages 10-14.

¹⁸¹ Tribunal Documents, pages 1251-9, 10.

¹⁸² Transcript, Day 119, page 37.

another incident where Adrienne McGlinchey was acting in a manner completely inconsistent with membership of the 'Provisional IRA' or with her status as an informer to the Gardaí. The opportunities that were missed in dealing with her are already piled high eighteen months into the emigration of herself and Yvonne Devine to Buncrana. Worse was to follow.

Telephone Wire

5.80. On the 19th of April 1993 Garda Edward Griffin was on mobile patrol in the Buncrana area. As the patrol car approached Adrienne McGlinchey she threw something away from her and started to run away. He searched the area and found a roll of wire. He then arrested Adrienne McGlinchey. Close examination of the wire revealed it to be a form of telephone cable. On interview she denied any knowledge of the wire. After being held for approximately two and a half hours she was released.¹⁸³

Shotgun Cartridges

5.81. On the 18th of May 1993 Kevin Lennon was transferred to Detective Branch, never having served as a detective before. In itself, this decision was inexplicable. He had served a further short term as an Inspector in Letterkenny from January of 1993. He became the Detective Inspector answerable to the Detective Superintendent and to the Chief Superintendent at Letterkenny. This gave him a roving role over the whole of Donegal as a senior investigating officer.

5.82. On the 18th of May 1993, Adrienne McGlinchey was arrested by Garda Tom Lynch. He was on duty as official driver of the patrol car in Buncrana, accompanied by Garda Denis Swift and Sergeant Gabriel McGrath. On driving the patrol car along St. Mary's Road, a short distance from the Garda station and from Ms. McGlinchey's flat, Ms. McGlinchey and Ms. Devine were spotted inside a railing peering out at the patrol car. Garda Swift jumped out of the patrol car in pursuit of the two women. Adrienne McGlinchey was holding a bag which was recovered by Garda Swift.¹⁸⁴ Garda Swift saw her carrying this bag and was therefore in a position to fix her with possession. He lost her in the darkness and he located that bag at the side of St. Mary's Oratory.¹⁸⁵ The bag contained "two to three dozen" shotgun cartridges.¹⁸⁶ Adrienne McGlinchey was found and arrested under Section 30 of the Offences Against the State Act, 1939, as amended.

5.83. While preparations were being made for the interview of Adrienne McGlinchey, Detective Garda Noel McMahon and the newly appointed Detective Inspector Kevin Lennon arrived into the day room.¹⁸⁷ In evidence, both of them denied this.

¹⁸³ Transcript, Day 80, pages 116-119.

¹⁸⁴ Transcript, Day 89, pages 155-160.

¹⁸⁵ Transcript, Day 99, pages 109-112.

¹⁸⁶ Transcript, Day 89, page 158.

¹⁸⁷ Transcript, Day 89, page 160.

The Tribunal is satisfied that both of them did appear there and that their purpose was, as in previous incidents, in some way to protect Adrienne McGlinchey in terms of their use of her for their own purposes. The Tribunal has not been informed as to who they went to, or as to what influence they brought to bear in relation to her detention, because they chose to deny this incident in its entirety.¹⁸⁸ Ms. McGlinchey was interviewed for a short period of time. Garda Lynch describes her as having been “very jovial about the whole matter”.¹⁸⁹ Garda Swift was then called to the door. When he returned he had orders that a search should be conducted in the area in which Ms. McGlinchey had been chased. The custody record in relation to this matter has disappeared: although the continuation sheet is available. Gardaí Swift and Lynch then went to search the area.

- 5.84. Apparently independently, the next morning Superintendent John P. O’Connor issued a search warrant in respect of a premises which, for some odd reason, is described on the document as “The Crescent, St. Oran’s Road, Buncrana, occupied by Yvonne Devine”.¹⁹¹ A search was conducted and a further cartridge, matching those recovered in the bag the previous night, was found at the flat. A good case of possession of ammunition in suspicious circumstances, contrary to Section 27A of the Firearms Act 1964, as amended, had thus been made out.¹⁹² The report from Sergeant Gabriel McGrath, dated the 18th of May 1993, gives a good precis of the available evidence against Adrienne McGlinchey:

... On the morning of the 18th of May 1993 Gardaí Thomas Lynch ... and Denis Swift ..., Buncrana Garda Station, were on mobile patrol. While the members were driving along St. Mary’s Road, they saw the above-named person who was known to them, walking on the footpath holding a black plastic bag. On seeing the patrol car she appeared to panic, and went through the Oratory gate into the church grounds. Garda Swift got out of the patrol car, and went into the church grounds, at this stage McGlinchey dropped the black bag, in view of Garda Swift and ran away towards the back of the church. Garda Swift picked up the bag and found it contained twenty Vantage V12, No. 8 78mm and twenty-seven grammes, Hull cartridges, in a brown cardboard box, which also contained two pairs of white and green gardening type gloves. The property was conveyed to the

¹⁸⁸ As to the denial by Detective Garda McMahon see Transcript, Day 132, page 6; as to the denial by Superintendent Lennon see transcript, Day 144, page 172.

¹⁸⁹ Transcript, Day 89, page 162.

¹⁹⁰ Tribunal Documents, page 4780.

¹⁹¹ Tribunal Documents, page 2288.

¹⁹² Section 27A of the Firearms Act 1964 as substituted by Section 8 of the Criminal Law (Jurisdiction) Act 1976 and amended by Section 14(4) of the Criminal Justice Act 1984, and Section 4 of the Firearms and Offensive Weapons Act 1990 and Section 15(2) of the Offences Against the State (Amendment) Act 1998 reads: A person who has a firearm or ammunition in his possession or under his control in such circumstances as to give rise to a reasonable inference that he has not got it in his possession or under his control for a lawful purpose shall, unless he has it in his possession or under his control for a lawful purpose, be guilty of an offence and shall be liable on conviction on indictment to a fine or imprisonment for a term not exceeding 10 years, or both.

Garda station. A search of the area was conducted for McGlinchey and at 12.15 Garda Thomas Lynch arrested Adrienne McGlinchey under Section 30 of the Offences Against the State Act 1939, the scheduled offence being under the Firearms Acts 1925-1971. She was conveyed to Buncrana Garda Station, where she is presently detained. A search of her flat at The Crescent, Buncrana was later carried out, under authority of a Section 29 warrant, by Detective Sergeant Sreenan, Sergeant McGrath, Detective Gardaí Jones, Breslin and Doherty. Nobody was at the flat on arrival of the Gardaí, entry was gained by removing a pane of glass from the front door. One cartridge of similar make was found in one bedroom in the flat, which McGlinchey shares with another girl. McGlinchey was interviewed for a short period after her arrest by Gardaí Lynch and Swift, she was unhelpful and denied all knowledge of the cartridges.¹⁹³

The ‘Confidential Interview’ of the 18th of May 1993

5.85. On the morning of the 18th of May it was arranged that Detective Garda John O’Keeffe was to interview Adrienne McGlinchey.¹⁹⁴ This occasion was used by Adrienne McGlinchey to feed him with a number of pieces of information which turned out to be obviously false. As a result of this encounter, he filed a confidential report which was passed by his Detective Sergeant, through Superintendent John P. O’Connor, up to the Chief Superintendent in Letterkenny. Superintendent John P. O’Connor’s only comment in relation to this report was to note his displeasure that anyone apart from Detective Garda McMahon was being allowed to speak, or in any way deal with Ms. McGlinchey. He stated:

Detective Sergeant Brennan, Detective Gardaí Jones and O’Keeffe were interviewing her before her release ... As this subject is being ‘handled’ by another member of the Detective Branch in Buncrana which is a fact known to the aforementioned three members, I have spoken to each of them directing them not to compromise the source in any way and to leave the one member ‘handle’ her. I also directed these members to keep their district officer and if necessary the Detective Superintendent and the divisional officer briefed at once on any information which they may come into possession of from the source.¹⁹⁵

5.86. In the light of what, on the face of it, the interview with Ms. McGlinchey yielded in terms of useful information, this statement by Superintendent John P. O’Connor is hard to justify. The significance of the fact that Adrienne McGlinchey gave this information at that juncture was considered by the Tribunal. The conduct of Ms. McGlinchey for some months prior to this date had been, even

¹⁹³ Tribunal Documents, pages 1251-24.

¹⁹⁴ Transcript, Day 73, page 42.

¹⁹⁵ Tribunal Documents, pages 1251-42.

by her own standards, bizarre. At that time, for a Garda officer to present her as a serious informer would have brought critical reaction. Anyone contemplating such an exercise had to engage in a stratagem of rehabilitation. There would be no better pursuit of this than for the alleged informer to provide some credible information of substance. The information that was in fact provided by Adrienne McGlinchey had the outward appearance of truth. However, on closer examination, which required diligent investigation, it was found to be incorrect.

5.87. Adrienne McGlinchey claimed in evidence that she had been put up to giving this false information by Detective Garda Noel McMahon.¹⁹⁶ Here is the text of the memo drawn up by Detective Garda O’Keeffe:

On the 18th May 1993 during an interview with a prisoner in custody the following information was made available to D/Gardaí Jones, O’Keeffe and D/Sergeant Sreenan.

1. That the PIRA were intent on blowing up the British Army C.P. at Lifford Bridge, and that [name excluded] PIRA was involved and that he was very excited about the prospect of blowing up the C.P. Informant also stated that the PIRA Unit involved in [excluded] were planning a big attack ...
2. That the PIRA were interested in renting a house in the Tullydish area and that they asked informant to rent same, but she was turned down by the owner. This unit is presently trying to identify the particular house in question.
3. That informant was asked by leading PIRA member in Letterkenny to fax a drawing of a cylinder object from informant’s place of employment to the Precise or Precision Engineering factory at Ballybofey. Local D Branch in Ballybofey would be able to verify if such a fax was sent.
4. That the PIRA were using informant’s flat from time to time, working on objects and storing tripods etc. there.
5. That the ammunition informant had on the morning of the 18th May 1993 was to be delivered by her to the PIRA, Buncrana for firearms training up the mountain road at Carndonagh.¹⁹⁷

5.88. The foregoing memo is important for a number of reasons. Firstly, two aspects of it could be checked out by Detective Garda O’Keeffe. Secondly, Adrienne McGlinchey identifies herself as being involved in the ‘Provisional IRA’ and names her flat, situated approximately fifty metres from Buncrana Garda Station, as a

¹⁹⁶ Transcript, Day 12, pages 67-68.

¹⁹⁷ Tribunal Documents, pages 1251-41.

bomb factory. Curiously, Superintendent Lennon claims to have had no knowledge of either this memo or the allegation that Adrienne McGlinchey was using her flat to manufacture explosives. His latter denial is incredible. Thirdly, standard information as to the intentions of the 'Provisional IRA' was, apart from false information, deliberately included in the document.

- 5.89. When Detective Garda O'Keeffe's enquiries uncovered the false trails he became dubious about the entire matter. Instead of a prosecution being initiated, a direction was given on the following month by Inspector Patrick McMorrow, acting on behalf of Superintendent John P. O'Connor, that the ammunition, an essential piece of evidence should a prosecution ever be initiated, should be destroyed.¹⁹⁸ Superintendent O'Connor's view on this was given as follows:

*Well I can conclude that at this stage ... that obviously the Detective Branch, the Detective Superintendent, decided that the matter wasn't going any further when they destroyed the evidence ... It would indicate to me that it was decided that the matter wouldn't be prosecuted and the evidence was destroyed or disposed of.*¹⁹⁹

"Hands Off"

- 5.90. Another response by Superintendent John P. O'Connor was to call in Detective Garda Jones on the 19th of May 1993 and to direct him not to compromise McGlinchey. He claims to have done this on instructions from Detective Superintendent Denis Fitzpatrick.²⁰⁰
- 5.91. In evidence the following exchange occurred between the Tribunal Chairman and Sergeant John O'Keeffe:

Question: Would you normally report back in the form of a report, that I have checked all of this out and it does not make sense?

Answer: Well, yes in relation to that, having been told by Superintendent O'Connor after this and during the time when I would be checking out the information, I was told that it was none of my business basically.

Chairman: When did he tell you that?

Answer: It was some time about a week or two in the office after his report had gone in.

¹⁹⁸ Tribunal Documents, pages 1251-37.

¹⁹⁹ Transcript, Day 119, page 59.

²⁰⁰ Transcript, Day 119, page 62.

Chairman: Are you telling me this and I would like to know if it be a fact, that you had this information, that you normally would have completed the sort of report I am talking about now but for the fact that you were told that it was none of your business?

Answer: Basically, yes, that's the impression I was given off the Superintendent, to hands off.

Chairman: Thank you.²⁰¹

5.92. Superintendent John P. O'Connor's excuse for this is that as Ms. McGlinchey was, through some mysterious means, classified as a subversive, he took orders from Detective Superintendent Fitzpatrick. The decision not to prosecute Ms. McGlinchey caused considerable disquiet and disruption of morale in Detective Branch.²⁰² The view of Detective Garda O'Keeffe was that Adrienne McGlinchey should be ignored. His evidence to the Tribunal was that he, Detective Garda Doherty, Detective Sergeant Sreenan, Detective Garda Jones, Detective Garda Sean Herraghty and various others felt that Ms. McGlinchey was not a true informer but that nonetheless huge amounts of attention were being paid to her in circumstances where she was no more than an irritation.²⁰³ The Tribunal is also satisfied that Detective Sergeant Des Walsh attempted to raise the matter with Chief Superintendent Ginty and with Superintendent John P. O'Connor. While they claim not to have a specific recollection of this matter, the Tribunal is satisfied that he attempted to intimate to both these officers that the situation in Buncrana was beyond understanding by describing Ms. McGlinchey as "a fraud".²⁰⁴

5.93. Chief Superintendent Ginty has some recollection of such an approach but claimed that he was too busy to take the matter up and investigate Ms. McGlinchey by reviewing her activities.²⁰⁵ This was an important matter: too important to be deferred. In evidence Superintendent John P. O'Connor stated:

I certainly have no recollection of Sergeant Walsh. My view is that it certainly was not expressed to me. If it was I would have done something about it. Now, I would have got my cue from the Chief Superintendent and the Detective Chief Superintendent that she was a valuable source and that's the basis on which I was guided ... There was a massive amount of work, a wide variety of policing work going on in Buncrana at that time as well, throughout my time there. It's a very busy station.²⁰⁶

The Tribunal rejects this evidence.

²⁰¹ Transcript, Day 73, page 82, Q.420 on.

²⁰² Transcript, Day 73, page 66.

²⁰³ Transcript, Day 73, page 67.

²⁰⁴ Transcript, Day 42, page 97, Q.529.

²⁰⁵ Transcript, Day 101, page 145.

²⁰⁶ Transcript, Day 109, page 74.

5.94. In evidence, Sean Ginty stated:

I have a memory, albeit faint, of he and some members of the Gardaí from Buncrana, the Detective Branch, speaking to me and I think it was in my office, it may have been in Buncrana ... and he was concerned not about any friction that may have existed between members of the Detective Branch but the behaviour of Adrienne McGlinchey around Buncrana. And perhaps I should have listened more to what he had to say because he was a man who had been in Buncrana for a long time, highly respected and had his finger on the pulse of things and I was unwise in not letting him talk himself out, or at least not probing him and encouraging him to flesh out what he had to say. But I think he was trying to communicate to me that the situation with McGlinchey was not acceptable around Buncrana. But I thought he was trying to say that, you know, tell me what I already knew and I did not prolong the conversation with him to my detriment, I believe.²⁰⁷

5.95. Chief Superintendent Sean Ginty sought further to excuse his lack of knowledge, and therefore his lack of leadership on this matter, by stating that it was the duty of Superintendent John P. O'Connor and Detective Inspector Kevin Lennon, formerly Inspector Kevin Lennon of Buncrana station, to keep him informed. He said:

That was the duty they [i.e. the Border Superintendent and Detective Inspector] had towards [the district officer] and he had a duty towards me [as Chief Superintendent] to keep me informed. For whatever reason or at whatever level that channel was blocked, I'm not clear. But there was an informal situation running side by side with that formal reporting system, and that was that Kevin Lennon, who lived in Letterkenny and was frequently in Letterkenny station, irrespective of where he may have been stationed, called to the station and had an open door policy, as had a lot of others, with me. And I welcomed the fact that he came in and kept me abreast of what was going on in Buncrana. Whether there was any manipulation of me in that situation or the system in that situation which misinformed people, say, at Sergeant or Garda level, or even at Superintendent level in Buncrana, I don't know – but as you continue with this line, you know, there's things going through my mind, I don't really know why I didn't – it still surprises me to this day that I didn't know the extent of what was

²⁰⁷ Transcript, Day 101, pages 145-146.

going on in Buncrana. I feel, well, on the one hand a bit embarrassed about it and, secondly, a bit upset about it ... Well, the upset because these things were going on and in my area, an area for which I was accountable, and that the system wasn't working to keep me properly informed. Now, ok, maybe I should have responded differently to different things that happened, that's a separate issue. But the information to which I was entitled was not coming to me, clearly. I was getting little bits and pieces which didn't give me a clear picture at all. When I heard of the amount of stuff that was in the flat and all these things and the goings on in Buncrana I was completely taken by surprise.²⁰⁸

Comment

- 5.96. The Tribunal cannot but feel that there was a basic failure by Sean Ginty, when Chief Superintendent in Donegal, to involve himself on a 'hands-on' basis with the situation that was going on around him. By this stage three matters which required investigation had occurred. Any one of these, if followed up diligently, would have uncovered Adrienne McGlinchey for the fraud that she was. Regrettably, the Tribunal cannot feel confident that any in-depth investigation, even if initiated, would have led to the disciplining of the situation initiated by Detective Garda McMahon and Detective Inspector Lennon. The Tribunal does not consider that it would be fair to conclude that Chief Superintendent Ginty and Superintendent John P. O'Connor were involved in corruption. The conclusion is inescapable, however, that they were negligent.
- 5.97. On the 22nd of May 1993 Detective Superintendent Denis Fitzpatrick had sought a list of "PIRA members/sympathisers active for the organisation in any way" or "PIRA members – A[ctive] S[ervice] U[nit]s involved in attacks, robberies etc."²⁰⁹ Within this broad heading of people who might be a "sympathiser" or "active for the organisation in any way" the names of Adrienne McGlinchey and Yvonne Devine were included by Detective Sergeant Tom Sreenan who compiled the report for the Buncrana district.²¹⁰ **The Tribunal is satisfied that this vague classification added nothing to the information already in place concerning Adrienne McGlinchey. Instead it emphasised the urgent need for these uninformative lists to be reviewed. This was a responsibility, and a failing, of Garda management.**

Memorandum of Disquiet

- 5.98. In the aftermath of the extraordinary events in Buncrana, the Border Superintendent, who as we have noted came from the Mayo division in August

²⁰⁸ Transcript, Day 102, pages 136-137.

²⁰⁹ Tribunal Documents, page 5202.

²¹⁰ Tribunal Documents, page 5204.

of 1992, expressed in writing his disquiet at what limited knowledge he had of the activities of Adrienne McGlinchey in Bunrana. That memorandum is date stamped the 9th of June 1993 and is addressed by Detective Superintendent Denis Fitzpatrick to the Chief Superintendent in Letterkenny. It is worth quoting in full:

SECRET

Chief Superintendent,
Letterkenny.

Re: Information made available to D/Branch Members on 18/5/1993

Contents noted and are being investigated.

I have spoken to the members concerned regarding the security of the informant on a number of occasions. I appreciate that it is a most difficult case to manage, basically because the informant is reckless and it seems cannot appreciate the dangers involved.

I think that the situation now requires a rethink, because:

- (a) The identity of the informant is too widely known.
- (b) Because of the failure of the informant to take reasonable care in her own security.
- (c) The informant appears to be unstable and may not be giving all the information to us.

I recommend that we should totally 'lay off' this source for the next six months when the situation could be re-examined. I think the source's security is now unsecure and this could leave her exposed and a member of the force could be exposed to danger, or at least compromise.

Any developments will be reported.

(Denis Fitzpatrick) D/Superintendent.²¹¹

The Lack of Response

5.99. This memorandum was never drawn to the attention of Superintendent John P. O'Connor.²¹² That, at any event, is his evidence. This, despite the fact that he was the ultimate authority in the Bunrana/Inishowen district. In evidence, he also said that the incidents related to Strabane, Bridgend, Ardchicken and Rossnowlagh were never drawn to his attention as emanating from Adrienne McGlinchey. These will be dealt with in the following chapters but the omission in relation to the Bridgend incident on the 11th of January 1994 is inexplicable.

²¹¹ Tribunal Documents, page 2372.

²¹² Transcript, Day 118, page 76.

5.100. It has been emphasised to the Tribunal that knowledge empowers senior officers. On the one hand Superintendent O'Connor did not make enquiries concerning Ms. McGlinchey's background, even though he had to deal with her, and on the other, an important memorandum concerning the activities of someone living in his district was not brought to his attention by either the Border Superintendent or the Chief Superintendent. This was a serious breach of appropriate management standards. Superintendent Lennon claimed that this memorandum was never drawn to his attention during his time as Detective Inspector. In evidence, he simply said:

*Yes, Sir, I didn't see that document until the Tribunal papers were produced.*²¹³

At that stage, he claimed to have known as little about Adrienne McGlinchey as when he first arrived in Bunrana in March of 1992. This is incredible. Furthermore, it seems to be in the context of a degree of disquiet that this memorandum generated, that he was actively drawn into a discussion on Adrienne McGlinchey, the nature of which discussion he disputes.

5.101. Chief Superintendent Sean Ginty, however, did take the memorandum from Detective Superintendent Denis Fitzpatrick seriously. The Tribunal is of the view, however, that he did not take it seriously enough. In the aftermath of receiving the memorandum, Chief Superintendent Ginty spoke to Detective Inspector Lennon and to Detective Superintendent Fitzpatrick. A section of his evidence was as follows:

... I remember distinctly on one occasion when I came out with it forthrightly and asked for [Detective Inspector Lennon's] opinion on this. I have to say in fairness to him he did not say it was essential that we retain her as a contact. He did make the point very forcefully that getting rid of her was another difficulty. But at the end of it all, it was his feeling that something useful could be obtained by maintaining the contact ... but he knew my mind on it. I'd say I brought it up more than once, perhaps twice. ... It may have been as a result of Denis Fitzpatrick's communication to me that I raised this with Kevin Lennon, but I still think that I felt some unease even after receiving that communication ... After many talks with him ... I raised the subject of discarding her. I could well have been influenced by Denis Fitzpatrick's minute and indeed Des Walsh's [minute of 7th of July 1992]²¹⁴ ... I feel that Denis Fitzpatrick with his insight, bearing in mind that he was the Detective Superintendent, and Kevin Lennon would have been his

²¹³ Transcript, Day 145, page 11.

²¹⁴ Tribunal Documents, pages 2278-9.

assistant or deputy if you like, even though his role was not defined, that he was closer to the scene than me and perhaps I should have given it more attention. On the other hand, Kevin Lennon was a very trusted officer as well and I felt that perhaps the greater good – that I would take the risk of banking, the greater good would be served by holding on to her for another while and as a result I didn't take positive action to sever the connection with her ... Let me just explain a little bit about the background. Kevin Lennon had been there since I went to there, I knew him as a Sergeant and I found that he was a very capable man and I gave him a few tasks to do and he did very well on them and produced a very good report on them and I developed a high opinion of him. Denis Fitzpatrick came to the scene in about I think August '92 and was relatively new to it, whereas Kevin Lennon had been immersed in the situation for years before that. So I gave a lot of credence to what Kevin Lennon had to say and I'm not saying that I – I mean, I wasn't juggling his opinion against that of Denis Fitzpatrick's, I was trying to get an overall view of it. But it was my judgement at the time, that because of the trust that I placed in Kevin Lennon, that it was still desirable that I maintain the situation, not interfere with the situation as far as contact with McGlinchey was concerned.²¹⁵

- 5.102. Given the concerns that had been expressed on two occasions in writing, and orally,²¹⁶ it is hard to imagine this response of deference to a Detective Inspector as being an appropriate response by the divisional officer. Superintendent Lennon, however, disputes that conversation. In evidence, he said:

I felt from my memory it was July, June or July of 1993, that Chief Superintendent Ginty called me to his office and he informed me about Ms. McGlinchey, that she was a good informer and she had been good in the past but she was difficult to handle and that there was problems with her drawing attention to herself. He asked me to be the liaison man with Detective McMahon and to tighten up the situation vis-à-vis her security and her behaviour and that ... he didn't tell me what I was expected to do but he told me to be the liaison man with Detective McMahon and to get the information through and to keep the matter under control and to keep it tight and to keep it to our – Detective McMahon would be the handler and I would be the person who would liaise and visit Ms. McGlinchey on occasions and try and articulate the

²¹⁵ Transcript, Day 102, pages 27-32.

²¹⁶ Transcript, Day 101, page 145, Q.671.

information that was coming through. ... When I look back on it ... I didn't question anything or I didn't ask any questions, what should I do here and now? I just took it as the basics of being given that task, role, and I did discuss it with Chief Superintendent Fitzpatrick as my Detective Superintendent and I explained to him that I was a very busy man and I was given work from all over the place to do and that I could have difficulty coping with all these things.²¹⁷

- 5.103. The Tribunal is satisfied that a substantially accurate account of the conversation between Detective Inspector Lennon and Chief Superintendent Sean Ginty was given in evidence by Mr. Ginty. The Tribunal rejects the evidence of Superintendent Lennon.
- 5.104. However, given that the Tribunal substantially accepts the account of Mr. Ginty, it is fair to infer that Detective Inspector Lennon already had a substantial knowledge of, and some kind of role in, the actions of Adrienne McGlinchey.
- 5.105. That impression is strengthened by a further conversation which took place between Chief Superintendent Ginty and Detective Inspector Lennon. The matter of Adrienne McGlinchey was discussed on at least two occasions between these officers. On one of these occasions an even more curious communication was made. This is how Mr. Ginty put it in evidence:

For instance, he told me that she was grinding fertiliser in a little coffee grinder in her flat. I remember him telling me that distinctly. Because I responded that the Provos must be in a sorry state if they have to resort to this means to get their fertiliser crushed. I thought she was perhaps – it added to the fact that I thought she was a bit foolish and that perhaps she wasn't serving any real useful purpose to the IRA in carrying out that task. I also remember discussing or telling Kevin Lennon, maybe that on more than one occasion, that I was feeling a bit uneasy about her, given her behaviour insofar as I knew about it and I asked him for his opinion as to discarding her. Maybe the time had arrived to let her go. Now, she hadn't been giving us any useful information at that time. This was in a period when she had, I believed, given good information earlier on, but there was promises of good information coming, very good promises let me say. But that is all they were, it never materialised. Given that and the fact of her behaviour and the fact that she might damage our standing in the community if you like, to be seen to be associating with her, that

²¹⁷ Transcript, Day 145, pages 15-17.

it was time to let her go. He largely agreed with me about her quality as an informer and he emphasised the fact that she would always bring you to a point where you were just about to expect good information to come in and then there was an anticlimax, it didn't come. But he did make the point very forcefully that it was she who insisted on maintaining the contact and getting rid of her wasn't as easy as it sounded. So I drew him for his opinion as to whether it would be useful to maintain the contact with her and he said, he indicated to me, I don't know what words were used, that, yes, we might let her continue for another while but that if there was anything of a more bizarre nature that would occur that that would cause us to further review her and perhaps discard her. He left with my feeling satisfied that I would be kept fully informed and if a decision of that kind was needed that I would be asked for it.²¹⁸

- 5.106. In cross-examination Kevin Lennon claimed that this conversation, or any conversation indicating that there should be any kind of a lay-off on Adrienne McGlinchey as an informer, never happened. The Tribunal is satisfied that this conversation did take place. In evidence Superintendent Lennon simply said:

No, I didn't say that to him, no.²¹⁹

- 5.107. The Tribunal is satisfied that the conversation as given in evidence by Mr. Ginty did take place and rejects the evidence of Superintendent Lennon.
- 5.108. Any police officer should have asked himself the question as to why the 'Provisional IRA', who were at that stage on a military footing as regards logistics and ordinance, could possibly need to resort to the painstaking and highly inefficient use of grinding fertiliser pellets in a flimsy domestic coffee grinder. The question was not asked by Chief Superintendent Ginty. It should have been. Instead, the response as of the summer of 1993, in the aftermath of Detective Superintendent Fitzpatrick's memo, had been to formally appoint Detective Inspector Lennon to be the handler of Detective Garda McMahon in his dealings with Adrienne McGlinchey. From the narrative in this chapter, however, it is obvious, and the Tribunal concludes, that Kevin Lennon had already been heavily involved in protecting Adrienne McGlinchey and in using her as a means of playing games. In the light of the weak response of those who were senior to him, the manipulation of the situation in Donegal had, as this chapter indicates, become relatively easy.

²¹⁸ Transcript, Day 102, pages 21-22.

²¹⁹ Transcript, Day 145, page 169 on.

A Search Called Off

- 5.109. An entry in the communications log at Letterkenny Garda Station for Friday the 9th of July 1993 reads:

[AB] reported that he received an anonymous call from a male to the effect that devices had been placed in the Oatfield factory and at swimming pool. Caller had local accent and said very little (hoax calls). Refer to message 4. At 9.07 caller rang again repeating there is a bomb in the swimming pool and at the rear of the Oatfield factory.²²⁰

- 5.110. Chief Superintendent Ginty states that he issued a warrant for the purpose of commencing a search at a premises which included the McGlinchey family home in Letterkenny. During the course of this a “fairly frantic telephone message from Noel McMahon” was received.²²¹ The communication from Detective Garda McMahon was to the effect that the search would “compromise McGlinchey, it will get her into real trouble”.²²² Chief Superintendent Ginty therefore called Superintendent John P. O’Connor, or Detective Inspector Kevin Lennon, to get him to call off the search. In evidence he said:

Now, that was the end of it, I believe, I have a faint recollection of speaking to Kevin Lennon subsequently about this, if that stuff was still lying there he would have to now monitor it. I told him what Noel McMahon had said, he didn’t respond to that from what I recall. But I said, remove it at the first opportunity where it can be done safely, without bringing McGlinchey under notice. That was my intention.²²³

- 5.111. It cannot be regarded as an adequate response to a situation potentially involving the possession of explosives by terrorists for the destruction of life or property, that a Chief Superintendent would ask a Detective Inspector to simply gather up the material. It beggars belief that the ‘Provisional IRA’ would not be upset by the loss of prepared bomb-making equipment. It is even less believable that they would cooperate with a Garda and calmly hand over bomb-making material. Yet, this is the scenario in which the Tribunal has been asked to believe. That impression of the loss of materials without enquiry or upset by a terrorist organisation was stretched beyond any breaking point of credulity by the circumstances which will be outlined in the next three chapters. Even at this stage in the narrative, an intelligent, or even an energetic, response to the McGlinchey situation was called for. Resources in the form of Garda time and effort had been diverted and wasted in dealing with her.

²²⁰ Tribunal Documents, page 4878.

²²¹ Transcript, Day 102, page 102.

²²² Transcript, Day 102, page 102.

²²³ Transcript, Day 102, page 103.

More Guns

5.112. In March of 1993 the occurrence book in Buncrana noted as follows:

Anonymous caller that a blonde-haired girl dropped a bag coming down from The Crescent about fifteen minutes ago. He said that there were three rifles in it. She picked them up and wrapped them in her coat and walked out of The Crescent and headed not knowing where she went.²²⁴

5.113. From the time Adrienne McGlinchey had arrived in Buncrana she had been found in possession of bullets on three occasions (December of 1991, 30th of April 1992 and 18th of May 1993). This issue as to the possession of rifles was another incident that was not investigated. Issues in relation to tripods and tubes on various occasions were inadequately followed up or simply left in abeyance. A proper investigation into a mean-minded theft of walkie-talkies from a fire station, and a related potential charge of handling against Adrienne McGlinchey, had been stymied in the course of investigation. Serious concerns had been expressed as to the credit-worthiness of Adrienne McGlinchey as an informer but Chief Superintendent Ginty and Superintendent O'Connor had ignored these. Two memoranda had been written by experienced officers from which disquiet ought to have been raised concerning her activities. All of this was ignored. In the teeth of overwhelming evidence that she was mischief-making and attention seeking her usefulness as an informer was still being promoted by Detective Inspector Lennon and Detective Garda McMahon. Now, towards the end of 1993, when serious queries have been raised as to her credibility, it suddenly emerges that apparently serious finds of explosives are made which are associated with her activities and put down to the credit of those handling her as blows against a terrorist organisation.

²²⁴ Tribunal Documents, page 689.

CHAPTER 6 THE FINDS BEGIN

Introduction

6.01. The Tribunal is satisfied that by the time the events detailed in this chapter commenced, there was a degree of scepticism among the Detective Branch of the Gardaí in Buncrana as to the value of Adrienne McGlinchey as an informer. In the light of her extraordinary conduct, as detailed in the previous chapter, that scepticism was entirely justified. It should have been more widely shared. The nature of her public conduct was such as to call into question the ability of senior officers to manage their districts, and the overall division, in the light of their lack of knowledge of the conduct of Ms. McGlinchey. In the context of the Donegal division, Ms. McGlinchey has been presented to the Tribunal as being an informer of a major kind. Her supposed membership of a terrorist organisation was utterly at odds with her known conduct. Senior management should have been in touch with this situation and, as the evidence has indicated, they should have acted in following up on the hints dropped by experienced Gardaí through drawing them into a dialogue and then engaging in a thorough exploration of the entire issue of the usefulness of Adrienne McGlinchey. To have failed to have done that, in the circumstances already detailed, was less than professional. In the light of the conduct which will now be detailed, the failure to confront the issues which arise in this chapter give rise to an even more serious situation.

Detective Garda Jones

6.02. One of those who had serious doubts as to the usefulness of Adrienne McGlinchey was Detective Garda Noel Jones. He had observed her at close quarters and was sceptical as to the claims being made as to her usefulness. In part, it is to be inferred, that scepticism arose from the unorthodox manner in which Ms. McGlinchey was trumpeted as an informer throughout the district of Buncrana in breach of every known rule as to the precautions which must be taken in dealing with an informer. Sensibly, he made contact with a woman called Ciara McLaughlin who, together with Bernard Logue, lived in the same building as Ms. McGlinchey and Ms. Devine. His conduct cannot be regarded by the Tribunal as a breach of what has been colloquially referred to as the standing order to 'lay off' Ms. McGlinchey. Rather, it was a commitment to his duties as an officer which led him to follow a legitimate line of enquiry.

6.03. Whether Ms. McGlinchey was or was not a 'Provisional IRA' operative, looked at from the point of view of Detective Garda Jones, a knowledge of her activities

empowered him, and those he was in contact with, in attempting to make decisions as to her real or exaggerated activities. Insofar as it was consistent with his other duties he kept the residence of these two ladies under review and used his casual contact with Ms. McLaughlin and Mr. Logue to inform himself as to when further action might be necessary. On a date, which he puts as between the 23rd of August and the 3rd of September 1993, disturbing information came to his attention:

*When I was talking to Ciara McLaughlin and Bernard Logue, the information that I would have got at that stage was about activities that had occurred in the ... month of August leading into September, where they were saying that Adrienne McGlinchey had been looking for, or to buy, a coffee grinder, and that they themselves, that there was – that they had seen bags of material in the flat downstairs. That these bags contained a granulated mixture, which there was a smell off, and that Adrienne McGlinchey was carrying these openly around the town of Buncrana ... that there was men had come and removed the bags on the night of the 3rd, as far as I am aware ... The furthest she was able to help on that was that her contact was a fella by the name of Paul from Derry, known as 'Short'. ... She said it was a granulated material, and she believed it to be explosive ...*²²⁵

- 6.04. The interest of Detective Garda Jones was focussed on this matter because he felt that the speculation that someone, as he put it, had “lost their senses entirely and is grinding up fertiliser for no good reason” was a less serious possibility than that there was a subversive context to this matter.²²⁶ In the early hours of that morning, at around 02.30 hours, before receiving this information, Detective Garda Jones was on patrol in Buncrana when he came across Adrienne McGlinchey carrying a package. On investigation this turned out to be a rocket-like object. He returned it because he, rightly, regarded it as useless. He fulfilled his duty by submitting a report of this rocket-like object.²²⁷

Bullets at the Flat

- 6.05. A serious incident occurred in Strabane on the 11th of September 1993. This incident, however, had a background which linked it into an event which occurred four days prior to that date. Detective Garda Jones gave evidence as follows:

²²⁵ Transcript, Day 76, pages 70-73.

²²⁶ Transcript, Day 76, page 78.

²²⁷ Tribunal Documents, page 2383. The report gives a description as follows: “Object consists of steel tube about 14-16” long and approximately 4” in diameter. It had at one end of the tube about 12 rectangular pieces of steel welded on it to give a propeller appearance. The pieces of steel measured about 2” x 1.5” x .25” thick. Along the tube were a number of drill holes about .25” in size ... this object was galvanised or painted silver.” A sketch was also included.

*About 7 p.m. I received a phone call at the station to the office and it was Ciara McLaughlin and she told me that an envelope had been left at the steps leading to the flats. It's a three-storey building, the bottom of the steps that would give you access to flat 2 and flat 3 ... that this envelope had been left by what she believed to be a stranger and that it was left for McGlinchey, as I understood ... She had seen this strange person leaving it and that it was for McGlinchey.*²²⁸

- 6.06. Ciara McLaughlin had, earlier, overheard what must have been a deliberately loud conversation, broadcast by Adrienne McGlinchey and Yvonne Devine, to the effect that a parcel or an envelope was going to be left on that evening or later on during that day.²²⁹ The idea to be inferred from Ciara McLaughlin's evidence, that this planting of the envelope was part of a charade, is explicitly backed up by the evidence of Adrienne McGlinchey. She gave evidence to the Tribunal that in the course of her meetings with Detective Inspector Lennon and Detective Garda McMahon, she overheard them discussing their disquiet as to the interference supposedly occurring through Detective Garda Jones and Detective Sergeant Sreenan. According to her, Detective Inspector Lennon wanted to 'set up' Detective Garda Jones. She therefore claims that she went up to Ciara McLaughlin and said that she was expecting a delivery. According to her, the deliverer of the envelope was Detective Garda McMahon.²³⁰
- 6.07. Detective Garda Jones went to where the envelope was and took possession of it. It was an A4 size type of envelope which was unsealed. He believes he peeked into it and, on observing its content, took it immediately to the station for examination. In the envelope there were thirty shotgun cartridges, three dozen .22 bullets and approximately two yards of red electrical wiring and two pieces of paper on which cryptic notes had been written. Insofar as these can be made out they read as follows:

First Note -

Adrian, enclosed within sorry that's only thing I could take. Short did not get keys. Go over and find out from big paddy. It would be if you collected the rest of belongings of this pack, even coming, walking in here with this I felt I stood out, called tonight 11.00! "West End" someone tell as usual or wait and try usual place. Stay off Church end, road running parallel would be best. Might be snag tonight but wait West End anyway. Be careful with small pack. Don't put anywhere near heat at flat.

²²⁸ Transcript, Day 76, pages 82-83.

²²⁹ Transcript, Day 32, page 74.

²³⁰ Transcript, Day 12, pages 127-128.

Second Note -

We couldn't take it because it is daylight. It will be easier for you at weekend. Take everything individually.²³¹

Bullets to the District Officer

- 6.08. A copy of these notes was taken. This was done in the context of Detective Garda Jones going to a superior officer, Superintendent John P. O'Connor, and bringing the contents of the envelope to his attention. He described the encounter in the following way:

... I explained to him that I had received this information, that the envelope had been left beside the entrance to McGlinchey's flat and that I had been told that it was for McGlinchey and that it was a strange man that would have left it there and on seeing the contents I was bringing it ... to his attention. While he saw the contents of the envelope, I wouldn't put it too strong by saying he was annoyed with me, but he had issued instructions that I wasn't to interfere with McGlinchey and he would view my taking of this envelope as interfering. But nevertheless, we did examine the contents and we noted the contents and the pieces of paper, we photostatted them. That had been done through the Superintendent, he had access – the only photostat machine was in the ... Superintendent's clerk's office and he would have opened the office for that purpose ... I would have expected to possibly develop it into, what I would have thought, surveillance, to see who would have come to take it or if there was some greater development in the envelope's presence being at the door. I was instructed to return it, and that's what I believed, that there was a bigger picture ... I wasn't privy to.²³²

- 6.09. Earlier on that day, Superintendent John P. O'Connor had met with Detective Sergeant Sreenan and Detective Gardaí Jones and Doherty at their request. The sighting of Ms. McGlinchey with an item like a rocket was brought to his attention. The purpose of the meeting appears to have been to attempt to draw to the attention of the Superintendent concerns as to the activity of Ms. McGlinchey. The nature of those concerns would be obvious to anyone from reading the previous chapter. As recorded by Superintendent John P. O'Connor, the concern extended to an issue as to whether these members of An Garda Síochána were being isolated from investigations which arose from 'intelligence' supplied by Ms. McGlinchey. In his statements to the Carty Inquiry

²³¹ Tribunal Documents, page 2075.

²³² Transcript, Day 76, pages 85-87.

Superintendent John P. O'Connor has indicated that he reminded the members "of the policy and directions of hands off, which all were informed about some months previously, still stood and must be observed".²³³ Further, in the course of the same statement, Superintendent John P. O'Connor denies issuing an instruction to Detective Garda Jones to return the munitions to Ms. McGlinchey. In his statement he put the matter as follows:

I have no record no recollection of directing Detective Garda Jones to return the envelope and contents to where they were found as he alleges. I refute this allegation made by Detective Garda Jones. I received no direction or request to do anything with the bullets.²³⁴

- 6.10.** Superintendent John P. O'Connor was cross-examined on the basis of the evidence of Detective Garda Jones. He simply said: "No, no. I did not give that instruction."²³⁵ Instead, Superintendent John P. O'Connor claimed not to have given any direction or instruction to Detective Garda Jones. He accepted, however, that he expressed his annoyance at this interference with the 'handling' of Adrienne McGlinchey.
- 6.11.** The reality is that there was no interfering with the "handling of Adrienne McGlinchey" but that, instead, a delivery of bullets had been intercepted. The Superintendent suggested that Detective Garda Jones should have been inspired to go and consult with Detective Garda McMahon and with Detective Inspector Lennon to find out what they wanted done. He claims not to have given any direction in relation to the matter. Instead, he claims to have brought the matter "to the notice of the Detective Superintendent, which I did that night specifically".²³⁶ It is not credible that the district officer would fail to give a direction to a subordinate who had come to him in circumstances where he was obviously seeking orders on an important situation where he did not have the experience to make his own decision. The guidance of the Superintendent was sought by the Detective Garda on a further basis that a complicating factor of the 'hands off policy' had intruded into an event which would have otherwise been regarded as a matter in which Garda intervention would have been on the basis of the detection and prosecution of a criminal offence.
- 6.12.** The Tribunal has no hesitation in accepting the evidence of Detective Garda Jones in preference to that of Superintendent John P. O'Connor. It is common case that Detective Garda Jones took possession of the packet or envelope from outside Ms. McGlinchey's flat and brought it to his district office. He could only have done this for the purpose of seeking guidance and direction. Superintendent O'Connor has attempted to divorce himself from the entire event. He suggested in his

²³³ Tribunal Documents, pages 1793-1794.

²³⁴ Tribunal Documents, page 1794.

²³⁵ Transcript, Day 109, page 91.

²³⁶ Transcript, Day 109, page 94.

evidence that since this was a matter connected with subversive activities he had no function: it was supposed to be the responsibility of the Detective Superintendent in Letterkenny, or Detective Branch generally. That attitude is not supported by the action which he took and is not accurate in fact. He has accepted that he not only opened the packet and examined its contents but that he also photocopied the notes which it contained. His claim that he returned the packet to Detective Garda Jones, giving him no orders or directions as to what to do with it, is rejected. While he claims he gave no directions that he should put the package or envelope back, Detective Garda Jones immediately returned and replaced it where he had found it.

6.13. The Tribunal finds the account of the transaction by John P. O'Connor unacceptable. I do not believe that Detective Garda Jones would have put the package back without a direction to do so. It is of significance that Detective Garda Jones wrote up this incident in detail and forwarded the information to Garda Headquarters. Apart from fulfilling his duty in that regard, this was a prudent measure by him to protect himself from any criticism. Superintendent O'Connor's explanation for taking no action, other than allegedly reporting the matter to the Detective Superintendent, is based on an interpretation of his duties which I do not accept. The Superintendent in a district controls the police force for that district and controls the Detective Branch in particular whether it be in relation to terrorist or any other form of crime.

6.14. The expert police evidence on this matter is unambiguous. Chief Superintendent Brian Garvie of the RCMP told the Tribunal:

I would have expected that the ammunition, when it was first seized by Detective Garda Jones, would have been photographed. It would have allowed then the identification of that ammunition as much as possible to occur, things like manufacturer's markings or other detail and that time permitting, if they felt they could do so, it could have been forensically examined by the ballistics section. Particularly if the intent was to allow the ammunition to be transported by an agent as part of an operation in controlled circumstances.²³⁷

6.15. It follows that the actions of Superintendent John P. O'Connor were negligent. His extraordinary conduct in relation to this packet of bullets might possibly give rise to the inference that he was also involved in corruption. The Tribunal is not prepared to draw that inference. The Tribunal regards his actions as negligent and his evidence as unreliable.

²³⁷ Transcript, Day 95, pages 21-22.

- 6.16. Detective Superintendent Tadhg Foley, who was not involved in the events in Donegal but is an experienced investigator, gave the Tribunal his opinion that if munitions had come into the possession of the Gardaí, they should have been logged and held and should not have been handed back. Chief Superintendent Garvie went on in his evidence to describe how there can be circumstances where a police force can permit criminal elements to be in possession of contraband. The example he gave in his evidence concerned drugs.²³⁸ If two or three men dealing drugs on the steps of a building in the centre of a city are arrested, the probability is that the police will catch addict suppliers. While this function is important, those higher up the chain, such as wholesalers and, above all, major importers of drugs, are the persons with the most culpability in relation to this criminal activity. It can therefore be possible for a police force to consider what is called “a controlled delivery”. This involves allowing the continuance of possession with a view to tracking a source of supply. It could also involve an agent, as already defined in Chapter 3 above, to continue in illegal possession of a substance for a similar purpose. Such a scenario can encompass returning contraband to the possession of an agent. One matter, however, that could not be countenanced, according to Detective Superintendent Foley, is the idea of an uncontrolled delivery of a contraband substance or munitions across an international border.²³⁹ This observation is of importance because it is highly probable that at least some of the contents of this envelope, possibly supplemented by other materials, was brought into Strabane, across the border in Northern Ireland, by Ms. McGlinchey, accompanied by Ms. Devine, four days later.
- 6.17. It is important to understand that Kevin Lennon has consistently made the case that he knew nothing about either an attempt to make Noel Jones look ridiculous, or the recovery of the bullets in the envelope from outside Adrienne McGlinchey’s flat.²⁴⁰ There is nothing in the evidence or documents presented to the Tribunal which would allow the Tribunal to make a finding contrary to the testimony of Superintendent Lennon on this point. He has further consistently claimed that in meeting with Adrienne McGlinchey he warned her that she could not breach the criminal law and expect him to intervene on her behalf.²⁴¹ The Tribunal does not regard this evidence as credible.

The Strabane Importation (The First ‘Find’ of Paragraph (e))

- 6.18. On the 11th of September 1993 a section of the town of Strabane was cordoned off by members of the RUC acting on foot of information from members of An Garda Síochána. The Tribunal is grateful for the cooperation received from the

²³⁸ See Day 95 of the Transcript, numerous references.

²³⁹ Transcript, Day 97, pages 106-108.

²⁴⁰ See statement of Kevin Lennon, Tribunal Documents, page 1660.

²⁴¹ Tribunal Documents, page 1660.

Police Service of Northern Ireland in its investigations into this matter. The evidence of Detective Chief Inspector Donnelly and of Superintendent Stewart Tosh was found by the Tribunal to be completely reliable. The Tribunal rejects the evidence given by Superintendent Kevin Lennon and Detective Garda Noel McMahon.

- 6.19.** A number of contradictory cases have been made in relation to this incident and it is as well to set these out. Adrienne McGlinchey claims that Noel McMahon told her to take a package into Strabane. This package apparently consisted of a lunch box which was stuffed with the contents of the envelope earlier left at her flat, plus or minus some material. The purpose of this exercise was “to get the RUC on board because the Gardaí were suspicious”.²⁴² Some kind of a bag was used to carry this package and Yvonne Devine was brought along, it would seem, essentially for the company. Ms. McGlinchey’s instructions were to put the package behind a shop called Wellworths. The plan was that when the package had been put in place she was to ring Noel McMahon and that, in turn, he would ring the RUC.²⁴³ She does not allege that she had any discussion with Kevin Lennon in relation to this. However, Detective Garda McMahon, it is claimed, told her that Detective Inspector Lennon was going to contact the RUC.²⁴⁴ At some stage Yvonne Devine left her. She claims not to have realised that the RUC had sealed off part of the town. The package was left at a location which was described as being “under the bridge, down steps, at the bottom of the step”.²⁴⁵
- 6.20.** Detective Garda McMahon’s case in relation to this matter was initially made through cross-examination and was then elaborated on by him in giving evidence. On this account, the initiative came from Adrienne McGlinchey. She, playing the role of “member of the ‘Provisional IRA’ ” informed him that she was to make a delivery of bullets to somebody inside Strabane for use in a “training camp”. The drop was to be made at a pre-arranged place but, it is alleged, the actual deposit was made as a result of panic. Adrienne McGlinchey dropped the box containing the bullets in a different place. It is claimed that this event caused the RUC to react by imposing a police cordon over a section of Strabane.²⁴⁶
- 6.21.** In evidence, Noel McMahon stated that on the 10th of September 1993, at 13.00 hours, he received a telephone call from Adrienne McGlinchey. She presented to Detective Garda McMahon, as a *fait accompli*, that she was pursuing a mission entrusted to her by the ‘Provisional IRA’ to bring a package across to Strabane. This was to be delivered to a particular, but mysterious, person from the Ballycoleman Estate. This delivery was going to be made by taxi. Detective Garda McMahon got detailed directions from her as to the place where the delivery was

²⁴² Transcript, Day 12, page 134.

²⁴³ Transcript, Day 12, page 135.

²⁴⁴ Transcript, Day 18, page 153.

²⁴⁵ Transcript, Day 12, page 136.

²⁴⁶ Transcript, Day 17, page 157.

to be made. He claims that he told her not to do anything until he had spoken to Detective Inspector Lennon with a view to formulating a plan of action. She was to call him back before she moved across the border. Several attempts to contact Detective Inspector Lennon, he claimed, were unsuccessful. Eventually, he made contact at about 14.00 hours. He told Detective Inspector Lennon the details which he knew. He was to make contact with the Detective Inspector again as soon as Adrienne McGlinchey had made further contact with him. He claims that he had told Detective Inspector Lennon that Adrienne McGlinchey had told him that she had looked at the package that had been deposited on her doorstep, and that, as far as she could see, this contained bullets and cartridges. Having initially told him that she was going by taxi, she phoned back at about 15.00 hours and told him that she was already in Lifford and that she was just about to cross the border. It was then, according to him, too late to set up any form of operation to frustrate this exportation/importation operation on behalf of the 'Provisional IRA', using her as a courier.

- 6.22. A number of mutually contradictory cases have been made by Superintendent Kevin Lennon in relation to this matter. On the 14th of July 1999, in making a statement to the Carty investigation team, Kevin Lennon indicated that information had come to hand that an ammunition deposit was to take place in Strabane "within a set timeframe". In this statement he claims to have had direct contact with Adrienne McGlinchey over this matter. He therefore claims to have consulted Chief Superintendent Ginty and to have notified Detective Inspector Tim Donnelly of the RUC. He rejects any suggestion that this was in any way an operation designed as a hoax, in particular, that he had anything to do with orchestrating it.²⁴⁷ Adrienne McGlinchey does not make the latter allegation against him.
- 6.23. In evidence, Superintendent Lennon claimed that he was at his desk in Letterkenny when he received a telephone call from Detective Garda McMahon at about 15.00 hours. It is as well to quote his testimony:

I was at my office of work that day, just doing general investigation work and that. I recall in the afternoon of that day, I'd say it must have been 3 o'clock, this is from memory now, I got a phone call from Detective McMahon and he said that Ms. McGlinchey had got some sort of an instruction to deliver a parcel to Northern Ireland ... And first of all I thought that the message was that she was to move something between A and B in Strabane ... Now I thought there was only one phone call ... until I got my head around all this. But in any event, he said it was Strabane,

²⁴⁷ Tribunal Documents, page 1643.

that's my position on it. I asked him just stop it, where was she, could he find her? And he said he couldn't, that she was going to revert back to him. He said she was going by bus and I then went up to Buncrana to see could I see her on the bus, to stop what was going on and then I came back to Letterkenny and I got a second phone call from him and he said that she had gone to Strabane to deliver a parcel with bullets and cartridges. That she was to meet a woman down the Railway Road, a woman from the Ballycoleman Estate ... but he gave a description of her, a black-haired woman and that this ammunition and cartridges were delivered for the purposes of extracting black powder for the use in the detonation of devices. I was in a bit of a panic about it and I got on to the Chief Superintendent about it and he told me to ring the RUC about it. And I rang my counterpart in the RUC about it, Mr. Donnelly. I told him the story. He said he'd put out a rummage patrol to stop it. I'd say it must have been half four or five o'clock ... He said she was going by bus but I know the evidence is that he said she went by taxi ... I think there's a bus, I don't know if there is ... I never checked that out ... yes, because I thought there was a bus, there would a bus going via Derry and I think I would have some note that says it was to go via Derry or something like that. ... I was going to stop her and going to find out what was going on. I was going to ask her what was she up to or what was she at and what was she going doing. ... I don't think I would have [arrested her]. I'd have taken them off her. ... which would achieve the purpose of preventing the movement. ... And I rang my counterpart in the RUC and told him the story as I knew it. That there was ammunition and cartridges crossing the border, and they were to go down the Railway Road in Strabane to meet this lady from Ballycoleman Estate to be handed over. I asked him what he'd do about it and he said he would put out a rummage patrol about it.²⁴⁸

- 6.24. In his cross-examination of Detective Chief Inspector Donnelly, Superintendent Lennon claimed that he had never given him a location, specifically 'the Waterwall' as the location of the drop. In giving evidence, however, that position was changed. The Superintendent said:

I have changed my position in that I was unsure if I made him a second phone call or went to him on the second occasion. And as things came to me through cross-examinations and through

²⁴⁸ Transcript, Day 146, pages 13-30.

*evidence, I began to reflect upon it. But I'm only changing my position because I am not denying what Inspector Donnelly said. I'll accept his evidence on that. But the position as I set it out initially was that this woman was to pick it up.*²⁴⁹

6.25. There would have been many ways to stop this exportation by a Garda agent. These would have included surveillance on her. In this regard the Tribunal notes that there is a staffed Garda station in Lifford. A patrol could have been put on the bridge to stop her crossing. Instead of this, the Superintendent, receiving information from Detective Garda McMahon that she was in Lifford, went up to Buncrana approximately sixty kilometres away and checked on buses. This was despite the fact that the information passed, if Detective Garda McMahon is to be believed, was that the transportation was to be made "by taxi". Superintendent Lennon claimed to have been merely passing on messages to the RUC when he realised that there was nothing that he could do to stop the transportation. He claims to have passed on a message that there was a problem and that the package had been dropped at the bridge.²⁵⁰

6.26. Chief Superintendent Sean Ginty has consistently claimed that he knew nothing about this movement of ammunition prior to it occurring. Any contact with the RUC was, as he understood it, through Detective Inspector Lennon. In his cross-examination of Sean Ginty, Kevin Lennon made the case that he did not have prior knowledge of the operation. Sean Ginty stated that he had no advance notice of the operation and that it was either ongoing or had been completed when it was first brought to his notice. He said:

... Kevin Lennon came into my office and he appeared to have something urgent, because of his demeanour, and he said something to the effect, that she is taking ammunition across the border ... implying that it was for the IRA and she was to leave it at a pre-arranged destination, at least she had some destination in mind for dropping it, some place in Strabane, for collection by somebody else in the IRA. So my immediate response to this was, did you notify the RUC? If not do so. And have her watched and the thinking in my mind was that the RUC could monitor the situation and maybe gain some intelligence or maybe even make an arrest of the person to whom she was to take it she being the innocent, well, the relatively innocent courier, but the person who might collect it might be of some interest in the overall accounting of the terrorist activity ... Kevin Lennon left the office again, and I presume to notify the RUC. I don't know whether they had or not.

²⁴⁹ Transcript, Day 146, pages 13-30.

²⁵⁰ Transcript, Day 146, page 34.

*... The intention was that he was to communicate electronically, by telephone presumably, to the RUC and get the message across as a matter of urgency.*²⁵¹

- 6.27. Another controversy which emerges is as to precisely what the RUC were informed.²⁵² Chief Superintendent Ginty accepted that at the time he first heard of this matter, he was informed of “a box of ammunition going across the border and not too serious a box”.²⁵³ A small box of ammunition might not seem the kind of package in respect of which a responsible police force would cordon off an area of a town. However, that action might be taken were the security services to suspect that an explosive device might be involved. In evidence, however, it was explained to the Tribunal that any package had to be treated as a device. A package might be innocuous but placed for the purpose of a booby trap or the deployment of a terrorist sniper. This controversy therefore fades away.
- 6.28. It is common case that there was liaison between Detective Inspector Lennon and Detective Superintendent Denis Fitzpatrick, who was then the Border Superintendent and thus the person with primary responsibility in relation to liaison with the neighbouring police force. Detective Superintendent Fitzpatrick claimed that Kevin Lennon contacted him by way of a phone call and told him that “he had information to the effect that Adrienne McGlinchey was going to take a device of some kind to Strabane. It was a weekend. That she had taken the device to Strabane.”²⁵⁴ The alert to the RUC had already taken place.²⁵⁵ In later evidence he said:

*I can't be certain whether the word “device” was used or not. My understanding was that it was a hoax parcel or a hoax device. The exact words I can't – that were spoken over the phone – I'm not certain of ... my understanding was that it had gone at that stage ... that Adrienne McGlinchey was the carrier ... and I must have been told where in Strabane it was going to be left because the RUC were told at that stage but I can't recall this now, these exact details.*²⁵⁶

- 6.29. A statement from Detective Inspector A.T. Donnelly of the RUC, GC, was given to the Carty investigation team on the 2nd of May 2000.²⁵⁷ This statement was to the effect that Detective Inspector Kevin Lennon had called Detective Inspector Donnelly and told him that a suspicious device had been placed on a ledge close to the bookie's shop near the river in Strabane. This information was passed on

²⁵¹ Transcript, Day 102, pages 86-88, Q.251 on.

²⁵² Transcript, Day 111, page 67.

²⁵³ Transcript, Day 111, page 8.

²⁵⁴ Transcript, Day 104, page 144.

²⁵⁵ Transcript, Day 104, page 144.

²⁵⁶ Transcript, Day 105, pages 31-32.

²⁵⁷ Tribunal Documents, page 869.

to the Superintendent in Strabane and a search was carried out at 18.00 hours at a location called 'the Waterwall' beside the bridge in Strabane. A white plastic bag was recovered which contained a tupperware box in which there were 50 shotgun cartridges and 101 rounds of .22 ammunition. While Detective Inspector Donnelly kept no notes, he recalls that at the time he was telephoned, the package had already been placed and that it was described to him as a "device".

- 6.30. The Tribunal is entitled to have regard to the statement of Kevin Lennon dated the 14th of July 1999 which states that he became aware "that an ammunition deposit was to take place in Strabane, Co. Tyrone, within a set timeframe". Kevin Lennon was aware prior to this incident taking place that it was to occur. A number of comments need to be made in relation to that.

Analysis of the Strabane Incident

- 6.31. Firstly, it is unpardonable to allow someone who was, within the descriptions set out in Chapter 3 of this report, a Garda agent, to have possession of ammunition in uncontrolled circumstances. The fault in relation to that lies with Noel McMahon and Kevin Lennon. No convincing reason has been offered as to why this exercise, if it could ever be described as that, was allowed to proceed. Detective Superintendent Denis Fitzpatrick was told, at the time, by Kevin Lennon that this transportation of ammunition across the border was allowed to happen because it would give Adrienne McGlinchey "credibility within the 'Provisional IRA' ".²⁵⁸ Therefore, a positive decision was taken by Detective Inspector Lennon to allow Adrienne McGlinchey to go across the border in order to boost her credibility with the 'Provisional IRA'.²⁵⁹ One must ask oneself the question: what would a policeman do if he was possessed of this kind of information prior to a delivery? It is to be presumed that he would attempt to prevent it in one of the numerous different ways that were feasible, for example through road blocks or surveillance. The Tribunal is satisfied that what a policeman would not do is to sell out his informer. This was ostensibly done by putting Adrienne McGlinchey into a situation where she might be arrested by the RUC, acting on Detective Inspector Lennon's information. She would then be interrogated and prosecuted. This would be unthinkable. If Kevin Lennon did this, he cannot have believed her to be an informer.
- 6.32. The Tribunal does not accept that a series of telephone calls, as described in various ways in evidence, occurred at all. The Tribunal concludes that the plan in relation to this matter was a simple one. Adrienne McGlinchey was to cross to Strabane and drop the package there. She would then

²⁵⁸ Transcript, Day 105, page 56.

²⁵⁹ Transcript, Day 105, page 56.

telephone back to Detective Garda McMahon. He would alert the RUC, either personally, or through Detective Inspector Lennon. Both would then gain kudos for the event. The story which Detective Garda McMahon and Superintendent Lennon have told the Tribunal has all the hallmarks of an invention cobbled together as a cover-up for their extraordinary activities. The Tribunal is unimpressed by their evidence, by the manner in which they gave their evidence and by their lack of forthright cooperation with the Carty investigation team, as well as by the mutual contradictions inherent both between them and in the evidence that they have given on this issue.

- 6.33. Given that the Border Superintendent was aware of this operation, after it occurred, he should have taken action. Detective Superintendent Denis Fitzpatrick was required to follow up the activities of Kevin Lennon, Noel McMahon and Adrienne McGlinchey. This did not happen. He was gravely at fault in not analysing this situation. For Chief Superintendent Ginty to simply allow this to happen was yet another occasion where he did not apply himself to his task of managing the Donegal division. Both the Chief Superintendent and the Border Superintendent were grossly negligent in the manner in which they carried out their duties in relation to this incident. Had they investigated the matter, the Tribunal is satisfied that, as reasonable people, they would have come to the same conclusion as the Tribunal. The Tribunal is not satisfied to conclude that both officers shared the corruption of Superintendent Lennon and Detective Garda McMahon; it prefers the lesser fault of negligence as a conclusion.
- 6.34. The Tribunal is satisfied that Superintendent John P. O'Connor authorised the return of ammunition to Adrienne McGlinchey. The fault in relation to this matter therefore lies with him. The movement of a police agent for the purposes of the illegal importation of ammunition from one jurisdiction to another cannot, and should not, take place except through a process whereby there is advance discussion and advance consent between neighbouring police forces. That did not happen here and there was time for that initiative to occur.
- 6.35. The Tribunal would secondly comment that it accepts the evidence of Denis Fitzpatrick that Kevin Lennon told him that the delivery had to be allowed to occur in order to boost Adrienne McGlinchey's credibility within the 'Provisional IRA'. This explanation is patently ridiculous. The fault in this regard lies with Superintendent Lennon. The failure to investigate this ludicrous excuse lies with Denis Fitzpatrick and Sean Ginty.

- 6.36. The whole nature of this operation is deeply suspicious. The Tribunal is satisfied that in bringing the ammunition from Co. Donegal to Co. Tyrone, Yvonne Devine and Adrienne McGlinchey were not acting as members of the 'Provisional IRA'. The entire exercise was pointless. On its own, it might not be safe to draw an inference in terms of the motivation behind this conduct. However, that conduct cannot be seen in isolation. It must be seen in conjunction with the other matters which are detailed in this chapter of the report, and in the preceding chapter. A situation was being engineered whereby Adrienne McGlinchey was being made to look like something that she was not: a terrorist, or someone with close and intimate relations within the 'Provisional IRA' and thus trusted for criminal operations. The entire story told by Detective Garda McMahon and by Superintendent Lennon was a cover-up. A huge amount of Tribunal time was wasted in attempting to get to the bottom of the lies told by them. A forthright admission by the senior officers involved that they were at fault would also have saved much time in cross-examination, particularly in relation to Detective Superintendent Fitzpatrick, now a Chief Superintendent.
- 6.37. Kevin Lennon claimed in his statement of the 14th of July 1999²⁶⁰ that dismantling ammunition could yield powder that was "commonly used in explosive devices". Whereas he claims that this information was supplied to him by Adrienne McGlinchey, the Tribunal is satisfied from the evidence of Detective Inspector Edwin Handcock²⁶¹ that the 'Provisional IRA' were at this time self-sufficient in the production of high quality black powder in explosive devices. Loyalist terror groups have used such a technique but there was no need for the 'Provisional IRA' to improvise as Kevin Lennon claims to have believed. In the light of his knowledge and experience, the Tribunal completely rejects his evidence that the purpose of the visit by Ms. McGlinchey and Ms. Devine to Strabane could have been regarded as part of a terrorist operation. The Tribunal is satisfied that what really happened in relation to Strabane was that Kevin Lennon wanted a package left over in Strabane so that he could demonstrate his skill to the RUC by alerting them that it was there. His willing accomplice in this regard was Detective Garda McMahon. It is also appalling that Adrienne McGlinchey and Yvonne Devine went along with this damaging fraud.
- 6.38. In evidence before the Tribunal, Detective Sergeant Sreenan indicated that, in the aftermath of the Strabane incident, he suspected Adrienne McGlinchey and Yvonne Devine of being involved. This is because, returning with his wife from a private family event, he saw the two

²⁶⁰ Tribunal Documents, page 1643.

²⁶¹ Transcript, Day 82, page 59.

women crossing the bridge at the appropriate time. He later made enquiries with the RUC and in his statement of the 15th of September 1999 he indicated that he had received certain information from his counterparts in the neighbouring police force. The Tribunal is not content to rely on this as it is uncorroborated hearsay, though it is not making any finding rejecting the witness's evidence.

- 6.39. The Tribunal emphasises that in making a finding on any individual issue it is taking into account the full weight of the circumstantial evidence revealed in the entirety of this report and is not simply acting on the basis of that evidence in isolation from the pattern, or patterns, of which it forms part.

Rockets

- 6.40. During a time which was probably the autumn of 1993.²⁶² Detective Inspector Lennon came into the office of Detective Superintendent Fitzpatrick carrying a metal tube with fins coming out of it. The Tribunal has had three of these items produced in evidence. Two are large and heavy, while one is small and massively heavy, being made from strong thick steel. The evidence of the Tribunal has been that these tubes are of no ballistic or practical effect in acts of terrorism. Of the three items produced in evidence, two of them were recovered by the Carty team from the bank vault in which Sheenagh McMahon had placed them during the early 1990s. The other one was found in the Detective Superintendent's office on the Carty team's coming to Letterkenny in March of 1999.
- 6.41. The evidence of Denis Fitzpatrick on this matter was as follows:

*I didn't know what it was ... what he told me was that the IRA were developing some kind of a new mortar ... and this was to be part of it ... this was one of the items of the mortar ... I didn't know. It's just a piece of metal welded together. I had no views on what it was or what it could be. ... This didn't strike anything with me except what Kevin Lennon told me, that this was something that the IRA were developing and that this was part of what they were using and that Adrienne McGlinchey was taking this from Letterkenny to Bunrana and we could have it for a short while. ... It was suggested that we give the RUC a look at this. It was taken to Strand Road ... in Derry ... it was taken to Inspector Donnelly. It was photographed ... by the RUC ... they couldn't make anything of it either. It was taken back.*²⁶³

²⁶² The evidence of Detective Inspector Tim Donnelly, P.S.N.I., indicates that this probably occurred between 13th-15th of September 1993. See Tribunal Documents, page 5270. It seems probable that the correct date is the 15th of September 1993.

²⁶³ Transcript, Day 105, pages 87-89.

- 6.42. The item should have been photographed in Letterkenny. If it was a terrorist item it is extremely difficult to justify its return. Instead, it should have been brought to the Garda Ballistics Section for examination and fingerprinting. There it would have been uncovered as a fraud.²⁶⁴ During the course of cross-examination of Denis Fitzpatrick, Kevin Lennon could not explain how he got the item back to Adrienne McGlinchey even though he was borrowing it from her for two hours. He indicated that he needed to research this. He also claims to have left the item in a press in Denis Fitzpatrick's office, a claim which is highly unlikely.²⁶⁵
- 6.43. Superintendent Lennon claimed in evidence that he was given two of these rocket-like objects by Detective Garda McMahon, who told him that he had got them from Adrienne McGlinchey. She, in turn, was supposed to be transporting them from some location to some other undisclosed location. This was vague enough but what was definite was that she merely had a two-hour time limit in which the items might be handed over to the Gardaí, in her role as a so-called informer, to enable them to analyse this apparently valuable equipment and so pursue their researches into terrorist activity. It would appear that Detective Inspector Lennon showed them to Detective Superintendent Fitzpatrick. They seemed to have travelled separately to the RUC in Derry. Whatever comment was made there caused them to return with the objects. Then, instead of returning them to Adrienne McGlinchey, Kevin Lennon and Noel McMahon simply held on to them. One seems to have been put in the Detective Superintendent's office in Letterkenny, where it was later discovered by the Carty investigation team, much to their surprise. A second one was taken by Noel McMahon and brought back to his house where his wife, correctly in the view of the Tribunal, secreted it away in view of the suspicious nature of the activities which she saw going on about her. The Tribunal comments, at this point, that Sheenagh McMahon showed more foresight than all of the senior officers in Donegal that have given evidence to this Tribunal.
- 6.44. It is as well to quote the cross-examination of Superintendent Lennon by counsel for the Tribunal:
- Q. Right. Did you return them to Detective Garda McMahon?*
- A. Now, I heard his evidence that I returned one and I had forgotten about that but I know that he came to my office and I made a drawing of one of them, so I must have given him back one of them, yes, to give back to her.*
- Q. Right?*
- A. And then I had the other one.*

²⁶⁴ Transcript, Day 82, pages 54-56.

²⁶⁵ See exchange between Superintendent Lennon and the Chairman. Transcript, Day 116, pages 124-125.

- Q. *You had the other one; what did you do with it?*
- A. *I brought it up then to Detective Inspector Donnelly in the Strand Road. I didn't really consider it of any consequence because it didn't appear to me – now it was represented to me to be a new-type device and brought it up to Detective Inspector Donnelly in the Strand Road and we viewed it and I brought it back again and I brought it to Detective Superintendent Fitzpatrick. I gave it to him and he said to me – he later confirmed to me that it was nothing, he said he had it checked out with the British Army but I know his evidence was he checked it out with the Ballistics but that's where we differ on that, in any event he said that it was a useless object and I didn't pursue it any further, to be honest.*
- Q. *What did you do with the object?*
- A. *Left it there in the press.*
- Q. *How many objects did you have?*
- A. *Two.*
- Q. *Are they the two big ones or the big one and the small one?*
- A. *I never had the small one, Sir, the two big ones.*
- Q. *Are these the exact ones?*
- A. *Yes, I am satisfied they are.*
- Q. *You had two of these and you brought one up to the RUC or two to the RUC?*
- A. *Yes, Sir.*
- Q. *Then you came back with – well you went with one, you came back with one, you went with two, you came back with two?*
- A. *No, sorry, I gave him back one.*
- Q. *Who?*
- A. *McMahon, Detective McMahon.*
- Q. *Why?*

- A. *To give back to McGlinchey.*
- Q. *Yes?*
- A. *And the other one then I was keeping.*
- Q. *What were you keeping it for?*
- A. *I was keeping it in case that I could get more detail on it and get evidence of it so that you could find out where it was made and do a search for it, for where it might be made.*
- Q. *If this is an item of IRA munitions and it is being lent to the Gardaí by an informer, one would assume, and I used the analogy before of the man who sends a book to his friends down the countryside and it doesn't arrive, that both the friend in the countryside who doesn't get the book and the person sending it would both be annoyed. I would have thought a terrorist organisation would think, similarly, about their munitions, if it is lent to someone and it disappears. If it doesn't get back, they would ask questions?*
- A. *Yes.*
- Q. *Did you get it on the basis you would have to give it back?*
- A. *I am reminded now there was a ten minute timeframe or two hours timeframe and I would have to accept that and I had forgotten about it, but in any event, if one went back to her she would be safe enough with it, I was of that view.*
- Q. *If you gave ... a postman two volumes of the complete works of Jane Austen and only one arrives?*
- A. *Yes.*
- Q. *You'd be happy enough and so would your friend down the country?*
- A. *No.*
- Q. *I don't mean to make this ridiculous, Superintendent, but it is ridiculous. If you have two rifles and both are given to the police for inspection and only one comes back, the IRA are going to want to know about the other one?*
- A. *Yes.*

- Q. *Any other suggestion ... simply defies logic?*
- A. *That's the decision I made, Sir, at the time and if I'm wrong on it, that's what I did ...*
- Q. *How did it make sense to you at the time?*
- A. *Well, something was being propagated to me as a new device on the market and it made sense to me that it might be at the time and then when I examined it in greater detail I could see that it didn't.*
- Q. *Would it have been OK for you to keep both of the devices?*
- A. *No it wouldn't be.*
- Q. *Why give back only one?*
- A. *Because then she could put the proposition that she lost one or that she was – whatever.²⁶⁶*

6.45. The Tribunal finds this evidence to be beyond credibility. The Tribunal also notes that similar, and quite bizarre, evidence was given by Detective Garda Noel McMahon. He claimed that he refused to give Adrienne McGlinchey the second rocket-like object back "in case it was a prototype or something".²⁶⁷ He was then asked the following questions by counsel:

- Q. *So would you like to tell us what happened to the other one?*
- A. *I do believe firmly, I'm one hundred per cent in fact, that one of them, I forget which one it is, was actually sort of an ornament in Superintendent Fitzpatrick's office.*
- Q. *An ornament?*
- A. *It was up centred on a shelf.*
- Q. *He put it on a shelf as an ornament?*
- A. *On open display.*
- Q. *On open display?*
- A. *Yes.*
- Q. *Not hidden away at all?*
- A. *No.*

²⁶⁶ Transcript, Day 145, pages 139-143.

²⁶⁷ Transcript, Day 129, page 61.

Q. *Everyone in the station could see it?*

A. Yes.

Q. *Anyone who walked into his office could see it?*

A. Yes.

Q. *It has been there for years?*

A. *I seen it on a number of occasions myself ...*

Q. *And if you didn't have them back after two hours?*

A. *She maintained she would be in trouble ...*

Q. *What kind of trouble?*

A. *Certainly interrogated as to what happened them or why she didn't have them ... which if she had admitted that she gave them to a member of Detective Branch to have them photographed I think serious consequences [would develop].²⁶⁸*

6.46. Enough of the evidence which the Tribunal has been tasked to listen to has been quoted above. The story told to the Tribunal by Superintendent Lennon and Detective Garda McMahon was that, in her role as a 'Provisional IRA' courier, Adrienne McGlinchey had possession of these bits of 'Provisional IRA' paraphernalia. In doing so she was apparently drawing to their attention her capacity as an informer. These were to be delivered by her to a 'Provisional IRA' activist. She permitted Noel McMahon to have possession of them for two hours after which it was essential that they were given back to her. Clearly, on this account, she was accountable for them to the 'Provisional IRA'. There is no hint or suggestion that they overruled her terms of loan for any valid reason such as security or investigation.

6.47. **The Tribunal is satisfied beyond any possible doubt that Superintendent Lennon and Detective Garda McMahon cannot have believed that Adrienne McGlinchey was an informer if they treated her in this way. If she were, they would be virtually signing her death warrant. They would certainly not be protecting her. It has been emphasised to the Tribunal, time and time again, that the first priority of a Garda in dealing with an informer is to protect the person who is the source of their information. There can be no answer to the argument that this must have been their instinct, inculcated through years of training and experience. They**

²⁶⁸ Transcript, Day 129, pages 61-64.

breached that principle in the most flagrant way. As a result, I am satisfied that Superintendent Lennon and Detective Garda McMahon did not think that Adrienne McGlinchey was a genuine informer, whatever else they may have thought about her.

- 6.48. The Tribunal therefore asks itself the question as to what they were doing with the steel objects. I am of the view that Superintendent Lennon took them to his counterpart in the RUC in order to enhance his reputation. I can think of no other reason why these objects would have been brought to the RUC and yet were not brought to the Garda Ballistics Section in Headquarters. Having heard evidence from this section I am satisfied that they have developed considerable expertise and that this is an essential, and well functioning, component of the national police force. Their evidence has been forthright and expert. The only reason that one or other of the objects was not brought to Garda Headquarters was to ensure that this expertise was not brought to bear on what was a fraud. When we come to the events of the 14th of March 1994, whereby the search of Ms. McGlinchey's flat revealed a number of these rocket-like items concealed under the bath and under her bed, I similarly note that these were spirited away by members of An Garda Síochána in conspiracy with Detective Garda McMahon and Superintendent Lennon, for fear that a valid search would draw these hoax objects to the attention of the Garda Ballistics Section. I will analyse this matter in detail in a later chapter. Finally, the Tribunal can think of no reason why these objects could not have been mentioned in dispatches to Crime & Security. The fact that they were not strongly indicates to me a desire of concealment.
- 6.49. The Tribunal notes that another series of metal objects were, according to Detective Garda McMahon, brought to the attention of Superintendent John P. O'Connor. These were apparently photographed in his office. Superintendent John P. O'Connor had to be recalled on this point and he said that this did not occur. The Tribunal prefers the evidence of Detective Garda McMahon on this matter.

The Search that Never Happened

- 6.50. The thought that Adrienne McGlinchey had become virtually untouchable in Donegal was lent a degree of support by the events of the 12th of October 1993.
- 6.51. As a result of a report to Buncrana Garda Station, a number of Gardaí went to Ms. McGlinchey's address. It is probable that the complaint related to unusual noise. A mention was also probably made of a sighting of someone with a gun,

or a walkie-talkie, in their hand. Detective Sergeant Thomas Sreenan arrived with Detective Garda Denis Doherty, Garda Catherine McGonigle and Garda John Murphy. The evidence of Detective Sergeant Sreenan to the Tribunal was in the following form:

We arrived there and the two girls were at the window, Ms. McGlinchey and Ms. Devine, I think Ms. Devine would have been more or less in the background, but Ms. McGlinchey, as I recall, was throwing material out the window, down on a roof below, on a sloping roof ... there was also noise of water, taps running inside. Whether it was the bathroom or whatever but there was water running, a noise ... Ms. McGlinchey was throwing material down on the roof through the window ... it appeared to me to be – it was of a whitish, as I recall, texture or whatever, but it appeared to me to be fertiliser or a fertiliser mix ... it could have been an explosive mix ... I decided I would look for a Section 29 warrant under the Offences Against the State Act ... I think, as far as I recall, I said to Ms. McGlinchey would she let us in but she didn't offer ... while the situation was serious, there was a certain amount of comedy to it too, I suppose.²⁶⁹

- 6.52. The account of the other members of An Garda Síochána present is similar. Detective Garda Doherty, in particular, remembers the noise of flushing toilets.²⁷⁰ There were definite signs that would give rise to a reasonable suspicion of the possession of an unlawful substance and of a determined effort to dispose of evidence. If it were reasonably possible explosives were involved, it was right, in these circumstances, to seek a warrant. This is so even though one of the exceptions, or extraordinary excusing circumstances, to the exclusion of evidence by reason of the deliberate violation of a constitutional right is the necessity to stop the destruction of vital evidence.²⁷¹ Adrienne McGlinchey's account of the night tallies with that of the Gardaí. In essence, she accepts that she was in possession of fertilizer for the purpose of grinding down same to make the appearance of a hoax explosive. Because of what she describes as the unexpected arrival of Gardaí at her door, she panicked and decided to dispose of same.²⁷²
- 6.53. Yvonne Devine, as usual, attempted to distance herself from this activity but in a not very convincing way. The evidence she gave of not remembering seeing any Gardaí and of Adrienne McGlinchey panicking but then calming down "for some reason", lacks credibility. It is difficult to accept that testimony, even from a

²⁶⁹ Transcript, Day 38, pages 106-109.

²⁷⁰ Transcript, Day 35, page 6.

²⁷¹ See the judgement of Walsh J. in *The People (AG) v O'Brien* 1965 IR142 at 158 and see also *The People (DPP) v Lawless* (1985) 3 Frewen 31.

²⁷² Transcript, Day 11, page 63.

person who was a teenager at the time.²⁷³ Detective Sergeant Sreenan rang Superintendent John P. O'Connor, the district officer for Buncrana at that time.²⁷⁴ In an interview with the Carty investigation team Superintendent John P. O'Connor explained his involvement in this matter as follows:

On the night of the 12th of October, 1993, D/Sergeant Sreenan rang me in Letterkenny seeking a Section 29 warrant to search Ms. McGlinchey's Buncrana flat. He told me of a report received at Buncrana Station to the effect that there was unusual noise coming from [McGlinchey's] flat at the Crescent, Buncrana and the caller to the station also alleged she thought she saw what looked like a gun or walkie-talkie through the window. D/Sergeant Sreenan had surrounded the flat while awaiting my instructions. Having considered the matter including consultations with Chief Superintendent Ginty, D/Inspector Lennon and the SO at Buncrana, I did not issue a search warrant as I believed there was no legal basis to do so. I directed Gardaí to call off the operation. On 13th October, 1993, I met D/Sergeant Sreenan again and reminded him of the instructions he had received from D/Superintendent Fitzpatrick re: Ms. McGlinchey. He said he [understood] and would comply. He also said he had been in a difficult situation the previous night. On 12th November, 1993, I discussed an item of intelligence re Ms. McGlinchey with D/Superintendent Fitzpatrick.²⁷⁵

- 6.54. The idea that Detective Inspector Kevin Lennon might have had something to do with the refusal of the warrant on this occasion was also explored by the Carty investigation team. In an interview on the 23rd of May 2000 a summary of these events was put to him. Superintendent Lennon said at that time:

I recall Superintendent John [P.] O'Connor ringing me. My recollection of the event is that he, Superintendent O'Connor, then district officer at Buncrana had been requested by D Sergeant Sreenan to issue him with a warrant under section 29 of the Offences Against the State Act, 1939 to search the flat of Adrienne McGlinchey. My recollection is that Superintendent O'Connor told me that D/Sergeant Sreenan had seen somebody in the flat with a radio to his ear. I advised Superintendent O'Connor that I had no information that there was anything in the flat and that the issue of a section 29 warrant was a matter for him based on reasonable belief that the facts in his possession warranted his entitlement to comply with the provisions of section 29 and that the decision rested with him. I advised him that if he wished to seek advice, to seek it from higher authority than me. I did not seek to influence his judgement or negative his decision.²⁷⁶

²⁷³ Transcript, Day 20, page 71.

²⁷⁴ Transcript, Day 39, page 79.

²⁷⁵ Tribunal Documents, page 1795.

²⁷⁶ Tribunal Documents, page 1676.

- 6.55. Detective Garda Noel McMahon also claims that he was contacted contemporaneously by Garda John Murphy in order to tell him about the proposed search that was being initiated. In his initial statement, while in detention in Ennis Garda Station, dated the 10th of June 2000, he said:

She was throwing stuff out the window. John knew I was dealing with her. I don't know if I rang Kevin Lennon at that stage. J P O'Connor called off the search because he knew she was passing information to me. I knew J P O'Connor and Denis FitzPatrick reprimanded Tom Sreenan over this in Letterkenny for interfering with Adrienne McGlinchey. I don't think Kevin Lennon reprimanded him...[Adrienne McGlinchey knows that John Murphy rang me because] I must have told her. I probably told her or Kevin [Lennon] [that Tom Sreenan was reprimanded].²⁷⁷

- 6.56. It would appear, as well, that Chief Superintendent Ginty was contacted by Superintendent John P. O'Connor by telephone. It is difficult to know how the matter may have been presented to Chief Superintendent Ginty, but his response to the refusal of the warrant, which had already taken place, was to reiterate that the handler of Adrienne McGlinchey as an informer was Detective Garda McMahon and that nobody else should, as he put it, "muscle in". However, he has also made it clear to the Tribunal that he did not regard himself as having issued any instructions, contrary to what Superintendent John P. O'Connor has said, to implement a "hands off policy". Each case was, as he put it, to be decided on "its own merits".

- 6.57. The evidence of Superintendent Kevin Lennon on this issue has been to distance himself from any responsibility for calling off the search. He claimed that Superintendent John P. O'Connor, in ringing him, had never mentioned that a gun may have been seen through the flat window. He claims not to have given an assurance to Superintendent John P. O'Connor that he would return to the scene. He also claimed that his role was less than that of an advisor to Superintendent John P. O'Connor but that he was used as something of a sounding board by him in relation to this, as in relation to many other, decisions.²⁷⁸

- 6.58. The note, made virtually contemporaneously with this issue, by Superintendent John P. O'Connor in his officer's journal reads:

D/Sergeant Sreenan rang me and said report to Buncrana Garda Station that unusual noise in flat of Ms. [Adrienne McGlinchey]. He had surrounded area and said complainant also alleged she saw a gun up through window. I consulted in detail with Chief Superintendent and

²⁷⁷ Tribunal Documents, page 1543.

²⁷⁸ Transcript, Day 145, pages 72 on.

Detective Inspector Lennon. From very reliable information I decided not to issue warrant and directed Sergeant Murray to have Detective Sergeant call off operation. 12 midnight approx. Detective Inspector to scene (12.15 a.m. approx.). I also earlier spoke with Garda Walsh.²⁷⁹

- 6.59. Superintendent John P. O'Connor did not associate this incident of the apparent possession of a gun, as it would appear he believed the matter had been reported to Buncrana Garda Station, resulting in the Gardaí going to the flat, with the two incidents of possession of bullets on the 18th of May and the 7th of September of that year.²⁸⁰ Instead, this was another instance where a legitimate enquiry should reasonably have been pursued but was foregone in favour of an unthought out policy. In cross-examining Superintendent John P. O'Connor, Superintendent Kevin Lennon challenged him on his evidence that, on telephoning him, he had told Superintendent O'Connor that the issue of a search warrant would obstruct an overall operation to which Superintendent O'Connor was not privy.²⁸¹ The Tribunal is satisfied that this was said by Superintendent Lennon and repeated to Chief Superintendent Ginty as a result of which Superintendent John P. O'Connor did not issue a warrant. Superintendent John P. O'Connor also gave evidence that Detective Inspector Lennon had reassured him that, in order to answer the situation that existed at the flat, he would proceed immediately to that location in order to deal with Adrienne McGlinchey. He linked that in to the note in his diary "Detective Inspector to scene".
- 6.60. In fact an entirely different version of this conversation was put by Kevin Lennon in cross-examination to the effect that, when telephoned, he had said that he knew nothing of what was going on and that Superintendent John P. O'Connor should consult with the Chief Superintendent as to what he ought to do next. Here is the cross-examination:
- Q. Superintendent O'Connor, I am challenging the issue that it would obstruct me in some way in the coordination of Ms. McGlinchey. I am challenging that aspect of what I was told, and nowhere is it in your note; isn't that right?*
- A. No, it's not in my note. The word "obstruction", but it would make it difficult because of your position and your status in relation to this McGlinchey situation. I accept that you are ...*
- Q. Did you ask me in what way it would make it difficult?*
- A. I didn't go into the detail because of your position and I trusted your situation.*

²⁷⁹ Tribunal Documents, page 2420.

²⁸⁰ Transcript, Day 119, page 120.

²⁸¹ Transcript, Day 121, page 23, Q.80.

Q. *Because I'm putting it to you and I'm not disputing it with you, I'm saying to you that I said that I had no knowledge of what was going on there and it wasn't a matter for me?*

A. *No I don't agree with that, My Lord.*

Q. *And that you should get on to somebody higher than me and that you got on to Chief Superintendent Ginty, that's my position?*

A. *No, that's not correct, My Lord. No, that's not correct ...*

Q. *And nowhere in your note does that exist, other than the consultation; isn't that right?*

A. *Yes. That's a note, My Lord. I obviously didn't have a detailed record of it.*

Q. *Them words aren't in it, that it would obstruct or interfere in any way with any dealings I had in this matter?*

A. *They are not in it, My Lord, but that's the situation that was.*

Q. *I also want to put it to you that I didn't go to the scene that night and that Mr. Sreenan and Ms. McGlinchey have both given evidence here and neither of them said I was at the scene that night?*

A. *Well you told me you would and that reassured me.*

Q. *Well that's the position. Do you think that's a contemporaneous note? Was the note written on the night?*

A. *It would have been written on the following day ...²⁸²*

6.61. To some extent the recollection of Superintendent John P. O'Connor was borne out by the evidence of Sean Ginty. He stated:

My immediate reaction, perhaps too quick off the mark, was to make an assumption that Tom Sreenan was interfering unduly. We had already – I felt that that situation was under the control, the able control, of Kevin Lennon and that Tom Sreenan should back off. Unaware of what he was aware of at the time, the fertilizer being thrown out of the window and all that, I was totally in the dark about all that, I did not enquire about that off John O'Connor. He did not volunteer the information, I let him know

²⁸² Transcript, Day 121, pages 23-24, Q.80-87.

*about the attitude, my attitude, that she should not be interfered with unduly, especially by members other than McMahon and Lennon and he indicated that he agreed.*²⁸³

- 6.62. The foregoing evidence is equivocal, concerning the disputed assurance that Detective Inspector Lennon would go to the scene. Without relying on same, the Tribunal concludes that the version of the conversation given by Superintendent John P. O'Connor, and based on his near contemporaneous note, is correct. The Tribunal is satisfied that Detective Inspector Lennon was contacted by Superintendent John P. O'Connor on the basis that he knew him to be the handler of Adrienne McGlinchey. The Tribunal is satisfied that, yet again, Detective Inspector Lennon interfered with the ordinary course of law enforcement for his own ends. The Tribunal rejects Superintendent Lennon's evidence on this matter. Further, the Tribunal notes that on counsel asking Superintendent Lennon the crucial question as to why Superintendent John P. O'Connor had rung him back, after his refusal of the search warrant had been approved by Chief Superintendent Ginty, Superintendent Lennon changed his evidence. The only logical reason for calling back Detective Inspector Lennon was for Superintendent John P. O'Connor to offer him the assurance that his informer would not be touched. The Tribunal is satisfied that this second telephone call occurred. The Tribunal is further satisfied that Detective Inspector Lennon then gave Superintendent O'Connor an assurance that he would return to the scene.
- 6.63. That, however, is not the end of the matter. Chief Superintendent Sean Ginty knew that yet another peculiar incident concerning Adrienne McGlinchey had occurred. He did not investigate it. If he had, then the facts ascertained by this Tribunal would, with reasonable diligence, have been ascertained by him. His failure to act showed a lack of leadership and application.
- 6.64. Superintendent John P. O'Connor apparently believed that there were explosives and perhaps a gun in the flat. He was content, as the district commander, to have a Detective Inspector visit the flat for some unknown purpose. This, in some unexplained way, was apparently going to transform the situation of the possible illegal possession of a firearm and explosives into a situation that had been handled by the Gardaí. This is utterly unacceptable. Superintendent John P. O'Connor behaved negligently by derogating from his duty to ensure the proper law enforcement in the Buncrana/Inishowen area in respect of this incident. The multiplicity of incidents gives rise to the possible inference that he was involved in corruption. The Tribunal prefers the explanation that he was negligent.

²⁸³ Transcript, Day 102, page 126.

Lack of Law Enforcement

- 6.65. This event cannot be seen in isolation. It has to be looked at in the context of the events which have been detailed in the previous chapter. It is difficult to know what justification there could be for continually failing to deal with Ms. McGlinchey on an ordinary basis. Whereas, in exceptional circumstances, the Gardaí may decide not to move against a criminal activity immediately for the purpose of legitimately entrapping other, and probably more important, criminals, it is hard to know how the failure to deal with Ms. McGlinchey on this occasion could be justified. In the Tribunal's opinion there were reasonable grounds for a search warrant and, on application, Detective Sergeant Sreenan should have been granted same. No legitimate policy reason could have moved Superintendent John P. O'Connor. However, the catalogue of failures to implement the law on an even-handed basis regrettably continued.
- 6.66. The effect of this on the morale of the Detective Branch in Buncrana is not difficult to imagine. Detective Garda Denis Doherty was asked how he felt about the failure of the party of Gardaí to gain the legal authority that would rationally be open to them to carry out their duties. He answered as follows:
- Frustrated, I suppose would be the single word that would describe it. It was my opinion that there was something that needed to be investigated and we weren't given the facilities to do it ... You see, it's one thing ... if you don't have any suspicions ... you basically ignore a situation maybe or you don't give it as much attention as you might normally, but when you see a particular incident, you expect to pursue it.²⁸⁴*
- 6.67. The Tribunal sympathises with the sense of frustration that must have been felt by Gardaí in Donegal who were committed to sane policing. Regrettably, the catalogue of errors continued.

Plastic Bags

- 6.68. Sheenagh McMahon gave evidence that on a particular occasion, which she feels was around 1992 or 1993, she witnessed her husband and Kevin Lennon arrive at her home and then take black plastic bags filled with material out of a motor car. These were deposited in out offices. The Tribunal feels that this event probably fits into the chronology being here described at or around this time of late 1993. Kevin Lennon came into her house and washed his hands. Her husband then told her that there was a bomb in the garage or shed. She cannot

²⁸⁴ Transcript, Day 35, page 10.

recall the precise location. He told her that this was in connection with his work and that the bomb was not primed so that there was no need to worry.²⁸⁵

6.69. The account given by Superintendent Lennon and by Detective Garda McMahon in their evidence is to the effect that some incident involving the transportation of bags into the McMahon home did occur. In evidence, Detective Garda McMahon had said that it is probable that, by way of a silly joke, he had told his wife that there was now a bomb in the out offices but that there was no need to worry. That, however, is not the end of the matter. Evidence was called from Kathleen Hayes, a sister of Noel McMahon. She was visiting the McMahon house at the time and has been described, in that context, as a kind and supportive woman. She confirmed that there were plastic bags in the house, brought in by Kevin Lennon, but denied that there was any conversation to do with explosives.²⁸⁶ Instead, she told the Tribunal that she had seen Sheenagh McMahon burning clothing on the day after the day on which she had seen four or five black plastic bags in the garage/shed area of the house. Sheenagh McMahon, on the other hand, denied that she had ever burned clothing in her back garden. The Tribunal accepts this evidence. The issue of clothing is, the Tribunal is satisfied, a red herring. The Tribunal is satisfied that an issue as to clothing was first introduced over three years after the Carty investigation team began its work in the cross-examination, on behalf of Noel McMahon, of his estranged wife Sheenagh McMahon.²⁸⁷

6.70. In his evidence, Superintendent Lennon claimed that six bags of curtains and one bag of hand-me-down clothing was proffered by his wife to the McMahon's as an ordinary gesture of assistance. Noel McMahon claimed that his wife had, in the past, been infuriated by any notion that hand-me-down clothes might come to be worn by their children. Hence, it was claimed in evidence to the Tribunal, the operation of spiriting in bags full of clothes had attendant on it the same secrecy, and lack of communication, that might normally be associated with an illegal action. **The Tribunal is of the view that the story in relation to clothing and curtains was concocted by Superintendent Lennon and Detective Garda McMahon in order to deceive the Tribunal. These lies were spontaneously invented in the course of the hearings in order to conceal the truth. The Tribunal is further satisfied that the story in relation to the clothing was spontaneously invented during the course of the hearings by Superintendent Lennon, and then backed up by Detective Garda McMahon, for the sole purpose of misleading the Tribunal. The Tribunal comments that this is an instance of how they were prepared to produce any explanation without any regard to whether it was the truth or a lie, as long as it suited their purpose. There is no rational explanation**

²⁸⁵ Transcript, Day 6, page 150.

²⁸⁶ Transcript, Day 82, page 116 on.

²⁸⁷ Transcript, Day 8, page 50.

for why either officer would have declined to explain to all previous interviewers that the bags contained clothes, had this in fact been truthful. The Tribunal is satisfied that some form of contraband, probably in the shape of ground fertiliser, was brought on the night of this incident into the garage/shed of the McMahon household. The Tribunal is of the view that this was done in the context of assembling one or other of the later finds. The Tribunal does not accept the evidence of Kathleen Hayes.

‘Bomb Components’

6.71. On the night of the 12th of November 1993 Garda John Murphy was on patrol in the St. Mary’s Road/Castle Avenue area of Buncrana. He observed Adrienne McGlinchey and Yvonne Devine walking towards the junction of Main Street and Corkhill Road. Ms. McGlinchey was carrying some kind of a bag. Her location was at the far side of town from her residence at a time which was approaching midnight. He stopped the private car in which he was driving and ran after her. On catching up with both of them he asked Ms. McGlinchey for her bag, which was handed to him. The bag contained what appeared to be a circuit board and other small electrical parts and wires, some of which were attached to the electronic parts. He rang the Detective Branch at Buncrana and a car came to his assistance within a matter of minutes. While not under formal arrest, Ms. McGlinchey and Ms. Devine remained with him. The bag was handed over to members of Detective Branch. No explanation was volunteered by the women as to what they were doing.

6.72. Thereafter, there appears to have been no investigation of this matter. Garda Murphy was not asked to make any statement and there was no criminal prosecution. However, a list of components was compiled and this has been made available to the Tribunal.²⁸⁸ Commandant David Sexton examined that list and gave the Tribunal the following evidence:

I formed the opinion that the list of electronic components were of a type and of a combination which were used, which have been used fairly commonly, mostly in the late 1970s or in the 1970s themselves, to be used as part of timing power units for detonating devices, such as incendiary devices ... All the items would be generally available items. Low cost items, very common or garden electric components.²⁸⁹

6.73. Notwithstanding the lack of any follow-up on this matter, Garda John Murphy received, on a later date, a letter from Chief Superintendent Ginty which was in the form of a commendation for doing a good job. The implication of this was

²⁸⁸ Tribunal Documents, page 3580.

²⁸⁹ Transcript, Day 83, page 38.

that the components in Ms. McGlinchey's possession might have been used for bomb making. The Explosives Act 1875 provides a definition of the term "explosive" which includes both materials which explode in themselves, or which can be used to detonate explosives, and anything which is "used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect".²⁹⁰ In effect, this means that a metal beer keg, if stuffed with explosives and a detonator, thereby fits within that definition.²⁹¹

- 6.74. Chief Superintendent Ginty's explanation in relation to sending this note of commendation was simply that he wished to acknowledge the energy and commitment of the Garda concerned. The failure to follow-up on the incident is typical of the manner in which Ms. McGlinchey was dealt with. Of itself it does not lead to the inference that she was an individual protected from the ordinary application of the law, but it is part of evidence that tends in that direction. Furthermore, the exaggerated importance attached internally to ordinary components tends to suggest that Ms. McGlinchey was seen in a special light by certain members of the Gardaí. The issue for the Tribunal, however, is as to who was responsible for this? The answer lies in a combination of corruption and negligence.
- 6.75. On the 7th of December 1993 Superintendent John P. O'Connor, on orders, he claims, from Detective Superintendent Fitzpatrick, again told Detective Sergeant Sreenan not to interfere with Ms. McGlinchey.²⁹² In evidence to the Tribunal, Superintendent O'Connor stated:

On 7th December I directed Sergeant Sreenan not to approach Ms. McGlinchey and to direct his detective guards likewise. He said he understood and would comply, but he thought his staff would not approach her in any event. I gave those instructions, in my note here, as a result [of] directions I got from Detective Superintendent Fitzpatrick.²⁹³

Ardchicken (the Second 'Find' of Paragraph (e))

- 6.76. On reading the foregoing narrative, it might be possible to come to the conclusion that if Ms. McGlinchey was associated with, or a member of, the 'Provisional IRA', then she was involved with some quite sophisticated munitions. Apart from the metal objects which have been discovered, she was also supposed to have been manufacturing a 'type two rocket'. These were made on instructions. None of these have been produced to the Tribunal and, it would appear that these did not pass muster with Detective Garda McMahon when they

²⁹⁰ The Explosives Act 1875 Section 3. See also the Explosive Substances Act 1883, as amended, and the Dangerous Substances Act 1972, which is not in force.

²⁹¹ See R v Charles [1892] 17 Cox 499.

²⁹² See Tribunal Documents, page 1795 and Transcript, Day 119, page 136.

²⁹³ Transcript, Day 119, page 136.

were produced to him. Her evidence was that these were manufactured in accordance with drawings which he showed her, but did not give her. Her possession of electrical components, the most serious of which was the possession of the 12th of November 1993, detailed above, might lead to the expectation that any find to which she directed Gardaí would involve terrorist equipment of some sophistication. As it turns out, this was never the case.

6.77. The first find of apparent explosives with which Adrienne McGlinchey involved the Gardaí was that discovered at Ardchicken, just outside Donegal town, in November of 1993. The dates, in respect of this find, have to remain uncertain in the light of the Tribunal's enquiries. The official date is given in Garda correspondence as being the 19th of November 1993. However, prior to that date Superintendent Michael Duffy, the district officer, was aware of the find and had delegated Detective Sergeant T.V. O'Brien to covertly examine the scene for the purpose of firming up on his suspicion that illegal munitions were kept there. Prior to that, both Detective Garda Noel McMahon and Detective Inspector Kevin Lennon had visited the scene, perhaps on the 17th of November of that year. Adrienne McGlinchey's testimony was, further, to the effect that it was at the behest of Noel McMahon that she had planted a good portion of the materials at Ardchicken. Further, she claimed that Detective Garda McMahon had assisted her on at least one of the trips by transporting the apparent explosives into the place where they were found by using a vehicle at his disposal.²⁹⁴

6.78. Noel McMahon claims that, in good faith, he accepted information from Adrienne McGlinchey as to the presence of bomb-making equipment at Ardchicken on an unspecified date, but one proximate to the 19th of November 1993. This information was gathered legitimately, he claims, in the context of a process of conducting exhaustive enquiries of his informer, Adrienne McGlinchey, through cultivating her fastidiously over a period of time. Detective Inspector Kevin Lennon, as the supervisor of Detective Garda McMahon for these purposes, claims that he was legitimately brought into knowledge about the Ardchicken matter through ongoing contacts with Noel McMahon. His case is that legitimately, and in good faith, having gained an awareness of the presence of a large quantity of explosives at a location in south Donegal destined, as was reported to him by Noel McMahon as information gleaned from Adrienne McGlinchey, for the purposes of a major bomb attack at Belleek RUC station in southern Fermanagh, he involved himself for the purposes of finding out more. In summary, his case is that he legitimately pursued a line of enquiry which involved meeting with Adrienne McGlinchey on a professional basis so that any suspicions he might pass on for the purpose of action being taken under statutory powers would be founded upon the basis of reasonable suspicion.

²⁹⁴ See Day 18, pages 10-12, Day 19, pages 128-137 and see also the cross-examination by counsel for Yvonne Devine of that witness on Day 19, pages 21-23.

Therefore, he was doing what the law demanded of him in not taking action without reasonable cause and in attempting to do everything legitimate to preserve the peace on this island.²⁹⁵

6.79. In the lead-up to the find at Ardchicken it has been claimed that Detective Garda McMahon met with Adrienne McGlinchey on a week-by-week basis for perhaps an average of six hours a week. Information from these meetings, which was sparse, was not sent to Garda Headquarters in the appropriate form. Instead, some information was passed on to Detective Inspector Kevin Lennon. Neither officer had any excuse for not using the C.77 form to report items of intelligence, apparently gleaned from Adrienne McGlinchey, to Garda Headquarters. The result of this neglect is that documentation on the apparent interrogation of Adrienne McGlinchey, as an informer, by Detective Garda McMahon, and on occasion as well by Detective Inspector Lennon, is non-existent. A peculiar fact of the finds listed in the Terms of Reference is that no information in relation to them, either by way of forewarning as to what might happen, or by way of a debriefing of the informer in the aftermath of the discovery of apparent explosives, was ever forwarded to Headquarters. The notable exception to this was a report submitted by Detective Inspector Lennon prior to the find at Rosstown which, although not addressed to Headquarters, was received by the Chief Superintendent and forwarded there. This is dealt with in a later chapter. Further information from Adrienne McGlinchey, ignoring for the moment its lack of usefulness, was flowing as a steady stream from Donegal to Garda Headquarters during the years 1988 through to 1991. By 1992 and 1993 it had almost dried up. There were only two relevant C.77s in 1992 and two C.77s in 1993.

6.80. In the months preceding the Ardchicken find, Superintendent Kevin Lennon claimed, in evidence, that he had met Adrienne McGlinchey on a once-a-month basis.²⁹⁶ He claimed that she had mentioned a number of individuals as being involved in planning an operation. This is how he put it:

She didn't tell me anything, Sir ... no. Other than there was a bomb being planned for a future date. That's all she would say. But she didn't know exactly when ... she said I'll tell Noel McMahon the information, that's the line I'm taking, and he'll pass it on to you ... That was the general process when I would meet her. I was very frustrated with them meetings ... I did try and develop it out, yes. To see could I get something concrete.²⁹⁷

6.81. In place of information going to Headquarters, a series of curious notes have been recovered from the personal papers of Superintendent Lennon as a result of

²⁹⁵ See further Transcript, Day 78, pages 63-68.

²⁹⁶ Transcript, Day 146, page 80.

²⁹⁷ Transcript, Day 146, pages 81-83.

a search carried out in December of 2002. Much of the material in these notes has been redacted for the purpose of security. One of these, which is dated the October before the Ardchicken find, reads as follows:

Friday (deleted) received on Saturday 21 (blank).

(blank)

A crowd from (deleted) two places at one time.

B (deleted).

C Monday night next – more sugar to be got.

D (deleted) supplying .22 cartridges – need a hundred for Tuesday night.

E (blank).²⁹⁸

6.82. Another document, from around the same time, reads as follows:

Monday night (deleted).

PIRA meeting took place at (deleted) Letterkenny on Thursday the (deleted). Twenty-six persons attended.

(deleted) from (deleted) stayed at (deleted). Demonstrated new TIU unit – remote control device.

Red Opel car found in Ballybofey was in Letterkenny area with D-reg plates prior to its discovery.

Forty bags of fertilizer in place at moment.

Blue Hi-ace van from Manorcunningham delivered fertilizer during day.

Twenty-three year old made drawing. It – looked like farmer – local lad – not known to us –

Hume was target for Ballybofey bomb.²⁹⁹

6.83. The Tribunal is satisfied that these documents are not a genuine record of Detective Inspector Lennon's meetings with Adrienne McGlinchey, or of reports to him as to the information coming from Detective Garda McMahon. **Coupled with the other evidence in the case, the Tribunal is now compelled to construe them as notes as to the corrupt practice in which he and Detective Garda McMahon were engaged. There would be little reason, for example, for the 'Provisional IRA' to deal with an ordinary food item such as sugar in the sinister manner with which Superintendent Lennon**

²⁹⁸ Tribunal Documents, page 3599.

²⁹⁹ Tribunal Documents, page 3601.

attempted to justify this note in evidence:

Because if you hear the word “sugar” being required by the IRA then you know there is definitely a bomb going to take place somewhere.³⁰⁰

- 6.84. Many aspects of Adrienne McGlinchey’s narrative on this matter are unclear. It is uncertain as to how many trips she made from north Donegal for the purpose of putting ground fertilizer in place. The various answers given by her would appear to indicate that somewhere between two and five trips may have been taken. These she claims were taken in the company of Pearse Devine, perhaps two bus trips, Yvonne Devine, perhaps one taxi journey and Noel McMahon, driving in his own car. It is also claimed that on the last occasion she accompanied Noel McMahon and Kevin Lennon in what she described as “the red patrol car”. This description was later found to be referable to either an unmarked Garda car with a magnetic blue light that could be put on the roof in emergencies or to Kevin Lennon’s own private red Honda Civic. Adrienne McGlinchey claimed that her activities in relation to grinding fertiliser commenced some time in 1992 and reached the highest pitch of activity from October of 1993 through to July of 1994.³⁰¹
- 6.85. It is as well, at this point, to digress slightly for the purpose of explaining the process whereby homemade explosive is prepared. Some brands of fertiliser contain nitrogen. Farm fertilizer is prepared in pellet form so that nutrients will be released into the soil over time, to the benefit of plant growth. If fertilizer were in powder form the nutrients would wash through the soil at the first heavy shower of rain. If nitrogen is mixed with sucrose a chain reaction can result if an explosion is initiated by the detonator attached to a booster charge. In order to prepare the conditions for the creation of a rapidly expanding mass of gas, which condition defines an explosive, a mix must be prepared in a set proportion and, so that the components can interact with each other rapidly, the powder must be extremely fine.
- 6.86. During the course of the inquiry two ordinary means of grinding fertilizer from its pellet form were explained in evidence to the Tribunal. The first was through the use of a farm barley crusher attached to the drive mechanism of a tractor, and the second was the use of the wholesale type grinding machines used, for instance, for crushing coffee beans. Adrienne McGlinchey’s claim is that she purchased several, and perhaps dozens, of coffee machines over the period in question for the purpose of making up explosive mix at the behest of Detective Garda Noel McMahon and, later, on the instructions of Detective Inspector Lennon as relayed to her by Detective Garda McMahon. Colourful descriptions

³⁰⁰ Transcript, Day 146, page 83.

³⁰¹ Transcript, Day 12, page 141, Q.715.

have been given in the course of evidence of Adrienne McGlinchey sitting in her flat with Yvonne Devine, of them watching the television and passing the time by putting handfuls of fertiliser into domestic coffee machines to be ground on a rotational basis, so that the motors would not immediately burn out. Experience tells us that domestic coffee grinders will efficiently dispose of the task of converting coffee beans into powder, but only by the handful.

- 6.87.** It is impossible to believe that all of the material recovered at the finds in Ardchicken on the 19th of November 1993, at Bridgend on the 11th of January 1994, at the flat at The Crescent on the 14th of March 1994, at Oatfield on the 4th of June 1994, at Covehill on the 13th of June 1994, at Rossnowlagh on the 18th of July 1994 and that destroyed by Adrienne McGlinchey and Yvonne Devine at their flat on the 12th of October 1993 was the produce of domestic coffee grinders, however enthusiastically engaged with. Indeed, Adrienne McGlinchey makes the case that quantities of crushed fertiliser were produced elsewhere in unspecified amounts, some of which were delivered to her flat by personnel whom she did not see, but who she presumes were Detective Garda McMahon and Detective Inspector Lennon, and some of which were placed in the locations where they were found, apart from her flat, by Detective Garda McMahon. Given the quantities involved it is reasonable to infer that the crushing and grinding activity in relation to fertiliser granules was also conducted by personnel apart from Yvonne Devine and Adrienne McGlinchey.
- 6.88.** Adrienne McGlinchey indicated in her evidence that during the weeks immediately prior to the Ardchicken find, fertiliser was ground down and was stored in one of the sheds at her family's large residence and grounds at Ashbrook in Letterkenny. This was for the purpose of being "put somewhere". At the behest of Noel McMahon a suitable location for this planting was discovered. In cross-examination Adrienne McGlinchey claimed that the house at Ardchicken was identified as a suitable location after she and Detective Garda McMahon "went around loads of houses ... at night-time".³⁰² Apart from that, Adrienne McGlinchey claims to have visited a number of locations with Yvonne Devine for the same purpose during daylight hours.³⁰³
- 6.89.** The fertiliser material was put in place through the trips mentioned above and using suitcases and holdall bags for the purposes of not arousing suspicion. After the second trip the supply of material at Ashbrook had been exhausted.³⁰⁴ All of the material was placed into freezer bags. This, in itself, is unusual as the experienced Gardaí who gave evidence to the Tribunal cannot recall any instance of ground fertiliser being found in the context of a genuine criminal investigation where same had been neatly divided into the small bags that are used to isolate

³⁰² Transcript, Day 18, page 10.

³⁰³ Transcript, Day 18, page 10.

³⁰⁴ Transcript, Day 12, page 145.

and preserve quantities of food in domestic freezers. Adrienne McGlinchey described the purpose of this elaborate charade as follows:

The plan was that I would tell Kevin Lennon it [the apparent explosives] was to be used, the IRA were storing it there, and it was to be used to blow up Belleek ... Noel took me from Buncrana to Letterkenny and we picked him up at his house. We went to my house in Ashbrook and we all went into the house. The arrangement was Noel had told me to tell the story about Belleek [to Detective Inspector Lennon] and that I knew where the bomb was and all this ... We have a bar in the house and he was drinking brandy and we sat there. The next thing he went to the Garda station in Letterkenny and he came back with the red patrol car. Noel stayed in the house with me. ... He came back with the red patrol car. He had left his own car in Letterkenny Garda station but it was Noel McMahon that drove the red patrol car and it was a Letterkenny patrol car ... we drove to show him where the bomb or the find was.³⁰⁵

6.90. It is common case between Adrienne McGlinchey, Kevin Lennon and Noel McMahon that she had met with Detective Inspector Lennon on quite a few occasions prior to the Ardchicken incident. The case which she made in evidence, which was consistent with that made in writing during the Carty investigation, was that she believed up to that point that she was acting on the instructions of Noel McMahon for the purpose of deceiving his superior. In other words, that there was nothing to indicate to her that Kevin Lennon was 'in the know' in relation to the false nature of these finds up to the point where his behaviour revealed that he too was engaged in the conspiracy.

6.91. That incident occurred on the drive to Ardchicken. This is how she describes it:

All I can remember about the journey down is that I was lying down on the back seat. While we had been in the house I had a drink too and I fell asleep. The arrangement with myself and Noel was that I was to point out to Kevin Lennon where the place was and I was lying down in the back seat. I wakened up with Kevin Lennon saying to Noel "Mac, pull in there, you have passed it". ... He had passed the house ... you see, it was at that point there that I thought, I thought I was supposed to be telling him where it was. Now, whether Noel had told him on the way down the exact location of it and where it was, I don't know. But that is what he said ...³⁰⁶

³⁰⁵ Transcript, Day 12, pages 147, 148, 149, 150.

³⁰⁶ Transcript, Day 12, page 151. See also Day 10, pages 113-114.

- 6.92. Once inside the house, torches were used in order to identify the explosive substance. Adrienne McGlinchey claims to have lifted a baseball cap left behind by Pearse Devine. Thereafter, Adrienne McGlinchey saw the television broadcast of the 19th of November 1993. She then had further contact with Detective Garda McMahon. She claims to have thought that this was going to be the end of the pressurisation she was being put under by Detective Garda McMahon but to have been disappointed in her expectation. Therefore, there was a necessity to involve herself in a further legal charade. This is how she puts it:

The next thing then was, he told me Kevin Lennon [had] taken all the glory and that he was going to use something on him and that it was all this here, this is how we got into the next one ... this is my recollection of how the next one started ... I was afraid of him ... Noel McMahon was drinking very heavily and I was working in Jay Bees and he rang me every single day and he hounded me on them phones. They tortured me and then when the first one was over, he rang me, "oh, you are going to get done again, your fingerprints are all over these bags of fertilizer now". ... I reckon I fell out with him between Ardchicken and Rosstown and I wouldn't take his phone calls at work and I hid from him.³⁰⁷

- 6.93. Superintendent Lennon has attempted, in evidence, to justify his involvement in Ardchicken by claiming that he was acting legitimately in the context of supervising Detective Garda McMahon who, in turn, was supervising Adrienne McGlinchey. The Tribunal does not accept that either Detective Garda McMahon or Superintendent Lennon, by this stage, believed that Adrienne McGlinchey was a genuine 'Provisional IRA' informer. Superintendent Lennon gave this account to the Tribunal:

So it was around half eleven, 12 o'clock, on the 18th of November 1993. I got a call from Detective McMahon that he wanted to see me urgently, there was something happening. He contacted me and he told me there was something happening down around Donegal town. So I told him to get Ms. McGlinchey. And he took her to me down on a lay-by at the end of my road. She said there was a bunker in Donegal town and that she was prepared to – she didn't tell me where it was – she was prepared to show it to us on the proviso that I would guarantee confidentiality and that I wouldn't put her at risk. ... I gave her these undertakings, Sir. So, we drove to Donegal town and nearing Donegal town I said, I wanted to know where this place is for purposes of security and

³⁰⁷ Transcript, Day 12, pages 151, 153-154.

approach and that. She told me it was in a house, around the bad bend outside of Donegal town, a disused house. I went there ... And I went past the house. I came back again and I parked up the car and three of us approached the house. She went in first, Detective McMahon next and I followed through. I recall ... there was a tap running outside the back door at the back of the house and I turned off the tap and she told me to put the tap on, that it was a marker. I went into the house and in a room, under floorboards, I was shown white transparent plastic bags. I returned to the car and went back to Letterkenny. I arrived back there, I suppose it must have been 3 o'clock in the morning. I dropped them off. The following morning, early in the morning, probably around eight or half eight, around that time or 9 o'clock, I telephoned Superintendent Duffy and I told him of what was happening. Later on that morning I was talking to Chief Superintendent Fitzpatrick, then Detective Superintendent Fitzpatrick, at his office and himself and Superintendent Duffy spoke on the phone about the matter. Superintendent Duffy took it over from there. I was told by Ms. McGlinchey that night that there was to be an attack on Belleek RUC station by means of that material. She told me when I pressed her on that, that the people involved were from Letterkenny, Mr. B and another man that I already named, they were the people who put it there. And that was the information on the matter. She also told me there was no risk there that night because she knew they weren't around that area that night.³⁰⁸

- 6.94. The Tribunal does not accept this evidence. The Tribunal does not consider it to have been a valid exercise of policing to have proceeded in this manner. It was wrong to have been involved in apparently harvesting minimal pieces of information, for large amounts of work, without reporting the result to Headquarters. It was wrong not to have reported to Headquarters any debriefing. The Tribunal, moreover, does not accept that this occurred. It was also an extraordinary breach of standard procedures for two Garda officers to travel to a 'Provisional IRA' location in the middle of the night accompanied by an informer. The reason for this was given by Chief Superintendent Tom Monahan on his being cross-examined by Superintendent Lennon:

... If you were running an informant, passing on that information, I couldn't foresee myself bringing that informer on site at any

³⁰⁸ Transcript, Day 146, pages 105-108.

stage. Particularly, certainly not at night-time. And to go into a building with you where the IRA may or may not be. If there was a house to be pointed out by an informant I would arrange a very secure way of doing it which would certainly not be going there in the dead of night to enter a house to show where the stuff was ... If the IRA had materials in a particular place there was no way of knowing somebody wouldn't be around that night. It would be extremely risky in my experience to go to a location like that where it was suspected IRA materials were stored. You would want to have very, very, substantial and Grade A intelligence to know the IRA were not there, that people wouldn't be there working. The one certain thing you would do is you would ensure that if you had that information you would not expose it to risk or you wouldn't expose your source to risk. You certainly wouldn't expose the risk of losing it again once you knew it was there ... Well, going there and leaving the site again and not securing the site, even at a distance, you would certainly have secured the general area, if not the immediate house.³⁰⁹

- 6.95. The evidence of Detective Garda McMahon on this issue was very similar to that given by Superintendent Lennon. There are differences as to the car used, who turned off the tap, and whether the bags of material were under floorboards. If these accounts were true, these differences could be excused on the basis of the natural variation of human recollection between persons as to the one event. A curious piece of evidence as to the tap was given by Detective Garda McMahon:

The tap she said was a marker. She pointed out that it was a natural instinct, which seemed fairly sensible or reasonable at the time, that on seeing a tap running the natural thing to do was knock it off. She said that – whether it was Kevin Lennon ... or I that went to turn it off ... She maintained that ... the tap being turned off that the PIRA would know or suspect that maybe some of the people belonging to the dilapidated property would have been around the location and automatically turned this tap off, in which case they'd get out as the stuff might be under surveillance or whatever. So, I confirmed to Detective Inspector Lennon, Sir, that there were bags of what appeared to be HME there. And basically he more or less said fine, that he'd look after it and get things up and running. I'm nearly sure on that occasion, while maybe not directly expressing surveillance, that I felt maybe it

³⁰⁹ Transcript, Day 164, pages 50-51. See also pages 61-63.

should be looked after overnight. But Detective Inspector Lennon – she maintained that there was no danger of it moving. Detective Inspector Lennon was happy with that and not setting up surveillance. That Ginty had a policy which I wasn't aware of until – I never – he never actually told me about this policy nor have I seen it, but I think he gave evidence, alright, that he had some sort of policy of ... And as per alleged Ginty's policy and as per the evidence I heard from Chief Ginty, have it decommissioned.³¹⁰

The Tribunal rejects this account of the evidence.

- 6.96. The Tribunal has viewed the R.T.É. television report presented by Eileen Magnier in relation to this incident and has found it useful. It shows a large quantity of white powder in individual freezer bags on the ground within the derelict house. Sergeant Tom McPartlan, in his report dated the 5th of December 1993 to Superintendent Duffy at Ballyshannon, gives a good narrative as to the manner in which materials were concealed:

The search commenced at 3 p.m. on the 19th of November 1993. Garda Martin Burke, Ballyshannon located a quantity of explosives in an upturned wooden press in one of the rooms. Garda Therese O'Sullivan located a further quantity in a corner of the same room underneath some wooden panels. Sergeant T. McPartlan and Garda F. Murray uncovered some more concealed underneath floorboards. All the explosives were packed in polythene bags which weighed about 10 lbs. each. The search party carried out a thorough search of the rest of the building and its grounds but nothing further was uncovered. At 5.10 p.m. an E.O.D. team, under the command of Captain Colm Farrell, arrived at the scene and removed the explosives to Finner Camp for analysis and destruction. They removed 61 bags. One bag was removed by Detective Sergeant Aidan Murray for analysis in the Garda Forensic Laboratory. The substance was analysed by Dr. S.M. Willis at the Forensic Science Laboratory and she concluded that the sample was urea which is commonly used as a fertilizer and also in animal feeds.³¹¹

- 6.97. Captain Colm Farrell detailed his finding as follows:

Description of task: give full details including colour, make, identification marks etc. ... 61 x 5 kg. bags of H.M.E. White powdery substance which appeared to be a fertilizer (ammonium nitrate) and sugar mix. Located in derelict house along the main Donegal – Ballyshannon road.³¹²

³¹⁰ Transcript, Day 134, pages 26-30.

³¹¹ Report dated 5 December 1993, page 2385 of the Tribunal Book of Evidence.

³¹² Confidential memo at page 1251-65 of the Tribunal Book of Evidence.

6.98. A further secret note indicates the following:

The substance recovered at Ardchicken, Co. Donegal on 19.11.93 has been tested by the Army and confirmed to be Home-Made Explosive. There was a total of 62 bags uncovered each weighing 5 kg. This gives a total of 310 kg. or 682 lbs. of H.M.E.³¹³

6.99. The quantity involved the weight of four large men. It is reasonable to infer that Adrienne McGlinchey did not bring that quantity to the house at Ardchicken using her own efforts and those of two friends. Any reasonable person watching the video recording of the R.T.É. broadcast would come to the same conclusion. Three telexes were sent from the divisional communications centre in Letterkenny to Garda Headquarters concerning this matter. The first of these indicates “the search of the area is continuing and E.O.D. officer, Finner Army Camp, has been called to the scene: any developments will be reported in due course.”³¹⁴ The second telex of the same date reports that searches have now ceased and also promises that further developments will be reported.³¹⁵ The third telex sent to Garda Headquarters is dated the 22nd of November 1993. There is one aspect of it that is curious and it is therefore quoted:

Further to previous telex messages in above matter from this centre, please note that the E.O.D. officer at Finner Army Camp carried out a test blast with one of the bags of H.M.E. and confirmed that same was indeed an explosive substance. Each bag was weighed and contained exactly 5 kilos per bag. Any further developments will be reported in course.³¹⁶

6.100. A sample of the material from Ardchicken was forwarded by Sergeant Aidan Murray to the Forensic Science Laboratory bearing case reference number 2000/93 with technical bureau number TB/13883/93. The sample was received on the 22nd of November 1993. The sample was analysed and found to be urea. Dr. Willis gave evidence to the Tribunal as follows:

*Urea is used for a number of purposes. It is high in nitrogen and as a consequence it is used on occasion as a fertiliser and has other functions, animal feed stuff. But it is not an explosive ...*³¹⁷

6.101. Urea can be converted into a substance that can explode through a process of nitration. During the 24-year period during which Dr. Willis has been working in the Forensic Science Laboratory, it has been discovered on not more than five occasions. This was in the context of suspected finds which turned out not to be real finds at all. Whereas the information that this substance was not an explosive

³¹³ Undated Tribunal Documents, pages 1251-67.

³¹⁴ Telex of the 19 November 1993, Tribunal Documents, pages 1251-69.

³¹⁵ 19 November 1993, Tribunal Documents, pages 1251-68.

³¹⁶ Tribunal Documents, pages 1251-64.

³¹⁷ Transcript, Day 79, page 111.

was forwarded by Dr. Willis to the Ballyshannon Garda district, this information was not, in turn, forwarded for the information of Garda Headquarters. In the opinion of the Tribunal it should have been. Furthermore, on the discovery of a non-explosive substance in the apparent hands of a terrorist organisation, questions should have been asked by senior management.

- 6.102. Commandant Colm Farrell had a habit of exploding material recovered from apparent subversive finds in Co. Donegal. The Tribunal infers that this was by way of a form of practice in the use of army ordinance. He did not conduct a specific test on the material recovered from Ardchicken. Instead, using a quantity of explosives from the army explosives dump, he blew it up. The flash, and other elements of the explosive reaction noted, could not have been said to have enhanced the expected explosion so as to verify the presence of an explosive in the test substance.³¹⁸ Yet, in some extraordinary way, this routine exercise was treated by Ballyshannon Garda division as a confirmation that explosive substances had been found at Ardchicken.
- 6.103. The event at Ardchicken should also be looked at from the point of view of facts established through the testimony of other witnesses. Superintendent Michael Duffy was the district officer in Ballyshannon at that time. Some time on the morning of the 19th of November 1993 he recalls receiving a telephone call from Detective Inspector Lennon. He told the district officer that he had identified a vacant house on the southern side of Donegal, a short distance outside of Donegal town, near a series of bad bends, in which homemade explosive had been left.³¹⁹ The Superintendent was asked to deal with the matter in such a way that the recovery of the material would not indicate to the 'Provisional IRA' that an informer had been involved.³²⁰ As a result of this he asked Detective Sergeant T.V. O'Brien, stationed in Donegal town, to view the area in question and to report back to him on what he found. This was probably done before the commencement of office hours.³²¹ Detective Sergeant O'Brien, who is now a Superintendent, gave evidence to the Tribunal as follows:

Superintendent Michael Duffy contacted me and asked me to carry out a search, the covert search of a vacant house at Ardchicken in Donegal town. He described where I would find the house, stated that it was approximately half a mile on the Ballyshannon side of Donegal town and a series of bad bends. And from his description to me of the house, I was aware of the house because I travelled that route daily ... He indicated that there was a possibility of a find of homemade explosives to be found in that house. And he

³¹⁸ Transcript, Day 123, pages 4-44.

³¹⁹ Transcript, Day 100, page 34.

³²⁰ Transcript, Day 100, page 35.

³²¹ Transcript, Day 100, page 41.

*asked me to confirm ... that it was present, nothing more. He also asked me not to involve Detective Branch in Donegal town in the search or the follow-up search of that house.*³²²

- 6.104. Detective Sergeant O'Brien was chosen by Superintendent Duffy because, as he put it "I knew he was a man that would have kept information to himself".³²³ The decision not to involve Detective Branch members in the search has not been satisfactorily explained by Superintendent Duffy. It might be reasonable, in the absence of evidence, to infer that the decision to keep Detective Branch away from this 'find' was taken because of its suspect nature. That inference might be strengthened by the context of the find not being an explosive at all, of Headquarters not being informed of this fact and, as we shall see, of the lack of a follow-up investigation. For what it is worth, Superintendent Duffy, on being asked the reason for instructing Detective Sergeant O'Brien that Detective Branch members should be kept away from Ardchicken, said as follows:

*The reason would have been, Chairman, a management strategy. ... The uniform guards were the ones who were detailed to carry out the inspections of vacant properties and I would have wanted the uniform guards to realise that paraphernalia, IRA paraphernalia, was to be found on vacant properties ... Detective Branch members had the responsibility of monitoring the activity of IRA activists. The uniform section had the responsibility of searching and inspecting vacant properties and I wanted it to be brought home as forcibly as it could to members of the uniform section, that paraphernalia belonging to the IRA could be found in vacant houses.*³²⁴

- 6.105. While Detective Sergeant O'Brien was involved in some minimal follow-up enquiries, he was as a member of Detective Branch excluded when the formal search got under way later on on the day of the 19th of November 1993. He was disappointed that he was not on the search because, as he put it, "to be involved in the finding of explosives in those days was a big thing".³²⁵ The Tribunal accepts this evidence. The Tribunal has carefully considered the explanation proffered by Superintendent Duffy for confining the search to uniformed personnel and rejects his evidence.
- 6.106. No surveillance was put on the site. In relation to the finds mentioned in Term of Reference (e), senior management have been at pains to tiresomely reiterate a policy of disposing of finds of 'Provisional IRA' paraphernalia by 'vacuuming them up' without any surveillance or follow-up investigation. Superintendent Duffy

³²² Transcript, Day 82, pages 32-33.

³²³ Transcript, Day 100, page 48.

³²⁴ Transcript, Day 100, page 45.

³²⁵ Transcript, Day 82, page 41.

said that surveillance was never considered because, as he put it, “it just wasn’t part of the practice in such circumstances”.³²⁶ In answer to the question as to whether there were any cost considerations which would have influenced a decision in relation to surveillance or follow-up investigation, the Superintendent answered “no, no. It just wasn’t considered”.³²⁷ In effect, the Superintendent claimed to be happy “to see the stuff removed regardless of what examinations were carried out”.³²⁸ Detective Inspector Lennon later reported to Superintendent Duffy that he was happy with the way in which the find had been “taken out of commission and that his contact wouldn’t have been put under any pressure by the way it was dealt with”.³²⁹ No investigation file was forwarded to Divisional Headquarters in relation to this matter. As it was put simply by Superintendent Duffy: “There was no file prepared on it”.³³⁰ Superintendent Duffy claimed that: “There was no evidence, Chairman. It would have been a waste of time to have submitted a file on it.”³³¹

- 6.107.** Detective Sergeant Aidan Murray was the scenes of crime officer involved in Ardchicken and at the later finds at Rosstown. His evidence was helpful. He regarded surveillance as a useful tool of detective work. An informer should not simply be used for the purpose of uncovering a find of terrorist paraphernalia, he said, but should also be pursued for information as to intent in terms of the cell system operating within terrorist organisations, and the personnel making up same.³³² However, regrettably, Detective Sergeant Murray did not take fingerprints from the freezer bags in which the apparent explosive was packaged. He fairly said that this failure was his own decision and not as a result of a direction from a superior officer. The Tribunal wonders about this, without making any finding against the good name and reputation of Detective Sergeant Murray, because whereas the first number of layers might have been wet and unsuitable as fingerprint surfaces, some exploration should have been considered as to the availability of prints at lower levels. He is not to be faulted in relation to the taking of samples or in relation to the follow-up investigation since, in that context, he could not contribute to a nullity.
- 6.108.** If an investigation had been carried out a number of unusual features in relation to the Ardchicken ‘find’ would have been brought to the attention of Gardaí at Chief Superintendent or perhaps Headquarters level. These features had set mental alarm bells ringing in some local personnel within the Detective Branch. They were such as to have caused concern. Like many of the events which have been detailed up to this point in the Tribunal’s report, the application of ordinary

³²⁶ Transcript, Day 100, page 55.

³²⁷ Transcript, Day 100, page 57.

³²⁸ Transcript, Day 100, page 83.

³²⁹ Transcript, Day 100, page 71.

³³⁰ Transcript, Day 100, page 89.

³³¹ Transcript, Day 100, page 89.

³³² Transcript, Day 78, pages 35-37.

police procedures coupled with the refined common sense of a trained police officer would have uncovered and put a stop to this chain of events at the first point at which same had been applied.

6.109. The find was unusual in that no-one had experienced fertilizer ground up and placed in individual domestic freezer bags.³³³ The house was proximate to the public road. Whereas many 'Provisional IRA' finds had been discovered in derelict and isolated houses, this paraphernalia had been placed in a location where there was a strong risk of the public stumbling onto a discovery of terrorist activity. There was a large volume of traffic on the Donegal town road which, at this stage, was the main artery to the fishing port of Killybegs. To place large quantities of material at such a location would, by reason of the weight and bulk of what was involved, have potentially drawn attention to the criminal operation.³³⁴ Workers from Telecom Éireann were then laying lines from Donegal town towards Ballyshannon along a route which would have taken them past the house and to which they were drawing nearer day by day. Finally, as we have mentioned, the substance was not an explosive at all.

6.110. In the result, Detective Branch, the personnel of which may well have asked some of the questions leading to the above rather obvious conclusions, were not involved in the search at Ardchicken. Sergeant Tom McPartlan was, however, tasked. He led a party of Gardaí on foot of a warrant issued pursuant to Section 29 of the Offences Against the State Act 1939, as amended, issued to him by Superintendent Michael Duffy. He was given minimal knowledge as to the task involved. He was specifically excluded from any knowledge as to the basis for the search. He said in evidence: "I never to this day have any idea how that information came to the hands of the Gardaí ... I was not privy to anything [concerning an informer]."³³⁵ He was given no directions by the district officer, whose responsibility it was, as we have seen, to take charge of a major investigation, to open a file beyond an initial report and to make any enquiries. He regarded it as highly unusual that a uniform Sergeant would be asked to undertake investigations into a subversive matter. On hearing back from Dr. Willis that the material discovered had no function in relation to explosives he properly included that matter in his short, but fair-minded report dated the 5th of December 1993, from which we have already quoted above.

Analysis of Ardchicken

6.111. **Again, the Tribunal relies on the expert evidence, a summary of which has been presented in this report at Chapter 3. It was not excusable for the district officer to have failed to consider the issue of surveillance.**

³³³ Evidence of Superintendent T.V. O'Brien, Day 82, page 35.

³³⁴ Evidence of Superintendent T.V. O'Brien, Day 82, page 36.

³³⁵ Transcript, Day 78, pages 146-147.

Although surveillance may not have been carried out, all options reasonably open ought to have been considered. It was inexcusable for Superintendent Lennon, once he verified that explosive material was in place, to have failed to have same secured immediately. It was similarly inexcusable, once Detective Sergeant T.V. O'Brien had reported to Superintendent Duffy that paraphernalia which looked like material prepared for a bomb was already in place, for the district officer not to immediately secure same. If the policy in Donegal, which the Tribunal doubts, had really been one of "hoovering up all finds without investigation", then the implementation of this policy made it even more imperative that material discovered should be guarded. It is an obvious fact that material in an apparently high state of preparation could have been moved, and used for the purpose of the destruction of life and property, at the time when it was left unguarded. It has all the appearance of being in an imminent state of readiness.

- 6.112. There was no attempt of any real kind made by Detective Inspector Lennon or by Detective Garda McMahon to debrief the informer as to the nature of the cell operating in the Ardchicken area and the purpose for which the material was being manufactured. That was inexcusable. It is one piece of circumstantial evidence which, when linked to others tends to support the very serious findings that will follow in this report. Far too much surrender of authority and control was conferred for no good reason by Superintendent Duffy to Detective Inspector Lennon. Knowledge is empowerment. The fact that an informer was involved did not excuse Superintendent Duffy from making further enquiries as to the nature and extent of the terrorist activity which led to the 'find' within his district. Further, it could be argued that the absence of a follow-up enquiry was a matter of the deepest suspicion from the point of view of a terrorist organisation attempting to discover as to why apparently useful material on which they had worked had been lost. If proper enquiries were conducted then the circumstance would have been less suspicious. Yet, as it appears throughout this narrative, this, if it is to be believed, is simply one of a number of occasions on which a ruthless terrorist organisation was happy to have "parcels lost in the post". Superintendent Lennon, in evidence, gave the following explanation as to why Donegal town Garda station was not involved from the earliest stage of the 'find':

She told me after that there was a person down in Donegal town who was supposed to be investigating the matter on behalf of the

*IRA ... And I said to her, not to worry, that we wouldn't put her at risk and that she was to tell the story that obviously the guards came across it on searching vacant houses.*³³⁶

- 6.113. The Tribunal does not accept that the 'Provisional IRA' would have accepted a simple excuse of carelessness from one of its operatives. The Tribunal has carefully scrutinised the evidence given by Superintendent Lennon and rejects it completely.
- 6.114. The Tribunal has been impressed by the quality of the intelligence and application of some of the Detective Branch personnel, especially Detective Sergeant T.V. O'Brien, who have given evidence before it. Had Detective Branch been involved then, in those circumstances, appropriate questions would have been asked leading to the collection of incongruous facts in relation to the situation vis-à-vis the scenario presented by Detective Inspector Lennon and Detective Garda McMahon of a terrorist operation. Finally, it was inexcusable for Superintendent Duffy not to have informed Headquarters of the revelation by Dr. Willis that no explosive was involved. The preparation of a proper investigation file, the proffering of same to the Crime & Security Branch in Headquarters and the intellectual rigour involved in the analysis of available evidence could have stopped this chain of events in its tracks. Regrettably, as we shall see, it was not simply allowed to continue, but that continuance was encouraged.

The Bridgend Incident (the Third 'Find' of Paragraph (e))

- 6.115. On the 7th of December 1993 Superintendent John P. O'Connor ordered Detective Sergeant Sreenan not to interfere with Ms. McGlinchey. The Tribunal is satisfied that the direction of the Superintendent was that no-one was to interfere with the relationship between Ms. McGlinchey, as an informer, and her handler. Any direction to the effect that the law should not be upheld was not given in general terms by the divisional officer. For some reason, however, a misinterpretation of this order was passed down to the Detective Branch in Donegal. The Tribunal draws no inference from this.
- 6.116. Early in the New Year, on the 11th of January 1994, one of the most extraordinary events in this ongoing saga occurred. It was first reported to Headquarters through two telexes from the communications section in Letterkenny to the Assistant Commissioner at the Crime & Security Branch in Garda Headquarters. These were both sent on the 12th of January 1994, the first

³³⁶ Transcript, Day 146, pages 108-109.

at 09.00 hours and the second at 15.47 hours. The relevant portions of both are quoted below.³³⁷

First Telex

At 9.50 p.m. on the 11.1.1994 Gardaí at Burnfoot Garda Station received an anonymous call from a male caller stating that two youths were acting suspiciously in the vicinity of the roundabout at Bridgend, Burnfoot sub-district. Gardaí from Burnfoot who were performing a [vehicle checkpoint] near the border on the main Buncrana to Derry road and approximately a quarter of a mile away from the scene went there immediately. They were accompanied by Detective Branch members from Buncrana. Following a search of the area the Gardaí located 15 plastic bags contained in 3 holdalls hidden in a timber pallet at the side of a business premises in Bridgend. The plastic bags contained a white substance believed to be a mixture of fertilizer and castor sugar. Each bag contained approximately 5 lbs. of substance, (75 lbs. in total). The find was removed to Burnfoot Garda Station and the scene is preserved until tomorrow when it will be technically examined. The [army explosives] officer will also examine the find. Enquiries are continuing and further developments will be reported.

Second Telex

Further to telex message [above], I am to report that an [army explosive] officer visited the scene this morning. He examined the find and stated that the substances were “ammonium nitrate” consisting of 42.5 kilos of fertilizer and 12 kilos of icing sugar. The [scenes of crime] examiner took possession of samples of the find and the bags. Same will be transmitted to Headquarters in course. The scene was also examined by the [scenes of crime] officer. No arrests were made. Enquiries are continuing.

- 6.117. The facts stated in the above telexes are at odds with some of the evidence presented to the Tribunal. In short form, there were no enquiries conducted in relation to this find of explosives; the scene was not preserved for the purposes of an investigation which the phrase “further enquiries” implies; and the allegedly anonymous call about two youths acting suspiciously was in fact a subterfuge put up by senior members of An Garda Síochána. Whereas the last fact might be justified, if the true situation were later notified to Headquarters, no evidence has been presented to the Tribunal that the Crime & Security Section of Garda Headquarters were given any real information on this matter.
- 6.118. There were four people who knew about this incident from the early stages. These were Detective Garda Noel McMahon and Detective Inspector Kevin

³³⁷ See Tribunal Documents, pages 1251-71 and 1251-72.

Lennon, who, on the one hand might be regarded as the handler and supervisor of Adrienne McGlinchey and on the other as the authors of this operation, Adrienne McGlinchey herself as the transporter of the homemade explosives and Detective Superintendent Denis Fitzpatrick. To this one might add Yvonne Devine who was certainly present but who may not have played an active role in planning the event. It would also appear that shortly after Detective Superintendent Denis Fitzpatrick was informed by Kevin Lennon as to what was to take place in the Burnfoot area of Donegal, Superintendent John P. O'Connor was also informed.

- 6.119. It is useful to quote the evidence of Denis Fitzpatrick at this point as to the events of the 11th of January 1994:

Sometime early in the morning, when I mean early in the morning, after 9 a.m., I was contacted by the RUC Border Superintendent and I was told of a [homemade explosives] find in Derry, in a wheelie bin in Moreen Avenue in Derry ... We had a discussion about the consequence or impact of that find. Later on that day ... sometime I think around 4 o'clock, Superintendent Lennon came to my office and told me that he had information from Adrienne McGlinchey that explosive mix was to be taken from Bunrana to Derry on that evening. He told me how this was going to be dealt with ... he told me that the plan "is already in place". ... A Garda checkpoint. Ms. McGlinchey [was to] take the explosive in a taxi. It was not going into Derry. The guards were going to take possession of it. The checkpoint was going to be in place on the Derry side of the Bridgend roundabout. Ms. McGlinchey was going to come to the roundabout with the mix, at the roundabout she would go around the roundabout to the exit back from Bunrana, where there is a gateway and she'd deposit the mix there ... the first thing that came to mind is that the IRA were desperate, obviously, to do something in Derry, and was this a replacement for what was seized that morning in Derry.³³⁸

- 6.120. Detective Superintendent Fitzpatrick did not speak to Detective Garda McMahon prior to this incident. Detective Garda McMahon gave evidence as to this matter in the following terms:

I received a telephone call from Ms. McGlinchey to say that she had been directed to leave bags up at Moyne's, McCallion's, it's all the one area ... in Bridgend, that she understood were going to be picked up and transported to Derry. She gave me details on a

³³⁸ Transcript, Day 106, pages 16-18.

*promise that she wouldn't be arrested at the scene or prosecuted. I gave her this word myself so as to get the bags and I told her that this was my word, that if she stuck to the information that we would, I would inform my authorities and let them consider what action we were going to take but that she keep her part of the bargain. She informed me that she would like someone's higher word than mine and I told her I made arrangements for her to contact me later and I would try and confirm this. I informed Inspector Lennon of the intentions and there was a meeting ... I would have taken the phone call at the house or I did take the phone call at the house; it was the only contact number I had. I informed [Detective Inspector Lennon] that Ms. McGlinchey rang me to say that she had been asked to drop the – to make a delivery of fertilizer to Moyne's, McCallion's Yard at Bridgend that evening. And that she was prepared to do it and inform us ... Of – she had informed me of the location. She wanted to – in order to go ahead and carry it out she wanted a promise that she would be ok and not arrested and I think not prosecuted ... This was, the information as I can recall it, this was the stuff that she was crushing in the flat with the coffee grinder ... The only purpose that she could give me was that it was further going to be picked up at some stage and conveyed to Derry ... I don't think she knew when. I have no recollection of when it was going to be picked up.*³³⁹

- 6.121. Detective Garda McMahon added that he telephoned Detective Inspector Lennon, thereby initiating a meeting of senior personnel including Superintendent John P. O'Connor and Detective Superintendent Fitzpatrick. These three planned the operation. On going on duty at 21.00 hours, Detective Garda McMahon was given a briefing about the proposed operation by Superintendent O'Connor. Also present were Detective Gardaí Walsh, O'Keeffe and Kelly. In the aftermath of this meeting he claims to have received an assurance from Detective Superintendent Fitzpatrick that Adrienne McGlinchey was not to be arrested. This is denied by Detective Superintendent Fitzpatrick.
- 6.122. The account of Detective Inspector Lennon was given by him in evidence before the Tribunal in the following way:

Very simply ... this: I got a telephone call from Detective Garda McMahon in relation to – at about, I'd say it was half four or 5 o'clock on the evening of the 11th of January 1994. He said that Ms. McGlinchey had been tasked by the IRA to bring materials to

³³⁹ Transcript, Day 134, pages 105-107.

Derry for the purposes of creating an attack on the Strand Road police station. That it was to happen that evening between 8 and 9 o'clock, and that it was going by taxi from Bunrana, and that he didn't know what amount of materials were going in there. And I went to – Superintendent Fitzpatrick was not in his office at the time. I went to Chief Superintendent Ginty and I discussed the matter with him in terms of Ms. McGlinchey conveying it, and we had a discussion about it and how we would deal with it. He told me to put up a checkpoint and to frustrate the operation at Bridgend. I then met Detective Superintendent Fitzpatrick back at his office in Letterkenny and we decided we'd go to Bunrana after tea, when we have our tea, to the Superintendent John O'Connor, whom I rang and then I made arrangements to meet. And I told Chief Superintendent Fitzpatrick the story I had been told. And at about half seven that evening we went to Bunrana where we met Superintendent O'Connor, and I told him the story as I was told it and the suggestion made by Chief Superintendent ... Ginty, that we put the checkpoint up from the roundabout. Then it went on to and fro about suggestions as to how we would run the operation. And I made suggestions that we'd put a checkpoint there and that we would put men up at the border. Then we had another road we had to cover off, so we decided it would be best to put another car up there. That was the Detective Branch car, in case they get away from us. ... Superintendent Fitzpatrick, who was then the Detective Superintendent, he agreed that he'd walk along the road, and if he saw this happening or anything happening he would be able to pass on a message to the other cars. That operation was put in place. And Chief Superintendent Fitzpatrick was there when he saw the two ladies arrive in the taxi and materials were dropped off. ... And I sat in my car, down the road further. Chief Superintendent Fitzpatrick joined me. He went down to a phone box at Burnfoot village. He made a telephone call to the Garda Station. Anonymously. And we then went ... And we waited ... About half an hour or three-quarters of an hour, whereby he was waiting for a phone call on his mobile to call him to the scene or to call us to the scene ... He got a phone call. And I thought we went to the Garda station ... But now the evidence is that we all went back to the scene, and I can't dispute that. But I know I was in the Garda station later that night. I thought it was directly to the Garda

*station we went, but I accept what the others are saying. I wasn't organising it, no ... Well, I made suggestions for the organisation of it ... I made suggestions ... In terms of the strategies that should be carried out. Now, those strategies could be rejected by senior management or they could be accepted by senior management.*³⁴⁰

- 6.123. In his evidence, Detective Superintendent Fitzpatrick indicated that the initial plan was that Adrienne McGlinchey was going to go straight through from Donegal into the city of Londonderry but that this was frustrated by the Garda plan.³⁴¹ Presumably, this was to occur due to her sighting the checkpoint and deciding not to go and be searched by Gardai while in possession of explosives.
- 6.124. Adrienne McGlinchey's account is that Kevin Lennon and Noel McMahon had taken her up to the McMahon household in Buncrana in order to celebrate the find at Ardchicken. This get-together happened, according to her, in the days after Christmas.³⁴² It was probably early January 1994.³⁴³ She claims to have been told by Detective Garda McMahon, after the party, that Kevin Lennon had already contacted Denis Fitzpatrick, and that arrangements had already been put in place for yet another drop of explosives. This time, it was not simply a question of concealing them in an unlikely location, but of driving straight up to a place where the Detective Superintendent was going to appear "as a drunk man wearing a woolly cap".³⁴⁴ Therefore, homemade explosive was to be put into holdall bags. There was no question of taking it across the border but, instead, the instruction was to drop it in a pre-arranged location.³⁴⁵ Yvonne Devine claims to have gone along with this charade in a completely innocent manner, but it is simply not credible that the strange behaviour of her companion could have been believed by her to have had something to do with innocently leaving a bag behind a wall in Bridgend.³⁴⁶ The evidence of Adrienne McGlinchey would indicate that she had no knowledge that a checkpoint was going to be set up. Indeed, the evidence was that on dropping the bags at a pre-arranged location, Yvonne Devine noticed a checkpoint approximately a quarter of a mile up the road and informed Adrienne McGlinchey of this in something of a panic. Yvonne Devine claims to have no recollection of this.
- 6.125. The Border Superintendent, it is common case, did appear at the location in some kind of a disguised identity. Whereas Yvonne Devine remembers hitching a lift, Adrienne McGlinchey's evidence was that a taxi was engaged. One of the extraordinary aspects of this event is that the Carty investigation team, using good police methods five years after the event had occurred, were able to track

³⁴⁰ Transcript, Day 146, Q.185-188.

³⁴¹ Transcript, Day 106, page 70 under the references.

³⁴² Transcript, Day 12, page 160.

³⁴³ See Transcript, Day 146, pages 178-179 and Day 134, page 98.

³⁴⁴ Transcript, Day 12, page 163.

³⁴⁵ Transcript, Day 12, numerous references.

³⁴⁶ Transcript, Day 20, pages 81-82.

down and obtain a statement from the taxi man. The notion that terrorist materials would be transported through casually hiring a taxi is one of the building blocks laid to the foundation of incredibility that surrounds this entire event.³⁴⁷ Adrienne McGlinchey and Yvonne Devine simply drove up to the roundabout at Bridgend, got out of the taxi and deposited whatever they were carrying at a location that was pre-arranged by Detective Garda McMahon. There has been some suggestion in the evidence of Adrienne McGlinchey that some of this material was deposited during the previous day or two but the Tribunal is not content to act on that evidence.

- 6.126. Out of a sense of either amusement at the subsequent Garda operation, or out of a desire to distance themselves, Adrienne McGlinchey claims that she and her companion then retired to a nearby café where they stayed until the Garda operation concluded. Yvonne Devine claimed in evidence that they returned to Letterkenny as part of their night's activities. The Tribunal prefers the evidence of Adrienne McGlinchey. Surprisingly, the Garda operation finished within a sufficient time for them to leave on that evening and to obtain a lift by thumbing down a car. She did not see the scene being subject to any form of preservation, as that term is commonly understood. As has been noted, the first telex to Garda Headquarters made such a claim. However, the report on the matter by Sergeant Michael Brennan, dated the 14th of July 1994, merely indicates that "a follow-up search was carried out on the morning of 12/1/'94" to negative effect and that the substances were photographed in location and that a scenes of crime examiner came on the scene. Given that this is put as occurring at 08.00 hours on the morning of the 12th of January 1994 the clear implication is that the scene had been preserved overnight.³⁴⁸ This is not correct.
- 6.127. Regrettably, this is not the only obvious failure in relation to this incident. The "anonymous telephone call", referred to above, to the Garda station was in fact made by the Border Superintendent. The unusual nature of the operation continued in that an order was given by the senior personnel present, who included Detective Inspector Lennon, Detective Superintendent Fitzpatrick and Superintendent John P. O'Connor, to the Garda personnel manning the checkpoint, and to others, that they should move into the area and conduct a search. They were simply told "to go down and to check out the suspicious activity".³⁴⁹ Garda Terence McMahon, with other Gardaí, conducted a search on the premises of McCallion's Tiles. They were not told what they were looking for and eventually came across three holdall bags.³⁵⁰ The Gardaí were not told that explosives were involved.

³⁴⁷ Transcript, Day 12, page 170; Day 20, page 85; Day 97, page 114; Day 87, page 114.

³⁴⁸ Tribunal Documents, pages 1251-43, 44.

³⁴⁹ Transcript, Day 78, page 123.

³⁵⁰ Transcript, Day 78, page 124.

6.128. Surprisingly, notwithstanding the risk of a booby trap, particularly having regard to the fact that senior officers claimed to have believed that this was at least the components of a bomb destined to cause destruction in the city of Derry, no warning was given against booby trapping. Therefore, Garda McMahon opened the holdall bags and found that they contained what seems, again, to have been handy sized freezer bags in clear plastic. He was not told not to touch them and was not warned against contaminating the scene in any other way.³⁵¹ The senior officers mentioned then came on the scene and directed operations to the exclusion of members of Detective Branch from Buncrana.³⁵² Basically, the material in these bags was then taken without any scene preservation or examination back to Buncrana Garda Station. There is nothing to suggest that the scene was treated as a scene of crime in the ordinary sense, in order to gain from it any evidence that might be of potential use in an investigation or prosecution. Superintendent Tadhg Foley was particularly scathing in his criticism of the manner in which the Bridgend 'find' was dealt with:

...I am satisfied that no evidence was found by me which shows that a coordinated Garda investigation was carried out. Senior Gardaí present at the scene permitted the removal of the holdall bags without any technical examination being carried out, which showed scant regard for the safety of the members who did remove the find. There is no evidence to confirm that a coordinated cross-border policing operation was considered, accepting the fact that the materials were to be conveyed straight to Derry. A pre-arranged Garda checkpoint on the Derry side of the drop location is mysterious to me; if there were people coming from Derry to collect the stuff, why would you have a Garda checkpoint, to meet them on the way out ... I think the main priority of the senior Gardaí present at the scene was immediately to declare a find and which in my view showed scant regard for your informant. If your informant tells you there is something there and you go and find it immediately you are showing your – you are pointing the finger at your informant. As well as that, I felt that if you had knowledge of a drop, that it was an opportunity to, again, I am talking about covert surveillance, whereby if it was to be dropped at a certain location, all you need is a few people looking to see who is going to collect it and then let them away from the scene and you then ... wouldn't be endangering your informant and it was an ideal opportunity for that really.³⁵³

³⁵¹ Transcript, Day 78, pages 124-125. See also Day 73, page 109.

³⁵² Transcript, Day 73, page 111.

³⁵³ Transcript, Day 97, pages 112-113.

- 6.129. As will be recalled, the practice of bringing any explosive substance back to a Garda station was the subject of an express prohibition from Garda Headquarters due to the danger which it represented. Yet here, as well as in the instance of the find at The Crescent on the 14th of March 1994, in the find at Oatfield on the 4th of June 1994 and at Covehill on the 13th of June 1994, the explosive material was brought directly back to either Letterkenny or Buncrana Garda Stations. The scenes of crime examiner for the Buncrana district was Sergeant Michael Murray. He was not informed as to this find until he came on duty on the following morning. He came to the Garda station to find that Commandant T.A. White was already there and was in the process of removing the entirety of the substance for the purpose of disposal. He stopped him and took a sample. The bags were not fingerprinted and it would appear, by this stage, that they had been treated inappropriately. They should have been treated like future exhibits in a criminal trial. The Tribunal is satisfied that there was no genuine attempt to investigate this matter and that, furthermore, there was no attempt to debrief Ms. McGlinchey as to who she was supposed to be involved with or as to the destination for the alleged explosives, the plan for same, or the personnel who might later be dealing with it.³⁵⁴
- 6.130. Another mysterious aspect of this matter is that two of the most senior and committed detectives in the Buncrana division, John O’Keeffe and Danny Kelly, who happened to be the only detective members on duty that night, and who were heavily armed, were deliberately “put offside”. Detective Garda John O’Keeffe gave the following account:

As I commenced duty ... at about 5 or 6 p.m. ... Detective Sergeant Walsh came into the room and told me that Superintendent O’Connor wanted to speak to myself and Detective Garda Kelly ... He came into the room some few minutes after that. There is a front room in the Detective Branch office and there is a rear room and there is a little room off to the left. He ushered us in there and he spoke to us in a sort of a clandestine way or a quiet way, a hushed up way, as if somebody was listening. Eventually he told us that there was some operation out on the border, that we were to go to Manorstown Cross, we were the only operational Detective Branch Unit, armed, working in the district that night. We were to go to Manorstown Cross, which is a border crossing between Bridgend and Derry, and remain there until we got further instructions ... at the time I remarked that, to coin a phrase, I felt like a large schoolboy. I wasn’t given much information. I was a bit perturbed about the way I was told about it and myself and

³⁵⁴ See the criticisms of Chief Superintendent Brian Garvie of the RCMP at Transcript, Day 95, pages 34-40.

*Detective Garda Kelly were very experienced ... I expected to get more information, considering, as it turned out to be an IRA operation as such ... Normally you would be briefed by a superior officer for an operation and you would be told straight out ... and he would give you as much information as he could about the particular operation, for your own safety. This was very little information and it was just the method or the way he said it, just aroused my – you know, I felt, as I said, like a large schoolboy ... we just done what we were told, I hadn't experienced that before.*³⁵⁵

6.131. The reasoning as to why this disposal of his services had taken place is regarded as reasonable by the Tribunal. Detective Garda O'Keeffe indicated that if he and his colleague had seen anyone acting suspiciously, or any person who was circulated, as Adrienne McGlinchey and Yvonne Devine were at that time, as being 'Provisional IRA' suspects or sympathisers, they would do their duty and pull them over.³⁵⁶ This, of course, would have ruined the carefully laid plans of the senior officers involved. Prior to the 'operation' at the roundabout at Bridgend taking place, Detective Inspector Lennon had briefed Detective Superintendent Fitzpatrick. They, in turn, went to the district officer, Superintendent John P. O'Connor. Detective Superintendent Fitzpatrick has given equivocal evidence as to whether the plan of which he was aware was to involve a drop on the Donegal side of the border, or was to involve a transit through to Co. Derry. The inconsistencies as to the evidence of Superintendent Lennon, in his role as the Detective Inspector at that time, are considered shortly. It would appear that both men knew that in the event that there was to be a transit through the Buncrana district the chosen route was to involve Bridgend. Superintendent O'Connor was briefed by both of these officers. Neither of them told him that the individual involved was Adrienne McGlinchey. Nor was he told that the person or persons involved in the operation was going to stop at Bridgend and deposit the explosive material there. He was told, however, that a taxi was to be used in the transit. Why he did not query the use of this unlikely vehicle is mystifying.

6.132. **The Tribunal is satisfied that in seeking the assistance of the Superintendent less than full information was proffered to him. It may be that he did not wish to know the full details of the operation but merely wished to assist Detective Branch. However, he was entitled to details of the operation, as it involved his men, in order to assess the risk involved and in order to be able to exercise his responsibility as the district officer as to what was the best way to preserve the peace and to prevent criminal activity. His failure to make enquiries put him in a position where he could**

³⁵⁵ Transcript, Day 73, pages 104-108.

³⁵⁶ Transcript, Day 73, page 115.

easily be duped. That is not how a Superintendent of An Garda Síochána should act.

- 6.133. The Tribunal is satisfied that the dominant personality in these discussions was Detective Inspector Lennon. As the person who had been present in Buncrana as an Inspector since March of 1992, and who had been a Detective Inspector since May of 1993 in Letterkenny, after a brief period in the same town as a uniformed Inspector, he was the person who could be expected to give guidance. Since, in this instance, as Chief Superintendent Ginty said many times in his evidence to the Tribunal, knowledge involves empowerment, his superior grasp of the situation allowed him to play the dominant role. He should have told Superintendent John P. O'Connor that there was only one expected border crossing. In the result, the request that the two armed members of Detective Branch available to him that night should go to a lonely border crossing at Manorstown Cross had the effect of weakening the Garda operation. The 'cloak and dagger' manner in which Superintendent John P. O'Connor sent away Detective Gardaí O'Keeffe and Kelly is suggestive of his own culpability in relation to this operation. However, the application of the principle of resolving doubt in favour of those accused of wrongdoing leads the Tribunal to the conclusion that it is possible that he was duped by Detective Inspector Lennon. He, in turn, manipulated the situation through the involvement of the Border Superintendent to add an air of gravity to this hoax operation.³⁵⁷
- 6.134. There is a considerable conflict in the evidence of Kevin Lennon as to what he believed the nature of the operation involving Adrienne McGlinchey and Yvonne Devine was. On the one hand, he had indicated to the Carty investigation team that the material was to be driven straight through from Co. Donegal into Co. Derry.³⁵⁸ This was later changed to a belief that the plan was to drop the material at the roundabout and for someone to come from the eastern side of the border and pick it up at the roundabout. When asked, in the course of a Tribunal interview by Mr. Michael Finn, as to how Adrienne McGlinchey could possibly have been aware of the roundabout, an answer was given that this had been discussed beforehand and that he had given directions through Detective Garda McMahon to warn her of the presence of a roundabout so that what on the one hand might be regarded as embarrassment or, more rationally, the ordinary process of the law, might be avoided. The Tribunal is satisfied that these changes of evidence are very suspicious.
- 6.135. The evidence of Chief Superintendent Brian Garvie of the Royal Canadian Mounted Police was particularly helpful. His view was that if there was to be an

³⁵⁷ Transcript, Day 119, pages 134-170 and 123-24.

³⁵⁸ Tribunal Documents, pages 1645, 1672.

action by a police agent, then there was no logical reason to discontinue such an operation in favour of that agent effectively dumping an explosive material, which was also potentially evidence of the commission of a crime if caught in the possession of another party, at the side of a road. A controlled delivery of the substance should have been considered whereby Ms. McGlinchey would have been allowed to go through to her destination while under surveillance. This could have yielded either arrests or further information on terrorist activity. There was sufficient time for the senior officers to consider cross-border liaison in that regard. Instead, the evidence to the Tribunal was that the RUC were informed by Detective Superintendent Fitzpatrick that materials were in transit and that the Gardaí “were going to deal with it and take it out”³⁵⁹. Detective Superintendent Derek Browne of the RUC was left to go to the Culmore checkpoint despite the fact that the Gardaí knew that the route was going to take Adrienne McGlinchey to, or through, the Bridgend checkpoint. An opportunity was thereby wasted. The failure to use surveillance was, Chief Superintendent Garvie agrees with Detective Superintendent Foley, also a wasted opportunity. The obvious criticisms as to the lack of investigation, the lack of ordinary forensic procedures and the failure to debrief Ms. McGlinchey were also made by him.³⁶⁰

6.136. Again, the Tribunal wishes to reiterate that it is not judging these facts in isolation from the pattern which was established in the previous chapter, and in the chapters which follow from this one. In the aftermath of this extraordinary operation, the Tribunal is satisfied that Detective Inspector Lennon initiated what followed. He went to the Border Superintendent and indicated that “the operation had gone very smoothly and [that the Gardaí] had prevented a major attack on some target in Northern Ireland”.³⁶¹ Inspired by that, Detective Superintendent Fitzpatrick met with Detective Superintendent Derek Browne of the RUC, GC, in order to show off the good police work on the western side of the border. Detective Superintendent Browne was later brought to the roundabout to receive a guided tour.³⁶² In the light of the justifiable RUC disquiet over the Strabane incident of the 11th of September 1993, it is probable that this incident was designed to show off the high level of police efficiency vis-à-vis terrorist operations on this side of the border.

6.137. It has always been unclear as to whether Detective Inspector Lennon had attended at the scene of the ‘recovery’ of these materials. A contemporaneous note, made by a student Garda at the time, Terence McMahon, casts some light on this:

Tuesday 11/1/94 Bunnamayne, Bridgend. Premises of McCallion’s Tiles. At 9.50 p.m. anonymous caller reported that two youths had left bags at

³⁵⁹ Transcript, Day 106, page 18.

³⁶⁰ Transcript, Day 95. See the summary at pages 41-43.

³⁶¹ Transcript, Day 106, page 75.

³⁶² Transcript, Day 106, page 75.

above address and gone off. Premises searched. In back yard through gate. Under first pallet on the right 3 holdall bags containing 15 bags of suspected homemade explosives. Bags found by me at 10.10 p.m. Scene preserved until Superintendent, D/Superintendent, D/Inspector consented to removal of bags to Burnfoot station. Conveyed bags with B. McEntee and Sergeant Brennan. Bags placed in strong room in station.³⁶³

- 6.138. The evidence of Detective Superintendent Foley has been that where a Detective Inspector comes to the scene of a serious crime, he thereby takes charge of operations.³⁶⁴ The Tribunal is satisfied that this operation was the creation of Kevin Lennon. His overall culpability can be seen not only in the light of the facts detailed in this chapter but in the context of all the facts which are detailed throughout this entire report.

Analysis of the Bridgend Incident

- 6.139. The Tribunal is satisfied that the thrust of the statements made by Superintendent Lennon, prior to any intense questioning of him taking place, was to the effect that the materials were to be taken by Adrienne McGlinchey from Bunrana and brought through to Derry, with no stop at Bridgend. Notwithstanding the fact that his diary entries indicate that there was a new location for grinding fertiliser in Bunrana, he claims not to have known that the coffee grinding machines were working overtime in the manufacture of explosives in her flat.³⁶⁵ The Tribunal rejects this. Detective Garda McMahon's statements on the matter, while contradictory, tend towards the view that there was to be a drop-off of materials at the roundabout. The entire scenario is bizarre. Adrienne McGlinchey did not have a mobile phone. Nor did she have a telephone in her flat. The closest telephone to the flat was in fact the public telephone box across the road from the Garda station. The analysis of the events of the 14th of March 1994 will illustrate the importance of this public telephone. This will be found in the next chapter.
- 6.140. Detective Garda McMahon and Superintendent Lennon claimed in evidence, insofar as their testimony coincides, that Adrienne McGlinchey was willing to bring materials from her flat/an undisclosed location, depending on whom, if anyone, one believes, either through to Derry or to the roundabout to the west of the Northern Ireland border. What is common between these accounts is a possibility that she might be arrested. However, she was not willing to go through with the transport for the purpose of interception unless she could be assured that she was

³⁶³ Tribunal Documents, page 4654.

³⁶⁴ Transcript, Day 97, pages 116-117.

³⁶⁵ Tribunal Documents, page 3602 where Detective Inspector Lennon notes: new place for mixing in Bunrana ... Long-term dump to be put in flat – fireplace discovered so it will be concealed.

not going to be arrested. Detective Garda McMahon supposedly telephoned Detective Inspector Lennon, a consultation had to take place with more senior officers.

6.141. Both Detective Superintendent Fitzpatrick and Superintendent John P. O'Connor were negligent in their approach to this matter. They failed to ask ordinary and obvious questions. They failed to act as rational members of a police force. According to Detective Garda McMahon, Adrienne McGlinchey would not risk being stopped by the Gardaí, presumably by moving along a pre-arranged route, without first being assured that there were no consequences for her. It was more than an hour after the first telephone call, from Detective Garda McMahon to Superintendent Lennon, that this assurance was forthcoming from Detective Superintendent Fitzpatrick. He claims not to have given that assurance but Detective Garda McMahon and Superintendent Lennon claim that he did. The reality is that any assurance that was given was forthcoming in circumstances where Detective Garda McMahon could not telephone Adrienne McGlinchey, and neither could Detective Inspector Lennon.

6.142. A truly extraordinary piece of evidence was given by Detective Garda McMahon to the effect that he may have telephoned his wife to ask her to pass on a message to his informer, should she ring, to the effect that she would not be arrested. In the alternative, he postulates the theory that she may have telephoned him at the Detective Branch in Buncrana: though he has no recollection of such a call.³⁶⁶ This bizarre sequence of evidence demonstrates conclusively to the Tribunal that Detective Garda McMahon was prepared to cobble together any story that might suit his purposes. The Tribunal is satisfied that there was no communication with Adrienne McGlinchey offering her the assurance of immunity from arrest and prosecution.

6.143. Two further documents exist which call into question the legitimacy of this Bridgend operation. In Detective Inspector Lennon's diary of 3rd – 4th of February 1994, he notes:

Sreenan blocked the tout and alleged the three bags were left there for me. Told her I told him all about it.³⁶⁷

6.144. Superintendent Lennon explained this entry by suggesting that it was a record of information received from either Detective Garda McMahon or Ms. McGlinchey to the effect that she had been approached by Detective Sergeant Sreenan. He was supposed to have accused her of leaving the material at Bridgend at the behest of Detective Inspector Lennon. In

³⁶⁶ Transcript, Day 134, page 137.

³⁶⁷ Tribunal Documents, page 3597.

evidence, Superintendent Lennon gave the following evidence on this matter:

I think it was Noel McMahon ... It was him or McGlinchey [who gave me that information] but, in any event, that's what I was told and I had never discussed it with Detective Sergeant Sreenan and I was of the view that he was having a go at me, as it were, and I wrote it down.³⁶⁸

- 6.145. The second suspicious document referable to the aftermath of the Bridgend operation also comes from Superintendent Lennon's private documents found later in Letterkenny Garda Station. It reads:

New place for mixing in Buncrana
... Set up Ciara about gear moving to Bridgend. Traced her there and followed her there with the story
... Long-term dump to be put in flat – fireplace discovered so it will be concealed
... (Named person) – from (named place) made up devices for them.³⁶⁹

- 6.146. Superintendent Lennon's explanation for the phrase about setting up Ciara was as follows:

That's the message that I got from Noel McMahon that Ciara McLaughlin was asking Ms. McGlinchey about what happened at Bridgend and she told her a tall tale to see would she go back to the Garda Station and inform on her.³⁷⁰

Superintendent Lennon claimed that he had never discussed the Bridgend operation with Detective Sergeant Sreenan and that, in the aftermath of the receipt of the information in relation to what Detective Sergeant Sreenan had alleged against him to Ms. McGlinchey, he decided not to confront Detective Sergeant Sreenan on the matter. The Tribunal finds this reaction on the part of the then Detective Inspector completely implausible. It is explicable only if he had a guilty conscience in relation to the Bridgend operation.

- 6.147. The Tribunal is satisfied that Superintendent Lennon's explanation for these documents, which involves a recording of genuine information, is untrue.³⁷¹

³⁶⁸ Transcript, Day 147, page 39.

³⁶⁹ Tribunal Documents, page 3602.

³⁷⁰ Transcript, Day 146, page 116.

³⁷¹ See Transcript, Day 164, page 188 on.

- 6.148. As there is no credible evidence to suggest that Adrienne McGlinchey was ever told about the ‘frustration operation’ it would be incredible that she would proceed to carry explosives towards the border knowing that she might be arrested by responsible members of An Garda Síochána serving in Donegal. If there was to be an interception, and therefore an arrest and possible prosecution, Adrienne McGlinchey would have wanted an assurance that criminal sanctions would not be taken against her for the possession of explosives. That assurance was not communicated to her, at least certainly not in the manner indicated by Detective Garda McMahon.
- 6.149. The Tribunal concludes that the movement of ground up fertiliser from Ms. McGlinchey’s flat to the roundabout at Bridgend was an operation set up by Detective Garda McMahon and Superintendent Lennon for the purpose of self-aggrandisement. The RUC were later brought in for the purpose of Detective Inspector Lennon showing off his policing skills. The Tribunal concludes that there was a conspiracy between Detective Inspector Lennon, Detective Garda McMahon, Adrienne McGlinchey and Yvonne Devine to waste Garda time.

Why?

- 6.150. A burning issue which has concerned the Tribunal is as to the motivation for such an extraordinary and elaborate performance by Detective Garda McMahon and Superintendent Lennon. An inference could arise, on the evidence as accepted by the Tribunal, that Superintendent John P. O’Connor and Chief Superintendent Denis Fitzpatrick were involved in corruption. The Tribunal prefers not to draw that inference. The latter two officers were negligent to an extraordinary degree.
- 6.151. Within a matter of days following the ‘discovery’ of ‘explosive materials’ at the Bridgend roundabout, Detective Inspector Derek Browne of the RUC had been brought on a guided tour of the area. The Tribunal is also satisfied, from the evidence of Superintendent John P. O’Connor, that considerable kudos attached to all those involved in the operation. The purpose was to impress the police force in Co. Derry as to the sterling work being carried out by members of An Garda Síochána against terrorism in Co. Donegal. The Tribunal is also satisfied, from the evidence of Superintendent John P. O’Connor, that considerable kudos attached to all those involved in the operation. It was a matter of pride to them that a major terrorist threat had been removed. In terms of personal pride, in the bad sense, and in terms of potential prospects for advancement within the organisation, the manner in which this operation was regarded within

An Garda Síochána can be seen from the following series of questions and answers between counsel for the Tribunal and Superintendent O'Connor:

Q. *Can I pose a question based on the ladder scheme? If solving a murder is 10, in other words if the highest mark one can get is 10 for solving a murder, if say solving a rape would be 9 and if something to do with, for instance, just detecting a pub opening very late in breach of licensing hours is 1, where on the scale of things would this detection fit in?*

A. *Oh, the preservation of life and anything to prevent it, I would put it at the top of the scale.*

Q. *So it's a 10?*

A. *Yes. I would personally get great satisfaction knowing we prevented destruction of property, but preservation of life would be my ultimate commitment to society and the job, of my oath of office, so I saw this as fitting into that category.*

Q. *Right. Would Headquarters similarly regard it, is that a reasonable police view, would Headquarters be interested in this?*

A. *Absolutely, yes.*

Q. *The fact that Donegal Gardaí had done such good work in an intelligence-driven operation to the preservation of life?*

A. *Yes. Yes, My Lord, yes.*

Q. *It shows you are all doing your job and that there are ... [interjection]?*

A. *It shows that we are working in cooperation and obviously at that time I believed this to be, as I said, it was an intelligence-driven operation, somebody had sourced this information and we in turn accepted it jointly in cooperation with the Detective Branch and all these people.*

Q. *And it shows that there are intelligent people in the police up in Donegal, who are able to get down to their work and achieve results?*

A. *That's right, My Lord. Correct, My Lord, yes.*

- Q. *And that's to the benefit of everybody in Donegal working within An Garda Síochána?*
- A. *Yes, and to society, yes.*
- Q. *And particularly to the benefit of those who were actually involved?*
- A. *Oh, yes, that would be correct to say, My Lord. People who would be involved in that type of area would be well thought of obviously because of the results.*
- Q. *Is that important? I mean, in terms of being in a force, whether uniformed or detective, for men or women to look over and say, well that's Peter O'Neill or Tom Jones or whatever, he's the man who cracked that particularly important crime?*
- A. *Yes, My Lord, recognition for good work, yes. Because we are very quick and we would always point out to people if we found they were at fault and weren't doing things right, part of our duty would be to say, listen, you are wrong there and improve, but recognition for work and for dedication to duty certainly would be seen as a human condition and it would be appreciated within the job, yes ... yes. And it would be a part of the morale-boosting ... yes, the teamwork.³⁷²*

The Next Event

- 6.152. Perhaps the most pivotal event in terms of establishing culpability as to the finds in Donegal is the so-called 'search' and the so-called 'arrests', of Yvonne Devine and Adrienne McGlinchey on the 14th of March 1994. This is the topic to which the Tribunal now turns in the next chapter.

³⁷² Transcript, Day 120, Q.71-81.

CHAPTER 7

14th of MARCH 1994 ‘SEARCH’ (the FOURTH ‘FIND’ of PARAGRAPH (e))

Introduction

7.01. The search of the flat of Adrienne McGlinchey and Yvonne Devine at The Crescent, Buncrana on the 14th of March 1994, and the finding there of materials by Mr. John Mackey and Garda Thomas Rattigan, and the later search and findings made by Detective Garda Noel McMahon and Detective Sergeant Des Walsh and Sergeant Michael Murray, are specifically part of the Tribunal’s Terms of Reference. The purpose of the Tribunal was to establish, if possible, what happened on the 14th of March: what was found; what was done with what was found; and what investigations followed the find. The procedure that ought to be followed upon the making of a discovery of illicit materials establishes the template against which the actions or inactions of members of An Garda Síochána can be assessed. The scene of a find such as this, which was a crime scene, requires a professional approach on the part of those investigating that scene. Therefore, one expects a sequence of procedures to be applied. These include the immediate preservation of the scene, open disclosure between and to colleagues of the making of such a find, compliance with the law in relation to the exercise of powers of search and seizure, accurate and honest transmission of information to superiors, a full and proper investigation of the event, the making and maintenance of accurate notes and records of one’s involvement in these events, and the preservation of these records.

Documents

7.02. The starting point for the Tribunal’s inquiry was the documentary evidence which ought to have been available to it. Unfortunately, in respect of this case there is no investigation file. There are no statements from members of An Garda Síochána taken at the time of this search. The search warrant in respect of the premises is not available. There are no notes available from members of An Garda Síochána who conducted the search. Further, one of the few official documents which exists in relation to this search is said not to be an accurate representation of what was found on the premises.

7.03. On the 14th of March 1994 the acting district officer at Buncrana Garda station sent a report to the Chief Superintendent at Letterkenny “Re a find of suspected mixture of homemade explosives at The Crescent, Buncrana, Co. Donegal ...”. This report concerned a search of the flat occupied by Adrienne McGlinchey and Yvonne Devine namely, Flat No. 2, 5 The Crescent, Buncrana. Their landlord was

a Mr. John Mackey of Clonmany, Co. Donegal. A facsimile of this report was dispatched to Letterkenny and received there at approximately 00.08 hours on the 15th of March 1994. The text of the report was as follows:

At 7.30pm on 14th March, 1994 as a result of confidential information received D/Branch and uniform personnel from Buncrana conducted a search of an occupied flat at The Crescent, Buncrana by virtue of warrant issued under Section 29 O.A.S.A. (Offences against the State Act) 1939 as amended.

In the course of searching one of the bedrooms in the flat Gardaí located some plastic bags concealed in a wardrobe. The following items were located:-

1. 37 x 5lbs plastic bags containing a white substance believed to be a mixture of fertiliser and icing sugar.
2. 2 x 1cwt of maxisward fertiliser.
3. 5 x 5lbs plastic bags of granulated fertiliser.
4. 5 x 1lb plastic bags of icing sugar.
5. Some welding rods and angle iron.

The find was removed to Buncrana Garda Station for examination by EOD Officer. The scene was technically examined.

After termination of the search one of the occupants Adrienne McGlinchey D.O.B. 12/6/71 was arrested under the provisions of Section 30 O.A.S.A. (Offences against the State Act) 1939 on suspicion of membership of an unlawful organisation.

Time and place of arrest – 9.10pm at The Crescent, Buncrana, Co. Donegal.

Arresting Member – D/Garda N. McMahon, Buncrana.

Presently detained at Burnfoot Garda Station.

At 11.04pm on the 14/3/94 the second occupant of the flat Miss Yvonne Devine D.O.B. 11/3/75 was arrested under the provisions of Section 30 O.A.S.A. (Offences against the State Act) 1939 on suspicion of membership of an unlawful organisation.

Time and place of arrest – 11.04pm at Ballydoreen, Burnfoot, Co. Donegal.

Arresting Member – Garda C. Galligan, Burnfoot.

Presently detained at Buncrana Garda Station.

Both persons have given their addresses as No. 2 The Crescent, Buncrana, Co. Donegal. The premises are owned by a John Mackey, Clonmany, Co. Donegal.

Enquiries are continuing and developments will be reported.

- 7.04. This report was signed by Inspector Peter McMorrow who was the acting district officer at Buncrana Station at the time.
- 7.05. A further record of this find is contained in a telex which was sent from the Donegal division Communications Centre in Letterkenny to the Superintendent in charge of the Communications Centre at Dublin Castle, the Assistant Commissioner Crime & Security, and the Garda Press Office in Dublin, in the early hours of the morning of the 15th of March 1994. This message is in almost identical terms to the report furnished by Inspector McMorrow.
- 7.06. The efforts of the Tribunal to establish the facts as to how and why the search and arrests referred to above were executed and what was found during the course of the search have been hampered by a failure on the part of some members of An Garda Síochána involved to tell the truth about their involvement in statements made prior to the Tribunal and in the course of evidence given to the Tribunal, and by the absence of documents and records relevant to these events, which would have assisted the inquiry.

Command in Buncrana

- 7.07. On the 14th of March 1994 Superintendent J.P. O'Connor would normally have been the district officer in charge of the Buncrana district. However, during his absence on that date Inspector McMorrow was the acting district officer. At 21.00 hours on the evening of the 14th of March 1994 Inspector McMorrow went to Buncrana Station because there were files there which he wished to review for Carndonagh District Court the following morning. When he arrived at the station it was brought to his attention that a search had been conducted in a flat at The Crescent, Buncrana and that one person had been arrested. He does not know why he was not informed of the search prior to his coming back to the station:

I should have been contacted, I think immediately that anything arose there because of my capacity as acting district officer I was surprised when I went down to the station and found a search being conducted, persons were in custody and things were happening as I walked in. I was quite surprised. I had to go then and make enquiries to see what exactly happened ... I was perturbed by this.

- 7.08. There has been no contradiction of Inspector McMorrow’s evidence that he was not so informed and no suggestion has been made that it was intended to inform him of the events of the 14th of March 1994. No satisfactory explanation has been offered by any of those involved in these events as to why Inspector McMorrow was not so informed until he unexpectedly arrived at the station at 21.00 hours that evening. No member of An Garda Síochána has admitted to furnishing the Inspector with any information.
- 7.09. It is difficult to understand why Inspector McMorrow was not kept informed of events. The answer to this may lie in the somewhat unusual series of events which occurred during the course of that day which will be examined chronologically. Before doing so, it is important to note that evidence adduced before the Tribunal indicates that the facts furnished to Inspector McMorrow in relation to the search of the flat and which, he maintains, he accurately stated in his report to Letterkenny, were not in accordance with the facts as related in evidence by Mr. John Mackey and a Garda Thomas Rattigan concerning what they found in the flat during the course of a visit earlier on the 14th. Their visit led to the search of the flat: supposedly under a warrant issued pursuant to Section 29 of the Offences against the State Act, 1939, later that day. In addition, the evidence also suggests that the facts furnished to Inspector McMorrow and reported by him to the Chief Superintendent at Letterkenny and, ultimately, to Garda Headquarters, are seriously at variance with other accounts furnished by those who searched the premises later that day. How and why this should be are matters which the Tribunal sought to discover.
- 7.10. The answers to these questions are of assistance in determining the core question of whether the search carried out on the 14th of March 1994 was a legitimate Garda operation or not. This requires a consideration of the provenance of the materials found (whatever they were) on the premises and an examination of the evidence in order to ascertain whether they were genuinely materials related to subversive activities, materials unrelated to subversive activities which originated solely from the activities of Ms. Adrienne McGlinchey and/or Ms. Yvonne Devine, or materials unrelated to subversive activities which came to be on the premises as a result of Ms. McGlinchey’s association with members of An Garda Síochána. As with other elements of the Terms of Reference the answers to these questions also require an examination of the relationship between and the involvement of Adrienne McGlinchey, Detective Garda Noel McMahon and Inspector Kevin Lennon in the events surrounding this search.

The Padlock

- 7.11. Ms. McGlinchey and Ms. Devine planned to have a birthday party to celebrate

Ms. Devine’s birthday on the 11th of March 1994 to which they had invited a number of friends. Ms. McGlinchey stated that:

There was a lot of fertiliser in the flat, in my bedroom, and I hadn’t told Kevin Lennon or Noel McMahon about the party and a week before the party I met Kevin Lennon at his house, outside his home, with Noel McMahon. I decided I’d better tell him about the party for Yvonne’s birthday. He was very annoyed about the party and he tried to get me to put it off.

- 7.12. She goes on to state that Inspector Lennon wanted her to either put off the party or cancel it. Following some discussions with Inspector Lennon and Detective Garda McMahon Ms. McGlinchey states that it was decided that a padlock should be put on the door of her bedroom prior to the party, “so that nobody could get into the bedroom.” It was also decided that Detective Garda McMahon and Inspector Lennon would use the flat downstairs in order to monitor what went on at the party “and keep an eye on the stuff as well.” She said, “From my memory it was either Noel McMahon or Kevin Lennon that put the lock on the door and I remember Noel McMahon saying he would get a lock and they would put a padlock on it.” She further stated that they had a key with which they could gain entry to the flat and that it was either Detective Garda McMahon or Inspector Lennon who fixed the lock to the door whilst the two women were at work. She was given a key to the lock.³⁷³
- 7.13. Photographs furnished to the Tribunal of Ms. McGlinchey’s flat show the metal components of a lock affixed to the door of what was her bedroom, which could be secured by means of a padlock.³⁷⁴ In this regard, Ms. Yvonne Devine has given evidence to the effect that she and Ms. McGlinchey went to Wellworth’s in Derry prior to the party and bought a padlock for the door so that they could both put their personal belongings in Ms. McGlinchey’s bedroom. She said that she fixed the lock to the door with a knife because they had bought the wrong screwdriver for carrying out this work. She said that they needed a flathead screwdriver and therefore they used a knife for turning the screws. She stated that she had not given this type of detail in prior interviews with the Carty team and Mr. Finn and Chief Superintendent Garvie, the Tribunal’s investigators, but, having thought about it, her memory had improved.³⁷⁵ It was pointed out to her that the screws by means of which this lock was affixed to the bedroom door were not in fact flathead screws as evidenced by the photograph. Consequently, her evidence in this regard appears to the Tribunal to be untrue.
- 7.14. Inspector Lennon and Detective Garda Noel McMahon both deny any involvement in the purchase or affixation of this lock to the door. However, it is

³⁷³ Transcript, Day 13, pages 1-10.

³⁷⁴ Photographs 11 & 12, Book 37.

³⁷⁵ Transcript, Day 20, pages 88-93 and Day 21, pages 10-12.

common to the evidence of Adrienne McGlinchey and Yvonne Devine that the lock was affixed in or about the 11th of March 1994. If it was not affixed in the manner, and for the purpose, suggested by Ms. Devine one is left with the allegation made by Ms. McGlinchey in respect of the two Gardaí. It is difficult to understand why it was necessary to affix a padlock to Ms. McGlinchey's bedroom door if it was not to secure something within it. The Tribunal is satisfied on the balance of probabilities that a lock was obtained and affixed to the door in or about the 11th of March 1994 for the purpose of securing fertiliser within Ms. McGlinchey's bedroom.

- 7.15. It is fortified in this view by the fact that Mr. John Mackey, three days later, as will appear at a later stage of this section, discovered a bag of fertiliser in Ms. McGlinchey's bedroom. This view is also supported by Inspector McMorrow's report which refers to the fact that the plastic bags of fertiliser discovered in the flat were concealed in a wardrobe of a bedroom. The storage of fertiliser in one's bedroom is bizarre behaviour. To secure fertiliser in one's bedroom, in the context of the evidence available to the Tribunal, as to the use to which fertiliser can be put and the history of Ms. McGlinchey's involvement with members of An Garda Síochána, leads the Tribunal to the conclusion that it was in the bedroom for an illicit purpose. Since the Tribunal does not accept that Ms. McGlinchey was storing the fertiliser for the 'Provisional IRA' she was either doing so on her own behalf as part of some mischievous activity or because she was working with Detective Garda Noel McMahon and/or Inspector Kevin Lennon in the manner in which she has outlined.

Photographs

- 7.16. Photographs were produced to the Tribunal indicating the presence of a large amount of fertiliser in the McGlinchey/Devine flat sometime during 1993. The provenance of these photographs is unclear. Ms. McGlinchey gave evidence that she did not take them. They were found in the course of a search of Detective Garda McMahon's house by members of the Carty team in 1999.³⁷⁶ In the course of her evidence Ms. McGlinchey gave the following detail in respect of these photographs. Photograph No. 22 was of a hot press in the flat containing bags of ground down fertiliser. Photographs 24, 25, 26 and 28 were photographs of ground and unground fertiliser stored in bags in Ms. McGlinchey's bedroom. She thought the photographs appeared to have been taken in 1993.
- 7.17. Detective Garda McMahon's counsel suggested to her that the photographs were taken by her using a disposable camera given to her by Detective Garda McMahon which she then returned to him. Superintendent Lennon suggested to her that he had given her disposable cameras which she then returned to him.

³⁷⁶ Exhibit 274.

She had taken the photographs. He sent the cameras to Garda Headquarters in Dublin for the purpose of having the film developed. However, while Ms. McGlinchey accepted that she had received disposable cameras, on occasions, to photograph locations on behalf of Detective Garda Noel McMahon, she denied that Superintendent Lennon had given her any disposable cameras or that these photographs were taken by her using such disposable cameras. Whatever the manner in which these photographs were obtained, they clearly demonstrated that a very considerable quantity of fertiliser was present or stored in the flat. Most of the material shown in the photographs was situated in Ms. McGlinchey's bedroom. Further, any detective, on seeing those photographs, would have connected them to the bedroom of a lady. Any detective knowing about the ‘information’ from Ms. McGlinchey, set out elsewhere, that there was a “new place for mixing in Buncrana”, would have connected it to her. Kevin Lennon denied that he ever knew, prior to this search, that Adrienne McGlinchey was preparing ‘bombs’ in her flat. This was untrue.

Events of the 14th of March 1994

- 7.18. On the morning of the 14th of March 1994 Ms. Vivienne Eccles, the tenant of Flat No. 1 which is on the ground floor below that of Ms. McGlinchey and Ms. Devine (Flat No. 2) telephoned Mr. Mackey, her landlord, and reported what appears to have been a substantial leak into her flat from Flat No. 2 above. This was evidenced by water leaking from the ceiling onto her kitchen floor. Mr. Mackey, as a result, went to the premises with his wife and went directly to Flat No. 2 which he entered at some time between 11.00 hours and 12.00 hours. Ms. Eccles had to leave her flat in order to make this phone call but when she returned Garda Tom Rattigan arrived and went into her flat to help her to clean up the mess made by the leak.³⁷⁷

The Leak

- 7.19. There is very little to indicate how this leak was ever remedied and there is a clear contradiction between Mr. Mackey and Ms. Eccles about the nature and extent of this leak which remains an unresolved curiosity.

Mr. Mackey's Account of his Attendance at the Flat

- 7.20. On arrival at the premises, Mr. John Mackey states that he went straight up to the McGlinchey/Devine flat. He gained entry to it but he does not recall whether there was a broken pane of glass by means of which he gained entry or whether he used a key. The bathroom of Flat No. 2 was directly above the kitchen of Flat No. 1, so he went upstairs to the bathroom. He looked around and could see nothing as he went in. However, he then decided to take off a loose-fitting panel

³⁷⁷ Transcript, Day 22, pages 85-96.

from the side of the bath. He stated:

I popped off the panel and could see like fertiliser on the floor under the bath ... There wouldn't be very much, it was gathered on the floor, there wouldn't have been a pile of it, just scattered on the floorboards under the bath I saw a metal tubular object, with like fins welded at the end of it under the bath.³⁷⁸

- 7.21. He saw no bags and he identified the metal object which he saw as being similar to the metal object, Exhibit 1, which had previously been produced by Mrs. Sheenagh McMahon to members of the Carty team. He went downstairs to a bedroom where he found another metal object similar to Exhibit 1. This bedroom had a lock which had not been closed by means of a padlock. When he entered the bedroom he found another metal object:

Under a bed sticking out from under a bed there was one (bag) I didn't open it but it looked like a bag of fertiliser ... right at the bottom of the bed or beside the bed at the side of the bed ... probably a 1cwt. bag ... a white bag with writing ... I said to myself, it's a bag of fertiliser.³⁷⁹

- 7.22. The Tribunal is satisfied on the evidence given by Mr. John Mackey, which has not been challenged, that when he was on the premises on the 14th of March 1994 he found:

1. Fertiliser scattered on the floorboards under the bath in the bathroom;
2. A metal tubular object with fins welded onto the end of it under the bath in the bathroom similar to Exhibit 1;
3. A bag of fertiliser (probably a 1cwt bag) in a white bag with writing on it, in what the Tribunal is satisfied was the bedroom of Adrienne McGlinchey; and
4. A similar metal object to that which he had seen in the bathroom sticking out from under a bed in the same bedroom.

Garda Thomas Rattigan called to the Flat

- 7.23. Having made these discoveries Mr. Mackey said he was amazed and said to himself: "They must be making some sort of bombs here." He asked his wife to go down and get Garda Rattigan, who was downstairs, and who then came up to Flat No. 2. Mr. Mackey states that he invited Garda Rattigan to come up to the bathroom:

He came up and looked under the bath, he saw the tubular thing and the fertiliser and then he went downstairs and into the bedroom and he saw the fertiliser and the sort of tubular thing.³⁸⁰

³⁷⁸ Transcript, Day 21, Q.122-130, pages 27-29.

³⁷⁹ Transcript, Day 21, Q.131-156, pages 29-31.

³⁸⁰ Transcript, Day 21, Q.166, page 32.

7.24. Garda Rattigan stated that when he entered the flat:

Underneath the bath there was a steel tubular item and a bag of fertiliser ... I can only recall the one (steel) item that was underneath the bath ... as far as I can recall against the wall was a bag of fertiliser in the bathroom ... it was about a 1cwt bag.

7.25. He could not recall seeing any fertiliser strewn on the floor. He does not remember going to the bedroom and could only recall being in the bathroom. He did not examine the flat or search it because:

When I saw the items that I saw I decided at that stage to contact somebody so I just left everything as it was.

7.26. He could not recall saying to Mr. Mackey that “we have a bomb factory here”.³⁸¹

7.27. Garda Rattigan, therefore, found something different to Mr. John Mackey at the scene:

1. A steel tubular item under the bath; and
2. A 1cwt weight bag of fertiliser against the wall of the bathroom.

7.28. Garda Rattigan, in previous interviews with the Carty team, said he was not very happy with their manner and he had a clash of personalities with the interviewers. In the course of one such interview, when asked whether he examined the rooms in the flat, he stated that he had taken “a quick look” without specifying that he had only in fact examined the bathroom. He was also asked if he saw steel items with fins as described by Mr. Mackey, to which he replied that he did not remember what was there. On another occasion on the 7th of May 2001, he was able to describe the metal item found in the bathroom as “a length of piping 18 inches long and 3 inches in diameter lying on the floor beside the bath, it was ordinary steel piping.”³⁸² The Tribunal is aware that Garda Rattigan has suffered from serious mental problems since before and at the time of this search and indeed since that time. It is not entirely convinced that these difficulties have given rise to his problems in recollection in relation to these matters. To some extent, however, those mental problems may have contributed. In all the circumstances, the Tribunal is satisfied to accept Mr. Mackey’s account of what was found and insofar as there may be a difference between Mr. Mackey and Garda Rattigan, accepts Mr. Mackey’s account as the more accurate. Garda Rattigan has not told the full truth about his visit to this flat and has, for whatever reason, withheld vital information in respect of it from the Tribunal. Some of his evidence was, however, helpful.

³⁸¹ Transcript, Day 21, Q.304-343, pages 49-53.

³⁸² Transcript, Day 21, pages 58-66.

Adrienne McGlinchey’s account

7.29. Ms. McGlinchey gave evidence that on the 11th of March 1994 “there was a lot of fertiliser in her bedroom”. A list of materials as described in the Garda telex was put to Ms. McGlinchey for comment. She had no reason to doubt the Garda account of materials found at the flat. She thought there was more fertiliser there.³⁸³ Ms. McGlinchey also indicated in her evidence that Detective Garda McMahan had asked her to have a number of metal pipes with fins at the bottom manufactured in accordance with a description given by him. This was “to make it look as if the IRA were using them.” He wanted them so they could be left around the flat.³⁸⁴ These items were similar to Exhibits 1 and 3 produced to the Tribunal. They are of a type which Mr. Mackey identified as being in the premises on the 14th of March 1994. However, Ms. McGlinchey stated in evidence that though there was a metal item under the bath on the morning of the 14th of March 1994 this item did not resemble Exhibits 1 or 3. Rather it was “a sort of a screwed-together” prototype rocket. Detective Garda McMahan had directed her to have such a rocket produced. She gave extensive evidence as to how that was done. He got her to have objects made which were of a screwed-together rocket-like appearance and better designed than Exhibits 1 and 3. The design was taken from a Garda booklet which he showed to her. She had a number of these better-type screwed-together rockets made in an engineering works. Detective Garda McMahan was going to get the top part made. She said that it was a part of one of the screwed-together rockets that was under the bath on the 14th of March 1994. There could have been other items such as Exhibits 1 and 3 lying about the flat but she did not know. She confirmed that in addition to the other objects described, various quantities of fertiliser and icing sugar were lying around the flat.³⁸⁵ Ms. McGlinchey, in statements made prior to giving her evidence, did not mention the presence of steel items or rocket-like objects in her flat on the 14th of March 1994. The Tribunal is satisfied, on the basis of the evidence of Mr. John Mackey, supported to some degree by the evidence of Garda Thomas Rattigan, that there were two metal objects with fins present in Ms. McGlinchey’s flat on the 14th of March 1994. It finds some support for this proposition in her evidence to the effect that there was a cylindrical metal object under the bath which was narrower in diameter than the object seen by Mr. Mackey and Garda Rattigan, which she describes as part of a screwed-together rocket type device. However, the Tribunal is satisfied that Mr. Mackey’s account of the metal objects present on the premises is the most accurate. The Tribunal has endeavoured to establish why and by whom the metal item(s) were removed from the flat prior to the ‘official’ Garda search of the flat.

³⁸³ Transcript, Day 13, Q.106-119, pages 28-31.

³⁸⁴ Transcript, Day 12, pages 13-39, various references.

³⁸⁵ Transcript, Day 13, pages 28-39, various references.

After the Initial Discovery

7.30. The evidence indicates that having made their discovery Mr. Mackey and Garda Rattigan left the flat, pulling the door after them. As far as Garda Rattigan was concerned no-one could gain entry and “I felt it was secure enough at that stage”. Neither he nor Mr. Mackey removed anything from the scene. Garda Rattigan then went to a public phone box opposite Buncrana Station and telephoned Detective Garda Noel McMahon at his home. It is difficult to understand why Garda Rattigan did not go directly to Buncrana Station and notify the Sergeant in Charge or members of Detective Branch of what he had discovered in the flat in order to further an investigation which would probably have involved informing his Sergeant and the procurement of a warrant to search the flat under Section 29 of the Offences against the State Act, 1939. Instead, Garda Rattigan contacted Detective Garda Noel McMahon who told him that “he would look after it” and “that he would organise the flat to be searched”³⁸⁶

7.31. Garda Rattigan worked on the same unit as Detective Garda McMahon and he was a good friend of his at that stage.³⁸⁷ Garda Rattigan states that he told Noel McMahon what he and Mr. Mackey had found:

*I told him that we found a bag of fertiliser and a steel tubular item underneath the bath.*³⁸⁸

7.32. Detective Garda McMahon stated in evidence that when Garda Rattigan contacted him about the find at the flat he told him only that there was fertiliser found under the bath which Mr. Mackey had asked him to look at. He only ever became aware of the suggested presence of steel items on the premises years after the event in the course of the Carty inquiry and this Tribunal.³⁸⁹ Garda Rattigan stated also that he had not been informed at any stage by Detective Garda Noel McMahon that Adrienne McGlinchey was an informer handled by Mr. McMahon.³⁹⁰

7.33. If Garda Rattigan did not know Adrienne McGlinchey’s status as an informer, there was no reason for him not to take the appropriate procedures in relation to a find of this nature by taking steps to preserve the scene and by ensuring that his colleagues at Buncrana Station were alerted immediately. In this regard, Detective Garda McMahon gave evidence to suggest that the main reason that Garda Rattigan wanted him to take over the matter was because:

*He looked at it and he made the decision that he didn’t want to be involved, due to his relationship with Ms. Eccles and I am probably assuming due to the fact that he was aware that I was dealing with Ms. McGlinchey.*³⁹¹

³⁸⁶ Transcript, Day 21, pages 68-70.

³⁸⁷ Transcript, Day 21, pages 331 and 446.

³⁸⁸ Transcript, Day 21, Q.342.

³⁸⁹ Transcript, Day 135, Q.373-392, various references.

³⁹⁰ Transcript, Day 21, Q.620-622, pages 88-89.

³⁹¹ Transcript, Day 135, Q.391.

- 7.34. Detective Garda McMahon said that he was very close to Garda Rattigan.³⁹² He accepted Garda Rattigan’s evidence that he was not told by Detective Garda McMahon that Adrienne McGlinchey was an informer to the extent that, “I probably didn’t tell him, but at that stage it was fairly common knowledge and gossip had got out about the station itself.”³⁹³ He assumed that Garda Rattigan knew he was dealing with Ms. McGlinchey. Garda Rattigan’s evidence in this regard was that he phoned Detective Garda McMahon because he was working on his unit and was a very good friend of his³⁹⁴ and because he thought he would be able to take the credit for the find.³⁹⁵ He thought that he also would be able to take some of the credit for the find at a later stage when the file was prepared.³⁹⁶
- 7.35. As already noted, Garda Rattigan indicated that he anticipated Detective Garda McMahon would take care of the find. He left the scene and left it unattended. He had no idea as to when the scene would be dealt with by Detective Garda McMahon or those whom he presumed would be alerted in respect of the find. There was no other pressing business that required his attention elsewhere. The occupants of the flat or others could have returned to the scene in his absence and disposed of the material on the premises. If this material was thought to be bomb-making material belonging to the ‘Provisional IRA’ it is possible that retrieval by them could have given rise to a risk to life and property.
- 7.36. Chief Superintendent Brian Garvie of the RCMP gave expert testimony to the Tribunal in respect of this matter. He stated that if Garda Rattigan thought that Ms. McGlinchey was an informer handled by Detective Garda McMahon it was not inappropriate for him to contact Detective Garda McMahon as he did. However, he was also of the opinion that the find should have been reported to a supervisor; he should have called to the station to inform his colleagues of the find and thereby facilitate the immediate commencement of a proper investigation; and he should have ensured that the scene was preserved to the extent possible even by employing the landlord to remain at the scene whilst he went the short distance to the Garda Station to report the matter to his colleagues. The Tribunal is satisfied that failure by Garda Rattigan to report the find to his colleagues and superior and to ensure that the premises was preserved constitutes a dereliction of duty on his part.
- 7.37. This leads one to the question as to why Garda Rattigan treated the scene in such an inappropriate fashion. The logic of the situation suggests that he believed, or knew, Detective Garda McMahon, his friend, was handling Adrienne McGlinchey as an informer. If proper procedures had been adhered to at that stage and he

³⁹² Transcript, Day 135, Q.391.

³⁹³ Transcript, Day 135, Q.429.

³⁹⁴ Transcript, Day 21, Q.495.

³⁹⁵ Transcript, Day 21, Q.550-552, 817.

³⁹⁶ Transcript, Day 21, Q.550-560.

had simply telephoned Detective Garda McMahon in these circumstances to inform him that Adrienne McGlinchey was now the subject of a Garda investigation, there would not have been a problem. However, it is Garda Rattigan’s failure in this regard that facilitated the corrupt handling of this matter by other members of An Garda Síochána from this point on.

- 7.38. No reason has been offered to the Tribunal as to why Garda Rattigan behaved in this manner. It is difficult to understand how he could have considered himself outside the scope of the investigation which should have followed this find. Before the phone call to Detective Garda McMahon, he had only to explain why the scene had been left unpreserved for a period of approximately five minutes. After the phone call, having been assured that Detective Garda McMahon would take care of matters, he had to answer for his failure to report the find to his superior and his colleagues across the street in Buncrana Station together with a further period of non-preservation. It is likely that he did not anticipate any possible future censure in relation to this behaviour. This tends to confirm that from the very earliest stages Detective Garda McMahon did not intend that this investigation would follow a true and proper course. Garda Rattigan may have felt safe in leaving the matter to the care of Detective Garda McMahon. As already commented, this was the wrong thing to do.

Detective Garda McMahon’s reaction

- 7.39. The evidence of Garda Rattigan that Detective Garda McMahon undertook to look after the matter and that he would organise a search of the flat was uncontradicted by Detective Garda McMahon. In those circumstances, one would expect Detective Garda McMahon to take immediate steps to ensure that the premises were preserved and that his colleagues at Buncrana were notified so that the necessary resources could be deployed at the flat. He failed to do this.
- 7.40. According to Detective Garda McMahon, he contacted Detective Inspector Lennon in Letterkenny. He made contact some time between 14.00 and 14.30 hours. He informed Detective Inspector Lennon that it was his view that the flat should be searched and that he was considering the arrest of Ms. McGlinchey. Detective Inspector Lennon agreed that the flat should be searched but said that the arrest was a matter for him. Detective Garda McMahon told the Tribunal:

I spoke to him and told him what happened as regards Mr. Mackey coming on the stuff under the bath at The Crescent. I told him I felt the premises would have to be searched as the landlord was now

*involved and obviously would expect to see some Garda action. He agreed that the search was necessary and it was agreed that the search would take place that evening and I would be involved in it.*³⁹⁷

- 7.41. In the course of this phone call, Detective Garda McMahon agreed with Detective Inspector Lennon that the search of the flat was to take place later that evening. Superintendent O'Connor was at the same meeting as Detective Inspector Lennon in Letterkenny and the Detective Inspector said that he would speak to the Superintendent about the situation and organise the search. Detective Garda McMahon expected a warrant to appear. He expected that Inspector Lennon would travel down at some stage following the issuing of the warrant, he expected the warrant to arrive in Buncrana at around 19.00 hours that evening because that is when he was to commence duty. He wished to be involved in the search and Detective Inspector Lennon agreed with this. He wished to delay the search until he had an opportunity to speak with Ms. McGlinchey concerning the material found in her flat and the fact that she had not informed him about its presence. No contact was made with Detective Garda McMahon by Detective Inspector Lennon in order to indicate to him the arrangements made for the issuing of a warrant in respect of the premises.³⁹⁸
- 7.42. According to Adrienne McGlinchey, Detective Garda McMahon phoned her at work between 14.10 and 14.15 hours. He informed her that Mr. Mackey had come into the flat, because of a leak, and had found “the fertiliser and everything”. He told her that “he couldn’t stop a search warrant and he was going to come down and collect [her] from work”. At this point, Ms. McGlinchey approached Ms. Devine, who was also working in the same factory, told her about a leak in the flat and said that she should go home to Letterkenny for the night. She then left work and waited outside the factory premises for approximately twenty minutes. She was then collected by Detective Garda McMahon who drove her to his house at Porthaw. Detective Garda McMahon told Ms. McGlinchey that he was going to keep her there because the rest of the Gardaí at Buncrana would like to get their hands on her. She waited there until Kevin Lennon arrived. She stated that she was in the sitting room of the McMahon house when Kevin Lennon arrived and that he told her to keep her mouth shut. He told her that she was going to be arrested and that when questioned she was to say nothing. “They were going to bring her to Burnfoot away from Buncrana”. She remained at the McMahon household for three to four hours. She had to wait quite a while before Kevin Lennon arrived. It was dark before she was brought to the flat at The Crescent.³⁹⁹

³⁹⁷ Transcript, Day 136, Q.2: see also Transcript, Day 135, Q.509, Q.611-629.

³⁹⁸ Transcript, Day 136, Q.3-52, various references.

³⁹⁹ Transcript, Day 13, pages 15-19, various references.

- 7.43. Detective Garda McMahon originally acknowledged that Ms. McGlinchey was in his house on the 14th of March 1994 but for one hour only. He later conceded she was there for three hours. He had taken her there because he wanted to find out from her what she was up to “with all the stuff in the flat”. It was denied, in evidence, by both Detective Garda McMahon and Superintendent Lennon that Kevin Lennon was at the McMahon family home at Porthaw on the 14th of March 1994 at all. Detective Garda McMahon stated that he brought Ms. McGlinchey to Buncrana when he was going to work at 19.00 hours.⁴⁰⁰
- 7.44. Superintendent Lennon, for his part, has indicated that he was contacted at approximately 16.00 hours on the afternoon of the 14th of March when attending a conference meeting at Letterkenny and that he informed Superintendent J.P. O’Connor about the search at Ms. McGlinchey’s flat but did nothing else. This meeting finished at 16.00 to 16.30 hours, after which he went to his office in Letterkenny, where he was phoned later by Detective Sergeant Des Walsh who was then in the course of searching the premises. He stated in an interview that Detective Garda McMahon had phoned him “whatever time it was at the PD&R and he said that Rattigan had come across something in a flat or the landlord had and Rattigan”.

The Warrant

- 7.45. As already noted, Detective Garda McMahon contacted Detective Inspector Lennon who, along with a number of other senior officers from the Donegal division, was attending a conference at Letterkenny Station. Detective Inspector Lennon contends that he informed Superintendent J.P. O’Connor, who was also present at this meeting, about the find which had been made at the McGlinchey/Devine flat. At this point, a serious conflict of evidence arises. Superintendent O’Connor does not recall, he claims, being informed of these matters by Detective Inspector Lennon.
- 7.46. The importance of this evidence is that, if accepted, it provides a background to what is said to have occurred at Buncrana Station later that evening in relation to the issuing of a warrant under Section 29 of the Offences Against the State Act, 1939. This authorised Detective Sergeant Des Walsh, now retired, to enter and search the flat.
- 7.47. The relevant part of Section 29(1) of the Offences against the State Act, 1939 as substituted by Section 5 of the Criminal Law Act, 1976 provides that:

⁴⁰⁰ Transcript, Day 120, pages 132-133.

Where a member of the Garda Síochána, not below the rank of superintendent, is satisfied that there is reasonable ground for believing that evidence of or relating to the commission or intended commission of an offence under this Act ... is to be found in any particular building, he may issue to a member of the Garda Síochána not below the rank of sergeant a search warrant under this Section in relation to such place.

7.48. The warrant authorises the named officer to enter and search the premises in the company of any member of An Garda Síochána within one week of the date of the warrant.

7.49. Mr. Walsh gave evidence that when he came on duty at 19.00 hours at Buncrana Station he went to the detective office where he found Detective Garda McMahon. Shortly afterwards, Superintendent John P. O'Connor came over to the detective office and invited him to join him in his office where he outlined to Mr. Walsh some of the facts relating to the find at the McGlinchey/Devine flat. Mr. Walsh's evidence was as follows:

I have absolutely no doubt that when I came on duty on 14th Mr. J.P. O'Connor, my Superintendent, was waiting for me. I got the impression he was waiting for me because I'd say I wasn't in the station a matter of minutes. To the best of my recollection he called me over to his office..... I am sure now it was 7pm It is very likely I came in the back door, went upstairs, directly to the Detective Branch office. In doing so, I would be passing directly, the Superintendent's office. When I was going up I didn't see the Superintendent, I went directly to Detective Branch office and to the best of my recollection Detective Garda Noel McMahon was already in the office..... Within a matter of minutes he came over and asked to speak to me and I would, therefore, have followed him back to his own office..... He wanted to talk to me privately and both of us went back to his office..... He briefed me he informed me that Mr. Mackey was in the apartment earlier that morning and that he had seen something, he didn't elaborate on what he had seen and he mentioned Garda Rattigan was also present..... He didn't know what he had seen but he asked me to go down and to check out the place or have a look He didn't know what was in the apartment and I got the impression that he wanted me to go down fairly quickly and establish what was there I think a bathroom was mentioned but there was absolutely no mention of what I might find..... He said that Mr. Mackey had seen something in the bathroom.

- 7.50. He was also told that the visit by Mr. Mackey to the flat had occurred earlier in the day, that Mr. Mackey didn't want to be involved in the matter and didn't want his name mentioned in relation to it.⁴⁰¹
- 7.51. Mr. Walsh said he was told to go down and check out the premises. He understood that he had to have a warrant and said "I may have initiated the warrant". He returned to the detective office to get the form for the warrant because that is where forms were stored. Detective Garda McMahon was still present in that office. He returned to the Superintendent's office with the drafted warrant for the Superintendent's signature which he obtained.⁴⁰²
- 7.52. Mr. Walsh had previously told the Tribunal that Superintendent O'Connor had invited him to apply to him for a warrant.⁴⁰³ Whilst he acknowledged himself to be confused on that issue, he stated:

*The only thing I can tell you precisely is that to cover myself I had to have a warrant. If there was no Superintendent there someone had to brief me There was no way I would go down near the premises I would have gone to Letterkenny. We always operated under a warrant. We never searched any premises without warrants because you wouldn't survive. You wouldn't survive five minutes without a warrant. We were searching subversive houses, maybe sympathisers, and you just have to have a warrant.*⁴⁰⁴

- 7.53. He acknowledged on several occasions that he had no knowledge of anything that would have justified his making an application to the Superintendent for a warrant.⁴⁰⁵
- 7.54. Detective Garda McMahon gave evidence that on the night of the 14th of March 1994 he came on duty at 19.00 hours . He had already told Ms. McGlinchey that her flat would have to be searched and that he would probably arrest her. He anticipated that when he went into the Garda Station he would have to contact Detective Inspector Lennon or Detective Inspector Lennon would have to contact him when he went into the station. On passing the door to the office of Superintendent J.P. O'Connor, he saw Detective Sergeant Walsh having a discussion of some sort with the Superintendent. He went directly to the Detective Branch office and remained there for some fifteen minutes. At this stage, Detective Sergeant Walsh came back with what he described as "a sheet of paper saying we have a job to do, we have a search to do." Sergeant Walsh

⁴⁰¹ Transcript, Day 40, pages 147-155, various references and Day 126, pages 42-55, various references.

⁴⁰² Transcript, pages 53-66, various references.

⁴⁰³ Transcript, Day 40, Q.731.

⁴⁰⁴ Transcript, Day 126, Q.390-394.

⁴⁰⁵ Transcript, Day 40, Q.742-750 and Day 126, pages 370-380, Q.344-376.

then went down to the Station Office and requested uniform assistance.⁴⁰⁶ This differs from Mr. Walsh’s account insofar as Mr. Walsh said that Detective Garda McMahon was already in the office when he arrived for work at 19.00 hours and that the Superintendent then came to the detective office and invited him into the Superintendent’s office.⁴⁰⁷

- 7.55. Superintendent J.P. O’Connor wholly rejects the suggestion that he went to Buncrana Station on the evening of the 14th of March 1994 and issued this warrant. In evidence he said this:

... that didn’t happen The first I learned about that was when I read the papers, Sergeant Walsh’s statement, and I was amazed to see it. I mean Sergeant Walsh is mistaken in my view. Mr. Mackey that is mentioned there, I never knew the man existed until I read his name in these papers..... I am denying it on the basis that I didn’t do it..... I hadn’t that conversation with Sergeant Walsh, I wasn’t in Buncrana Station that day.⁴⁰⁸

- 7.56. Superintendent O’Connor’s account of the day is that he attended the Performance Development and Review Course at Letterkenny, along with senior officers, from 09.00 hours until some time in the mid-afternoon. At 16.45 hours he interviewed a person in relation to the revocation of a firearms certificate for a rifle. Following the interview, he revoked the certificate. Then between 20.30 and 01.30 hours he travelled to Headquarters in Dublin for a security meeting on the following day. He furnished the Tribunal with an extract from his diary to that effect.⁴⁰⁹ During the period 18.30 hours to 20.30 hours he said he returned to his diggings where he had a meal. He then organised himself for the journey to Dublin.⁴¹⁰ He had no recollection as to whether Detective Inspector Lennon was at the course in Letterkenny that afternoon. Nobody briefed him in relation to the search of The Crescent and he was not aware of it.⁴¹¹

- 7.57. In this regard, Inspector Kevin Lennon states that he was contacted by Detective Garda Noel McMahon concerning this find at approximately 16.00 hours on the afternoon of the 14th when attending the meeting of senior officers at Letterkenny. He informed Superintendent O’Connor about it but did nothing else.⁴¹² On this account, therefore, Superintendent O’Connor knew about the discovery of items at The Crescent from Detective Inspector Lennon. If that be so, he had knowledge of the matter on the afternoon of the 14th of March which he now disavows in evidence. His evidence suggests that between 18.30 and

⁴⁰⁶ Transcript, Day 135, page 79, Q.345.

⁴⁰⁷ Transcript, Day 126, page 159.

⁴⁰⁸ Transcript, Day 120, pages 29-36.

⁴⁰⁹ Transcript, Day 120, page 28.

⁴¹⁰ Transcript, Day 120, pages 44-45.

⁴¹¹ Transcript, Day 121, pages 100-101.

⁴¹² Tribunal Documents, pages 5091-5094.

20.30 hours on the evening of the 14th of March he had the opportunity to drive from Letterkenny to Buncrana, issue the warrant and proceed then to Dublin.

- 7.58. Of course, the issuance of this warrant could be conclusively proven by its production. When a warrant is executed it should be endorsed by the officer, in this case Detective Sergeant Des Walsh, to whom it was issued, and who executed it and returned to the file of warrants which apparently existed in Buncrana Station. The warrant for 14th of March 1994 was missing from this file, if it ever existed. Mr. Walsh says that he placed the search warrant on the appropriate file in Buncrana Station after it was executed. No explanation was furnished to the Tribunal as to why it is missing though other warrants issued to Detective Sergeant Walsh during his period of service were produced to the Tribunal in the course of its inquiry.⁴¹³
- 7.59. Mr. Walsh insisted that he filed the warrant the following day and stated that it was included in a “monthly confidential report” handed into the Superintendent’s office, which report was eventually sent to Dublin. He stated that the existence of such a search warrant on a confidential monthly report furnished by the Superintendent at Buncrana to Garda Headquarters in respect of March 1994, which normally included a summary of warrants issued and executed for that monthly period, would tend to suggest that a warrant was issued. Further, Inspector McMorrow was informed that such a warrant was issued, though not by whom it was issued, and refers to this in his report to Letterkenny concerning the incident. In addition, the Tribunal has been furnished with the monthly report referable to this warrant and a relevant portion of which is signed, on his own admission, by Superintendent John P. O’Connor.
- 7.60. **Once again the Tribunal has not been assisted by the manner in which evidence has been given by the various witnesses. The Tribunal accepts the evidence of Superintendent J.P. O’Connor that he did not issue the warrant. The Tribunal is concerned that Mr. Des Walsh has not furnished all of the information within his knowledge concerning this affair. The Tribunal does not accept that a warrant was obtained by Mr. Walsh from Superintendent O’Connor. The Tribunal also accepts the evidence of Superintendent O’Connor that he was not told of a find at The Crescent by Detective Inspector Lennon earlier in the course of the afternoon of the 14th of March. It also notes that the monthly confidential report concerning the issue of this warrant does not name the Superintendent who issued it. Superintendent O’Connor, it would appear, signed the report in respect of an event in which he had no part. His failure, on his return from Dublin and holidays, to make any enquiries as to this matter, if it is to be believed, constituted negligence in a high degree.**

⁴¹³ Transcript, Day 126, pages 109-111.

The Search

- 7.61. Adrienne McGlinchey states that she was brought from the McMahon house at Porthaw to her own flat by Detective Garda McMahon and Detective Inspector Lennon. As she walked into the flat, “There were Guards carrying stuff, bags of fertiliser and stuff being carried out and put into the boot”.⁴¹⁴
- 7.62. At 19.00 hours Mr. Walsh states that he met with Detective Garda Noel McMahon who was in the Detective Branch office. He believed that he had just come on duty. He then went downstairs to see if there were any uniform members available to him. He believed that Garda Tony Sarsfield, now deceased, came down to the flat with them. He did not know what to expect on entering the flat. He thought it was strange, in hindsight, that matters were left so vague and that he was not told the full story. He was not told that Mr. Mackey had seen fertiliser or powdered fertiliser or a steel object or objects, or that this had originally been brought to Detective Garda McMahon’s attention by Garda Rattigan. He was not told that the find in the flat occurred earlier in the day at around 11.00 hours. He understood that the Superintendent had had a conversation with Mr. Mackey. He understood that Mr. Mackey had been to the station. He could not understand why Superintendent O’Connor had waited for him to come in at 19.00 if the information was available at 11.00 hours that morning. Something should have been done before he came in.⁴¹⁵
- 7.63. He told Detective Garda McMahon that they had to go and search the McGlinchey flat. He was not aware that Detective Garda McMahon knew all about these events and Detective Garda McMahon did not tell him either. Detective Garda McMahon never told him afterwards that he had known all about this from earlier in the day. He told Detective Garda McMahon what the Superintendent had told him.⁴¹⁶ It is difficult to accept that Detective Garda McMahon and Detective Sergeant Walsh did not discuss the proposed search of the McGlinchey/Devine flat or the events of the early afternoon when on their way to search the flat.
- 7.64. **The Tribunal is satisfied that a conversation must have taken place between these two members in respect of the proposed search.**

What was Found?

- 7.65. The find as described in Inspector McMorrow’s report, referred to at the beginning of this chapter, is not the same as that described by Detective Sergeant Walsh, Detective Garda McMahon and Sergeant Michael Murray in their accounts of the search. There are further differences which exist between

⁴¹⁴ Transcript, Day 13, Q.66-69.

⁴¹⁵ Transcript, Day 40, Q.777-785.

⁴¹⁶ Transcript, Day 40, Q.777-785.

Inspector McMorrow’s report and the account of Commandant Farrell in relation to material which he was asked to dispose of on the morning of the 15th of March and which was said to be the product of this search.

- 7.66. Detective Sergeant Walsh described what he found. He said that he found “three full bags of fertiliser on the floor of the bathroom, one of which was bursted.” He also had a recollection of holdall bags in the bathroom and indicated, “There could be suitcases”. He said he had notes on these matters that he had kept for years after he retired but they were gone at this stage. There was nothing in any of the other rooms except the bathroom.⁴¹⁷ He added, “The bags were strewn around. I think the flat was in a kind of disarray. I would accept everything that Sergeant Murray has in his report that there were bags of white powder and holdall bags.”⁴¹⁸
- 7.67. He was recalled at a later stage of the Tribunal’s hearings, but little material evidence was added to that set out above.
- 7.68. Sergeant Michael Murray gave evidence that when he was searching the flat he found a number of plastic bags containing some form of white powder underneath the bath within the panelled area. There were two suitcases on the floor of the bathroom together with a holdall bag and two 50kg bags of agricultural fertiliser. The suitcases and holdall bag contained plastic bags which contained white powder and granulated material. The two fertiliser bags contained granulated material. He did not find welding rods and there was no angle iron. He found nothing in the bedroom.
- 7.69. Detective Garda McMahon contended in evidence that when he entered the bathroom with Detective Sergeant Walsh the panel on the bath had been removed and not fully replaced and when it was pulled back he saw fertiliser spilt under the bath. It had come from a clear plastic bag that was under the bath. He saw two full bags of fertiliser against the pedestal of the sink in the bathroom. He definitely did not see suitcases in the bathroom: nor did he see any holdalls. He thought a clear plastic bag under the bath contained a very small quantity, maybe three or four pounds maximum in weight, a lot of which had spilled out onto the floor, “It was all over the place.”⁴¹⁹ He also stated that having arrested Ms. McGlinchey he found at least one full 50 kilo bag or 1cwt. bag of fertiliser in her bedroom, “It was lying standing up against the wall near the wardrobe. It was not concealed”. Later he said that when he went down to the bedroom to carry out his search he came upon the bag and he added that he thought there were two bags in the bedroom.⁴²⁰

⁴¹⁷ Transcript, Day 40, Q.807, Q.838-845.

⁴¹⁸ Transcript, Day 40, Q.962.

⁴¹⁹ Transcript, Day 135, Q.446-463.

⁴²⁰ Transcript, Day 135, Q.535-540.

- 7.70. This evidence may be contrasted with his previous statement to the Carty team when asked about what was in the flat.⁴²¹ On that occasion, he said that he remembered carrying fertiliser out of the flat and putting it in the boot of the car and bringing it up to the station. He was asked:

Q: Where in the flat was the fertiliser?

A: I forget I don't know to be honest.

- 7.71. This is one of a number of differences to be found between the account given by Detective Garda McMahon to members of the Carty team in respect of different issues and that given in evidence by him.
- 7.72. The importance of this difference was highlighted by counsel for the Tribunal on a number of occasions prior to Detective Garda McMahon giving evidence. Its significance may relate to the possibility that, prior to the official search, materials were removed from the bedroom of Ms. McGlinchey and put in the common area of the bathroom, i.e. common to her and Ms. Devine or anyone else using the flat. The other possibility is that materials were not actually brought to the bathroom at all but were simply represented to others as having been found in the bathroom. In terms of the law of possession, this would transfer the focus of any inquiry from possession by Ms. McGlinchey alone to the question of joint possession in a situation in which neither of the occupants of the flat may be in direct physical control of the materials found in the bathroom and, especially so, in circumstances in which some of the material may have been concealed in suitcases or holdall bags.⁴²² It was the purpose of the removal of materials from Ms. McGlinchey's bedroom to the common area of the bathroom within the flat to render more difficult a successful prosecution of Ms. McGlinchey for possession than would the finding of such materials in her bedroom within the flat.
- 7.73. Detective Garda McMahon contends that the reason for this change in his account has to do with the fact that he was 'not himself', unwell and on medication at the time of his interview by the Carty team whilst in custody on the 10th of June 2000. The Tribunal is not satisfied that there is any substance to this excuse and does not find his testimony credible in this regard. His evidence in respect of the presence of the materials in the bedroom was new and was perhaps calculated to deal with evidence given by Mr. Mackey which indicated the presence of materials in Ms. McGlinchey's bedroom. It is also likely that it was calculated to deal with the difficulty raised by the report made by Inspector McMorrow which clearly indicated that the account given to him on the 14th of

⁴²¹ Memo of interview, Ennis Garda Station, between Detective Sergeant Kyne, Detective Sergeant James Martin and Detective Garda McMahon – Tribunal Documents, pages 1544-1549[10th of June 2000].

⁴²² See *R v Whelan* [1972] N.I.153, *The People (DPP) v Foley* [1995] 1.I.R.267 and *The People (DPP) v O'Neill and Others* [1997] 1.I.R.365.

March suggested that the materials listed in the report were contained in “some plastic bags concealed in a wardrobe in one of the bedrooms in the flat”. This change in recollection was opportunistic and self-serving.

7.74. As is clear from each of the above accounts there are significant differences in respect of each of the witnesses’ recollection of the materials found in the flat. None of the members who were present in the flat during the search have any notes relating to this matter. The scenes of crime officer, Sergeant Murray, made notes and sketches of the location of the materials found but these are no longer available as they were disposed of by him some years after the event. In addition Detective Sergeant Walsh, who made some notes at the time, disposed of those notes shortly after his retirement. Likewise, Detective Garda McMahon has no notes of these events. The situation is, therefore, that the Tribunal is left with only one official record of what was found on this occasion and that is the report of Inspector Peter McMorrow referred to at the beginning of this chapter. That report is based upon information which he says was furnished to him by Detective Sergeant Walsh and/or Sergeant Murray prior to the sending of his report.

7.75. Sergeant Michael Murray, the scenes of crime examiner, having entered the flat with Detective Sergeant Walsh, outlined how extensive his search was:

I searched through each compartment of that actual flat. When you go in the front door, on the right was located a kitchen area and a full and detailed search by Sgt. Walsh and I was done of that particular area⁴²³ ... I went in, we had to go through each room in turn, carry out a methodical search and see was there any other materials there in connection with this. Then I set about, you know, organising my exhibits, carrying them out and putting them into the car and getting them away.⁴²⁴

7.76. He found no materials in the bedroom or a wardrobe.⁴²⁵ The fact that Sergeant Murray found two suitcases on the floor of the bathroom together with a holdall bag is not reflected in the report furnished by Inspector McMorrow. This is curious because the find in the report is said to refer to plastic bags found in a wardrobe of a bedroom. In evidence, Inspector McMorrow gave it as his understanding at the time that “the substance(s) were found in a room occupied by Adrienne McGlinchey. That’s the briefing I got on the night.”⁴²⁶ His report makes no mention at all of suitcases or a holdall. Sergeant Walsh originally agreed that he had some, though not a very clear, recollection of suitcases and holdalls. Detective Garda O’Keeffe and Detective Garda Breslin, at a later

⁴²³ Transcript, Day 36, Q.585.

⁴²⁴ Transcript, Day 36, Q.701.

⁴²⁵ Transcript, Day 36, Q.660.

⁴²⁶ Transcript, Day 74, Q.617 & 621.

interrogation, showed Ms. Yvonne Devine, “Two light brown suitcases and one large black holdall bag, plus a number of plastic bags, containing a whitish substance, plus two fertiliser bags” stored in the garage at the rear of Buncrana Garda Station at 10.55 hours on the 15th of March 1994, during the course of her detention.⁴²⁷ Indeed, Detective Garda Breslin gave evidence that, on his return to the Garda Station on the evening of the 14th of March at approximately 20.30 hours, he had seen two suitcases full of bags of what he was told was ground down fertiliser and icing sugar.⁴²⁸

The Explosives

7.77. Sergeant Murray claimed that he took possession of the items which he found and conveyed them to Buncrana Garda Station at approximately 20.30 to 20.40 hours:

I actually conveyed all the items back to Buncrana Garda Station where they were locked and secured ... The following day I took a sample from each and every one of the relevant bags and these samples were subsequently conveyed to the Forensic Science Laboratory by me and I handed them over personally to Dr. Sheila Willis.⁴²⁹

7.78. This refers to forty-one samples taken by Sergeant Murray from each of the bags found.⁴³⁰ He asserted that he retained all the items found for a period of two years in an exhibit store at Buncrana Station. He claimed that he disposed of them in a skip because he knew that the matter was not proceeding any further.⁴³¹ Sergeant Murray claimed that he was very clear that he retained not only the bags found but also their contents.⁴³²

7.79. This evidence contrasts with that of Commandant Niall Dowling who stated that he was asked to attend at Buncrana Station on the 15th of March 1994. On arrival, he met with the Garda in charge of the station. He was directed to a 2cwt bag of ammonium nitrate, 80lbs of fertiliser and icing sugar already mixed in plastic bags and 120lbs of icing sugar in plastic bags. Each of the plastic bags weighed approximately 6lbs. The officer in charge at the time was Inspector McMorrow. He could not remember actually meeting him that day. As the Explosive Ordinance Disposal Officer he took possession of the material and disposed of it by spreading it over a large area of ground. He assumed that the Gardaí had taken whatever samples they wanted. He was not told about any other items or fertiliser found on the previous day. He recalled going to the Garda Station and seeing the ammonium nitrate and the icing sugar in the bags.⁴³³

⁴²⁷ Tribunal Documents, page 592 and Transcript, Day 93, Q.472.

⁴²⁸ Transcript, Day 75, Q.452 and Q.459-467.

⁴²⁹ Transcript, Day 36, Q.688.

⁴³⁰ Transcript, Day 36, Q.64-65 and Q.710.

⁴³¹ Transcript, Day 36, Q.669-676.

⁴³² Transcript, Day 36, Q.737-744.

⁴³³ Transcript, Day 82, Q.302-317.

- 7.80. It is difficult to understand why there should be a difference between the evidence of Sergeant Murray, Commandant Farrell and Inspector McMorrow in relation to this find. There is no reason to believe that Commandant Farrell or Inspector McMorrow have any reason to misrepresent what happened on the 14th and 15th of March. Inspector McMorrow states that he received his information from either Detective Sergeant Walsh or Sergeant Murray. Sergeant Murray denies firmly that he gave any information to Inspector McMorrow. Having taken the samples to the station at approximately 20.30 to 20.40 hours on the 14th of March, he left the station about twenty minutes later and returned and took up duty at 22.00 hours that night. Therefore, he had the opportunity to discuss the matter with Inspector McMorrow. Detective Sergeant Walsh states that he did not return to Buncrana and was at Burnfoot until 23.45 hours, a time which would have made it unlikely that he was the source of the information. This is confirmed by the custody record in respect of Ms. McGlinchey's detention at Burnfoot Station.
- 7.81. **The Tribunal is satisfied, on the evidence, that fertiliser and icing sugar were removed from the premises on the night of the 14th of March together with welding irons and an angle iron. The Tribunal does not accept that there were suitcases and/or a holdall bag containing bags of powdered material at the time of the initial find by Mr. Mackey and Garda Rattigan. The Tribunal is also satisfied that it was Sergeant Michael Murray who informed Inspector McMorrow of the presence of plastic bags in the wardrobe in Adrienne McGlinchey's bedroom and of the other matters referred to in his report. In evidence, he denied doing this. The Tribunal rejects his evidence.**
- 7.82. The Tribunal is left with something of a conundrum in relation to this find. Firstly, at least one, and probably two, metal objects present at the time of the initial find by Mr. Mackey and Garda Rattigan were removed from the premises prior to the 'official' search. Neither Garda Rattigan nor Mr. Mackey found any suitcases or holdall in the bathroom at the time of their find. Sergeant Murray claims that he found a quantity of fertiliser and icing sugar in plastic bags, and two suitcases and a holdall bag in the bathroom but found nothing in the bedroom. He also found 2x1cwt bags of fertiliser in the bathroom. Commandant Farrell was asked to remove a large quantity of fertiliser and icing sugar from Buncrana Station on the 15th of March.
- 7.83. Sergeant Murray asserted that he retained the amount of powdered material found in the suitcases and holdall bag together with the 2x1cwt bags in the storeroom for a period of two years following the event. If both are correct, approximately twice the amount of material reported as discovered in the flat

made its way to Buncrana Station to be disposed of in different ways. One quantity of material was disposed of by Commandant Farrell and the other quantity, almost equivalent in weight, was retained by Sergeant Murray in the strong room. If that be the case, approximately half of the material found in the flat was not found in the bathroom. Further, it must have been found by those searching the premises – Sergeant Murray and/or Detective Sergeant Walsh and/or Detective Garda McMahon. In addition, if materials were found in plastic bags in the wardrobe, as reported to Inspector McMorrow, the person who found the plastic bags in the wardrobe has to be in a position to tell the Tribunal how and when they were found and why it is now said that they were found in suitcases and in a holdall bag together with the 2x1cwt bags in the bathroom. It follows, as a matter of probability, that if Inspector McMorrow was informed of the presence of the plastic bags in the wardrobe by Sergeant Murray, then Sergeant Murray reported the finding of only approximately one-half of the material to him and did not mention the material found in the bathroom. The purpose of this deception may have been to ensure that a decision not to investigate the find fully could more easily be taken and later justified, if the quantity reported as found was substantially reduced.

- 7.84. The Tribunal is satisfied that bags of fertiliser were found in plastic bags in the wardrobe of the bedroom. The search party, or some member of it, removed some of these bags and had them conveyed to Buncrana Station. The material removed from the wardrobe probably constitutes the materials disposed of by Commandant Farrell on the 15th of March. The remainder of the material found was then probably placed in the bathroom or represented, subsequently, as having been found there.

Deception

- 7.85. The Tribunal is satisfied that Detective Sergeant Walsh, Sergeant Michael Murray and Detective Garda Noel McMahon withheld vital information in relation to this search from the Tribunal. The Tribunal is further satisfied that their evidence in relation to what was found and how it was conveyed to Buncrana Garda Station and ultimately disposed of lacks candour and credibility. The Tribunal is also satisfied that the manner in which these members conveyed information in respect of materials found at the flat was calculated to deceive other members of An Garda Síochána including Inspector McMorrow, Detective Garda O’Keeffe and Detective Garda Breslin, as to the nature and extent of what was found, and to assist Detective Inspector Lennon and Detective Garda Noel McMahon in their endeavours to deal with the embarrassment caused to them, as handlers of Adrienne McGlinchey, as a result of the find made by Mr. Mackey and

Garda Rattigan. The Tribunal concludes that their behaviour arises out of a sense of misguided loyalty by the members concerned as colleagues and friends of long-standing. It was completely at odds with their obligations as members of An Garda Síochána.

Samples sent for Forensic Analysis

7.86. Sergeant Michael Murray gave evidence that on the 15th of March 1994 he took a sample from each and every one of the bags found at the scene. This gave rise to forty-one samples. Sergeant Murray undoubtedly brought these samples to Dr. Sheila Willis at the Forensic Science Laboratory. Dr. Willis states that Sergeant Murray handed her five bags containing exhibits from a flat at The Crescent, Buncrana, Co. Donegal. Four of the bags submitted contained thirty-nine samples of powder and granulated material taken from plastic bags. A fifth bag contained two samples referred to as coming from Kemira fertiliser bags. She was told that the forty-one samples of powder were recovered in a search of a flat. On a completed C56 form, handing materials over for analysis, in a box reading “brief outline of incident” it was stated:

Search of flat. Uncovered two suitcases plus holdall bag containing clear plastic bags of powder and granulated material. Also two bags of fertiliser, 27-2, 5-5.

7.87. She suspected that this referred to the composition of the fertiliser but was not sure. Under the box “suspects” there were two names, Adrienne McGlinchey and Yvonne Devine. There was nothing on the form to suggest a more precise location within the flat where the material was recovered.

7.88. Dr. Willis made a note on the form C56 to indicate that she put the five bags in a metal press and also wrote:

Expect to get details re: fertiliser. Case may not go ahead – to hear.

7.89. This information came from Sergeant Michael Murray. She sensed that she was being told in this find to hold onto the material and she would hear more. She did not hear any more about it. She indicated that it was not unusual that this would happen in relation to material submitted to the laboratory as they got quite a high number of cases which for various reasons do not proceed. They got more samples in the laboratory than they examined. Dr. Willis did not hear any more from Sergeant Murray in respect of this find. Detective Sergeant Des Walsh was named as the officer in charge of the investigation on the C56. Dr. Willis sent a communication to Detective Sergeant Walsh and Sergeant Murray on the 21st of September 1994. Her note reads as follows:

On 16th March 1994 I received from Sgt. Michael Murray a number of plastic bags containing powder and granulated material. These were referred to as having been discovered in the flat of Adrienne McGlinchey and Yvonne Devine. At the time of receipt I was told there would be further communication if analysis was needed. As I have not heard since I am returning the materials to Sgt. Murray via the Liaison Office without examination.⁴³⁴

- 7.90. The materials were returned on the 24th of September 1994 via the Garda Liaison Office.
- 7.91. Sergeant Murray gave evidence that the suggestion that Dr. Willis was told that there would be further communication if analysis of the samples was required did not make sense to him because he would not have brought the samples from Buncrana to the Forensic Science Laboratory other than for analysis. The only query that he received from the forensic scientist was in relation to the chemical breakdown of the fertiliser found and that was on the 16th of March. He said he briefed Sergeant Walsh and gave him a copy of the form C56 which had the relevant reference and tracing numbers in respect of the samples delivered to the Forensic Science Laboratory. He further stated that Detective Sergeant Walsh was to liaise with Dr. Willis. He was adamant that the only reason he took the materials up to the Forensic Science Laboratory was to have them examined.
- 7.92. No further communication was received by Dr. Willis from Detective Sergeant Walsh or Sergeant Murray in respect of these samples.
- 7.93. **The Tribunal is satisfied that Sergeant Murray took the samples to the Forensic Science Laboratory and gave Dr. Willis to understand that if further analysis of these samples was required it would be communicated to her. Though the Tribunal is satisfied that there may be circumstances in which the Forensic Science Laboratory needs further information in respect of samples submitted or awaits further communication from investigating officers before proceeding with an examination, Sergeant Murray’s evidence is to the effect that no such representation was made by him to Dr. Willis. The Tribunal rejects his evidence in this regard.**
- 7.94. **The Tribunal is satisfied that this action on the part of Sergeant Murray and his failure subsequently to communicate with Dr. Willis in respect of these samples, especially after the communication of the 21st of September, indicates that from an early stage it was not intended that a full and proper investigation would be carried out in relation to the find at the McGlinchey/Devine flat. The Tribunal is, therefore, satisfied that Sergeant Murray ensured that no proper forensic science test of these**

⁴³⁴ Tribunal Documents, page 985.

samples took place such as would assist any future prosecution. Superficially, Sergeant Murray could present himself as having carried out the functions of a scenes of crime officer in respect of this search. But, effectively, he ensured that there could be no practical consequence involving a prosecution for Ms. McGlinchey arising out of his work. Sergeant Murray was anxious to present himself to the Tribunal as both a truthful witness and as a member of An Garda Síochána who carried out his duties in a conscientious manner. The Tribunal is satisfied that he was neither.

The Missing Metal Objects

- 7.95. No explanation has been given by any member of An Garda Síochána as to what happened to the one or two metal cylindrical objects with fins found at the McGlinchey/Devine flat by Mr. Mackey and Garda Rattigan. Undoubtedly, the Garda Síochána, through Garda Rattigan, knew of the presence of at least one of these items on the premises. The Tribunal accepts Garda Rattigan’s evidence that he told Detective Garda McMahon that the item was on the premises, though Detective Garda McMahon denies this. It seems likely, and the Tribunal so finds, that Detective Inspector Lennon became aware of the presence of a metal object on the premises when he was informed of events on the afternoon of the 14th of March 1994 by Detective Garda McMahon. Detective Garda McMahon and Detective Inspector Lennon deny this but the Tribunal finds their evidence unconvincing.
- 7.96. The items disappeared from the flat sometime between 12.00 and 19.00 hours approximately, on the 14th of March 1994. The Tribunal has examined the issue as to how this occurred and attempted to identify those who had the knowledge and the opportunity to remove them. It is clear to the Tribunal, from the facts and on its findings, that Detective Garda Noel McMahon, Detective Inspector Kevin Lennon, Garda Thomas Rattigan and Ms. Adrienne McGlinchey all had knowledge of the presence of at least one metal item in the flat. Detective Sergeant Des Walsh did not come on duty until after 18.00 hours and seems to have known nothing of the matter until about 19.00 hours. Sergeant Murray claimed to have been working on “confidential” business from 14.00 to 18.00 hours either at his home or at the Garda Station at Buncrana. However, his evidence is that he first became aware of the events concerning the search of the flat when called in at approximately 19.00 to 19.30 hours by Detective Sergeant Walsh. **Having regard to the history of the metal objects, the Tribunal concludes that Detective Garda McMahon and Detective Inspector Lennon, in collaboration with other members of the Gardaí who cannot be discovered, had the items removed from the flat before the ‘official’ search took place.**

- 7.97. It would have been a severe embarrassment to Detective Garda McMahon and Detective Inspector Lennon if these items were ‘officially’ discovered. What had to be avoided was allowing Headquarters in Dublin to see obvious hoax munitions. The rockets were of no use whatsoever and had already been represented to senior management and the RUC in September of 1993 as a prototype rocket device which was so important that it had to be returned to the ‘Provisional IRA’ within a matter of hours when produced by Ms. McGlinchey. Yet, if discovered, here they were, lying about her flat some six months after they were originally produced. They could not risk the questioning of Ms. McGlinchey about these matters by other members of An Garda Síochána because their involvement in the production of same might then have been revealed together with the sham of producing such an item to Detective Superintendent Fitzpatrick and Inspector Donnelly of the RUC in September of 1993. The Tribunal concludes that a plan was devised by Detective Inspector Lennon and Detective Garda McMahon to remove the two metal objects from the premises prior to the ‘official’ search at 19.00 hours. For this reason, the search was delayed for a number of hours during which, the Tribunal further concludes, the items were removed from the premises. The evidence is not sufficiently clear to indicate who removed the items but the Tribunal is satisfied that it was organised by Detective Garda McMahon and Detective Inspector Lennon. The Tribunal is also satisfied that if these items were not actually removed by Detective Garda McMahon or Detective Inspector Lennon, they were most likely removed by some other member of An Garda Síochána whose identity cannot be certainly identified by the Tribunal.
- 7.98. It seems clear that the absence of the metal objects from the flat at the time of the ‘official’ search was also known by Detective Sergeant Walsh as early as the 15th of March 1994. Because on that date Mr. John Mackey attended at Buncrana Garda Station where he met with Detective Sergeant Des Walsh, Detective Inspector Lennon and another detective whom he described in evidence.⁴³⁵
- 7.99. Mr. Mackey told Detective Sergeant Walsh what he had seen the previous day, including the fact that he had “seen some steel object under the bath.”⁴³⁶ Sergeant Walsh “felt there was something wrong ... The scene could have been tampered with by the time I arrived there ... I just had that notion myself ... I didn’t do anything about it.”
- 7.100. He states that he did not report back that there was a missing steel item to any senior officer and did not discuss the matter with Detective Garda McMahon, Garda Rattigan or Detective Inspector Lennon. It is unlikely that the absence of

⁴³⁵ Transcript, Day 21, Q.199-203.

⁴³⁶ Transcript, Day 40, Q.851-862.

the metal objects from the inventory of what was found could not have caused serious concern to policemen who were bona fide investigating a terrorist hoard. On the face of it, this could have been a terrorist mortar, or rocket. Therefore, his evidence in this regard is not credible. The fact that Detective Sergeant Walsh said that he did not pursue this matter tends to confirm for the Tribunal that those involved wanted to ensure that the question of the metal objects was not pursued.

Detective Inspector Lennon, Detective Garda McMahon

7.101. The Tribunal is satisfied that Detective Garda McMahon and Detective Inspector Lennon proceeded in this manner because it enabled them to take control over a situation which was outside of their direct control. Steps had to be taken to ensure that the metal objects were taken out of the flat and were not found by any ‘official’ search of the premises. Matters were not only outside the control of Detective Inspector Lennon and Detective Garda McMahon but also outside the control of An Garda Síochána in that civilians had been involved in this find. It was necessary to ensure that the civilians concerned in the find were given the impression that there was a bona fide and effective Garda response to the matter. That necessarily entailed the involvement of other members of An Garda Síochána. Therefore, it was also necessary for the two to be in control of that Garda operation and to put in place a plan which gave them effective overall control of the personnel and direction of the investigation which had to be put in place for the ‘benefit’ of the civilians.

7.102. As already stated, it would appear that Detective Inspector Lennon was contacted by Detective Garda McMahon some time between 14.00 and 14.30 hours on the afternoon of the 14th of March. Detective Garda McMahon stated in evidence that he discussed with the Detective Inspector that the flat would have to be searched because Ms. McGlinchey had not informed him of the presence of any fertiliser on the premises. He also felt it was important that he speak to Ms. McGlinchey and try to ascertain from her why they had not been kept up to date on the presence of this material in the flat. He told Detective Inspector Lennon that he felt he should contact her and meet with her immediately:

I told him what my opinion was and that the flat should be searched and that I was considering arresting Ms. McGlinchey. He agreed that the flat should be searched and the arrest would have to be my decision as that was the decision of an individual member.⁴³⁷

⁴³⁷ Transcript, Day 135, Q.508-510.

- 7.103. Detective Inspector Lennon did not disagree with this suggestion that Detective Garda McMahon would contact Ms. McGlinchey and meet her in relation to the presence of the material in the flat. Detective Garda McMahon, therefore, proceeded to contact Ms. McGlinchey by phoning her at work and arranging a meeting. By now he had agreed certain matters with the Detective Inspector. On his evidence the elements of that agreement were that the flat would have to be searched, her arrest would have to be considered by Detective Garda McMahon and, if she were arrested, she would be taken to Burnfoot Garda Station. Detective Garda McMahon was starting work at 19.00 hours at Buncrana Station and if, by that stage, he had received no word from Detective Inspector Lennon he was to enquire as to whether he was to initiate the search or whether Detective Inspector Lennon was to initiate it through Superintendent O’Connor. It was intended that he, Detective Garda McMahon, would be involved in the search.⁴³⁸
- 7.104. Detective Garda McMahon gave evidence that because Detective Inspector Lennon had agreed upon a search, and indicated that he would speak to Superintendent O’Connor, he believed Detective Inspector Lennon was arranging the search with Superintendent O’Connor. He said his understanding was that “Detective Inspector Lennon would speak to Superintendent O’Connor, who would then be in possession of the information and could direct any rank above Garda to carry out a search.” He was not sure if Superintendent O’Connor decided at that time to issue the warrant. All he understood was that Detective Inspector Lennon would speak to Superintendent O’Connor and that a warrant was going to be organised. He expected a warrant to appear. When asked if he expected that Inspector Lennon would travel down for the purpose of executing the warrant he replied, “On completion of discussion I expected to see Detective Inspector Lennon at some stage.” He thought that the warrant would arrive at around 19.00 hours.⁴³⁹
- 7.105. Detective Inspector Lennon, in his evidence, stated that at 15.00 hours on the 14th he had received a phone call from Detective Garda McMahon whilst attending a conference at Letterkenny and that, having been informed about a find of fertiliser made by Garda Rattigan and the landlord of Ms. McGlinchey’s flat by Detective Garda McMahon, he told Superintendent O’Connor and Chief Superintendent Fitzpatrick about this find. He said that Detective Garda McMahon told him that he intended to get Ms. McGlinchey at her place of work and find out what was going on. Detective Inspector Lennon said that Detective Garda McMahon asked him whether that was a good idea and he replied that he had no objection to that course of action. Detective Garda McMahon informed Detective Inspector Lennon that he intended to arrest Ms. McGlinchey. Detective

⁴³⁸ Transcript, Day 135, Q.611-626, Day 136, Q.126.

⁴³⁹ Transcript, Day 136, Q.14-32.

Inspector Lennon informed him, he claimed, that that was a decision for him.⁴⁴⁰ His next information came from Detective Sergeant Des Walsh. This, he described as follows:

Later that evening I am sure I got a phone call from Des Walsh, I am fairly positive of that, that he was going searching the flat and he asked me for assistance and I told him that I hadn't any intention of going up there because I had something else on that evening but I would assist him in whatever way possible. I know I was in Buncrana at some stage that night but I thought it was after the arrest of McGlinchey at Burnfoot. They had taken her to Burnfoot Garda Station and I was in Burnfoot Garda Station and I ... met her in the Garda Station. I went into Buncrana later that night to see what materials had been recovered. I met Des Walsh, had a discussion with him and he told me that the materials had been found in the bathroom of the property. I did take part in the interrogations of Ms. McGlinchey the next day at some stage, I think I was in court in Carndonagh and that was about it.

- 7.106. Detective Inspector Lennon stated in evidence that there was no reaction on the part of Superintendent J.P. O'Connor or Chief Superintendent Fitzpatrick when informed of the find of fertiliser at the flat in Buncrana. He travelled to Buncrana some time after 22.00 hours following Ms. McGlinchey's arrest.⁴⁴¹ He denied that he had gone to Detective Garda McMahon's house in the course of the afternoon or that he had brought Ms. McGlinchey with Detective Garda McMahon to the flat later in the evening.⁴⁴² He stated he went down to Burnfoot because he had an interest in Ms. McGlinchey:

I wanted to see what was going on, what was happening, what was the position or what was the story about the whole scene.

- 7.107. He said that Sergeant Des Walsh was in charge of the operation.⁴⁴³
- 7.108. This evidence contrasts with that of others involved in these events. Ms. Adrienne McGlinchey had been contacted by Noel McMahon and collected by him and brought to his house at Porthaw. Her evidence was that Detective Garda McMahon informed her that he was going to keep her there until Detective Inspector Kevin Lennon arrived. She remained in the sitting room of the McMahon house. She states that Detective Inspector Lennon arrived and told her to keep her mouth shut. He told her that she was going to get arrested and to say nothing. She said that she was at the McMahon house for some three to four

⁴⁴⁰ Transcript, Day 147, Q.294.

⁴⁴¹ Transcript, Day 147, Q.399.

⁴⁴² Transcript, Day 147, Q.411-419.

⁴⁴³ Transcript, Day 147, Q.423-429.

hours but it was quite a while before Detective Inspector Lennon arrived. Some time after dark she was brought to the flat at The Crescent. She was driven there by Detective Garda McMahon and Detective Inspector Lennon. She entered the flat and was invited by McMahon to go to the bedroom. Ms. McGlinchey says that she was then taken by Detective Garda McMahon and Detective Inspector Lennon to Buncrana Station and after a short stop there she was driven to Burnfoot Station.⁴⁴⁴

7.109. Detective Garda James Breslin gave evidence that on the 14th of March 1994 he was working from 17.00 hours in the evening to 01.00 hours on the morning of the 15th. Within a couple of hours of commencing duty, he was informed by Detective Inspector Lennon that there was going to be a search of the McGlinchey/Devine flat at The Crescent, Buncrana. He was instructed to go to another address nearby and watch the comings and goings because that address was believed to be one which was frequented by subversives. It was the only time that he was asked to do such a thing. At the time he regarded it as justifiable and did not question it. In hindsight, it did not appear to be a justifiable request. He was asked by Detective Inspector Lennon to carry out this surveillance at Swilly Terrace. He remained there for half an hour to an hour. He then got a radio message to return to Buncrana Station. He returned at approximately 20.00 or 20.30 hours. At that time, he believed that the search of the McGlinchey/Devine flat had been completed. Having returned from Swilly Terrace he was instructed by Detective Inspector Lennon that if he happened to encounter either Ms. McGlinchey or Ms. Devine later that evening they were to be arrested. He was also detailed at a later stage to interview Ms. Yvonne Devine at Buncrana Station with Detective Garda John O’Keeffe. The briefing in relation to this interview came from Detective Inspector Lennon. Although he could not remember the precise terms of the briefing he nevertheless concluded that the briefing would have guided the questions asked. Since questions were asked of Yvonne Devine at the interview as to the find of materials in Ms. McGlinchey’s bedroom, the Tribunal is satisfied that Detective Garda Breslin was briefed on the basis that a find had been made of materials in the bedroom – not the bathroom.⁴⁴⁵

7.110. Superintendent Lennon did not agree with this evidence.

7.111. **The Tribunal is also satisfied that Detective Garda John Forkan was present along with Detective Garda Frank Togher at the time of the search of this premises. They had arrived in a patrol car having been directed to attend the scene by radio. Detective Garda Forkan gave significant evidence to the Tribunal. He went into the hall and removed one or two bags of fertiliser from the hall of the flat to the boot of a car.⁴⁴⁶ He also informed**

⁴⁴⁴ Transcript, Day 13, Q.61-70.

⁴⁴⁵ Transcript, Day 75, Q.427-502.

⁴⁴⁶ Transcript, Day 75, Q.16.

the Tribunal that he saw Detective Inspector Lennon present at the flat with Detective Garda McMahon.⁴⁴⁷ His recollection was that the search was finished at that stage and he was there to assist in the removal of the fertiliser. Detective Inspector Lennon and Detective Garda McMahon were just standing in the hall.⁴⁴⁸ Detective Inspector Lennon denied he was ever present at The Crescent, Buncrana when Garda Forkan removed bags of fertiliser.

- 7.112. The Tribunal is satisfied that the evidence of Garda Forkan is correct and rejects the evidence given by Superintendent Lennon. Contrary to the evidence given by Superintendent Lennon, the Tribunal is satisfied that he was present during an important section of the search of Ms. McGlinchey’s flat and that he was the controlling mind in furtherance of the corrupt practice that he had entered into with Detective Garda McMahon in order to ensure that the ‘crime scene’, would yield no practical result from a police-investigative viewpoint.
- 7.113. No file was available to the Tribunal in respect of the search and seizure of materials at Ms. McGlinchey’s flat. A number of members have suggested in evidence that ex-Detective Sergeant Des Walsh was responsible for the preparation of an investigation file and/or was in charge of the operation. These included Detective Inspector Lennon, Detective Garda Noel McMahon and Sergeant Michael Murray. In addition, a number of members gave evidence that they had given statements to Mr. Walsh as they thought for the purpose of the preparation of an investigation file. These included Detective Garda John Breslin and Garda Galligan.
- 7.114. The Tribunal is satisfied that Mr. Walsh took possession of a number of documents including a copy of Ms. McGlinchey’s custody record and statements from a number of members which he later destroyed. It is also satisfied that it was never his intention or that of Detective Garda McMahon, Detective Inspector Lennon or Sergeant Murray that a proper investigation file would be prepared in respect of this search. The search of the premises and the arrest of Ms. McGlinchey were conceived as a charade in response to Mr. Mackey’s find. It was never intended that it would be investigated properly or that a prosecution might be taken against Ms. McGlinchey at the conclusion of any such investigation.
- 7.115. The Tribunal is entirely satisfied that Detective Inspector Lennon was fully engaged in the events of that day from a very early stage and is satisfied that the witnesses who say that they encountered him during the course of that day, including Detective Garda Breslin and Detective Garda Forkan,

⁴⁴⁷ Transcript, Day 122, Q.5.

⁴⁴⁸ Transcript, Day 122, Q.43.

are correct in their evidence. Although ex-Detective Sergeant Des Walsh was involved in these events, the Tribunal does not accept there was any sense in which he was charged with the investigation of these events or the preparation of a file. Indeed, he confirmed this in evidence to the Tribunal. Attempts by Detective Inspector Lennon, Detective Garda McMahan and Sergeant Michael Murray to fix responsibility on Mr. Walsh in the aftermath of these events is not accepted by the Tribunal as in any way reflecting the reality of what happened.

- 7.116. The attempt to fix responsibility on Mr. Walsh had its most outrageous manifestation in the attempts made by Detective Inspector Lennon to get him to accept responsibility for the non-investigation of the matter and the failure to prepare an investigation file, when Detective Inspector Lennon was investigated in respect of disciplinary matters by Chief Superintendent McKeon. Detective Inspector Lennon telephoned Mr. Walsh (then retired) asking him to lie to Chief Superintendent McKeon by accepting responsibility in this regard. He did so in quite an elaborate statement made on the 26th of July 2001 in which he stated:

After Ms. McGlinchey's release I obtained statements from every member involved in the investigation. As far as I can recall I cannot remember whom I got them from but they would possibly include Detective Inspector Lennon, Detective Garda McMahan, Sergeant Brennan, Garda Christie Galligan, Garda Catherine McGonigle and any other member concerned. I know I had a file on the investigation. When I retired I took it home. I had it in the house for a couple of years and eventually destroyed it.

- 7.117. This was a lie peddled by Mr. Walsh to Chief Superintendent McKeon and Sergeant John McNamara. When referred to it in the course of his evidence before the Tribunal,⁴⁴⁹ he said that he had a problem with it and "I'm going to be truthful with you now." He then went on to recount how he had been contacted by Detective Inspector Lennon during the course of the disciplinary inquiry by Chief Superintendent McKeon and was requested by Detective Inspector Lennon to take responsibility for the non-investigation and the file. He agreed to do it because "I knew Kevin Lennon when he came to me as a recruit in Buncrana and to be quite honest with you, I would have quite an amount of loyalty to him I suppose."
- 7.118. He insisted that his loyalty did not extend to illegal behaviour. However, he told the Tribunal that had he not been asked a question in relation to the particular passage cited above from his statement, he wouldn't have mentioned it.⁴⁵⁰ He said that when it was brought to his attention he did

⁴⁴⁹ Transcript, Day 41, Q.103 on.

⁴⁵⁰ Transcript, Day 42, Q.1039.

not try to hide it. However Detective Inspector Lennon, in his interview with the Tribunal investigators, sought to extend this lie into the work of the Tribunal by again asserting that Sergeant Walsh briefed him on the night of the 14th of March, carried out the search and also said that he would do the report on the arrest but that he did not do any report. Indeed, Mr. Walsh gave evidence to the effect that he was prompted by a telephone call by Detective Inspector Lennon to agree that he had made a phone call to Detective Inspector Lennon on the evening of the search informing him of it. The Tribunal is satisfied that such a call was not made: it was unnecessary. Detective Inspector Lennon knew all about the charade which he had organised. The Tribunal is further satisfied that Detective Inspector Lennon made a determined effort to maintain the lie told by Sergeant Walsh to Chief Superintendent McKeon before the Tribunal. The Tribunal is satisfied that Garda operations were organised and directed by Detective Inspector Lennon on the 14th of March 1994 and that he bears responsibility for the non-investigation of this matter and the failure to prepare a file.

Arrest and Detention of Adrienne McGlinchey and Yvonne Devine

- 7.119. Adrienne McGlinchey was arrested on the 14th of March 1994 at 21.10 hours by Detective Garda Noel McMahon, pursuant to Section 30 of the Offences against the State Act, 1939 in respect of a scheduled offence of membership of an unlawful organisation. According to the custody record at Burnfoot Garda Station, she was taken to Burnfoot and processed by Garda Christopher Galligan. At 21.28 hours she requested that Ms. Yvonne Devine be contacted at a particular phone number, which request was carried out. Ms. McGlinchey was in an interview room from approximately 21.34 until 23.50 hours on the 14th of March. She was visited by Ms. Devine between 22.50 and 23.04 hours. The members of An Garda Síochána who dealt with her during this period were Detective Garda McMahon, Detective Sergeant Walsh and Detective Inspector Lennon. Detective Inspector Lennon appears to have been in the room for approximately ten minutes with her. Most of the period was spent by her in the interview room with Detective Garda McMahon and Detective Sergeant Walsh, who were in a position to interview her over a period of an hour and a half that evening, which was interrupted by a fourteen minute visit from Ms. Devine.
- 7.120. Ms. McGlinchey was detained overnight and on the 15th of March 1994 spent some further time in the interview room. She was initially in the company of Detective Sergeant Walsh and Detective Garda McMahon in the room from 09.05 until 12.50 hours when she was placed in a cell, a period of three hours and forty-five minutes. During this time Detective Inspector Lennon was in the

interview room between 11.00 and 11.20 hours. He was in the room again from approximately 14.15 until 14.50 hours in the company of Garda Irene McGonigle and Sergeant Michael Brennan. At 14.53 hours she was again in the interview room and remained there for a period of two hours and forty-five minutes approximately until 18.00 hours, when she was returned to a cell. During this time, Detective Inspector Lennon spent approximately one hour and fifty-five minutes, Detective Garda McMahon spent two hours and ten minutes and Detective Sergeant Walsh spent an hour and forty-five minutes, in her company.

- 7.121. During the course of the afternoon, at 17.40 hours, Ms. McGlinchey indicated to the member in charge, Garda Christy Gallagher, that she wished to make a complaint against Detective Inspector Lennon. He noted it as follows in the custody record:

5.40pm - Prisoner wishing to make a complaint against D/Insp. Lennon. Declined to make a written complaint but complained about D/Insp. Lennon's mannerisms (would not elaborate). Gave prisoner address of Complaints Board.

- 7.122. Ms. McGlinchey was placed in a cell at 18.00 hours. At 19.30 hours authorisation was obtained by Detective Garda Noel McMahon from Superintendent Fitzpatrick to photograph and fingerprint Ms. McGlinchey. Chief Superintendent Fitzpatrick has no recollection of giving such an authorisation. At 19.40 hours Detective Sergeant Walsh, Detective Garda McMahon and Garda Irene McGonigle took Ms. McGlinchey to the interview room. At 19.45 hours, Ms. McGlinchey was released from custody, her property was returned and it was noted that she had no complaints to make.⁴⁵¹ From the entries in the custody record it would appear that those present at the time of the making of the complaint at 17.40 hours to Garda Galligan were Detective Sergeant Walsh, Detective Garda McMahon and Detective Inspector Lennon.

- 7.123. As already stated, Ms. McGlinchey alleges that she was driven to the flat by Detective Garda McMahon and Detective Inspector Kevin Lennon on the 14th of March 1994. She says that she was taken by them from the flat, following a short stop at Buncrana Station, to Burnfoot Station.⁴⁵² She states that she was never formally arrested. Having been brought to Burnfoot Station, she was brought to a room. She recalled that Sergeant Des Walsh came in, at one stage, and asked her whether she could obtain shirts for him from the factory in which she worked. She had no relevant discussion with the Gardaí about the search of the flat whilst in the interview room. The last thing that was said to her on the night of the 14th of March 1994 by Detective Garda McMahon was that she should sleep it off and everything would be grand; "Say nothing don't look at anybody"⁴⁵³. On the

⁴⁵¹ See material pages 1972-1976.

⁴⁵² Transcript, Day 13, Q.66-69.

⁴⁵³ Transcript, Day 13, Q.87.

following morning, she says she was taken to an interview room and that Detective Garda McMahon and Detective Inspector Lennon came in with magazines for her together with Coke and Polo mints. She said that Detective Inspector Lennon and Detective Garda McMahon read the newspapers and she read magazines. She indicated that a female Garda looked in and saw this. Detective Inspector Lennon then commented on the fact that the Garda had come in and said he was going to bang the table. He did this and shouted something like “Listen to me” at the same time. She said Detective Garda McMahon and Detective Inspector Lennon then carried on reading the papers and she read the magazines. She said this was all a charade.

7.124. She further alleged that she was encouraged by Detective Inspector Lennon and Detective Garda McMahon to make a complaint about her treatment whilst in detention to the first Garda she met when she was going to the bathroom upstairs in the Garda Station. She did so, and after what she described as a “good while” the Garda came in and said in front of Detective Inspector Lennon and Detective Garda McMahon that he heard that she wanted to make a complaint. He advised her about the Garda Complaints Board and gave her a phone number. She said “We laughed and he went out again”. She said Detective Inspector Lennon and Detective Garda McMahon had initially laughed about it and egged her on. She was not sure about whether they laughed when Garda Galligan came in or not.⁴⁵⁴

7.125. The member in charge at Burnfoot Station on the 14th of March 1994, Garda Christopher Galligan, gave evidence that Detective Inspector Lennon, Detective Sergeant Walsh and Detective Garda McMahon arrived at the station at approximately 21.26 hours with Adrienne McGlinchey. Detective Sergeant Walsh conferred with Garda Galligan in respect of her detention and compliance with the custody regulations. Garda Galligan was on duty for only one half hour approximately of Ms. McGlinchey’s detention on the evening of the 14th but the following day he was the member in charge from 14.00 to 22.00 hours. He said that when he went in to the interview room on one occasion during the course of the day, his experience was as follows:

It was unusual, to say the least, I can’t put my finger on it but when I did go in Adrienne was kind of serious but laughing, if you know what I mean, she was giddy but being serious, you know, she wasn’t behaving in the normal, rational If you take a suspect member of the IRA group, normally they would sit watching a point on the wall, but she wasn’t. There was a gay frivolity about the whole thing, it was kind of surreal, as I would say myself, that was only my impression at that moment when I went into the room.⁴⁵⁵

⁴⁵⁴ Transcript, Day 13, Q.90.

⁴⁵⁵ Transcript, Day 75, Q.273-277.

- 7.126. In respect of the complaint made at 17.40 hours on the 15th of March, Garda Galligan stated that Ms. McGlinchey wanted to make a complaint about Detective Inspector Lennon and his mannerisms. He asked her to elaborate. He told her that if she wanted to make complaints there was a procedure under which a complaint could be made to the Garda Complaints Board. She was advised that she could make a complaint to him at the conclusion of her interview or that he would give her a phone number and the address of the Garda Complaints Board if she had a genuine complaint which she wished to make. He recalled writing out the phone number and actually writing the complaint into the custody record.⁴⁵⁶ He noted that “She was laughing and at the same time being serious”.⁴⁵⁷ He said that when the complaints were made Detective Inspector Lennon and Detective Garda McMahon “Just kind of laughed, kind of ha-ha”.
- 7.127. Detective Inspector Lennon and Detective Garda McMahon now accept that there was no genuine attempt by them to interview Adrienne McGlinchey.
- 7.128. Yvonne Devine was arrested at Burnfoot Garda Station on the evening of the 14th of March 1994 by Garda Christopher Galligan following the completion of his tour of duty. Just before he left the station, Detective Sergeant Walsh approached him and Detective Garda Breslin and discussed the events in relation to Adrienne McGlinchey’s arrest. It was necessary to arrest Yvonne Devine, as she was an associate of Adrienne McGlinchey’s because of the different things that they had been involved in around the area in the Buncrana district. He, therefore, arrested Yvonne Devine under Section 30 of the Offences against the State Act for suspected membership of an unlawful organisation at 23.04 hours. He took her to Buncrana Garda Station where she was detained at 23.20 hours. The interview was conducted with Detective Garda James Breslin and Garda Galligan prepared a typed copy of the interview and a statement relating to his duties as member in charge which he believed he furnished to Detective Sergeant Walsh. This led him to believe that there was an investigation file on the matter.⁴⁵⁸
- 7.129. Ms. Devine was further interviewed by Detective Garda John O’Keeffe and Detective Garda Breslin at 09.35 hours on the following day. The interview notes were recorded in writing by Detective Garda O’Keeffe. Ms. Devine confirmed to the interviewers that at 18.00 hours on the 14th of March 1994 she was on a bus going to Letterkenny and that having received a phone call at her mother’s she went at Ms. McGlinchey’s request to Burnfoot Garda Station. After her visit she was arrested by Garda Galligan at 23.04 hours. The interviewers elicited the following from Ms. Devine. She had not been to the flat since 07.30 hours on the 14th of March. She and Ms. McGlinchey were the sole occupants of the flat over

⁴⁵⁶ Transcript, Day 75, Q.313.

⁴⁵⁷ Transcript, Day 75, Q.319.

⁴⁵⁸ Transcript, Day 75, Q.339-345.

the previous month. Her bedroom was the smaller one in the flat. She did not know if Ms. McGlinchey was keeping anything illegal in her bedroom. She knew nothing of what was found in the premises the previous night.

7.130. Ms. Devine was brought down to the garage at the rear of the Garda Station where Detective Garda O’Keeffe and Detective Garda Breslin showed her two light brown suitcases and one large black holdall bag together with a number of plastic bags containing a white substance and two bags of fertiliser. She said she had never seen these items before. Specifically she was asked whether she had ever seen these items in Ms. McGlinchey’s bedroom. She said “It is quite possible but she didn’t ... she wouldn’t have anything like that in her room.” The interview concluded at 12.50 hours. There was a further interview in the afternoon involving Detective Gardaí O’Keeffe, Doherty and Breslin. Questioning was terminated at 15.20 hours.

7.131. Detective Garda Breslin, on his arrival at Buncrana Station at approximately 20.00 to 20.30 hours on the evening of the 14th, having been sent to Swilly Terrace to carry out surveillance during the course of the search, became aware that the search of the flat had been completed. He was shown the items ‘recovered’, that is: two suitcases full of bags which, he was told, contained “ground down fertiliser and icing sugar”.⁴⁵⁹ He was given a direction by Detective Inspector Lennon that should he encounter Ms. McGlinchey or Ms. Devine at any time that evening he should arrest them. He had met with Detective Inspector Lennon in the yard at Buncrana Station.⁴⁶⁰ Detective Garda Breslin added:

The night of the find I was informed, I saw the stuff that was found in Buncrana, in Buncrana Station and I spoke to Detective Garda McMahan and Detective Inspector Lennon ... They gave me brief details about where the stuff was found and that I know it was got in the flat but I can’t recall where exactly in the flat it was found ... At the time I would have been probably aware, to conduct the interview.⁴⁶¹

7.132. Detective Garda Breslin gave evidence that he was briefed by Detective Inspector Lennon⁴⁶² in the following way:-

I know when I conducted the interview, looking back now on the interview notes, the questions all seem to relate to Adrienne McGlinchey’s bedroom. So I must have been told obviously at the time that it was the bedroom.⁴⁶³

⁴⁵⁹ Transcript, Day 73, Q.450, 461.

⁴⁶⁰ Transcript, Day 73, Q.457.

⁴⁶¹ Transcript, Day 75, Q.480-483.

⁴⁶² Transcript, Day 75, Q.496, 520.

⁴⁶³ Transcript, Day 73, Q.495, 526 and 538.

- 7.133. Detective Garda O’Keeffe could not recall who briefed him on the facts though he had a vague recollection that it was Detective Sergeant Walsh. He was satisfied he was made aware of the facts before conducting the interview with Yvonne Devine on the 15th of March. “I would never carry out an interview with anyone unless I found out the facts.”⁴⁶⁴
- 7.134. **Superintendent Lennon at all times knew that the arrest and detention of Yvonne Devine and Adrienne McGlinchey and the search of their flat was a further extension of the charade being pursued by them in conjunction with Detective Garda McMahon.**

The release of Adrienne McGlinchey

- 7.135. Inspector P. McMorrow, the acting district officer for Buncrana, gave evidence that following his return from the District Court in Carndonagh to Buncrana Garda Station at approximately 15.00 to 16.00 hours he became aware that Commandant Dowling had examined materials found at the flat and confirmed that the material was ammonium nitrate and icing sugar. He spoke to Detective Inspector Lennon as a result of this finding and he was informed by him that both prisoners, Ms. McGlinchey and Ms. Devine, had been interviewed. Detective Inspector Lennon did not think at that stage that there was enough evidence for forwarding a file to or contacting the Director of Public Prosecutions. He said “We would rather consider releasing the prisoners and forwarding a file at the end of it to the DPP.”⁴⁶⁵ He had been told at the station that Detective Inspector Lennon had come to Buncrana that day as part of the search and that when the flat was searched he was present.⁴⁶⁶ Inspector McMorrow also stated that he telephoned Detective Inspector Lennon in Burnfoot later in the evening and asked him what evidence existed against the detainees and how the interviews were going. He wanted to know what direction the matter was taking. Detective Inspector Lennon told him that he was thinking of releasing the two and sending a file to the Director of Public Prosecutions.
- 7.136. It was suggested to him in cross examination by Superintendent Lennon that in fact he had been telephoned by Inspector McMorrow at his home at 19.00 hours on the 15th and had been informed by Inspector McMorrow that he intended to release the two detainees as nothing was coming from the investigation. It was further suggested to him that he did not mention the Director of Public Prosecutions by name. Inspector McMorrow disagreed, conceding only that he may not have used the phrase ‘the Director of Public Prosecutions’, but the sense of the conversation was as in his evidence.⁴⁶⁷

⁴⁶⁴ Transcript, Day 73, Q.471.

⁴⁶⁵ Transcript, Day 74, Q.638-641.

⁴⁶⁶ Transcript, Day 74, Q.773.

⁴⁶⁷ Transcript, Day 74, Q.638, 779-783.

- 7.137. In evidence, Superintendent Lennon stated that he did not express any sentiment to the effect that there was no case against Ms. McGlinchey nor did he say that he was considering the release of Ms. McGlinchey or Ms. Devine because that would have occurred by effluxion of time anyway.⁴⁶⁸
- 7.138. This remained his evidence until later on Day 147. He then revealed to the Tribunal that he became aware that Detective Garda McMahon was playing out a charade with Ms. McGlinchey in respect of her detention. He became aware of this on the 15th of March; she had to be protected from the ‘Provisional IRA’. He said:
- You are trying to cover over that materials belonging to the IRA had been seized and taken into possession of the Guards, that she was allegedly holding for the IRA, and that in order to do that if you didn’t do anything about it then she was at risk.*⁴⁶⁹
- 7.139. He said he spotted it was a charade during the currency of the interview.⁴⁷⁰ He went along with it.⁴⁷¹
- 7.140. Detective Inspector Lennon acknowledged that he did not tell Inspector McMorrow about the charade in respect of the continued detention of Ms. McGlinchey on the afternoon or evening of the 15th of March, though it was in his mind. He didn’t do so because, “I was then party to that charade and detention” and “on reflection” he thought that was wrong.⁴⁷² Insofar as there is a conflict between the evidence of Inspector McMorrow and Superintendent Lennon on this matter the Tribunal prefers the evidence of Inspector McMorrow.

Summary and Conclusion

- 7.141. The conclusions of the Tribunal based on all the evidence and submissions reviewed and heard in respect of this matter as already set out may be summarised as follows. The Tribunal is satisfied that the materials found by the search team on the evening of the 14th of March 1994 did not originate with the ‘Provisional IRA’ or any other terrorist source. They were materials which were in the possession of Ms. Adrienne McGlinchey and under the control of Detective Garda Noel McMahon and Detective Inspector Lennon for use as and when required by them for the purpose of planting them for later discovery in locations in Donegal. They were to be discovered as a result of the passing of ‘information’ as to the location of these materials, once planted, to the relevant authorities by Detective Garda McMahon through Detective Inspector Lennon. It was intended

⁴⁶⁸ Transcript, Day 74, Q.300-305.

⁴⁶⁹ Transcript, Day 147, Q.662.

⁴⁷⁰ Transcript, Day 147, Q.665.

⁴⁷¹ Transcript, Day 147, Q.666.

⁴⁷² Transcript, Day 149, Q.411-421.

that this information would be represented to the authorities as emanating from a ‘reliable source’, Ms. McGlinchey. The Tribunal is satisfied beyond doubt that these materials were intended for use in hoax finds of explosive materials orchestrated by Ms. Adrienne McGlinchey, Detective Garda McMahon and Detective Inspector Lennon.

- 7.142. The two metal cylindrical objects found by Mr. John Mackey on the premises earlier on the 14th of March were similar to Exhibits 1 and 3 presented to the Tribunal. Exhibit 1 was found in the shed of the McMahon family home by Mrs. McMahon. Exhibit 3 was found in the office of the Border Superintendent at Letterkenny Garda Station. Exhibit 3 was part of an elaborate attempt by Detective Inspector Lennon and Detective Garda McMahon to convince their authorities and the RUC that the ‘Provisional IRA’ had produced a prototype rocket, a new mortar type device, which had come into their possession from Ms. McGlinchey in circumstances which required it to be returned to her within two hours, which thereby precluded a forensic examination of the item. This item was not returned to her. Exhibits 1 and 3 had been procured by Ms. McGlinchey at the request of Detective Garda McMahon and with the knowledge of Detective Inspector Lennon. The Tribunal concludes that when Mr. Mackey came across two similar metal items in the flat on the 14th of March 1994, and the presence of at least one of these items was conveyed to Detective Garda McMahon, he realised immediately that the finding of such an item at Ms. McGlinchey’s flat would give rise to serious questions in respect of their previous dealings concerning a similar item with Detective Superintendent Fitzpatrick and the RUC. Unlike other hoax finds with which they were concerned, this find was not meant to happen. They needed to regain control of the situation. They needed to ensure that their authorities did not become aware of the two metal objects. In this regard, they had to address the further complication that a civilian was now directly involved and was aware of the existence of the metal objects and other materials on the premises. Therefore, whilst Garda Rattigan was happy to leave the matter in the care of Detective Garda McMahon it became rapidly obvious to Detective Garda McMahon and Detective Inspector Lennon that by reason of the involvement of a civilian in the find, they could not just deal with the matter themselves. There had to be a Garda operation of some kind. Otherwise they ran the risk that civilians who had become aware of the presence of these metal objects and materials in the flat could legitimately complain that nothing had been done by the Garda Síochána about a ‘bomb factory’ found contiguous to Buncrana Garda station.

- 7.143. The Tribunal is satisfied that Detective Garda McMahon and Detective Inspector Lennon then embarked upon a course of action calculated to enable them to remove, or have removed, from the premises the two metal objects seen by Mr. Mackey and to organise and control the Garda operation which had to be carried out. Detective Garda McMahon and ex-Detective Sergeant Des Walsh went to the flat where a ‘search’ was commenced. A number of uniformed Gardaí were also called or directed to the scene. These included Garda Frank Togher and Garda Hugh Forkan. By this stage, the Tribunal is satisfied that the two metal objects had been removed. The Tribunal is satisfied that they were removed by members of An Garda Síochána but is unable to identify the members.
- 7.144. At this stage, the first leg of the McMahon/Lennon plan had been accomplished. The metal objects had been removed from the scene and would not be found in the course of the ‘official’ search. The second phase of the plan was to carry out the ‘official’ search. This was done by Detective Sergeant Walsh and Detective Garda McMahon. Sergeant Michael Murray was called in as a scenes of crime officer. The Tribunal is satisfied that in the course of that search a large number of plastic bags containing white material were found in the wardrobe of Ms. McGlinchey’s bedroom in the flat. Other items were also found including welding irons and an angle iron. Some of this material was then placed in suitcases and a holdall. This material together with 2x1cwt bags of fertiliser was designated by Sergeant Murray as having been found in the bathroom. The Tribunal is satisfied that the balance of the material found constitutes the material which Commandant Farrell was asked to dispose of the following day at Buncrana Station. The Tribunal is, therefore, satisfied that Detective Sergeant Walsh, Detective Garda McMahon and Sergeant Michael Murray misrepresented what was found in the wardrobe. They contrived to present the find as one which had been found in the bathroom. The Tribunal believes that this was done in order to shift the focus from Ms. McGlinchey’s bedroom to a common area within the flat shared with Ms. Devine. Further, it is satisfied that the division of the hoard found occurred during the course of the search in order to minimise the quantity of bomb-making equipment found in the flat. If the search party admitted to a find of approximately twice the quantity actually ‘found’ this would have rendered it more difficult to explain a decision not to prosecute Ms. McGlinchey, especially if the material was found in the wardrobe of her bedroom.

- 7.145. Unexpectedly, at 21.00 hours on the 14th of March 1994, Inspector Peter McMorrow arrived at Buncrana Station. As the acting district officer for the area he should have been informed of any search which was carried out at the flat. The Tribunal is satisfied that the operation was under the control of Detective Inspector Lennon from an early stage in the day. The Tribunal is further satisfied that Sergeant Michael Murray informed Inspector McMorrow about a find of materials in the wardrobe of the bedroom and did not inform him that any materials had been found in the bathroom. An army officer was requested to attend at the station to remove the materials represented to Inspector McMorrow as having been found in the wardrobe. He did so on the 15th of March and consequently he, Commandant Farrell, and Inspector McMorrow were deceived into believing that he had arranged for the disposal of all of the materials found at the flat. Since it was his responsibility to report this matter to divisional headquarters this deception was calculated to ensure that higher authorities including divisional headquarters and Garda Headquarters in Dublin were also deceived as to the extent of the find at the flat. The Tribunal is satisfied that Detective Garda McMahon, Detective Sergeant Des Walsh (retired), Sergeant Michael Murray and Superintendent Kevin Lennon have withheld vital information from the Tribunal in relation to this find and their handling of it and that their testimony in respect of these events is not credible.

CHAPTER 8

OATFIELD and COVEHILL

(the FIFTH and SIXTH 'FINDS' of PARAGRAPH (e))

Introduction

- 8.01. Two finds of homemade explosives material were reported by telexes to the Assistant Commissioner of Crime & Security on the 5th and the 13th of June 1994. Both of these finds are specifically the subject of Term of Reference (e). Because they are related in time, and by circumstances referred to in the evidence before the Tribunal, it is appropriate to consider both finds together.
- 8.02. The investigation of these finds by the Tribunal has been hampered, once again, by the complete absence of records on the part of the members of An Garda Síochána involved in events relating to the finds. There was no investigation file prepared in respect of either find. No forensic reports were sought in respect of anything found. No detailed report was prepared and submitted by any member or officer of An Garda Síochána in respect of the finds. Indeed, there was total ignorance expressed by members of An Garda Síochána called before the Tribunal in respect of the find of the 13th of June 1994. The finds constitute two of the six finds of homemade explosives made in the Donegal division in 1994 and they are closely related. They occurred in the Letterkenny district, and involved personnel from Letterkenny Garda Station, which houses the divisional headquarters.
- 8.03. The two documents which yielded the most detail about the finds to the Tribunal were the telexes sent from divisional headquarters to Crime & Security. The first telex is in respect of the find of the 4th of June 1994 and the second is in respect of the find of the 13th of June 1994 and they are produced below in full.

FIRST TELEX

COPY: 433

93907 GSCR EI

93889B GSDR EI

BCT MOM

42098 GSly EI

MESSAGE FROM LETTERKENNY TO SUPT I/C COMMUNICATIONS CENTRE
DUBLIN CASTLE, ASSISTANT COMM CRIME AND SECURITY AND GARDA
PRESS OFFICE.

TELEX MESSAGE NUMBER DO 185/94.

SUBJECT: SUSPECTED BOMBMAKING MATERIAL FOUND AT
LETTERKENNY, CO DONEGAL ON SATURDAY, 4TH JUNE, 94

AT 11.25 PM ON SATURDAY, 4TH JUNE, 94 A LOCAL PERSON (KNOWN
TO GARDAI) REPORTED THAT WHILE HE WAS OUT
WALKING/EXERCISING HIS DOG IN THE VICINITY OF OATFIELD SWEET
FACTORY, RAMELTON ROAD, LETTERKENNY, THE DOG UNEARTHED
'PACKAGES' CONCEALED BEHIND A WALL/HEDGE IN THIS AREA.

GARDAI WENT IMMEDIATELY TO THE SCENE AND RECOVERED AT LEAST
14 STONE WEIGHT OF A WHITE POWDERY TYPE SUBSTANCE
SUSPECTED OF BEING GROUND/CRUSHED FERTILISER. THE SUBSTANCE
WAS CONTAINED IN 27 POLYTHENE TYPE BAGS, 16 OF WHICH WERE
PACKED INTO TWO LARGE BLACK COLOURED HOLDALLS AND THE
REMAINDER WAS PACKED INTO 3 CARDBOARD BOXES. ALL THE ITEMS
ARE QUIET⁴⁷³ DRY SUGGESTING THAT NOT A LOT OF TIME HAS ELAPSED
SINCE THEY WERE CONCEALED THERE, POSSIBLY LATE AFTERNOON AS
THERE WERE SHOWERY SPELLS UP TO THAT TIME.

THE MATERIAL IS BEING HELD AT LETTERKENNY GARDA STATION
AWAITING FORENSIC EXAMINATION TO ASCERTAIN WHAT PRECISELY IT
IS. ENQUIRIES ARE CONTINUING WITH A VIEW TO ESTABLISHING ITS
ORIGIN AND POSSIBLE DESTINATION.

DEVELOPMENTS WILL BE REPORTED.

MESSAGE ENDS.

SENDER: DIVISIONAL COMMUNICATIONS CENTRE LETTERKENNY.

DATE: 5.6.94. TIME: 12.45 AM.

SECOND TELEX

42098 GSLY EI

MESSAGE FROM LETTERKENNY FOR THE INFORMATION OF
A/COMMISSIONER CRIME AND SECURITY

TELEX MESSAGE NO DO 200/94

SUBJECT: EXPLOSIVES FIND AT COVEHILL, LETTERKENNY, CO DONEGAL

AT 8AM ON THE 13/6/94, DURING THE COURSE OF A ROUTINE SEARCH
OF A VACANT SHED AT COVEHILL, LETTERKENNY, D/BRANCH MEMBERS
FOUND THE FOLLOWING:

⁴⁷³ Mispelling not corrected.

APPROX 112LBS OF FINELY GROUND FERTILISER. IT WAS CONTAINED IN
14 LB PLASTIC BAGS WHICH WERE STORED IN CARDBOARD BOXES.

THE FERTILISER HAS BEEN EXAMINED AND SAMPLES WILL BE
FORWARDED TO TECHNICAL BUREAU FOR EXAMINATION.

THIS INFORMATION IS NOT TO BE GIVEN TO THE PRESS.

ANY FURTHER DEVELOPMENTS WILL BE REPORTED.

MESSAGE ENDS.

SENDER: DIVISION COMMUNICATIONS CENTRE LETTERKENNY.

130694 15.24

93907 GSCR EI

42098 GSLY EI

Telex of the 4th of June 1994

8.04. The first telex reports that at 23.25 hours on the Saturday, the 4th of June a local person, who was known to Gardaí, reported a find of “packages concealed behind a wall/hedge” which was “in the vicinity of Oatfield Sweet Factory, Ramelton Road, Letterkenny.” These packages were said to have been “unearthed” by the man’s dog. The report then sets out how Gardaí went to the scene and recovered “at least 14 stone” of “a white powdery type substance suspected of being ground/crushed fertiliser”. It was contained in twenty-seven polythene type bags. Sixteen of these were packed into “two large black coloured holdalls”. The remainder were packed into “3 cardboard boxes”. The items were said to have been “quite dry suggesting that not a lot of time has elapsed since they were concealed there, possibly late afternoon as there were showery spells up to that time.” It was then indicated that the material was held at Letterkenny and was “awaiting forensic examination to ascertain precisely what” it was. It was also reported that enquiries were continuing, “with a view to establishing its origin and possible destination.”

8.05. The Tribunal understands that the purpose of sending a telex to the Assistant Commissioner, Crime & Security is to give him a prompt and accurate account of the find. In this instance, as in others investigated by the Tribunal, the telex report to Headquarters is at variance with the evidence given to the Tribunal concerning the circumstances of the find. The telex is a deceitful document. The Tribunal has heard evidence that:

- (a) The initial report was made to Letterkenny Garda Station early in the morning of the 4th of June and the find was made at 07.00 hours approximately and not at 23.25 hours;

- (b) The find did not include any material contained in “3 cardboard boxes”;
- (c) The description purporting to suggest that the find was concealed in the late afternoon following showery spells is totally at variance with the evidence that the material was found at about 07.00 hours. If it had been found earlier in the morning one might have expected the material to be wet, if it had been out all night, or placed in the location in which it was found in the early hours of that morning;
- (d) There is no evidence that any member of An Garda Síochána took any step or intended to take any step to have the materials examined;
- (e) No member of An Garda Síochána took any step to establish the origin or destination of this material;
- (f) The identity of the person who reported the find was not then known to Gardaí – apparently they did not even take his name;
- (g) The evidence did not suggest that a dog had “unearthed” the bags.

8.06. The time of this telex, 00.45 hours on the 5th of June 1994, suggests an unnecessary and unreasonable delay in transmitting this information to Crime & Security if the material had been found at 07.00 hours on the morning of the 4th of June. As will be seen no further investigation of any substance concerning this find ever took place.

Telex of the 13th of June 1994

8.07. The second telex is a very much shorter document which reports that at 08.00 hours on the 13th June of 1994, “during the course of a routine search of a vacant shed at Covehill, Letterkenny”, Detective Branch members found “112lbs of finely ground fertiliser ... contained in 14 lb plastic bags which were stored in cardboard boxes”. It continued “the fertiliser has been examined” and again indicates that samples would be forwarded to the Technical Bureau for examination. For some reason, this information was not to be given to the Press. This telex is timed at 15.24 hours on the 13th of June 1994.

8.08. The only evidence of a find on the 13th of June 1994 is contained in this telex. None of the facts contained in the document could be established by the Tribunal:

- (a) No member of the Detective Branch at Letterkenny, or any other member of An Garda Síochána, came forward to inform the Tribunal of their involvement in this find;
- (b) No evidence was given to the Tribunal as to what became of 112lbs of ground down fertiliser referred to in the telex, if it ever existed;

- (c) No evidence was given to the Tribunal of the examination of this material or when or by whom samples were intended to be or were furnished to the Technical Bureau;
- (d) No evidence was given to the Tribunal of any investigation of any nature whatsoever carried out in relation to this find.

The Sending of the Telexes

- 8.09. In 1994, if an incident occurred in the Letterkenny district and it was desired to send details of this incident to Crime & Security in Dublin by telex, the normal procedure to be followed was that the person who attended the incident initially reported the matter to his Inspector or Superintendent. This officer would then compose a message on the basis of that communication or approve the contents of a draft message. A member could not simply present himself at the Divisional Communications Office and indicate that he wished to send a message. When the message was committed to paper and approved it was handed over to the member on duty in the divisional communications office. This member brought the message to the attention of the divisional officer and the message was then typed into the telex machine.
- 8.10. When the message had been sent the original report of the incident, along with a copy of the telex message, printed from the machine, were stapled together. The print-off occurred as the message was being sent to Dublin. These two stapled documents were referred to as a 'file' and left in a box for the Chief Superintendent or his divisional office staff, collected each morning and taken into the Chief Superintendent for his information. A copy of the telex message was made available to the Border Superintendent's office and a copy was filed in the Divisional Communications Centre.
- 8.11. The Chief Superintendent should then have noted the telex for further attention or indicated that it should be filed away. The 'file' would be returned to the divisional office staff to be filed in a lever arch folder in the divisional office. A separate folder existed for each of the five districts in the divisional office and all confidential files relating to each district 'including telexes' were filed in that lever arch folder. Each folder was maintained for a twelve-month period and then renewed.
- 8.12. The contents of this lever arch file were indexed by the member filing the documents. The index was in the form of a covering sheet on which the person filing the documents wrote a number starting at number 1 for the year, and the incident would have that corresponding number, as well as the 'file' number that appears on the 'file', the date of the 'file' and the heading of the 'file'. This would

furnish a brief detail of the contents of the lever arch file. One should be able to look up the two telexes sent on the 4th and the 13th of June 1994 respectively, and find them in the lever arch file and in the index. Garda Vincent Cafferkey was asked to carry out a search in respect of these telexes to ascertain whether the two messages were contained in the Letterkenny lever arch file for 1994. The telexes were not contained in the file and they were not recorded on the index covering the files. No explanation has been offered to the Tribunal as to why this is so. The laxity is shocking.

- 8.13.** If the telex message was sent at 00.45 hours on the 5th of June 1994 it would have required authorisation from an Inspector or Superintendent on call. If the telex message on the 13th of June 1994 was dispatched at around 15.00 hours it would have required the authorisation of some senior officer on duty. For some reason, which remains unexplained, two confidential communications to Garda Headquarters were never placed on the lever arch file as required and the originals remain unavailable to the Tribunal.
- 8.14.** The practice was to circulate the telex messages to the Border Superintendent's office and to the district officer for the district from which the message emanated, in this case Letterkenny.⁴⁷⁴ The evidence indicates that the telex of the 4th of June 1994 was collected by Detective Garda Moylan on his return from Dublin on a date which he gave as the 12th of June 1994.
- 8.15.** Superintendent John Fitzgerald, who was then the district officer for Letterkenny, had a note in his diary which read, "4th June, 1994, full border patrol, find of explosives. Callout. 2.30am. Finish."

In evidence, he did not know whether the time of finishing his tour was connected to the find of explosives but he confirmed that he became aware that there was a find of explosives in the vicinity of the Oatfield factory contained in plastic bags and he had a recollection that the bags were small. He did not know the exact location of the find but it was in the vicinity of the Oatfield factory. He did not recall what time of the day the find was made. He considered that the matter was being looked after by Detective Branch. He had no responsibility for the telex of the 5th of June 1994. He confirmed that if a message was to go to Dublin it had to be authenticated by an officer of Inspector rank or higher except in very exceptional circumstances of which a Superintendent would have to be informed. He had no recollection of seeing the telex of the 5th of June 1994. He only presumed that Detective Branch dealt with the matter as that would have been the norm.⁴⁷⁵

⁴⁷⁴ Transcript, Day 127, Q.482-588.

⁴⁷⁵ Transcript, Day 123, Q.473-549.

- 8.16. Superintendent Fitzgerald was absent from Letterkenny from the 12th of June to the 14th of June and commenced his annual leave on the 15th of June 1994, returning on the 25th of June. There was nothing in his diary in relation to the Covehill find but he believes that he learned there was a find in Covehill. He believes he was updated on matters when he returned on the 25th of June 1994. However, he does not recall whether the telex of the 13th of June 1994 was brought to his attention.
- 8.17. Chief Superintendent Ginty appeared to have been off duty on the 4th and the 5th of June 1994 but resumed his duty on Monday the 6th of June. He presumes that the telex of the 4th of June 1994 passed through his office but had no recollection of seeing it. Though he would have been updated on events on his return on Monday the 6th, he had no recollection of reading this telex at all.⁴⁷⁶
- 8.18. As in other finds of this kind, the Tribunal expected the Garda Síochána to be in a position to give full details in relation to them to the effect that they were handled by members of An Garda Síochána in a professional manner, in compliance with basic police procedure, and that the relevant reports or files which the Tribunal believes should exist would be produced. It became rapidly apparent that this could not be done. The Tribunal was obliged to pursue its own inquiries with those members in Letterkenny who expressed some knowledge of events surrounding the dates of these finds or who might be expected to have some such knowledge. Evidence of a most unsatisfactory nature was given to the Tribunal in respect of this matter in a most reticent and unhelpful way by members of An Garda Síochána. The handling of the ‘finds’ reflects no credit on any of those concerned or upon the superior officers who might be expected to set standards in this regard. These events were, at the very minimum, handled in a grossly negligent manner by all concerned, if the finds were bona fide. The Tribunal considers that there were a number of serious questions to be addressed in relation to the finds of the 4th and the 13th of June 1994 from the material set out above which suggest that they were not. However, even more serious questions arose on the basis of allegations made by Ms. Adrienne McGlinchey in relation to events which occurred in June of 1994 in which she and members of An Garda Síochána were supposedly involved and which tended to suggest that the finds were a sham.

Statements of Adrienne McGlinchey concerning Oatfield

- 8.19. Any evidence emanating from Ms. McGlinchey must be treated with the utmost caution. As noted throughout this report, she has been demonstrably untruthful

⁴⁷⁶ Transcript, Day 111, Q.271-283.

and inconsistent concerning important facts in the past and before the Tribunal. Her statements and evidence in respect of these finds are set out below.

- 8.20. In her statement of the 22nd of June 1999 Ms. McGlinchey stated that following the search of her flat by the Gardaí in Buncrana on the 14th of March 1994 she and Ms. Yvonne Devine remained in the flat for a number of days. They then moved to a house at Ballyliffin. A number of weeks later Ms. Devine broke her leg and was hospitalised. Ms. McGlinchey said:

Noel McMahon still kept the pressure on me that I owed him. He blamed the party in the flat for the Guards searching the flat. He told me to start up another one, meaning to get another find. I bought about ten bags of fertiliser in the Co-Op in Carndonagh and they were brought to the house in Ballyliffin by taxi. I ground down the fertiliser in the kitchen of the house. This stuff was to be taken to our shed at Letterkenny and it was left behind Oatfield's factory. Some time afterwards I learned from the Guards that they had found the ground down fertiliser behind Oatfield.

Subsequently, when giving evidence to the Tribunal, she said that the statement to the effect that she had learnt afterwards that the Gardaí had found the ground down fertiliser behind Oatfield was "taken out of context" but it is not clear to the Tribunal how that could be.⁴⁷⁷ The Tribunal is satisfied that the Gardaí who took this statement recorded her account accurately.

- 8.21. In a statement submitted through her solicitors to the Tribunal, Ms. McGlinchey repeated that following the events at her flat she and Ms. Devine moved from The Crescent, Buncrana and that Detective Garda McMahon had placed "intense pressure" on her at this time to procure another find. She stated:

However, Noel McMahon had heard the landlady in Ballyliffin (where we moved to) was friendly with Tom Sreenan so he did not want the fertiliser left there. He put fertiliser into his own glasshouse and also told me to take some to the shed in Letterkenny. I put it into two holdalls and went by bus to Letterkenny where I left the fertiliser at the bottom of our field adjacent to the house behind a bush. When I went to subsequently retrieve it, it was gone. I initially presumed that Noel must have collected it. A 'find', however, was subsequently made on 4th June, 1994. I wish to confirm that I did not place or drop any materials at Oatfield's factory which were the subject of this 'find'.⁴⁷⁸

⁴⁷⁷ Tribunal Documents, page.461.

⁴⁷⁸ Tribunal Documents, page 2580.

Adrienne McGlinchey's evidence concerning Oatfield

8.22. Ms. McGlinchey gave evidence to the Tribunal in respect of the Oatfield find. When she and Ms. Devine moved from their flat at The Crescent to Ballyliffin, bags of fertiliser were placed in the shed beside the house and she ground fertiliser in the house. She brought bags of ground fertiliser by bus from the house in two holdalls to an area at the rear of her family's property at Covehill, Letterkenny near to the Oatfield factory. The bags were heavy and when she got off the bus she rolled the bags down a hill. She asked the busman to stop at a particular point and she dumped them down a ten foot drop. She chose the location because behind Oatfield there was a dirt track road and she would not be seen doing this from the front of the house by her family. She could gain access to the sheds belonging to her family from that location. It backed onto the family property. She was going to leave the bags there and come down and collect them later on and bring them up to the shed.⁴⁷⁹ She said that the reason the movement of the materials took place was because of a fear on the part of herself and Detective Garda McMahon that Detective Sergeant Tom Sreenan and Detective Garda Noel Jones knew what was going on and were carrying out surveillance on the house. She had seen Detective Sergeant Sreenan up the road watching the house and she had phoned Detective Garda McMahon and told him to call Sergeant Sreenan to get him to move away, which she believed he did in response to the telephone call. She was then informed that Detective Sergeant Sreenan had been told to stay away from her residence. There was a real possibility that Sergeant Sreenan would gain access to the premises and carry out further investigations in relation to her, and Detective Garda McMahon told her to move the materials to her shed in Letterkenny. She then moved the materials by bus and deposited them as described. These bags were subsequently the subject, supposedly, of the find made on the 4th of June 1994.

Gardaí Thornton and Leonard make a Find

8.23. On the morning of the 4th of June 1994 Garda P.J. Thornton commenced duty at Letterkenny Garda Station at 06.00 hours. Garda Thornton told the Tribunal that a man whom he later named as Mr. John Keegan called to Letterkenny Garda Station and asked to speak quietly with a member of An Garda Síochána. This man's name was not known to Garda Thornton until twelve to eighteen months prior to the Tribunal hearings. He saw him in the street in Letterkenny and approached him and thereby obtained his name. He had not taken the man's name on the morning of the 4th of June 1994. Mr. Keegan told Garda Thornton that he was walking his dog at "Oatfield fence" and that there were bags of what he thought to be explosives there.⁴⁸⁰ As a result of receiving this information Garda Thornton went with Garda Martin Leonard down to Oatfield and "we

⁴⁷⁹ Transcript, Day 13, Q.191-215.

⁴⁸⁰ Transcript, Day 79, Q.76.

walked in a little walkway and found two bags. I think there were eight polythene bags in each holdall bag”.⁴⁸¹ Garda Thornton described the location of the bags. They were sitting in a position in which anybody walking along the walkway would have found them. They were not hidden.⁴⁸² Garda Thornton looked inside the polythene bags which contained “a white powdery substance”. The place in which the bags were found was right next door to the McGlinchey property and approximately twenty yards away from it.⁴⁸³ Garda Thornton agreed that the description by Ms. McGlinchey of where she said she had tipped some bags down from the roadway coincided substantially with where he found the bags. He agreed it was possible that she could have disposed of the bags down “an embankment” from the main road, so that they ended up at the walkway where they were found.⁴⁸⁴

- 8.24.** Garda Thornton took the holdall bags and placed them in the boot of the patrol car in which he had travelled to the location. He and Garda Leonard then had a quick look around, searched under bushes and in the grass for a few minutes and then brought the bags back to the Garda Station.⁴⁸⁵
- 8.25.** At the Garda Station, Garda Thornton left the bags in the hallway outside the day room in the station. He left them with the station orderly outside the door of the day room.⁴⁸⁶ He told the station orderly that the two bags had been found at Oatfield and that he was going to give them to the members of Detective Branch when they arrived for duty. He then gave them to Detective Sergeant Leheny when he came on duty at about 09.00 hours.⁴⁸⁷ He heard nothing more about the bags until he was approached and asked to make a statement about the incident by the Carty team on the 19th of April 2000.
- 8.26.** He and Garda Martin Leonard had arrived back to the station at 07.15 to 07.30 hours approximately. He was present in the station for the rest of the morning and went for his breakfast at approximately 09.30 hours. The bags were in the corridor until at least 09.00 hours. He was working in the day room during this period. The bags were positioned in the corridor opposite the door to the day room.
- 8.27.** He considered it to be a normal practice to leave the bags there and everyone coming into the station would have been told what they were and not to touch them or take them away.⁴⁸⁸ There was no problem leaving them there as they were visible to members in the day room.

⁴⁸¹ Transcript, Day 79, Q.86.

⁴⁸² Transcript, Day 79, Q.93-94.

⁴⁸³ Transcript, Day 79, Q.113-114.

⁴⁸⁴ Transcript, Day 79, Q.214-216.

⁴⁸⁵ Transcript, Day 79, Q.99-101.

⁴⁸⁶ Transcript, Day 79, Q.103.

⁴⁸⁷ Transcript, Day 79, Q.131.

⁴⁸⁸ Transcript Day 79, Q.324.

- 8.28. He said that Detective Sergeant Leheny came on duty at 09.00 hours and Garda Thornton said:

I told him that there were two holdall bags found ... I think Sergeant Leheny knew before I approached him. I think he was looking for me and I was looking for him at the same time ... I found him at the back of the Garda Station ... I explained to him that there were two holdall bags down the corridor, they were found at Oatfield. I told him what was in the bags, what I believed to be in the bags [that] they were ground fertiliser ...I don't remember what he said. That's all right or ok, I don't recall what he said. I went for my breakfast.⁴⁸⁹

- 8.29. When he returned from his breakfast at approximately 10.30 hours Garda Thornton said that he met with Detective Gardaí Pádraig Cafferkey and Martin Anderson. At this stage they had, it is claimed, received instructions from Detective Sergeant Leheny. They wanted to know where he found the stuff. He spoke to them before they went out and told them where the stuff was found. He understood that they then went out on the morning of the 4th of June 1994 and searched the area with negative results. They told him later that they took "a walk around the property." He did not know whether the search extended to the McGlinchey house.⁴⁹⁰

- 8.30. Garda Martin Leonard gave evidence that following the termination of his plain clothes protection duty at 06.00 hours on the 4th of June 1994 he went to Letterkenny Garda Station. He was relieved by Detective Garda Noel McMahon. After speaking for a while to Garda Thornton and another Garda, whose name he could not recall, a man came into the station and spoke to Garda Thornton. Garda Thornton then told Garda Leonard that "there was a couple of bags or a couple of something down at Oatfield Sweet Factory". He went with Garda Thornton and retrieved two bags and brought them back to the station. He thought he was going to find explosives. Since there was no-one else at the station at the time he accompanied Garda Thornton.⁴⁹¹

- 8.31. He did not think it was necessary to obtain the services of an army EOD officer. It was obvious, looking at the bags, that there was no danger. He did not wait to call in a scenes of crime examiner because it was unrealistic because of the early hour at which the find had been made.⁴⁹² While accepting that it was a serious matter, there was also a question of resources involved.⁴⁹³ He did not wish to make undue demands on Garda resources.

⁴⁸⁹ Transcript, Day 79, Q.327-336.

⁴⁹⁰ Transcript, Day 79, Q.109-147 – various references.

⁴⁹¹ Transcript, Day 79, Q.646-648.

⁴⁹² Transcript, Day 79, Q.666.

⁴⁹³ Transcript, Day 79, Q.666.

8.32. They each carried a bag to the Garda car and, having conveyed the bags to the station, each of them carried a bag into the day room and Garda Leonard then went home to bed. He made no note of any of these events. Garda Thornton dealt with the processing of the bags. There were no detectives present at the Garda Station when they brought the bags in.⁴⁹⁴ He became aware later in the day from Garda Thornton that the matter had been reported to Detective Sergeant Leheny. Any information that he had concerning Garda Thornton's dealings with Detective Sergeant Leheny was not firsthand and was based on what he had been told by Garda Thornton.

What happened to the Holdall Bags?

8.33. Garda Thornton said that the next time he saw the bags, following breakfast, was later on the night of the 4th of June. They had been removed down to the back door of the station. There had been a riot in Letterkenny that night and there was a lot of activity. The bags had been shifted down from their position in the corridor to the back door under an archway which connected two blocks at Letterkenny Garda Station, near its rear entrance. He thought this unusual. He did not recall how long the bags remained outside the back door. The next time he saw the bags they were in the gymnasium in the Garda Station. This may have been anything between six months and two years later. They had disappeared from outside the back door within a six month period. Following this he may have seen them some four to six times in the gymnasium; he thought these sightings were a year or two later but was not very sure.⁴⁹⁵ Garda Thornton stated that he saw the holdall bags in that area of the gym which contained lockers, "straight in front of you when you go into the gym".⁴⁹⁶

8.34. Garda Leonard also recalled seeing the material in the gymnasium and said there was no notice taken of this find and it was deemed to be irrelevant until the Carty team arrived on the scene. He said that the gymnasium was cleaned out a week to ten days before the arrival of the Carty team in March of 1999.⁴⁹⁷ He had seen the holdalls frequently in the locker section of the gymnasium when going to his locker. He presumed that Detective Branch had dealt with the bags and had taken samples from them though it wasn't his place to ask Detective Branch what had happened in respect of the investigation concerning the bags.⁴⁹⁸ As far as he was concerned, after Garda Thornton handed the matter over to Detective Sergeant Leheny, he had no further function in the matter; nor did he take any further interest in it.

⁴⁹⁴ Transcript, Day 79, Q.688.

⁴⁹⁵ Transcript, Day 79, Q.341-370.

⁴⁹⁶ Transcript, Day 79, Q.390-396.

⁴⁹⁷ Transcript, Day 79, Q.60-71.

⁴⁹⁸ Transcript, Day 79, Q.75-88.

Evidence of Detective Garda Martin Moylan re Oatfield

8.35. Detective Garda Moylan on the 4th/5th of June 1994 was the detective who manned the border detective office at Letterkenny Station. There was a pigeon hole in which the telexes and documents to be furnished to the Detective Superintendent were left and which he, as part of his duties, collected and brought to the attention of the Detective Superintendent and Detective Inspector. He had no recollection of any such telex on the 5th of June 1994. Had he been aware of the find, by virtue of such a telex, he believed he would have remembered it and, also, that it would have been a topic of conversation with members of his unit who travelled to the Special Criminal Court in Dublin in the course of the following week. His evidence was that he first heard of the Oatfield find sometime around the 12th of June 1994. When he came back from Dublin he saw two holdall bags outside under an archway at the back of the Garda Station. There was a kind of a porchway in front of the gym and the two bags were sitting in the porch way just in front of the door to the gym. On his return to work he checked all the telex messages for the previous days. He “briefed the Superintendent or Detective Inspector and would have seen it there”. He believed that he collected the telex from the pigeon hole but could not say who the sender of the telex was. He did not see any cardboard boxes. He also thought it quite possible that he told Detective Sergeant Leheny about the find when he went to ask whether Detective Sergeant Leheny knew anything about it after his return from Dublin.⁴⁹⁹

Ex-Detective Sergeant James Leheny

8.36. Detective Sergeant James Leheny, now retired, was a Sergeant in charge of the detective unit that was on duty on the morning of the 4th of June 1994. Other members of that unit were Detective Garda Pádraig Cafferkey and Detective Garda Martin Anderson. Detective Garda Martin Moylan manned the detective office and Detective Garda Michael Jennings was the scenes of crime officer of the unit. The respective duties which were apparently assigned to these officers for the day were that Detective Sergeant Leheny, Detective Garda Cafferkey and Detective Garda Anderson were engaged in border patrol from 06.00 hours to 14.00 hours and Detective Sergeant Leheny engaged in overtime at the station from 14.00 hours to 17.00 hours. Detective Garda Moylan was engaged in the detective office preparing a file for the Special Criminal Court between 09.00 hours and 17.00 hours. Detective Inspector Lennon was not rostered for the 4th or the 5th of June. Detective Garda Noel McMahon relieved Detective Garda Martin Leonard at 06.00 hours and remained on protection duty from 06.00 hours to 14.00 hours. Detective Garda Joseph Foley was engaged in border patrol from 09.00 hours to 17.00 hours.

⁴⁹⁹ Transcript, Days 78 and 128 – various references.

- 8.37. Mr. Leheny denies that the materials found by Gardaí Thornton and Leonard were ever handed over to him. He expressed shock at Garda Thornton making this allegation, which he described as a tissue of lies. Had he received the explosives on the 4th of June, he would have dealt with the find properly and prepared an investigation file. He insisted that no matter how small the find was it still had to be accounted for and would have been had it been handed to him for investigation. He noted that the find had not even been entered into the occurrence book.⁵⁰⁰
- 8.38. Mr. Leheny accepted that he became aware of the find of ground up fertiliser. He did not know who informed him about it. He suspected that it could have been Detective Garda Martin Moylan. He believed that Detective Garda Moylan asked him whether he knew anything about the find down at Oatfield of the 4th of June 1994. He went down to the gym situated at the rear of the station on the ground floor. It was a proper functioning gym at the time. He went into the gym and inside the door he found two unzipped holdall bags. He described them as large holdall bags containing clear plastic bags of fertiliser. There were three cardboard boxes to the side of the bags containing similar bags of fertiliser. He believed that all of the material which he saw in the gymnasium was the product of the find of the 4th of June 1994.⁵⁰¹ These were approximately 18 inches to 24 inches x 18 inches.⁵⁰² A lot of the bags had burst open. He took out a sample of the material and having examined it and smelled it, determined that it was ground fertiliser. There was no icing sugar or diesel oil or any other explosive substance or any thing mixed with it. He determined that:

*That was completely alien to Provisional IRA equipment. The Provisional IRA didn't pack their explosives like that. Never did I come across where they would have it in clear bags like that. It was either in bulk, in creamery cans, beer barrels, 45 gallon steel drums or something. It was never in holdall bags and clear plastic bags like that. Never.*⁵⁰³

- 8.39. Having heard about the matter in the Detective Branch office he examined the material and noticed that the two holdall bags were brand new. They were unsoiled and dry and the cardboard boxes were also completely dry. He developed suspicions about the materials and about how they reached the location in which they were found. He thought that they had been found at the Oatfield factory and was of the opinion that they were behind the factory inside the perimeter. When he met up with Detective Gardaí Cafferkey and Anderson he asked them whether they had seen the material in the gym and made a joke

⁵⁰⁰ Transcript, Day 84, Q.530-539.

⁵⁰¹ Transcript, Day 84, Q.580-586.

⁵⁰² Transcript, Day 84, Q.587.

⁵⁰³ Transcript, Day 84, Q.545-548.

which was meant to refer to Ms. Adrienne McGlinchey to the effect that,

*I hope this lady isn't back here in Letterkenny ... running a factory down here now.*⁵⁰⁴

By this he meant that he hoped that she had not returned to Letterkenny to manufacture explosives. He was "only joking with the boys".⁵⁰⁵ He then asked the two detectives to carry out "a discreet search of the ground" at some stage. He said he knew the area, which was a wooded area between the Oatfield factory and the McGlinchey home. They indicated that they would do so and reported back to him a day or two later that they had been down to the location and had found nothing.⁵⁰⁶ He knew nothing of the find of the 13th of June 1994 until he heard about it in June of 2001.⁵⁰⁷

- 8.40. He was unable to provide the exact date upon which he requested this search. He thought the detectives carried out the search on the same day that he received a note from Superintendent Lennon requesting that there would be no further searches the following weekend which he estimated to be the weekend of the 17th/19th of June 1994. Therefore, he believed that the request for the search, the search and the receipt of the note must have occurred between the 13th and the 17th of June 1994.⁵⁰⁸

Detective Gardaí Anderson and Cafferkey - Oatfield

- 8.41. Detective Garda Anderson gave evidence to the Tribunal. He stated that he had nothing to do with the find at the Oatfield factory on the 4th of June 1994. He accepted that he and his colleague, Detective Garda Cafferkey, carried out what he termed a discreet search of sheds at Covehill. By this he meant that it was not a search carried out under the authority of a warrant issued under Section 29 of the Offences against the State Act, 1939. He was not sure of the date upon which this search occurred but he thought it was sometime around the 13th of June 1994. The search was instigated by Detective Sergeant James Leheny who requested that he and his colleague carry out the search some time after Garda Thornton had found some fertiliser in two holdall bags. He was not aware of where exactly the bags had been found but it was on a road at the back of Oatfield. The idea was to check around the area to see if anything else was lying about. He did not know if such a search had been carried out at the time of the find. This discreet search was to be conducted on the McGlinchey land and was to cover the hedge along the roadway and a small garden shed. They were, "just to have a look at it." They walked around the edge of the gardens and had a look

⁵⁰⁴ Transcript, Day 84, Q.550.

⁵⁰⁵ Transcript, Day 84, Q.552.

⁵⁰⁶ Transcript, Day 84, Q.553.

⁵⁰⁷ Transcript, Day 84, Q.554.

⁵⁰⁸ Transcript, Day 84, Q.569-572.

at a small garden shed. His recollection was that there was no door on this shed. They were looking for bomb-making equipment: that is, ground or unground fertiliser. The search continued for approximately an hour. They did not meet anybody or find anything. They left the lands, went back to the station and informed Sergeant Leheny that they had found nothing. He was not aware of any investigation carried out in relation to this find and neither he nor Detective Garda Cafferkey had any other involvement in the investigation concerning the find of holdall bags. There was no discussion with Sergeant Leheny about obtaining a search warrant and no step was initiated or taken to search other buildings on the land.⁵⁰⁹

- 8.42. Detective Garda Anderson said that the first he heard about the Oatfield find was a number of days after the find, not on the day of the find. He also attended the Special Criminal Court in Dublin. Though on a rest day he had been called in to duty on Sunday, the 5th of June. He travelled to Dublin on Monday, the 6th of June and along with a number of other colleagues attended the Special Criminal Court on the 7th and 8th of June 1994. He travelled back to Donegal on the 9th of June 1994 and did a tour of duty on the 10th of June 1994, the day of the local elections. He described how he first became aware of the find. He said he had “a vague memory” in the back of his mind that there was a discussion in the detective office, “some say it was found in the morning and some say it was found in the night time.”⁵¹⁰ There was general knowledge in the Garda Station that there had been a find in respect of which he said:

I think somebody said that it was found by Garda Thornton and it was found by some person out walking, saw the holdalls there and notified the station. That was the talk. This is from memory, and then it went on, probably maybe something from the telex message that there was a discussion that it was found, .. whether it was morning or night it was found. The telex said it was found at night time and somebody said that it was found in the morning.⁵¹¹

- 8.43. He recalled Detective Sergeant Leheny coming to him and making some jocose remarks about the involvement of Ms. McGlinchey. He recalled seeing the bags in the gym. He thought, perhaps, that Detective Sergeant Leheny and Detective Garda Cafferkey were with him but he was not sure about that. He was surprised that the material was contained in plastic bags of about 3 to 4lbs weight and they remained in the gym until some considerable time afterwards. He thought it was removed and disposed of into a skip in advance of a ministerial visit to the station.⁵¹²

⁵⁰⁹ Transcript, Day 21, Q.995-1068, various references.

⁵¹⁰ Transcript, Day 126, Q.85.

⁵¹¹ Transcript, Day 126, Q.95.

⁵¹² Transcript, Day 126 – various references.

- 8.44. Detective Garda Anderson accepted that Detective Sergeant Leheny ordered the search, and that this was in pursuit of an investigation in relation to the search. Detective Sergeant Leheny was able to direct him to the specific location and he was told to conduct the search “around Oatfield and the gardens there belonging to the McGlinchey family, rough shrubbery around there.” He also confirmed that before his return to Dublin there had been no discussion with any other member of An Garda Síochána in respect of a find made on the 4th of June 1994.⁵¹³
- 8.45. In evidence to the Tribunal, Detective Garda Pádraig Cafferkey confirmed that he and his colleague had been sent to search the McGlinchey lands by Detective Sergeant Leheny. He thought he was sent there because Detective Sergeant Leheny was of the opinion that there were subversive materials on the lands probably because of the find of the 4th of June 1994. He was aware of the find of the 4th of June because somebody had told him that two holdall bags of fertiliser were found at the Oatfield sweet factory. He was not directed to search a shed but they were to search up towards Covehill. He was not aware whether any search had been carried out already in the area. He was of the view that such a search should have been carried out immediately after the ‘find’. The proper procedure in respect of such a find was to call for assistance, preserve the scene and await the arrival of the scenes of crime officer. He had no idea of the date upon which this search took place. It could have been days after the find of the 4th of June 1994. He gave a description of the search which extended around the back of the Oatfield factory up to the lower end of the garden in Covehill. The search included an examination of a shed in which nothing was found. On their return to the station they reported to Detective Sergeant Leheny that the search had been negative. No report was requested or written by him in respect of this search which he did not find unusual. He presumed other members of the Detective Branch and officers became aware of the search being carried out by Detective Sergeant Leheny. He agreed that it might be a sensible thing to circulate the results of such a search in writing.⁵¹⁴

Superintendent Lennon’s evidence

- 8.46. Superintendent Lennon stated that having been on leave over the weekend, he returned to work on Monday, the 6th of June 1994. He intended to travel to the Special Criminal Court that week but when he went in on the Monday he saw the telex of the 4th of June 1994.⁵¹⁵ He read the telex.⁵¹⁶ He intended to organise a search but did not contact any Detective Sergeant or any other member of An Garda Síochána. He was not aware of any other searches carried out that week

⁵¹³ Transcript, Day 22 and Day 126 – various references.

⁵¹⁴ Transcript, Day 22, Q.1090-1119.

⁵¹⁵ Transcript, Day 151, Q.47.

⁵¹⁶ Transcript, Day 151, Q.54.

or indeed any search carried out by Detective Gardaí Anderson or Cafferkey on the afternoon of the 4th of June 1994. He said that he rang Detective Garda McMahon on the 6th of June who phoned Superintendent Ginty but not at the instigation of Detective Inspector Lennon. He had told Detective Garda McMahon that he intended to do a search in the area.

- 8.47.** Detective Inspector Lennon stated that he went to Chief Superintendent Ginty and told him that he proposed a search in this area in order to see if there was anything “going on down there”. He had been told six months previously by Detective Garda McMahon that a swimming pool had been covered over on the lands and converted into a bunker. This hadn’t been searched within the previous six months. He had asked Ms. McGlinchey about it and she had just told him that “the IRA boys said it would be a good place to store materials if there was nothing in it.”⁵¹⁷ When Detective Garda McMahon was informed by Detective Inspector Lennon, out of courtesy, of his intention to carry out the search he went over his head to Chief Superintendent Ginty to have it stopped. The search was then called off. This was not done by direct contact from Chief Superintendent Ginty, “It came through somebody else”: this person was never identified to the Tribunal by Detective Inspector Lennon.⁵¹⁸
- 8.48.** Detective Inspector Lennon told the Tribunal investigators that no reason had been given for not allowing this search to proceed.⁵¹⁹ However, he told the Carty team that the searches were called off on Chief Superintendent Ginty’s directions “for valid operational reasons and based upon, in my belief, the security situation pertaining at the time, coupled with the fact that I knew that Adrienne McGlinchey was an informer, which didn’t influence my decision.”⁵²⁰ Detective Inspector Lennon indicated that his account to the Carty team was in fact based on a presumption on his part as to the reason for Chief Superintendent Ginty’s decision.⁵²¹
- 8.49.** Detective Inspector Lennon also told the Carty team that he had become aware of the find at Oatfield on the 4th of June 1994 before lunchtime and that he “heard about it after lunch and was prepared to search the place.” This was explained by him on the basis that documents indicated to him that he was off those days and he in fact had simply got the date wrong.⁵²² Chief Superintendent Ginty did not recall any such event occurring in June of 1994. One might expect him to have recalled such an event, had it occurred, as it is said to have taken place just prior to his departure from Letterkenny on the 10th of June 1994. He said an incident similar to that described by Detective Inspector Lennon occurred

⁵¹⁷ Transcript, Day 145, Q.924-945.

⁵¹⁸ Transcript, Day 151, Q.69-72.

⁵¹⁹ Tribunal Documents, page 5101.

⁵²⁰ Tribunal Documents, page 1657.

⁵²¹ Transcript, Day 151, Q.75.

⁵²² Transcript, Day 151, Q.66.

on the 9th of July 1993 in which a search of McGlinchey lands was contemplated. The Tribunal is not satisfied that the evidence of Detective Inspector Lennon may be relied upon in relation to this issue. In particular, if he had assumed a role to the extent that he contemplated a search of the area, it suggests that he was involved directly in an investigation of the find of the 4th of June. If, as he contends, Detective Sergeant Leheny was responsible for this investigation, it is difficult to see how he can maintain a position that he was organising a search on the 6th of June with the intention of using Letterkenny personnel, without assuming responsibility for the investigation in respect of the find of the 4th, in which case he would surely have sought to be briefed in respect of all aspects of the find of the 4th of June. The Tribunal concludes that this is an attempt on the part of Detective Inspector Lennon to confuse both searches with a view to hoodwinking the Tribunal.

- 8.50.** If the evidence of Detective Inspector Lennon concerning the 6th of June was correct, it is difficult to understand the note which he sent to Detective Sergeant Leheny some time later. In that note, Detective Inspector Lennon requests Detective Sergeant Leheny not to go near Ms. McGlinchey or the property in Letterkenny, or to allow his detectives to do so either. If Detective Inspector Lennon was aware of discreet searches by Sergeant Leheny's unit on the McGlinchey property, this ran directly counter to Chief Superintendent Ginty's directions and he took no step to ensure that Chief Superintendent Ginty's order was conveyed to Detective Sergeant Leheny. Indeed, the note states clearly that the matter is open to further discussion.

The Cardboard Boxes

- 8.51.** It will be recalled that both the telex of the 4th and that of the 13th of June 1994 refer to cardboard boxes. Three cardboard boxes are referred to as part of the haul from the find made on the 4th of June 1994 and there is reference to an unspecified number of cardboard boxes in the telex of the 13th of June. Garda Thornton found no cardboard boxes.⁵²³
- 8.52.** Adrienne McGlinchey, in the statements submitted by her solicitors to the Tribunal, gave the following account of her dealings with cardboard boxes containing fertiliser in June of 1994. On the 10th of June 1994 the count for the local government elections was held at the local community centre. This was attended for a time by Ms. Adrienne McGlinchey. When leaving the count centre she said that she met Detective Gardaí Pádraig Caffferkey and Martin Anderson:

They asked me if I had any more fertiliser and I took them to the shed [where there was still some ground fertiliser stored]. They parked their car

⁵²³ Transcript, Day 79, Q.381-387.

in the car park of Highfield House, a block of apartments adjacent to our property, and they climbed through the hedge. They were challenged by the elderly caretaker, I gave them the fertiliser in the shed which was in a cardboard box and holdall bag. I presumed that Pádraig Cafferkey believed that the fertiliser was in the shed because Noel McMahon previously told me that he [Pádraig Cafferkey] was also grinding fertiliser in his house. A 'find' was subsequently made on 13th June, 1994. I personally did not believe or drop any materials which were the subject matter of this find.

- 8.53. When giving evidence to the Tribunal, Ms. McGlinchey was asked about the find of the 13th of June 1994 at Covehill, on McGlinchey family lands. She did not know that there had been a find but she had this to say about events at Covehill:

There was stuff in the sheds ... I remember going down to the stuff that was there but it was gone so I didn't pass any remarks. There was stuff in the shed and I was coming out, it was the elections. ... it was the day of the count of the elections and I was walking up home, I think I must have been up to tell them how my sister was getting on in the count and the Letterkenny branch car pulled up as I was walking through the car park, which was not the 13th, it was about the 10th I think. It wasn't that day anyway. Pádraig Cafferkey and Martin Anderson were in the car and they said to me had I any more fertiliser? Noel McMahon had told me previously that Pádraig Cafferkey was the one that was grinding fertiliser. I don't know it, I am just saying what he told me. Since the fertiliser had disappeared the week before and he said to me, had I any more fertiliser and I said yeah. I got into the car, I got into the special branch car and he drove me as far as the Council offices. I walked over the avenue and they drove around by, there's a place called Mr Chippies and there's a block of flats there and they parked there and they got out and the gardener approached them because they were climbing up This block of flats could lead up to our property or laneway, where we had two sheds. So I went up with him and I handed him the fertiliser and that is the last I have ever heard of the fertiliser.⁵²⁴

- 8.54. This event, she said, took place about one week after the events of the 4th of June. She said that Detective Garda Martin Anderson was with Detective Garda Cafferkey and that she had seen them down at the sheds before. She gave them this material and she was asked whether she had any more fertiliser. Ms. McGlinchey repeated that she had been told by Detective Garda McMahon that

⁵²⁴ Transcript, Day 13, Q.217-220.

Detective Garda Cafferkey had ground fertiliser, and she had also seen him around the sheds at her home at Letterkenny. Garda Cafferkey's house had also been pointed out to her by Detective Garda McMahon. She then, when asked, gave him the fertiliser in the shed. This was ground down fertiliser in cardboard boxes. When asked how many cardboard boxes she said, "there was a few now." The two Gardaí took the boxes down through the hedge and they put them in the unmarked detective car. She returned to the court.⁵²⁵ In evidence, Detective Garda Cafferkey firmly denied the allegation that he was ever involved in the grinding of fertiliser.⁵²⁶

8.55. The previous untruthfulness and unreliability of Ms. McGlinchey in respect of a number of important facts necessarily requires the Tribunal to approach her evidence with extreme caution. Certain facts asserted by her bear further scrutiny. She maintains that she handed over cardboard boxes to Detective Gardaí Cafferkey and Anderson. It is noted that her reference to cardboard boxes comes quite late in the day. It did not appear in her statements made before June of 1999 to the Carty team though there is a reference to movement of fertiliser from Ballyliffin to a shed in Letterkenny, which the Tribunal infers to be a shed on her family lands at Covehill. There is no reference to storing fertiliser in cardboard boxes in respect of any of the other finds and it appears strange that the first reference to such storage should occur in a statement submitted through her solicitors following service of the papers containing the telexes in respect of Oatfield and Covehill.

8.56. Detective Gardaí Cafferkey and Anderson deny that Ms. McGlinchey handed over cardboard boxes of fertiliser to them on the 10th of June 1994 or on any other occasion.⁵²⁷ However, it is clear from the evidence adduced before the Tribunal that at least three cardboard boxes of fertiliser and perhaps more were brought to Letterkenny Garda Station by some member of An Garda Síochána. They were seen at the station by Detective Sergeant Leheny. Some members of An Garda Síochána must know how they came to be in the Garda Station. Given the weights involved they had to be transported to the Garda Station by a vehicle of some kind. Those members of An Garda Síochána who were involved in this affair have not given evidence to the Tribunal to enable it to report satisfactorily in respect of the origin of these cardboard boxes. The Tribunal is satisfied from the reference made in the telex of the 4th of June 1994 that these materials were brought to Letterkenny Garda Station on that date.

8.57. The weight of materials in the two holdall bags and three cardboard boxes referred to was fourteen stone. It was contained in twenty-seven plastic bags – eleven of which were in the cardboard boxes. If one presumes that each of the

⁵²⁵ Transcript, Day 13, Q.221-247.

⁵²⁶ Transcript, Day 22.

⁵²⁷ Transcript, Day 21-22 – re Anderson and Transcript, Day 22 re Cafferkey.

plastic bags contained approximately the same weight, each bag should have weighed approximately 4 to 5lbs. The find on the 13th of June 1994 was of 112lbs of material in 14lb plastic bags stored in cardboard boxes. This would have yielded eight plastic bags. No member of An Garda Síochána has given evidence of having seen any find of 112lbs weight material contained in eight plastic bags of 14lbs weight each. The Tribunal is, therefore, left with the following possibilities:

- (a) Garda Thornton found two holdall bags and three cardboard boxes containing the balance of the material described in the telex but is for some reason refusing to inform the Tribunal about the boxes;
- (b) Garda Thornton found two holdall bags of material and did not find any cardboard boxes. The cardboard boxes were subsequently found in a follow-up search and brought to the station, perhaps by Detective Gardaí Cafferkey and Anderson but for some reason they are unwilling to accept that they have done so;
- (c) The find of the 13th of June 1994 is an invention;
- (d) The find of the 13th of June 1994 occurred but for some reason members of An Garda Síochána are unwilling to inform the Tribunal of this find. This entails a conclusion that the boxes found on the 4th of June were different to those found on the 13th;
- (e) The find of the 13th of June 1994 in fact refers to material handed over to Detective Gardaí Anderson and Cafferkey by Ms. McGlinchey on the 10th of June 1994, which was made the subject of the telex on the 13th. This possibility also entails a further conclusion that the boxes in the find of the 4th of June were not the same as those found on the 13th.

8.58. The Tribunal is not content to rely upon the evidence of Ms. McGlinchey that she was told that Detective Garda Cafferkey was engaged in the grinding of fertiliser by Detective Garda McMahon. The Tribunal is, equally, not in a position to make a determination on whether Ms. McGlinchey handed over fertiliser in cardboard boxes to Detective Gardaí Cafferkey and Anderson on the 10th of June because of the unreliability of Ms. McGlinchey's evidence. It notes that the evidence given would provide, if accepted, an explanation for the telex of the 13th of June 1994. It does not explain how the Gardaí who were responsible for the telex of the 5th of June were able to refer to a find of cardboard boxes. As noted, the Tribunal does not accept that there were any cardboard boxes found in the initial search. Consequently, there is no explanation offered in evidence as to how the person reporting on the first find was able to pre-empt, in a sense, the discovery of the second find, when he was composing his telex of the 5th of June 1994.

- 8.59. In order to make their appearance in the telex, the cardboard boxes had to be in the possession of An Garda Síochána on the 4th of June. The author of the telex had to know of the existence of cardboard boxes of fertiliser. It seems very strange that in the process whereby the message must be validated before it is dispatched by telex, nobody reverted to Garda Thornton about what was found. If some effort had been made all of the errors of fact in the telex together with the concocted story concerning the timing of the find would surely have been revealed, unless both Gardaí Thornton and Leonard are not to be believed in respect of the timing of the find. There is a real possibility that the cardboard boxes were the product of a follow-up search by some members of An Garda Síochána after the Thornton and Leonard find on the 4th of June. However, the Tribunal does not understand why there was no proper and separate accounting for these boxes and for the telex concerning the find and why, if there was no wrongdoing at the time and, therefore, nothing to hide, those responsible do not simply tell the Tribunal what happened.
- 8.60. **No member of An Garda Síochána on duty on the 4th, the 10th or the 13th of June 1994 called before the Tribunal has given a satisfactory explanation of their involvement in respect of these events. The Tribunal is satisfied that most of them have withheld information from the Tribunal and failed and neglected to give a full and true account of what happened.**

The Find at Covehill

- 8.61. One of the most mysterious events investigated by the Tribunal is the find at Covehill said to have been made on the 13th of June 1994 and detailed in the telex to which reference has already been made. The only detail available in respect of the find is contained in this telex. No member of An Garda Síochána claims to have any direct knowledge or has given any testimony to the Tribunal claiming participation in this find. There is no entry in the Letterkenny Garda Station occurrence book in respect of the find. There are elements within the telex message which create deep suspicion in respect of the activities of members of An Garda Síochána. For example, the reference to the “routine search of a vacant shed at Covehill” suggests a search without warrant of a shed on the McGlinchey lands of a type which Detective Gardaí Cafferkey and Anderson say they carried out before the 13th of June. Cardboard boxes of fertiliser are referred to by Ms. McGlinchey in her evidence and were seen by Detective Sergeant Leheny in Letterkenny Garda Station. The telex was not filed in the appropriate manner and a copy of same could not be found at Letterkenny Garda Station. The only copy retrieved was from Crime & Security at Garda Headquarters.

- 8.62.** Superintendent Lennon's evidence in relation to his note clearly indicates a full awareness of both finds and the fact that Ms. McGlinchey was being pressurised by the 'Provisional IRA' in respect of same. This also indicates a knowledge on the part of Detective Sergeant Leheny that she had been involved in two finds at the time of his receipt of this note. Therefore, the Tribunal concludes that these two officers had knowledge of two finds in June 1994, one of which must have been the find of the 13th of June. If both understood that note to refer to the two finds, it is extremely difficult to understand why neither of them can give further information to the Tribunal about knowledge which they had at that time of these finds. If Detective Sergeant Leheny did not have any knowledge of a second find one would have expected him to make enquiries in respect of the second find referred to in the note. Instead, there is something of a standoff between Detective Sergeant Leheny and Detective Inspector Lennon in that neither of them communicated with the other at all concerning the two finds following the receipt of this note. The Tribunal is satisfied that there is more of a story to tell in respect of the telex of the 13th of June 1994 than either of these two witnesses have given in evidence. At the time of the note, Detective Sergeant Leheny on his evidence appears only to know of the find of the 4th of June 1994 and the fact that the search which he directed had yielded negative results. However, he had his suspicions that Ms. McGlinchey was involved in the first find and this was confirmed by the note which also indicated her involvement in the second find. Detective Sergeant Leheny did nothing further on the basis that he believed the matter was now being handled by Detective Inspector Lennon and, in any event, did not wish to get involved in anything concerning Adrienne McGlinchey. Detective Inspector Lennon did nothing. The Tribunal is satisfied on the present evidence that the so-called find of the 13th of June 1994 did not happen. It is difficult to understand, therefore, why Detective Sergeant Leheny did not have the suspicions which he now expresses to the Tribunal in relation to the find of the 13th, at that time. Everything points to the fact that he did have some suspicions about it, and indeed must have, if he made even the most rudimentary enquiries in relation to the making of any find after the 4th of June 1994.
- 8.63.** Detective Inspector Lennon was the acting district officer and Detective Superintendent on the 13th of June 1994. Therefore, he had full authority to authorise the telex of the 13th of June 1994 and, therefore, a full opportunity to do so.
- 8.64.** Another feature which might have aroused suspicion in relation to the supposed find of the 13th is that it necessarily involved the planting of materials in the shed at Covehill following the search of the same shed by members of An Garda Síochána and the find made by the Garda Síochána on the 4th of June 1994. This

would mean that the 'Provisional IRA', having lost a consignment of material at Oatfield, returned to Oatfield and discovered that their material was missing. Then, in the likely belief that the area surrounding this find had been the subject of a Garda search, they planted a similar amount of fertiliser in the shed at Covehill which had been searched. The Tribunal considers this a most unlikely scenario as indeed did a number of Garda witnesses. It is ridiculous.

8.65. If it is accepted that there was a further find on the 13th of June, it is most curious that the information that was in the possession of An Garda Síochána to the effect that there was nothing to be found in a shed at Covehill in the days leading up to the 13th of June 1994 was not conveyed to or shared with other members of An Garda Síochána. Garda Thornton said he was told by Detective Gardaí Cafferkey and Anderson that a search on the 4th proved negative. Detective Gardaí Cafferkey and Anderson and Detective Sergeant Leheny agree that this search occurred with negative results but in the days leading up to the 13th. It is difficult to conceive of rational circumstances in which police, when interested in the investigation of crime, would not consider it relevant to an investigation of events on the 13th of June that a shed may have been searched and found to be empty of fertiliser, if only to fix the point in time at which it is likely to have arrived there. The fact that this information was not shared seems to underscore the existence of some deep suspicion on the part of Detective Sergeant Leheny in relation to the activities of Adrienne McGlinchey and the find of the 13th of June.

8.66. It is also curious that Detective Inspector Lennon, apart from sending his note, did not pursue any knowledge which Detective Sergeant Leheny may have possessed arising out of any investigation which may have taken place in respect of the finds or share with him such information as was in his possession concerning members of the 'Provisional IRA' who seemed to be interested in the finds and were supposedly applying pressure to Ms. McGlinchey. No-one else had any interest either in this supposed threat from a terrorist organisation.

Why no Investigation?

8.67. Mr. Leheny was asked why he did not try to investigate the finds at Oatfield and Covehill by calling people together and asking them how the material came to be in the gym and what was going on. He said there was no point in doing an investigation at that stage. He pointed out that the gym was contaminated and that it was not the place in which to store material of this kind. It was open to anybody passing in and out of the area and the bags had been tampered with. A lot of them had been opened. He thought it was just fertiliser. He also formed the opinion that this was part of Adrienne McGlinchey's doing. Therefore, he was

not going to take it upon himself to do an investigation which other members should have carried out. He stated that he would not be part of it even if he were directed to carry it out.⁵²⁸ He was asked whether he was in some way washing his hands of Adrienne McGlinchey and he replied that he would not have done so if he found her breaking the law or had evidence against her.⁵²⁹ He explained further:

*In this incident here and taking into consideration I assume that Inspector Lennon knew everything about that when he made reference in the note that she had problems with the Provos over the last two finds. So he knew everything about these last two finds and he knew she was having problems with the Provos. I just assumed he would be investigating that and it would be going no place. It's going to be another one of these finds. Let him deal with it, he must be dealing with it. When the telex went up I wasn't aware of the telexes going up. A copy of the telexes would come to the Detective Branch border office, they would be there. I never saw any ... I think the first time was when Sergeant Mick Keane asked me for a statement in July 2000.*⁵³⁰

- 8.68. In respect of the 13th of June 1994, Mr. Leheny stated that he was on duty from 06.00 to 14.00 hours. In the course of that duty he carried out a search which involved the arrest of a person with Detective Gardaí Cafferkey, Anderson, Foley and Scanlon. They were tied up for the day from 06.00 hours until 15.00 hours with that prisoner. He, therefore, concluded that none of these members could have carried out a search of Covehill on the 13th as they were with him.⁵³¹
- 8.69. It was pointed out to him that Garda Thornton suffered an injury in an assault in the early hours of the morning of the 5th of June 1994 and was consequently absent from work for the following three to four weeks. Therefore, it was suggested that he could not have conveyed the information which was available to Detective Branch on Detective Sergeant Leheny's evidence after his return from Dublin. Mr. Leheny pointed out that Garda Thornton made no effort to contact him on the morning of the 4th of June. He could have reported to the Border Office which was manned at the time by Detective Garda Moylan and Detective Garda Jennings. Detective Garda Jennings was known to Garda Thornton to be the scenes of crime officer and was available that morning but was not called on to carry out any duty in respect of the matter by Garda Thornton. Though Mr. Leheny contends that he was in fact out on patrol at 06.00 hours this was not a fact that would have been generally known or known to Garda Thornton.

⁵²⁸ Transcript, Day 84, Q.575, 589.

⁵²⁹ Transcript, Day 84, Q.590.

⁵³⁰ Transcript, Day 84, Q.590-593.

⁵³¹ Transcript, Day 84, Q.597.

Consequently, Garda Thornton would only have presumed that he would be coming in at 09.00 hours as usual. Garda Thornton's recourse before that time was to the border office and the detectives who had been on duty from 06.00 hours. Garda Thornton did not take this step and made no effort to contact Mr. Leheny or other members of the Detective Branch in the Border Office as might have been expected.⁵³² Even though the members were out on patrol they were contactable on the radio to respond to a find or attend the scene of a find if required.

- 8.70. The Tribunal is not at all impressed by the blame game played out in evidence before the Tribunal by Garda Thornton and Mr. Leheny. It is the Tribunal's view that Garda Thornton did not deal appropriately with the materials found on the 4th of June 1994 in terms of preserving the materials and ensuring that all appropriate forensic examination was carried out. He also failed to enter the matter in the Occurrence Book or to report the find to his Sergeant in charge. Leaving aside whether in fact he spoke to Detective Sergeant Leheny on the 4th of June 1994, the idea that he concluded that by reason of this conversation and by pointing Detective Sergeant Leheny to bags in the corridor, he could then wash his hands of the entire event is not a proposition which is accepted by the Tribunal: nor could it be regarded in any circumstances as acceptable police procedure. Further, the relevant Garda authorities are entitled to the fullest possible information and cooperation from members of An Garda Síochána when an account or statement of events is requested. Terse, short, uninformative statements of the kind initially furnished by Gardaí Thornton and Leonard fall short of what is required and do not come anywhere near the full cooperation that the Garda Síochána or the public are entitled to expect. Their approach to the giving of information to their authorities was minimalist and self-serving. It is but one example of how members of the Garda Representative Association set out to destroy an investigation ordered by the Garda Commissioner. Another prime example occurred when Garda Leonard sat at an early interview by members of the Carty investigation team with Detective Garda McMahon. No cooperation was forthcoming. Those are but examples of the dissolution of discipline within An Garda Síochána by non-cooperation and sheer insubordination. If allowed to continue, it will lead to disaster.
- 8.71. Former Detective Sergeant Leheny, knowing of the message which he received from Detective Inspector Lennon, was not entitled to bury that message in his locker and produce it at a very late stage when he thought it appropriate. He and Detective Gardaí Cafferkey and Anderson undoubtedly had roles in these events. His obligation was to pursue an

⁵³² Transcript, Day 85, Q.18.

investigation in respect of these matters and not bury items of relevance on the basis that he had suspicions about Ms. McGlinchey's activities either on her own or with others, and that he would, therefore, not get involved in an investigation of this matter, because either he felt it would go nowhere, or it had to do with Ms. McGlinchey. He was not entitled to abandon the inquiries which the Tribunal was satisfied he had initiated through Detective Gardaí Cafferkey and Anderson. He was not entitled to proceed with investigations on the basis of some private whim. His duty to do so was a public and not a private duty. His obligation was to conclude his inquiries properly and comprehensively. Had he bothered to do so, the Tribunal would surely have had access to his investigation reports which could have answered the questions now posed. The proper investigation of the matter by his unit and by Gardaí Thornton and Leonard might have revealed what lay behind the two telexes.

- 8.72. The Tribunal does not accept that either of these two members was entitled to disengage from these events in the manner in which they claim they did and claim to be entitled to do. Furthermore, the Tribunal has no doubt that, had they chosen to do so, each of these members, Garda Thornton, Garda Leonard, ex-Detective Sergeant Leheny, Detective Gardaí Cafferkey and Anderson and Detective Inspector Lennon could have brought clarity to events by telling the unbridled truth. For their own reasons, which remain unclear to the Tribunal, they did not do so. This is inconsistent with any notion of the rule of law taking precedence over group loyalty.

Note from Detective Inspector Lennon to Detective Sergeant Leheny

- 8.73. Some time between the 13th of June 1994 and the 17th of June 1994 Detective Sergeant Leheny states that he received a note from Detective Inspector Lennon which stated as follows:

Jim,

I would ask you not to go near McGlinchey or the property in Letterkenny this weekend until we discuss the matter further.

It appears that she is having some problems with the Provos at present over the last two finds. Ask your boys to do the same and I will advise you further.

Please destroy this minute.

Kevin⁵³³

⁵³³ Tribunal Documents, page 3196.

- 8.74. As a result of this note, Mr. Leheny concluded that whatever was going to happen in relation to materials found in the gym was the responsibility of Detective Inspector Lennon. It confirmed his suspicions that the matter had something to do with Ms. Adrienne McGlinchey and sustained him in his view that he should not get involved in the matter. He placed the note in his locker and did nothing more about the matter. However, the statement that she was having problems with the 'Provisional IRA' over the last two finds amused him because he had his suspicions about her behaviour. This is exemplified by the joke with the two detectives referred to earlier.⁵³⁴
- 8.75. In his interview with the Tribunal investigators, Detective Inspector Lennon told them that he was aware on the evening of the 4th of June 1994 of the find made at Oatfield and that he went to Chief Superintendent Ginty requesting him to authorise a search of the McGlinchey lands near the site of the find, but Chief Superintendent Ginty would not authorise it. He gave Detective Inspector Lennon no reason. He never saw any of the materials at the back of the station. He subsequently asked Ms. McGlinchey about the materials and she said, "somebody else must have been using them. I know nothing about them. That was it." Nobody, including Detective Garda McMahon, ever told him anything different.⁵³⁵
- 8.76. In evidence to the Tribunal, he said that he never asked Ms. McGlinchey about the find of the 4th of June 1994. He said she was asked about it through Detective Garda Noel McMahon and said she knew nothing about it. He did not discuss either the 4th of June or the 13th of June 1994 with Ms. McGlinchey directly. Detective Garda McMahon reported back to him that it was not her material and "that somebody must have been trying to put materials into her property. It had nothing to do with her."⁵³⁶
- 8.77. Superintendent Lennon was then asked about the sending of the note to Detective Sergeant James Leheny. He gave the following explanation:

That minute arose in the context of Detective McMahon ringing me at one stage and telling me that she was under some pressure from this gentleman in Derry. And about the boys who were going into her property and that she didn't want her mother to be upset, and that she was under some pressure from this guy in Derry over these finds. And I couldn't get a position on the one of 13th June, and I still can't. I wrote to Jim Leheny about it. And it is significant that I didn't write to any other Sergeants about it. So, I can only conclude that he must have been the person investigating it.... But

⁵³⁴ Transcript, Day 85, Q.18-19.

⁵³⁵ Tribunal Documents, pages 5101-2.

⁵³⁶ Transcript, Day 145, Q.949-959.

I don't know at what stage I wrote that letter there. And in the context of her saying that she had nothing got to do with it, well that was said. I asked James Leheny to deal with it in that way until I would discuss it with him. And that the issue was that this man from Derry was putting her under pressure over these finds.... That wasn't to suggest that she had anything got to do with the finds or putting it there on 4th June ... First of all, ... she had nothing got to do with them, that was the message I got initially. Secondly, she was under pressure from the Provos about the finding of these materials ... and you say to me that if she didn't have anything got to do with them how could she be under pressure from them. Well that was the position that was put forward to me by Detective McMahan and if she hadn't anything got to do with them they could still suspect her for being responsible for having them found, bearing in mind that they were adjacent to her premises. I am only trying to articulate this now.⁵³⁷

- 8.78. Superintendent Lennon was invited to explain the inconsistency between telling the Tribunal investigators that he had spoken to Ms. McGlinchey or, as he said in evidence, that she had spoken to Detective Garda McMahan, and had indicated that she knew nothing about materials found in the find; and the reference to representations which she made in respect of the pressure she was coming under to Detective Garda McMahan. This suggested that Ms. McGlinchey was having problems with the 'Provisional IRA' in respect of the two finds of the 4th of June and the 13th of June 1994 and that Superintendent Lennon knew that they had something to do with her and, therefore, wrote to Sergeant Leheny to ask him not to go near McGlinchey or the property in Letterkenny, and to ask his men to do the same. He replied that the message concerning the pressure came after the initial information indicating that she had nothing got to do with the finds. However, this does not explain why previous investigators from the Carty team or the Tribunal investigators were not informed by Superintendent Lennon, when interviewed, of this further information concerning threats to Ms. McGlinchey in respect of both of these finds, and the steps which he took in respect of same. The Tribunal is satisfied that the note clearly establishes knowledge on the part of Superintendent Lennon that Ms. McGlinchey was involved in some way in both of these finds. It would be most odd if the 'Provisional IRA' put Ms. McGlinchey under pressure in respect of two finds of which she did not have possession or knowledge when they did not do so on the several occasions upon which she 'lost' materials for which they would have deemed her to be responsible. The note was calculated to ensure that Detective Sergeant Leheny

⁵³⁷ Transcript, Day 145, Q.170-192

did not carry out any further searches in the area of Covehill. Superintendent Lennon may have presumed that as per his instructions the note had been destroyed.

- 8.79. Superintendent Lennon, in evidence, stated that the fact that he addressed this note to Detective Sergeant Leheny confirmed to him that Detective Sergeant Leheny was in charge of whatever investigation existed in relation to these matters. The Tribunal is satisfied that Detective Sergeant Leheny had assumed some responsibility for the investigation of these matters and that this note was calculated to discourage him from continuing with those investigations. The Tribunal is satisfied further that this was done in an effort to ensure that the activities of Ms. McGlinchey were not subject to any investigation which might reveal dealings with Detective Garda McMahon and Detective Inspector Lennon in respect of these materials.
- 8.80. Chief Superintendent Garvie RCMP was asked to comment on this note. He indicated that he had no difficulty with a communication between Detective Inspector Lennon and Detective Sergeant Leheny arising out of concern that two finds had been made in proximity to McGlinchey lands in circumstances in which it was contended that she was an informer. However, it was not appropriate to suggest that an investigation or an element of an investigation involving a search of the property should not take place. He drew a clear distinction between pursuing the investigation in relation to these finds and a request to stay away from the lands. The investigations should have been pursued because, in his view, they were critical in the light of Ms. McGlinchey's history.⁵³⁸
- 8.81. This is another occasion upon which Superintendent Lennon states that he was in possession of information but did not take any step to furnish a report to Crime & Security in respect of any alleged representations made to him by Ms. McGlinchey. The note also implies that a large measure of responsibility in respect of these finds has been taken over by Detective Inspector Lennon since he requests Detective Sergeant Leheny not to go near Ms. McGlinchey or the property in the coming weekend or "until we discuss the matter further". In terms of rank, Detective Inspector Lennon was at this time the acting Detective Superintendent in place of Superintendent Fitzpatrick, who was on a training course in the United States.

Practice and Procedure

- 8.82. Detective Superintendent Tadhg Foley, on whose evidence the Tribunal can rely, gave evidence that when items are found which are deemed to be connected to a criminal offence code, Article 30.3 applies, which outlines clear directions as to

⁵³⁸ Transcript, Day 95, Q.140-144.

how such property should be accounted for. He noted that the continuity of evidence and the maintenance of a chain of custody was not observed in respect of the items found by Garda Thornton. He said that Garda Thornton was not in a position to state what he had done with the items. There was no technical examination of the scene. When explosive substances are found they should not be moved, they should be left as they were and this scene should be preserved. He also noted that a circular had issued in 1972 and re-issued in the 1980s which outlined what should be done in respect of finds of this kind. There was no forensic examination of the bags or the contents of the bags. The bags were not retained for fingerprint examination. No request was made for the services of a local scenes of crime examiner and no photographs of the materials found were taken. In respect of the Covehill find on the 13th of June, he noted that there was no Garda investigation file available and there was no evidence of destruction of materials in either find, which should be recorded as part of normal procedure. There was no record of analysis or destruction. The materials should not have been brought to the station. If material is suspected to be an explosive substance it should be removed from the Garda Station and if it was at any time considered to be an explosive substance an EOD army officer should have been called in. When tested for fingerprints some investigation could then have been carried out in respect of the two holdall bags and an attempt made to discover where they may have come from.⁵³⁹

- 8.83. Chief Superintendent Garvie RCMP also reviewed these finds and agreed substantially with the evidence of Superintendent Foley. He has this to say in relation to the fact that no follow-up investigation occurred:

I have been to the location of this discovery and it is adjacent to the property owned by the McGlincheys and if you consider the chronology of the incidents to date, and if you take into the account that Adrienne McGlinchey was involved with subversives to the extent that it is alleged or purported, then it seems reasonable to assume that an in-depth investigation should have been conducted and was in fact critical ... [because] you are now at a stage where a number of telexes have gone forward, there have been certain circumstances in which Ms. McGlinchey and Ms. Devine were involved in and at some point it has to raise flags, for an experienced investigator and possibly even at Headquarters, that there were some issues with respect to the finding of these explosives and the manner in which they had been found and possibly the fact that each of the telexes, if I recall correctly, had certain wording alluding to further investigation being conducted

⁵³⁹ Transcript, Day 97, Q.477-491.

*and the expectation from a supervising authority, whether it be at a sub-district, district or headquarters level to ensure that in fact those investigations were being followed up.*⁵⁴⁰

- 8.84. He thought it was at the very least prudent to have required the army to examine the materials in situ having regard to the possible dangers involved in the handling of explosive materials and he added:

*I cannot accept in any way that exhibits, regardless of what they are, would be brought back to the police station and simply left unattended and not logged, exhibited, marked as exhibits, and put into an exhibits register etc.*⁵⁴¹

- 8.85. His expectation as a Canadian police officer in respect of such a find would be that:

A file would be opened, that a file number would be generated to track this particular incident, that there would be some written correspondence from the members that attended the scene, detailing their activities, what they did, what they found etc. I would expect to find on that file an exhibit report that would detail the holdall bags or cardboard boxes, what was in them, the number, the contents, the fact that they had been sampled, the labelling of those exhibits, that they would go to the exhibit locker, that they would be trackable in terms of continuity of evidence. That there would be some recording with respect to conducting a neighbourhood inquiry. I would expect a statement from the individual that found the items, if necessary and appropriate, and the manner in which An Garda Síochána works, I would expect that there would be a statement or report from the officers that found the items and that that report would detail, from the beginning, what their investigation was, in terms of what they did, what investigation was conducted and what the results were.

My then expectation would be that a supervisor, at possibly the sergeant rank, would have reviewed that before it was signed off and been satisfied that the investigation that was expected was complete and the other thing I would expect is, that it was my understanding it was uniformed officers that picked up the holdall bags and dealt with them initially, that there would be an appropriate report to detective office and possibly a follow-up by detective office depending on what is required.

⁵⁴⁰ Transcript, Day 95, Q.118-119.

⁵⁴¹ Transcript, Day 95, Q.120.

This material would support information sent by telex to Headquarters. In this instance, Headquarters received no other further advice in respect of what was done.⁵⁴² The Tribunal notes that Headquarters did not make any inquiry in relation to what was done either. The Tribunal accepts the evidence of Superintendent Foley and Chief Superintendent Garvie in respect of these matters.

- 8.86. The same considerations were applicable, in Mr. Garvie's view, to the find on the 13th of June 1994.

Conclusions

- 8.87. The Tribunal is satisfied that the find of the 4th of June 1994 at Oatfield occurred but is not satisfied that all the facts concerning this event have been made available to it by members of An Garda Síochána or by Adrienne McGlinchey. The Tribunal is satisfied that Ms. McGlinchey left fertiliser in two black holdall bags at Oatfield having transported them by bus from Ballyliffin. She dropped them on the side of the road with the intention of collecting them later. On the morning of the 4th of June 1994 Detective Garda McMahon relieved Garda Martin Leonard from protection duty and Garda Leonard went to Letterkenny Station. He and Garda Thornton then went to the scene at Oatfield. They say that this was prompted by information supplied by a pedestrian out walking his dog whose name was not taken at the time and whom Garda Thornton identified eight to nine years later in the street in Letterkenny. The Tribunal is not in a position to make a determination whether this was the reason for the search at Oatfield or not. It notes that the telex of the 5th of June 1994 reflects the fact that such a person was the source of the information but the telex is factually untrue in a number of other respects. Whatever prompted the attendance of Gardaí Thornton and Leonard at the scene, the Tribunal is satisfied that the find was confined to two black holdall bags of fertiliser and did not include any cardboard boxes. The evidence of Gardaí Thornton and Leonard in this respect is accepted.

- 8.88. The Tribunal deprecates the manner in which the find was dealt with by Gardaí Thornton and Leonard. They ignored appropriate procedures which should apply to such a find. They did not preserve the scene. They did not inform the station and request assistance or the attendance of a scenes of crime officer. They simply brought the bags to the station. The Tribunal is satisfied that this behaviour is totally inexcusable and contrary to proper police practice and procedure. As in Bridgend, a presumption was made that the materials were safe and no thought was given to

⁵⁴² Transcript, Day 95, Q.121 –123.

calling in the army to examine the materials before they were removed. The robust presumption that materials are safe and will not explode, though borne out in this case, might not be borne out in every case, and did not justify departing from the procedures in respect of such a find. When the Gardaí brought the two bags to the station they did not enter the find or cause it to be entered in the occurrence book which exists for that purpose. This would have given every member on duty at the station the relevant information in respect of the find.

8.89. Garda Leonard went off home leaving matters to Garda Thornton after they brought the two bags into the station. No note, report or statement was made by either of them about the event. Garda Thornton says that he spoke to Detective Sergeant Leheny about the materials on the morning of the 4th of June 1994 and handed them over to him, by which he meant that he told him about the find and where in the station the materials were. Even at that stage there was no sense in which any member of An Garda Síochána had any regard to issues of preservation or continuity in the handling of these bags. Although Garda Thornton subsequently saw the materials in the gym of the station over a lengthy period, neither he nor Garda Leonard took any step or made an enquiry about the find which they had made. The Tribunal does not believe any person, whether policeman or not, would display such a degree of disinterest as to be totally indifferent to how matters proceeded in relation to the find which they had made. The evidence, and the manner in which it was given to the Tribunal, leads the Tribunal to conclude that the entire episode is highly suspicious in its nature and that these two Gardaí have not given the full story in relation to this find to the Tribunal.

8.90. Apart from the negligence displayed by Gardaí Thornton and Leonard when dealing with this find, the Tribunal finds that the manner in which Garda Thornton supposedly handed over the materials to Detective Sergeant Leheny at the back door to the Garda Station was totally unprofessional. If it had been accepted in that way by Detective Sergeant Leheny his behaviour also would have been unprofessional. Garda Thornton's duty, in the view of the Tribunal, was to hand over material unambiguously and fully document his dealings with the material and with Detective Sergeant Leheny by way of reporting these dealings to his sergeant or an officer in the district and submitting a report to his superiors. To simply do nothing and walk away from the situation was entirely unprofessional.

- 8.91. The Tribunal is also satisfied that Detective Sergeant Leheny became aware of the Oatfield find and directed Detective Gardaí Cafferkey and Anderson to carry out a search in the vicinity of the find. They did this with negative results. Garda Thornton states that he had a conversation with Detective Sergeant Leheny on the 4th of June about the materials, told him where they were in the station and, in that sense, handed them over to him. He says he was subsequently approached by Detective Gardaí Cafferkey and Anderson on the 4th of June, and gave them the location of the find before they went out to search the area. Detective Sergeant Leheny denies that this occurred and states that he got his information on his return from Dublin the following week. He thought that he got this information from Detective Garda Moylan. Detective Garda Moylan states that he became aware of the matter when he reviewed a telex on his resumption of duty in Letterkenny on his return from Dublin. The existence of a telex sent on the 5th of June 1994 would tend to confirm that the Detective Branch was aware of the find on that date and it was, probably, readily available to members of Detective Branch on the 5th of June. However, the Tribunal also notes that this telex was not appropriately filed for some unexplained reason and that no copies of this telex could be found in any of the appropriate files at Letterkenny Station or in the divisional office. A copy was recovered from the file in Crime & Security. Peculiarly, a copy was also recovered from papers which are said to be those of Detective Inspector Lennon.
- 8.92. The point is made that Garda Thornton went on sick leave from the morning of the 5th of June 1994 for a number of weeks which would have made it unlikely that he could have or would have informed Detective Sergeant Leheny about the matter on a date subsequent to the 4th of June 1994.
- 8.93. Whatever about the date upon which this knowledge was obtained by Detective Sergeant Leheny, he acted upon it in a manner which the Tribunal concludes indicated that he had assumed an investigative role in respect of this find, to the extent that he directed two Detective Gardaí to carry out a search in respect of the matter. From the information which was made available to him he concluded that Adrienne McGlinchey may well have been involved in this matter. He also became aware of a second find via a note furnished to him by Detective Inspector Lennon. Detective Sergeant Leheny cannot now credibly maintain that he had no role or responsibility in respect of this matter having regard to the evidence which is available to the Tribunal and the actions which he took. The find was made by a member of Unit C, of which his detectives were also members.

- 8.94. The Tribunal is satisfied that Detective Branch was aware in June of 1994 of the find at Oatfield. The Tribunal, however, is not in a position to determine on which particular date this knowledge was given to Detective Branch, and is not content to rely on the evidence of Garda Thornton in this regard.
- 8.95. The Tribunal is satisfied further, that Detective Sergeant Leheny and Detective Branch members involved in relation to this matter acted unprofessionally in that they made no effort whatsoever to chronicle their involvement by way of statements or other reports concerning the find of the 4th of June 1994 and the search which Detective Gardaí Cafferkey and Anderson made arising out of that find. Detective Sergeant Leheny's suspicions in respect of Adrienne McGlinchey's involvement were clear and his decision not to pursue the matter because of her involvement was not a sufficient basis upon which to abandon the investigation. In particular, a report should have been prepared by him and submitted in the normal course outlining his involvement and conclusions in respect of the matter.
- 8.96. No satisfactory explanation has been furnished by any member of An Garda Síochána as to how the telex of the 5th of June 1994 came to refer to the find of three cardboard boxes of fertiliser. The Tribunal is satisfied that when the find was viewed at a later stage in Letterkenny Garda Station it comprised of two holdall bags and cardboard boxes. It is also satisfied that no specific find of cardboard boxes or anything else was made on the 13th of June 1994 to justify the sending of the telex of that date to the Assistant Commissioner of Crime & Security. The procedure whereby a telex is sent from the divisional communications room to Crime & Security is such that the composition of the message and its validation necessarily involves a contribution from a number of members of An Garda Síochána, including at least one high ranking officer. No evidence has been furnished to the Tribunal explaining how these telexes came to be sent. The Tribunal is satisfied that they were contrived with a view to misleading Crime & Security in relation to the events which they purported to describe.
- 8.97. Ms. McGlinchey gave a version of events suggesting that two Detective Gardaí approached her after the find of the 4th of June 1994 and asked her if she had any more "of that crushed fertiliser". The implication was that they had associated her with the original find of two holdall bags. She said that she had and delivered cardboard boxes to them containing

bags of crushed fertiliser. The two detectives, Detective Garda Anderson and Detective Garda Cafferkey, deny that this event ever took place. The Tribunal is not in a position to make a determination of whether it did or not in view of the unreliability of Ms. McGlinchey's evidence but it suggests that it does provide an explanation for the second find. However, it does not provide an explanation as to how a person who reported on the first find was able to preempt the discovery of the second find when composing the telex of the 5th of June 1994.

8.98. Detective Inspector Lennon sent a handwritten note to the senior Sergeant in Letterkenny Garda Station asking him not to go near Ms. McGlinchey or the property in Letterkenny as "it appears that she is having some problems with the Provos at present over the last two finds." He gave no satisfactory explanation as to where and when this second find was made. The two finds in the context of which the note was sent to Detective Sergeant Leheny appear to be those of the 4th and the 13th of June 1994. Insofar as Detective Inspector Lennon told Detective Sergeant Leheny to stay away from McGlinchey and McGlinchey lands, he indicated to him that he would discuss the matter with him. The Tribunal concludes that Detective Inspector Lennon had some knowledge of these finds which was much deeper than that of Detective Sergeant Leheny. The Tribunal concludes that this note was calculated to discourage Detective Sergeant Leheny in any investigation which he wished to carry out in relation to these finds, and had that effect. The Tribunal further concludes that the motive for so doing was to ensure that Detective Sergeant Leheny did not investigate Ms. McGlinchey and the origin of the materials any further. To do so might have led him to search the lands at Covehill in a more extensive way, to arrest Ms. McGlinchey, or to ask questions in relation to the origin of the materials which in turn could have led to an exploration of the relationship between Ms. McGlinchey, Detective Garda McMahon and Detective Inspector Lennon. The Tribunal is satisfied that Detective Inspector Lennon had a significant involvement in this matter but further than that it is not able to go. It is not in a position to explain why on the 13th of June 1994 the second telex was sent to Crime & Security informing them of a find in "cardboard boxes".

8.99. If the Tribunal were to rely on the evidence of Garda Thornton to the effect that knowledge was passed on on the 4th of June to Detective Sergeant Leheny, it would seem unlikely that Detective Sergeant Leheny had any reason to compose a telex which misrepresented the facts to the extent referred to previously. Equally, if there were a follow-up search on

the afternoon of the 4th of June 1994 in which three cardboard boxes of fertiliser had been found, there was no reason for him not to claim credit for his detective unit and to specify that this happened in a follow-up search. Apart from the fact that he was obliged to furnish information which was truthful in that regard, he would have been aware that Garda Thornton and Garda Leonard would contradict the facts set out in the telex. In fact, if Detective Garda Moylan is to be believed some discussion took place in Detective Branch office when he asked about the contents of the telex on his return from Dublin, in respect of a conflict concerning the time of the find, which was attributed at that time to Garda Thornton. The Tribunal is satisfied that Detective Sergeant Leheny is most likely not the author of this telex and it is also unlikely that he, or Detective Gardaí Cafferkey or Anderson, are responsible for its contents.

- 8.100. Whatever responsibility other members of An Garda Síochána may have had in relation to the investigation of these matters was to a large degree subsumed under that of Detective Inspector Lennon, who appears to have engaged himself in this matter with a much greater degree of knowledge of both finds than that which can be attributed to any other member of An Garda Síochána who was involved in these events. In particular, his note indicates he had an overview of events which the others did not have. Having said that, the Tribunal is satisfied that Gardaí Thornton and Leonard, ex-Detective Sergeant Leheny, Detective Gardaí Cafferkey and Anderson and Adrienne McGlinchey have not told the true and complete story of these events. The Tribunal has taken the matter as far as it can go.

CHAPTER 9

TWO FINDS AT ROSSNOWLAGH (the SEVENTH ‘FINDS’ OF PARAGRAPH (e))

Introduction

- 9.01. On the 18th of July 1994 two caches of explosive materials were found at Ardeelan, Rossnowlagh, Ballyshannon, Co. Donegal. The Tribunal’s inquiry in relation to these finds arises specifically under Term of Reference (e). The origin of the allegations made in respect of these finds lies in the events chronicled later in this report, in the course of which Mrs. Sheenagh McMahon was made aware of information concerning the finds at Rossnowlagh in or about February or March of 1999. In a meeting with ex-Detective Sergeant Des Walsh she was given to understand that a trio of Ms. Adrienne McGlinchey, Detective Inspector Kevin Lennon and her husband, Detective Garda Noel McMahon, organised a find of materials at Rossnowlagh which was a “scam” and was all about “self gain and promotion”. This was one of a number of matters which she subsequently related to senior Garda officers, Superintendent Tom Long and Chief Superintendent Denis Fitzpatrick. There is ample evidence of a Garda operation in relation to these finds, which occurred in the Ballyshannon Garda district which was commanded at the time by Superintendent Michael Duffy, the district officer. Indeed, the finds received considerable media coverage because they were thought to be large and significant. In addition, the finds attracted a considerable amount of official recognition and congratulations to the force for a ‘job well done’.
- 9.02. Ms. Adrienne McGlinchey was interviewed about these finds and made allegations which tended to confirm what Mrs. McMahon had reported to the Garda authorities. In particular, they tended to confirm her involvement and that of Detective Inspector Kevin Lennon and Detective Garda Noel McMahon in the creation of hoax finds at Rossnowlagh on the 18th of July 1994. Investigation of this matter by the Carty team produced many statements from Ms. McGlinchey, the relevant portions of which are quoted in this section. Ultimately, Ms. McGlinchey’s evidence, when given, proved to be problematic in a number of ways. There are numerous inconsistencies, contradictions, and changes by her in her account of these events which indicated problems with her testimony. However, there was also important detail in her testimony in respect of the finds which tended to coincide with some of the evidence given by Detective Inspector Kevin Lennon and Detective Garda Noel McMahon and other members of An Garda Síochána involved in events surrounding the finds. The main points of difference between her and Detective Inspector Kevin Lennon and Detective

Garda Noel McMahon concern her allegations as to how the finds were organised. The two members were adamant that these finds arose directly out of intelligence furnished by Ms. McGlinchey and were entirely legitimate.

- 9.03. The Tribunal has considered a very substantial body of evidence from members of An Garda Síochána in respect of these finds. It anticipated that, if the finds were genuine, the testimony of members of An Garda Síochána and the supporting documentary evidence would be clear and comprehensive, and such as to give the lie to these shocking allegations. The public is entitled to expect, at a bare minimum, that a major find of bomb-making material would be investigated in a professional manner by its police force, especially if it is thought that such a find represents the constituent elements of a bomb intended to be used in the very near future to murder and maim security personnel less than nine miles away from the location. Regrettably, the Tribunal, when it sought the answers to simple and direct questions relating to the finds at Rossnowlagh, was faced with responses in evidence which tended to confirm the irregularities concerning the finds rather than exonerate those accused. Once again, though the Tribunal might have expected accuracy, detail and ready answers from members of An Garda Síochána in relation to how these events unfolded, the Tribunal was presented with lies and obfuscation by some of those involved. The Tribunal was driven to the conclusion that these ‘finds’ were hoax finds.

18th of July 1994

- 9.04. Superintendent Michael Duffy gave evidence that at 10.00 hours on the morning of the 18th of July 1994 Detective Inspector Lennon called to him at the Superintendent’s office at Ballyshannon Garda Station and informed him that homemade explosives were being kept at two locations in the Ballintra/Rossnowlagh area of Co. Donegal. He also informed him that he had seen these explosives at at least one of the locations, and he was given to understand that he had heard about these locations from an informer, who was not identified to Superintendent Duffy. Detective Inspector Lennon then brought Superintendent Duffy to view the locations. He brought him to view a derelict house at Ardeelan on the Ballyshannon/Rossnowlagh Road and a nearby shed at Rathfragan, in which he was told the materials were stored. He gave the Superintendent the impression that, “he was up most of the night, if not all of the night, and that he crossed fields to one of the sites at about four o’clock in the morning ...” and that he had been inside the house. The materials were generally described to the Superintendent as homemade explosives. They then continued along the road to a by-road. Down this road a short distance, they came across an old shed. This was pointed out to the Superintendent as the

second location in which homemade explosive materials were stored. He did not think the Detective Inspector had been inside the shed. Their visit to the area concluded at about 11.00 hours. They then travelled back to Ballyshannon Station together. Detective Inspector Lennon went home to Letterkenny. Superintendent Duffy started to organise searches.⁵⁴³

The Searches

- 9.05. Mr. Duffy told the Tribunal that he then brought Sergeant John McFadden, who was the Sergeant in Charge at Ballyshannon Station at the time, and a Sergeant Kennedy to the locations which had been pointed out to him. They then returned to the station. Mr. Duffy then organised a general sweep of the area so that it would not seem as if the Garda Síochána knew of the location of these materials. Rather it would look as if they were discovered in the course of a generalised search of the area, thereby protecting the informer.⁵⁴⁴ The initial search yielded a find at 15.30 hours in the derelict house at Ardeelan. Mr. Duffy had told Sergeant McFadden to go to this house and had planned that the shed, the second location, was not to be checked out until the following day. However, Sergeant Martin Collins came across the find in the shed later that evening at 20.50 hours. Mr. Duffy wanted to stagger the finds because he thought that a simultaneous find in both locations might alert subversives to the fact that, “somebody was talking.” Indeed, following the second find searches continued in the area because, Mr. Duffy states, “we wished to make sure that if there was material in the vicinity it was all going to be taken out”. This continued search led to a further find of material which, it was concluded, was not related to terrorist activity and was entirely innocent.⁵⁴⁵
- 9.06. Sergeant Martin Collins was a member of the search parties and described to the Tribunal how at 18.00 hours on the 18th of July 1994 he and colleagues searched a number of vacant houses in the Ardeelan area along with Garda McKeon and Detective Garda McGahern. They searched a dilapidated shed in the vicinity. Its roof was slightly leaking and its door was ajar. When they pulled up outside the shed they could see the bags of explosives material inside the shed sitting on pallets.
- 9.07. One of the oddities of the Garda behaviour in respect of the finds is that no member of An Garda Síochána troubled the owners of the land at Rathfragan on which the find in the shed was made for any information concerning what they may or may not have seen in respect of the comings and goings to and from the shed. Mr. Desmond Graham and his wife Mrs. Martha Graham were the owners of the land upon which the shed was situated. The first they knew about the find

⁵⁴³ Transcript, Day 100, Q.441-500.

⁵⁴⁴ Transcript, Day 100, Q.499-502.

⁵⁴⁵ Transcript, Day 100, Q.504-588.

in their shed was from an RTÉ news bulletin which showed footage of their shed and the find. The shed was used for the storage of bales of hay. It was intended that the shed would be used for this storage a few days after the find and, apparently, it was filled with bales of hay within days of its occurrence. In fact the Grahams were not interviewed about these matters until 1999. Statements were not taken from them even though they approached the Gardaí about the finds. They both made formal statements in May 2001. Mr. Desmond Graham said:

I am the owner of an out farm at Rathfragan, Rossnowlagh, Co. Donegal. In July 1994 I was in my sister-in-law's house in Ballynagroarthy with my wife Martha when I saw our shed in Rathfragan on the television. The newsreader was outlining that explosives had been found in the shed in Rossnowlagh earlier on that day. I was shocked to see our shed and that explosives had been found in it. There was never anything like that found around Rossnowlagh before. It would have been a good while before that since I was in the shed at Rathfragan. We were saving the hay around that time and I would have been putting the bales of hay into the shed in a few days after that. The following day, my wife Martha and I met the guards over at the end of the new line about a quarter of a mile from the shed. The guards told us there was explosives got in the shed. There was no question that we were suspects. The Gardaí told us that there was a lot of explosives found when I asked them. They said that there was as much explosives found in the shed that would blow Bundoran and Ballyshannon up to the sky. The Gardaí were around a few days. The Gardaí told us they would be finished with the shed in a few days. We put our hay into the shed a few days after. We did not hear any more from the Gardaí until two detectives came to us in 1999 from the Phoenix Park in Dublin ...⁵⁴⁶

9.08. Mrs. Graham made a similar statement and added:

On our way to Rathfragan the following day, I met the Gardaí around the road. I told the Gardaí who I was and that it was our shed that the explosives had been found in. I told the Gardaí that we should have been told about the find. The guard, whom I did not know, told us that they had kept guard over it that night that it was found. He also told me that my husband and I were not suspect for the possession of explosives on our land. ... The shed was for our own use on the farm only. We used the shed to put bales of hay into. The shed would take about a hundred small bales of hay.⁵⁴⁷

9.09. When asked if he found anything unusual about this particular find, the scenes of crime examiner Sergeant Aidan Murray said:

⁵⁴⁶ Tribunal Documents, page 3802.

⁵⁴⁷ Tribunal Documents, page 3993.

*The only thing that I could say is why it was ... put into a shed like that. The man that owned the shed had already cut hay in the field in front of it, it was baled, and actually when I spoke to him on the following day he was going to put the hay into it on that particular day, on 19th July. It was kind of a haphazard way of ... trying to hide materials. ... I wouldn't expect it to be exposed in such a position.*⁵⁴⁸

This peculiarity did not strike Superintendent Duffy, Detective Inspector Lennon or Detective Garda McMahon.

Documents

- 9.10. The first find, made at 15.30 hours in the derelict house, consisted of seventy bags of homemade explosives each weighing 11.5lbs, making a total of 805lbs. A bag of sugar weighing four stone and three gallons of diesel oil together with a hundred rounds of .22 ammunition were also recovered.
- 9.11. In the second search, which was apparently made at some time between 20.00 and 22.00 hours that evening, Gardaí recovered 3.5cwt of homemade explosives, 84lbs of icing sugar, twelve gallons of diesel oil and one beer keg. Both finds were the subject of reports by Superintendent Duffy to the Chief Superintendent at Letterkenny. These reports then generated telexes from Letterkenny to Crime & Security by which the finds were reported to Headquarters. The first report is from Superintendent Duffy at 15.38 hours on the 18th of July 1994 in respect of a find at the derelict house.⁵⁴⁹
- 9.12. This report generated a first telex from Letterkenny in respect of these finds which was sent to Crime & Security at 17.00 hours.⁵⁵⁰
- 9.13. A report in respect of the second find made at Ardeelan, Rossnowlagh, Ballyshannon was also made by Superintendent Duffy at 22.01 hours on the 18th.
- 9.14. This was then followed by a second telex from Letterkenny Communications Centre to the Assistant Commissioner Crime & Security and the Garda Press Office in Dublin. This report was sent at 06.42 hours on the 19th.⁵⁵¹

The Scene

- 9.15. Sergeant Aidan Murray attended the scenes of the finds at Rossnowlagh as a scenes of crime officer on the 18th of July. He noted that the derelict house at Ardeelan had often been routinely searched prior to this and found to be empty.

⁵⁴⁸ Transcript, Day 78, Q.353-364.

⁵⁴⁹ Tribunal Documents, Vol. 3, page 1118.

⁵⁵⁰ Tribunal Documents, Vol. 3, page 1112.

⁵⁵¹ Tribunal Documents, Vol. 3, page 1120.

The shed was open to the wind and the elements. He did not take fingerprints because of the state of the premises in which the finds were made. He was not directed not to take fingerprints. He took samples from the various bags found at Rosstownlagh and took them to the Forensic Science Laboratory on the 28th of July 1994.

- 9.16. Detective Sergeant William Brennan gave evidence⁵⁵² as an expert in the examination of firearms, ammunitions and explosives. On the 28th of July 1994 he received ninety-three rounds of .22 long rifle high velocity hollow point Winchester super speed ammunition in excellent condition which he was informed had emanated from a search at Ardeelan, Rosstownlagh, Ballyshannon on the 18th of July. His opinion was that this ammunition was not typically the type of ammunition which the Garda Ballistics Bureau encountered in finds of materials related to terrorist activities. It was mostly used for target practice or dealing with small vermin on farms. They did not come across such ammunition in the 1990s but had previously come across such ammunition in relation to training camps in the '70s or '80s.
- 9.17. Ms. Annette Forde of the Forensic Science Laboratory, an experienced forensic scientist, examined the samples of materials found at Ardeelan and Rathfragan in Rosstownlagh on the 18th of July. The Tribunal is satisfied that the samples were properly received at the Forensic Science Laboratory and that all appropriate steps were taken in the preservation and examination of these items. She received samples of coloured granular powder from a vacant house at Ardeelan and samples of cream coloured powder from the vacant shed at Rathfragan. She also received samples of white powder from Rathfragan. The samples of cream granular powder examined were all found to be of similar composition, the main ingredient of which was ammonium nitrate, which was usually found in fertiliser. The white powder, when examined, was found to be icing sugar. She also analysed vials of liquid which were found to be diesel oil. She stated that the presence of crushed ammonium nitrate fertiliser with about ten per cent icing sugar or crushed ammonium nitrate with about six per cent diesel oil had been encountered in materials found in homemade explosives. Her understanding was that in the 1980s ammonium nitrate and diesel oil was the mixture most commonly encountered in such finds and that in the early 1990s icing sugar was introduced into the mixture in place of the diesel oil.
- 9.18. Explosive mixture requires some sort of detonator in order to set it off. A small amount of explosive was often introduced into a HME mixture to cause sufficient ignition to detonate the mixture.⁵⁵³ It should be noted in relation to the mix found that Chief Superintendent Monahan, an officer with extensive border and

⁵⁵² Transcript, Day 78, Q.365-421.

⁵⁵³ Transcript, Day 79, Q.1-35.

subversive investigative experience, indicated what he thought about the finding of icing sugar and fuel oil together:

*What is unusual is the presence of icing sugar and fuel oil. You didn't require both. You didn't mix all three ingredients, as I understand it. If you were making up a bomb you made it either with fuel oil or with sugar but you didn't mix HME with both, subject to correction on it but that's my understanding ...*⁵⁵⁴

The Issue

9.19. This concludes what might be regarded as the 'official' account of the find of explosives made on the 18th of July 1999 at Rosstownlough. On the face of it, the operation was based on reliable information passed through Detective Inspector Lennon to Superintendent Duffy from an informer. The materials found were seized. It might, on one view, be regarded as a significant success.

9.20. However, the authenticity of this find was directly challenged by the testimony of Ms. Adrienne McGlinchey. She made statements and gave evidence, not only to the effect that these were hoax finds, but that the materials were planted and the hoax was organised and perpetrated by members of An Garda Síochána with whom she co-operated: namely, Detective Garda McMahan and Detective Inspector Lennon. Quite apart from the evidence of Ms. McGlinchey, there are a number of features of these finds and the events leading up to and following them that require scrutiny. This arises because of the contradictory accounts given by the participants in these events in relation to their respective roles, their level of knowledge of the materials found, and the use to which, it was said, the 'Provisional IRA' wished to put them. It was also important to examine the extent of the investigation which followed these finds and measure that against what one might expect on the basis of good police practice and procedure.

Evidence of Mrs. Sheenagh McMahan

9.21. Mrs. Sheenagh McMahan, following an encounter with Ms. Adrienne McGlinchey, went to see her husband's former superior and work colleague ex-Detective Sergeant Des Walsh because of her concerns arising out of this encounter. She said that Mr. Walsh told her about a number of incidents:

*... And then he mentioned about another thing in Rosstownlough which I had never heard about, that that was one of theirs. A find of stuff in Rosstownlough ... explosives ... He just said that that was one they organised as well. It was all a scam between the whole lot of them. ... He said it was all about self-gain and promotion ... in respect of obviously Noel and Kevin Lennon.*⁵⁵⁵

⁵⁵⁴ Transcript, Day 164, Q.32.

⁵⁵⁵ Transcript, Day 7, Q.156-184.

9.22. She indicated that she knew nothing about the find at Rossnowlagh prior to this conversation with Sergeant Walsh and that she was “very taken aback” by all of what she was hearing.

9.23. Under cross-examination by counsel for Detective Garda McMahon she indicated that she had not gone to Mr. Walsh to get anything specific from him but that he offered the information to her:

I didn't go looking for specific information because I didn't know the specific information. I didn't go to him. I went to him because Adrienne McGlinchey had come to me ... He offered the information to me. He told me. Sure I would not have known anything about Rossnowlagh or (another matter). I knew nothing about it until Des Walsh told me.⁵⁵⁶

9.24. Mr. Walsh was asked whether he discussed Rossnowlagh with Mrs. McMahon. Curiously, he said that he never mentioned the word ‘Rossnowlagh’ to her but:

She asked me did I know anything else that Adrienne was involved in. I knew there was a find outside Ballyshannon of fertilizer or mix. I think we had discussed this in the Detective Branch and I mentioned that she could have been involved in this because I knew absolutely nothing else about it.⁵⁵⁷

9.25. He denied that he told Mrs. McMahon that the Rossnowlagh find was a scam organised by the trio of Ms. McGlinchey, Detective Garda McMahon and Detective Inspector Lennon and maintained that he was not holding anything back in that regard. He insisted that he was telling the truth.⁵⁵⁸ The Tribunal is satisfied from all the evidence heard in relation to the conversation which Mrs. McMahon had with Mr. Walsh that she is telling the truth and does not accept the evidence of Mr. Walsh in this regard. Therefore, the Tribunal concludes that Mr. Walsh told Mrs. McMahon of the involvement of this trio and the organisation of the hoax finds at Rossnowlagh. He could only have done so on the basis of hearsay, or inferences drawn from facts within his possession, or through a knowledge of the events.

9.26. It seems probable in the light of the circumstances surrounding the find at Rossnowlagh and the working relationship which he had with Detective Garda McMahon that he felt himself sufficiently well informed about the matter to make the statement to Mrs. McMahon as described. The subsequent denial of this conversation is further evidence of the misguided loyalty of an otherwise decent man to his former colleagues. The Tribunal is satisfied that by making such remarks to Mrs. McMahon he was indicating, as a former senior detective in

⁵⁵⁶ Transcript, Day 8, Q.362.

⁵⁵⁷ Transcript, Day 41, Q.213.

⁵⁵⁸ Transcript, Day 41, Q.214-217.

Buncrana, that he had grounds for believing that there was something wrong, or at the very least suspicious, about the circumstances of the finds at Rosstownlagh.

10th of June 1994 – A Warning

- 9.27. In June/July of 1994 Detective Inspector Lennon was the acting Detective Superintendent for the Donegal division. He told the Tribunal that in or about June of 1994 he was approached by Detective Garda McMahon and furnished with information, which was included in a letter dated the 10th of June 1994 addressed to the divisional officer, Letterkenny.
- 9.28. Detective Superintendent Ginty left Letterkenny on the 10th of June 1994, the date of the relevant letter,⁵⁵⁹ to take up duties with the United Nations. Chief Superintendent Fitzpatrick took up his appointment as divisional officer on the 25th of July 1994 having been absent on duties and leave from the 14th of March 1994. In the meantime, Chief Superintendent Anderson temporarily assumed responsibility as divisional officer.
- 9.29. The letter of the 10th of June 1994 is set out below:
- 9.30. As will be seen from the reproduction, the copy available to the Tribunal is of poor quality and insofar as it is decipherable the letter reads as follows:

SECRET

Chief Superintendent,
Letterkenny.

Information has been received within the PIRA that they are actively planning an attack on the security forces in Northern Ireland, this attack will be by means of remote control and the location is believed to be a military checkpoint outside Beleek, County Fermanagh. The attack will necessitate a house takeover in the Ballyshannon area, where the final phase of completion of the device will be carried out prior to transportation to the target area.

In consultation with the Superintendent at Ballyshannon, I will be [attempting] ... to thwart this operation by the PIRA. It is in fact my belief that I will be in a position over the coming week to identify the location of the device, now in the early stages of assembly.

I request that no written correspondence in relation to this matter be returned to me and I undertake to inform all concerned of any developments.

The RUC will be notified when the Superintendent at Ballyshannon has been briefed.⁵⁶⁰

⁵⁵⁹ Transcript, Day 101, Q.583.

⁵⁶⁰ Tribunal Documents, page 2123. It may be noted that this letter was written between the two 'finds' at Oatfield and Covehill which occurred on the 4th and 13th of June, respectively.

9.31. Detective Inspector Lennon claimed to have believed that information concerning the possibility of a bomb attack using a remote control device came to him from Detective Garda Noel McMahon who had obtained it from Adrienne McGlinchey. He received it just prior to writing the letter of the 10th of June 1994. Detective Garda McMahon told him that he would get the location of the device at some point by “developing the source” of information, namely Ms. McGlinchey. Therefore, he stated in the letter that he would be in a position over the following week to identify this location. In this letter, he sought to convey that he thought he was on to something and that he hoped to thwart the operation. From the 10th of June 1994 he maintains that he kept in touch with Detective Garda McMahon who was unable to produce any further information about the proposed attack. Detective Garda McMahon told him that he was following it up. Detective Inspector Lennon did not get any more information about this until July of 1994. There is no evidence to suggest that Superintendent Duffy was briefed by Detective Inspector Lennon about this matter until the 8th of July 1994.

8th of July 1994

- 9.32. Mr. Duffy gave evidence that some time between 12.00 hours and 13.00 hours on the 8th of July 1994, Chief Superintendent Anderson and Detective Inspector Lennon called to Ballyshannon Garda Station. He did not recall why they had called but presumed that they had come in order to view some site in the locality, which was near Bundoran. The matter was in relation to some security issue. Sergeant Aidan Murray accompanied them on this trip in the course of which Detective Inspector Lennon imparted information to Superintendent Duffy. He believed that Sergeant Murray and Chief Superintendent Anderson were not present when Detective Inspector Lennon furnished him with this information.
- 9.33. The information conveyed to him by Detective Inspector Lennon was that the ‘Provisional IRA’ were planning an attack on the British Army checkpoint at Rosscor on the border. They were planning to tow a caravan containing a bomb to the checkpoint. They intended to drop or unhook the caravan at the checkpoint and detonate the bomb. Detective Inspector Lennon could not tell him the date for the proposed attack; nor could he tell him where the caravan was located as of the 8th of July.
- 9.34. Mr. Duffy understood generally that personnel at divisional headquarters, Letterkenny, including Chief Superintendent Anderson, were aware of this type of information and, therefore, presumed that they were aware of this specific information. Consequently, he did not tell Chief Superintendent Anderson or contact divisional headquarters or Crime & Security at Garda Headquarters in Dublin about this matter.

9.35. Mr. Duffy's diary entry for the day reads:

Friday, 8th July, 1994, took up duty at 9.00am office till 12.00 noon. Went on duty to border area with Chief Superintendent Anderson, Detective Inspector Lennon, Detective Sergeant Murray up to 1.00pm office up to 5.45pm ... went to Enniskillen where I met Superintendent McFarlane and discussed security of checkpoints with him.

9.36. Mr. Duffy states that at the meeting with Superintendent McFarlane of the RUC at Enniskillen he passed on the information which Detective Inspector Lennon had given to him.

The Caravan

9.37. Mr. Duffy testified to the Tribunal that Detective Inspector Lennon informed him about the proposed use of a caravan in the bomb plot at their meeting on the 8th of July. There was no suggestion made to him that the caravan was in situ.⁵⁶¹ However, he believed that enquiries were made in relation to this caravan prior to the 18th of July.

Definitely the caravan was being watched prior to the 18th, that's my belief this would be periodic visits to the caravan during the course of mobile patrols ... It was there days before the homemade explosives were located I think we had difficulty in finding out who owned the caravan for several days the only way it was identified was that it was sitting on the roadside in the area I would have told the Detective Branch to give it passing attention. I believe at the time that I believed that it was a subversive caravan.

9.38. He thought that a Sergeant Collins had looked inside the caravan prior to the 18th of July but he could not be positive about this, "but the caravan was definitely entered".⁵⁶²

9.39. It was suggested to Mr. Duffy that there was nothing in his journal or his statements that would indicate that the caravan was discovered in advance of the 18th of July. In particular, attention was drawn to the description which he gave of the information conveyed to him by Detective Inspector Lennon on the 18th of July 1994 and the description which he gave of travelling with Detective Inspector Lennon to Rossnowlagh on that date. Describing the information which Detective Inspector Lennon told him he had received he stated:

⁵⁶¹ Transcript, Day 101, Q.273-274.

⁵⁶² Transcript, Day 101, Q.56-110 – various references.

The information which indicated where the find at Ardeelan, Rossnowlagh was located, also included that a caravan which was parked at the roadside near the find was to be used to convey a bomb to the British army checkpoint at Rosscor, Beleek.⁵⁶³

It was also suggested to him that there was no mention in that statement of the fact that the caravan had been discovered prior to the furnishing of this information on the 18th of July 1994.

- 9.40. Similarly, Mr. Duffy was referred to a further statement which he had made in which he had stated:

On the morning of the 18th July, 1994 I took up duty at 9.00am at Ballyshannon Station. At about 10.00am Kevin Lennon called and as a result both he and I travelled to Ballintra and Rossnowlagh areas. He showed me two locations and a caravan, which he said subversive personnel had recently used and that homemade explosives were to be found.⁵⁶⁴

- 9.41. When his attention was drawn to these statements he did not accept that they indicated that he discovered the caravan on the morning of the 18th as a result of a trip to the area with Detective Inspector Lennon.⁵⁶⁵ He insisted that they had discovered the caravan days in advance of the 18th.⁵⁶⁶

- 9.42. In the course of his testimony, Mr. Duffy made reference to a statement made by Sergeant Martin Collins, who was involved in the searches at Rossnowlagh, to the effect that Sergeant Collins had been aware of the presence of a caravan in the vicinity of the finds for some weeks prior to the 18th of July. In this statement, Sergeant Collins had said:

At the time I thought it unusual that subversives should choose such locations to hide explosive material by reason of the fact that both locations were wide open and exposed and no effort made to hide such a big amount of stuff. In or around that time a small caravan was parked in a lay-by off the main road, cream coloured with a thick brown stripe running horizontally from front to rear. This caravan was subject to Garda surveillance for some weeks prior to searches lest it contain subversive elements. I had means of access to this caravan unknown to owners/occupiers but nothing untoward was observed. It disappeared some time after the searches and it was never known who placed it there or who removed it. I feel it had no bearing and was totally unconnected with the finding of explosives in the house, which was approximately 100 meters away.⁵⁶⁷

⁵⁶³ Tribunal Documents, page 999 – Statement 30th July 1999.

⁵⁶⁴ Tribunal Documents, page 2517.

⁵⁶⁵ Transcript, Day 101, Q.81.

⁵⁶⁶ Transcript, Day 101, Q.87-89.

⁵⁶⁷ Tribunal Documents, page 1005.

- 9.43. Sergeant Aidan Murray told the Tribunal that there was a caravan situated yards from the scene of the find in Ardeelan. A number of Gardaí on duty at nighttime had checked the caravan out and ascertained a number of names which were checked with the RUC. It was discovered that the people who were using the caravan were quite innocent and had nothing to do with either of the two finds, and were eliminated from Garda enquiries. The men occupying the caravan were involved in the construction of a nearby house.⁵⁶⁸
- 9.44. Sergeant Murray made it clear to the Tribunal, in further evidence,⁵⁶⁹ that the caravan which was found approximately a hundred metres from the scene of the finds had been the subject of Garda attention in the week preceding the finds. The Gardaí had become aware of the presence of the caravan in a lay-by for reasons which were totally unconnected with any suggestion of a subversive involvement by those who were using the caravan. Though the presence of the caravan was brought to Sergeant Murray's attention prior to the 18th of July, no information was conveyed to him with regard to it by or through Detective Inspector Lennon, Superintendent Duffy or any other member of An Garda Síochána. Following the find, discreet enquiries were made by him as to whether there was any link between persons occupying the caravan and the finds of the 18th of July. He was aware that members of An Garda Síochána gained entry to the caravan and obtained the names of the occupants, which were checked out. This happened after the find of the 18th of July. It did not happen before, as suggested by Superintendent Duffy.
- 9.45. The Tribunal accepts the evidence of Sergeant Aidan Murray in this regard. As already noted, he was the scenes of crime officer in respect of these finds. He was also concerned with elements of the follow up enquiries. He carefully furnished the result of his follow up enquiries to Garda Headquarters and these entirely support his account of the enquiries concerning the caravan.⁵⁷⁰ The Tribunal is satisfied that the caravan parked near Ardeelan, Rossnowlagh had nothing whatsoever to do with any planned 'Provisional IRA' operation in the area. It is further satisfied that it was not part of any Garda investigation related to any proposed and imminent bomb attack at Rosscor. The Tribunal is fully satisfied therefore that it was not watched or given passing attention by the Garda Síochána based on any suspicion related to such a proposed use. Insofar as Mr. Duffy says that it was, he is incorrect. The Tribunal regards it as shocking that a former Superintendent of An Garda Síochána would testify to matters in a deliberately misleading fashion. This was a crucial aspect of evidence on which the Tribunal is satisfied that it was fed a line by Mr. Duffy in his evidence that suited the purpose of showing himself as efficient and effective. The suggestion of Sergeant Collins set

⁵⁶⁸ Transcript, Day 78, Q.158-159.

⁵⁶⁹ Transcript, Day 124.

⁵⁷⁰ Transcript, Day 124.

out in his statement seemed to provide Superintendent Duffy with a basis in hindsight for his suggestion that it was so investigated. Such an investigation was not done in the context of terrorism or before the discovery of the bogus finds. The evidence of Sergeant Murray is preferred on this issue and is supported by the documentation available to the Tribunal concerning his inquiry and conclusions in respect of the caravan, which, importantly, were conducted after the find.

15th of July 1994

- 9.46. Detective Inspector Lennon maintains that when he obtained further details from Ms. McGlinchey, through Detective Garda McMahon, following the 8th of July, he furnished a further report on the 15th of July 1994.
- 9.47. The Tribunal has established that this report was furnished to Chief Superintendent Anderson at Letterkenny and forwarded to the Assistant Commissioner, Crime & Security Branch on the 15th of July 1994.⁵⁷¹ Apart from the sending of this message, no further action appears to have been taken in response to it by Crime & Security in Dublin whether by raising a query or otherwise. In this letter, Detective Inspector Lennon elaborates on the details which, it is said, had been passed on to him by Detective Garda McMahon from Ms. McGlinchey, of the proposed attack on Rosscor to which the finds at Rossnowlagh are said to be related.

Detective Inspector Lennon's Evidence

- 9.48. Detective Inspector Lennon was questioned before the Tribunal in respect of the information set out in this letter. He indicated that he had sent in a comprehensive report about what was happening at Rossnowlagh. He said that he spoke to Superintendent Duffy about it who said that he would put out patrols and watch the area in order to monitor any movement that might take place there.⁵⁷² He stated that he received the information from Detective Garda Noel McMahon who got it from Adrienne McGlinchey. He wrote the letter almost contemporaneously with the receipt of the information and it contained what Detective Garda McMahon told him about the matter.⁵⁷³ He was told that there was a caravan in a caravan park in Rossnowlagh but Ms. McGlinchey and Detective Garda McMahon did not know which caravan:

There was a caravan in a caravan park in Rossnowlagh but they didn't know which caravan. I was told and then there was a caravan moved into place ... I went down there myself, and had a look at the caravan parks but there is so many of them there that you couldn't establish where one would be taken from.⁵⁷⁴

⁵⁷¹ Message number 325/94 Letterkenny.

⁵⁷² Transcript, Day 148, Q.91-92 and 140-141.

⁵⁷³ Transcript, Day 148, Q.215 and 293 and Day 150, Q.334.

⁵⁷⁴ Transcript, Day 148, Q.104, 111.

9.49. Detective Inspector Lennon told the Tribunal that this information suggested that homemade explosives had been moved into the area of Rossnowlagh. The 'Provisional IRA' intended to use a touring caravan and had identified a caravan at Rossnowlagh caravan park which they intended to steal. He was also told that members of the 'Provisional IRA' had inspected the caravan having entered it by means of picking the lock. When asked who had entered the caravan by means of picking the lock he replied "these guys from Letterkenny".⁵⁷⁵ He did not write down their names or report their names to Headquarters or the Chief Superintendent by a separate sheet. He explained this in the following way:

*Well I don't know if I had the actual names that time, I'm not sure. But I certainly got two names from Letterkenny that were involved in this.*⁵⁷⁶

9.50. It may be noted that, apart from Detective Inspector Lennon, no evidence was presented to the Tribunal suggesting that two names, or any names, were furnished by Detective Inspector Lennon to the Chief Superintendent at Letterkenny or Crime & Security at any stage.

9.51. Detective Inspector Lennon also stated that he wrote down what Detective Garda McMahon told him and included it all in the letter of the 15th of July 1994. He could not explain the differences between his evidence and that of Detective Garda McMahon concerning its contents but insisted that he did not make it up.

9.52. Detective Inspector Lennon was questioned before the Tribunal in relation to the references to the caravan in his letter of the 15th of July 1994. It will be recalled that Superintendent Duffy had given the following testimony in relation to a caravan on Day 101 of the hearings:

Q. He said on that occasion he was able to tell you that the method of attack was going to be by means of a caravan and did he tell you where the caravan was located or did you discover the location of the caravan at some later date, after the 8th July and before the 18th July?

A. I believe when we located the caravan or knew of its presence, we put two and two together that this may be the caravan that was going to be used.

Q. Yes. Can you help us when did you locate the caravan?

A. I can't, Chairman, no.

Q. You told us at the beginning of this morning's session that the caravan and occupants were kept under observation?

A. The caravan was, to my knowledge ...

⁵⁷⁵ Transcript, Day 148, Q.209.

⁵⁷⁶ Transcript, Day 148, Q.213.

- Q. *You think that enquiries were made prior to the 18th?*
- A. *Definitely the caravan was being watched prior to the 18th, that's my belief.*
- Q. *When did you locate the caravan?*
- A. *I don't know. It was there days before the homemade explosives were located.*
- Q. *Yes?*
- A. *That's my memory of it now.*
- Q. *Did your information identify the caravan in question?*
- A. *It didn't, Chairman.*
- Q. *How did you come to identify it?*
- A. *The only way it was identified is that it was sitting on the roadside in the area.*
- Q. *Are you sure that you located the caravan in advance of the finds on the 18th?*
- A. *I believe it was located prior to it, yes.*⁵⁷⁷

9.53. A short time later in his evidence, Mr. Duffy again confirmed that the caravan had been discovered days in advance of the 18th of July⁵⁷⁸ due to the information obtained from Detective Inspector Lennon. He believed that he told his Detective Branch to keep an eye on the caravan and the Uniform Branch to give it passing attention.⁵⁷⁹ It was never reported back to him that they saw persons using the caravan. He believed at the time that it was a subversive caravan.⁵⁸⁰ The caravan, he thought, received passing attention from Gardaí going out on patrol from Ballyshannon.⁵⁸¹ He thought that Sergeant Collins had entered the caravan prior to the 18th of July but could not be positive. He suspected on the basis of this information that it and its occupants were linked to subversives and the plot of which he had been informed by Detective Inspector Lennon on the 8th of July. In particular, he said that when the Garda Síochána located the caravan in the area they put two and two together that this might be the caravan that was going to be used in the bomb plot. The Tribunal is satisfied that this caravan is the same caravan which was subsequently the subject of Detective Sergeant Aidan

⁵⁷⁷ Transcript, Day 101, Q.56-82.

⁵⁷⁸ Transcript, Day 101, Q.88-89.

⁵⁷⁹ Transcript, Day 101, Q.90-91.

⁵⁸⁰ Transcript, Day 101, Q.97.

⁵⁸¹ Transcript, Day 101, Q.107-110.

Murray's enquiries and is also the one which is referred to by Detective Inspector Lennon and Detective Garda McMahon in their evidence. There was no evidence of a second caravan parked on the side of the Ballyshannon Road near the location of the finds.

- 9.54. In this regard a curious feature emerges from the evidence. On the 15th of July a report was written by Detective Inspector Lennon to Chief Superintendent Anderson outlining intelligence that suggested that the caravan to be used in the intended attack was at Rossnowlagh caravan park. On the basis of this intelligence Detective Inspector Lennon told the Tribunal that he visited the caravan park in a fruitless exercise to locate the caravan. However, if the caravan in question was in position on a lay-by or on the side of the Ballyshannon Road seven to ten days before Rossnowlagh, as evidenced by Detective Sergeant Murray, or a number of days before the find as evidenced by Superintendent Duffy, if his evidence is accepted, the intelligence set out in the letter could not be true and was at variance with the reality on the ground. This constitutes a further reason to reject the evidence of Mr. Duffy, of Superintendent Lennon and Detective Garda McMahon.
- 9.55. Detective Sergeant Murray's evidence is that the caravan was brought to his attention by a civilian but not in the context of a Garda inquiry into the alleged activities of subversives relating to this caravan. Superintendent Duffy, for his part, had drawn a clear connection between the presence of the caravan and the intelligence received by him from Detective Inspector Lennon on the 8th of July which led to his effecting the casual monitoring of the caravan by Garda patrols. If the latter were the case, the lack of communication between Superintendent Duffy and Detective Inspector Lennon in respect of clearly important information with regard to the location of the caravan to be used in an imminent bomb attack is very surprising. It would, of course, have been of enormous importance to Detective Inspector Lennon in dealing with his source to know that matters were falling into place, or, if the information was at variance with the information he was receiving in the letter of the 15th, that his informer was providing unsound information or holding information back. At the very least, it would have saved him a fruitless journey to the caravan park. **However, on this issue the Tribunal is satisfied that the evidence of Detective Sergeant Aidan Murray is to be preferred in relation to these events and that Superintendent Duffy did not receive specific information in relation to the presence of this caravan on the side of the road and did not direct that it be kept under observation by patrols coming from Ballyshannon. His evidence in this regard is not accepted by the Tribunal. It seems more likely, having regard to statements previously made by Superintendent Duffy, that he first learned of the existence of this caravan on the 18th of July 1994.**

9.56. Initially, Detective Inspector Lennon gave evidence that he was not informed by Superintendent Duffy that the Superintendent was carrying out checks on a caravan prior to the Rossnowlagh finds.⁵⁸² He said that he identified the particular caravan to Superintendent Duffy on the 18th of July by pointing it out to him.⁵⁸³ When told by Detective Garda McMahon of the presence of the caravan at the Rossnowlagh caravan park on the 15th of July he said that he did not contact Superintendent Duffy with this information. It is difficult to understand this evidence in the light of the further evidence given by Detective Inspector Lennon to the effect that Superintendent Duffy had indeed informed him that he had identified a caravan sitting on the roadside but that he did not go down and look at it.⁵⁸⁴ Detective Inspector Lennon did not ask Detective Garda McMahon to ask his informer whether this particular caravan found by Superintendent Duffy was the caravan which was to be used. He was asked why not and he replied:

Well I have no good reason, once Superintendent Duffy had identified the caravan I accepted that that was more than likely, on the balance of probability, the same caravan.

9.57. This contradictory testimony is difficult to comprehend. In his later evidence, he accepted that this information came to him from Superintendent Duffy between the 8th and the 15th of July.⁵⁸⁵ He continued to maintain that there was no communication with Superintendent Duffy concerning the new information that in fact the caravan was in Rossnowlagh caravan park as referred to in the letter of the 15th. The Tribunal has considered the possibility that the caravan parked on the Ballyshannon Road, for seven to ten days prior to the find at Rossnowlagh, was removed from that scene to the Rossnowlagh caravan park and then brought back to the scene prior to the finds on the 18th of July. This would have become readily apparent to any Gardaí carrying out even casual observation of the caravan over this period. There is no evidence to support this proposition and the Tribunal discounts it. In fact, the evidence of Detective Sergeant Murray would suggest that the caravan was in place for this period on the side of the road. Both Superintendent Duffy and Detective Inspector Lennon had to regard such a movement as of the utmost importance to their enquiries. For that reason it is unfathomable why the caravan's position would not be reported to Detective Inspector Lennon by Superintendent Duffy and vice versa. The suggestion that the caravan was in the caravan park on the 15th could well have meant that Superintendent Duffy was mounting observation on the wrong caravan. It would be even more extraordinary if such intelligence in the possession of Detective Inspector Lennon, suggesting that the caravan identified by Superintendent Duffy

⁵⁸² Transcript, Day 148, Q.315.

⁵⁸³ Transcript, Day 148, Q.324-326.

⁵⁸⁴ Transcript, Day 148, Q.408-410.

⁵⁸⁵ Transcript, Day 148, Q.434.

was in fact the wrong caravan, was not passed on to Superintendent Duffy. The Tribunal does not find the evidence of Detective Inspector Lennon in relation to this issue credible. The Tribunal does not accept the evidence of Superintendent Duffy in relation to these events. As already stated, it is likely that Detective Inspector Lennon first told Superintendent Duffy about the caravan on the 18th of July and that the contents of this report of the 15th of July were invented by him.

- 9.58. A simple check which revealed all relevant information in relation to this caravan, its occupants and the reasons for its presence on the side of the Ballyshannon Road was made by Sergeant Aidan Murray on the basis of straightforward enquiries made after the 18th of July. There is no reason why this information could not have been procured with similar application prior to the 15th or the 18th of July. The fact that it was not is indicative of the absence of Garda interest in this caravan relating to the explosives find on the 18th of July, prior to that date.
- 9.59. The fact that two senior Garda officers, Superintendent Duffy and Detective Inspector Lennon, confer a pivotal role on the caravan in ‘the bomb plot’ which they were investigating begs the question as to what was done with the caravan after the find. The answer is that no step was taken to search, seize or forensically examine the caravan after the finds at Rosstownlagh. It would be an inexcusable dereliction of duty for the investigating Gardaí not to take such steps if the intelligence suggested that those concerned in this plot had dealings with this caravan, for example, by entering it with a view to stealing it. It is impossible to understand the failure on the part of Superintendent Duffy to take such a step or the failure on the part of Detective Inspector Lennon to show the remotest concern in respect of the course of the Garda investigation, if only to ascertain if such a forensic examination had been carried out and further information obtained as a result thereof. Indeed a common theme to the stories told by Superintendent Duffy, Detective Inspector Lennon and Detective Garda McMahon is that the caravan was indeed pointed out by Ms. McGlinchey on the morning of the 18th of July. Whatever about not knowing about the caravan prior to the 18th of July, Superintendent Duffy was fully aware of its supposed significance, on his own evidence, by the latest on the 18th of July. If so, a failure on the part of Superintendent Duffy to organise the search and seizure of the caravan was negligence of a very high degree.

Detective Garda McMahon's Evidence concerning events prior to the 18th of July

9.60. Detective Garda McMahon initially gave evidence to the Tribunal that he first learned of the storage of the materials at Rossnowlagh by the 'Provisional IRA' and their proposed use in an imminent attack at the military checkpoint at Rosscor, Belleek, Co. Fermanagh from Ms. McGlinchey on the evening of the 18th of July 1994. The Tribunal, as will be noted, approaches her evidence with much circumspection. Firstly, she contacted Detective Garda McMahon at approximately 23.30 hours and informed him that she knew the location of a place near Rossnowlagh that contained the makings of a homemade explosive bomb and that she was willing to take himself and Detective Inspector Lennon to this location and point it out. He contacted the Detective Inspector, collected Ms. McGlinchey in Buncrana, travelled over to Letterkenny and collected the Detective Inspector and drove towards Rossnowlagh. Ms. McGlinchey gave them directions and they stopped at a two-storey dilapidated house where the initial find was made: the house at Ardeelan. Then they travelled to the second location: a shed at Rathfragan. On the way from the house to the second location, the shed, she pointed out a caravan on the left hand side of the road which was to be used in the attack.⁵⁸⁶ It is helpful at this point to consider Detective Garda McMahon's evidence in relation to the information furnished to him by Ms. McGlinchey in respect of the caravan and its proposed use as the mode of conveyance for the bomb and to compare and contrast that with the reports which had been furnished by Detective Inspector Lennon to the Chief Superintendent at Letterkenny on the 10th of June and the 15th of July 1994.

9.61. Detective Garda McMahon described how he had first learnt about the proposed use of the material stored at Rossnowlagh in the course of the car journey from Letterkenny to Rossnowlagh and described it as follows:

On questioning Ms. McGlinchey this device was to be loaded into an old caravan that was alongside the road, parked and packed into it and towed toward the Beleek checkpoint using a hitch type device that had been used on several occasions previously in the North, by means of releasing the caravan from its hitch while inside the car, disengaging the car, the towing car from the caravan at the checkpoint and that this bomb would detonate within a time period after the car would be regarded as being a safe enough distance away from it.⁵⁸⁷

9.62. When asked about when he first received information about the device which was to be used he said he thought that "some of that caravan ball hitch release

⁵⁸⁶ Transcript, Day 136, Q.486-530 – various references.

⁵⁸⁷ Transcript, Day 136, Q.487, page 123.

was told on the way down”⁵⁸⁸. Later he said on the drive down he did not think that:

*... we went into a description of the caravan. There was actually a caravan which she pointed out on the left hand side of the road, as I remember, as we were heading from the two-storey house to the shed type thing. [She told us] that the contents of the location of the HME was to be packed into this caravan, primed on some delayed fuse of 15/20 seconds, that there was a device installed in the car that could be activated from inside the car while driving, to release the caravan from the hitch, leave the car free and the caravan would obviously career to a halt somewhere in the vicinity of the checkpoint and the delay fuse, lasting whatever, 15/20 seconds, the car would in the meantime gain ground and be a safe distance away from the actual explosion itself ... She pointed out that that was the caravan on the left hand side of the road.*⁵⁸⁹

- 9.63. They did not stop to examine the caravan on the 18th of July, and he was not aware of the significance of this caravan before the find on the 18th of July 1994:

*I think she had mentioned that a caravan was to be used and on approaching the caravan she said, that's the caravan there or something to that effect.*⁵⁹⁰

- 9.64. He was also asked whether there was any basis for intelligence concerning a caravan to be used in a forthcoming attack on the border crossing from Ms. McGlinchey that could have been passed on to Inspector Lennon and Superintendent Duffy prior to the 18th of July 1994 and he answered:

*I don't know I don't recall her That is my recollection that she explained the full extent of that intended bomb and intended target and the means by which it was to be conveyed and used on that night. ... I was of the belief that a caravan parked there was owned by someone local and that it was going to be stolen ... that is my recollection of the events that the full use of the bomb and the caravan were explained that night.*⁵⁹¹

- 9.65. The following day, Detective Garda McMahon continued his evidence on this topic and indicated that he may have misled the Tribunal the previous day in his evidence. He ascribed this to fatigue and corrected his evidence in relation to the availability of prior information concerning the find as follows:

⁵⁸⁸ Transcript, Day 136, Q.510.

⁵⁸⁹ Transcript, Day 136, Q.518-520.

⁵⁹⁰ Transcript, Day 136, Q.521-526.

⁵⁹¹ Transcript, Day 136, Q.522-562 – various references.

There was some prior information that a house had been selected, I didn't know where and that, indeed, a caravan was to be stolen or used or pretended to be stolen, which I had passed on to Detective Inspector Lennon and it was fairly little in that there was no date and we hadn't the location of the house, except that the hitch device and a caravan was to be used [This conversation] was a one to one in a patrol car or in my car at some stage, about a week, ten days beforehand ... She just said that she was aware or overheard this was to be used and she didn't give details of where the house was ... she was in the company of members of the IRA ... up in Rahan. There was a house down in the Rossnowlagh area that was going to be used to store explosives, ... there was a caravan going to be used, she didn't know if they had stolen the caravan or whatever, but it was going to be reported to be stolen ... she didn't know if it was going to be supplied by a sympathiser of the organisation or if one was genuinely going to be stolen ... it was basically going to be used as the actual bomb and a hitch device would be placed on it at some stage, and basically, that was all the information that she had at that time.⁵⁹²

He said this had occurred approximately seven to ten days before the find on the 18th of July.

- 9.66. Detective Garda McMahon claimed that he was led to believe that the operation was discussed openly in front of Ms. McGlinchey by 'Provisional IRA' operatives in Rahan and that she was to be involved in the movement of homemade explosives into Rossnowlagh. She was to travel down as a female companion of one of the men on the operation. She said she would keep them informed on the movement of material and hopefully point out the location.⁵⁹³ Local number plates would be fixed to the 'stolen' vehicle which was to be used in pulling the caravan. She told him who had been present at the meeting at Rahan at which the matter was discussed. He got some names from her but others present were strangers. He got three names which he passed on to his Detective Inspector. One of them was the person previously referred to before the Tribunal as Mr. B., supposedly a leading member of the 'Provisional IRA' in the Letterkenny area. At this time she thought a house had been picked out and that the stuff was going to be moved into place. He was under the impression that the operation was in the planning stage and that nothing had been done at the time of his first conversation concerning the matter with Ms. McGlinchey. A timeframe was not provided to him by Ms. McGlinchey within which the operation was to be carried out. His understanding was that she was to travel to Rossnowlagh when

⁵⁹² Transcript, Day 137, Q.9-22.

⁵⁹³ Transcript, Day 137, Q.35-43.

materials were being delivered so that if anybody came across those moving the materials into Rosstownlagh she could behave or act as the girlfriend of one of the men concerned in an attempt to lessen any suspicion that might attach to the activity.⁵⁹⁴

- 9.67. In an interview with the Tribunal investigators, Mr. Finn and Chief Superintendent Garvie, Detective Garda McMahon was asked whether Ms. McGlinchey had ever told him what was to be done with the homemade explosives material that was in the house and shed in the vicinity of Rosstownlagh and he replied:

A. Yes she talked about it being loaded onto the caravan and being pulled across the checkpoint and that there would be a device to release the caravan from the car leaving it in and around the checkpoint to explode.

Q. Was this information with respect to what was to be done with it given to you by Adrienne McGlinchey at the same time that she told you about the location of where the homemade explosives were hidden?

A. Yes. Around the same time maybe on the way down or when we got down there.⁵⁹⁵

- 9.68. When Detective Garda McMahon was asked why he had not told the investigators about the meeting with Ms. McGlinchey which had taken place some seven to ten days prior to the find he replied that he might not have thought about it at the time,⁵⁹⁶ or that he had perhaps taken the question in the wrong context.

- 9.69. Detective Garda McMahon was also questioned before the Tribunal in relation to the document of the 15th of July 1994 submitted by Detective Inspector Lennon to the Chief Superintendent at Letterkenny. In relation to various elements of this report he said:

(a) He had told Detective Inspector Lennon that supplies of homemade explosives had been moved into the area of Rosstownlagh for use in a bomb attack on Rosscor prior to the 15th of July 1994. He thought that, since he had not been informed of the location of the material at that stage, Ms. McGlinchey had not been down to the locations at the time of the meeting. He added:

*She may have told me, from overhearing the conversation, that there was stuff in place and I probably or obviously passed it on to Inspector Lennon. He thought that what appeared in the letter was what I was told at the time.*⁵⁹⁷

⁵⁹⁴ Transcript, Day 137, Q.13-80.

⁵⁹⁵ Tribunal documents, pages 2796-2797.

⁵⁹⁶ Transcript, Day 137, Q.137.

⁵⁹⁷ Transcript, Day 137, Q.149-156.

(b) He said that he gave the names of the people who were at the meeting at Rahan at which Ms. McGlinchey obtained her information. These names do not appear in the report furnished by Detective Inspector Lennon nor is there a mention that there had been a meeting at Rahan at which the information had been obtained.⁵⁹⁸

(c) He told Detective Inspector Lennon that Ms. McGlinchey had been down at the scene of the finds and he thought this a most important thing in his mind because the locations of the find had been difficult to locate.⁵⁹⁹ This did not appear in the report.

(d) Insofar as the report refers to the proposed use of a touring caravan he said that Ms. McGlinchey informed him that:

*They had a caravan more or less selected, she didn't know whether it was a sympathiser's and that ... it could be made appear, like that it was broken into or they were going to break into one. I thought that was left fairly open but I mightn't have conveyed that properly to Inspector Lennon. But that is my memory of it. I thought the intentions were picking a lock*⁶⁰⁰

He said the report differed from his recollection of what he was told.⁶⁰¹ He denied ever saying anything to Detective Inspector Lennon about Rossnowlagh caravan park.⁶⁰²

(e) He had no recollection of informing the Detective Inspector that it was proposed to take the caravan from "its parked position". He wasn't aware of the caravan being in any particular position until Ms. McGlinchey pointed out the caravan to him on the evening of 18th July:

She didn't tell me where the caravan was parked, until that night, as far as I can recall. I had no awareness until we were passing it, she said this is the caravan here.

He was not aware of the parked position of the caravan until that night.⁶⁰³

(f) Detective Garda McMahon was referred to that portion of the report which stated:

When the caravan was taken from its parked position other members of the PIRA would have completed a house takeover in the locality. The caravan would be taken to that house and loaded with the bombing device.

⁵⁹⁸ Transcript, Day 137, Q.161-167 & Q.281.

⁵⁹⁹ Transcript, Day 137, Q.281.

⁶⁰⁰ Transcript, Day 137, Q.171-176.

⁶⁰¹ Transcript, Day 137, Q.178.

⁶⁰² Transcript, Day 137, Q.192-199.

⁶⁰³ Transcript, Day 137, Q.202-203.

Detective Garda McMahon's recollection was that the caravan:

Was going to be taken to some sort of a farmyard or a shed and fitted and the bomb loaded and primed at that location ... They were going to use a shed without permission... I can't recollect saying a family held at gunpoint or I thought it was a shed maybe removed from a farmyard and that they felt safe that they could break into it and do the necessary work.

He did not inform the Detective Inspector about the proposed takeover of any house.⁶⁰⁴

(g) In reference to that portion of the report which stated:

I can state that the registration number of the towing vehicle would be that of a respected person in the locality thereby arousing no suspicion.

Detective Garda McMahon denied that he had any information that a particular individual's number plate would be used on the vehicle as might have been suggested by the extract. Though he may have used the word "local" he did not use the word "respected".⁶⁰⁵

(h) Detective Garda McMahon was also referred to the extract which read:

The PIRA have constructed a foot pedal which will be situated in the driving compartment of the towing vehicle. This pedal will operate by hydraulic means and detach the caravan from the towing vehicle at the target site.

Ms. McGlinchey had not told him that the pedal would be operated by hydraulic means. He was not sure if she said that a foot pedal would be used and he thought she said, "some device". She described some sort of a button or mechanism.⁶⁰⁶

(i) He accepted that Ms. McGlinchey had told him that the bomb would be detonated on a fifteen second interval. He presumed it would be by way of delay fuse. She was not able to go into the exact engineering of this but she had conveyed this information prior to the 15th of July 1994.⁶⁰⁷

(j) He further accepted that he could not possibly have said, "This plan will ... be disturbed early next week when I believe I will have learned the location of the explosive mix." In this regard, he said:

I think I would have said, as soon as I get information and she feels that it might be in the near future that she will be called to

⁶⁰⁴ Transcript, Day 137, Q.192-211.

⁶⁰⁵ Transcript, Day 137, Q.216-228.

⁶⁰⁶ Transcript, Day 137, Q.229-235.

⁶⁰⁷ Transcript, Day 137, Q.235-242.

*partake in her participation of the movement of stuff to that location.*⁶⁰⁸

He further denied that he had stated that he would be in a position to identify, “the area where the house takeover is to be planned” within that same week or at all.⁶⁰⁹

9.70. In this regard, it is interesting to note that Detective Garda McMahon also stated in evidence that when Ms. McGlinchey pointed the caravan out to them at Rossnowlagh as being the one which was to be used in the bomb attack she was not questioned about it in any way with a view to enhancing the information which was set out in the letter of the 15th of July 1994.⁶¹⁰

9.71. It should also be noted that Detective Inspector Lennon told Tribunal investigators on the 6th of October 2003 that he did not know where Ms. McGlinchey got her information or how she knew the location of the finds at Rossnowlagh, “she wouldn’t tell me”. He also indicated that, “She did say that she had been in the caravan earlier and that she wouldn’t disclose who was in it with her and all that.”⁶¹¹

9.72. This may be contrasted with the evidence of Detective Garda McMahon that he had passed on to Detective Inspector Lennon information in respect of the identities of the persons at Rahan who were involved in this conspiracy and also his evidence that he had no recollection of being informed that Ms. McGlinchey had been in the caravan. He said:

*I honestly can say that I was never aware that she had been in the caravan and I understood from the information and the way she was talking that the caravan would not be actually interfered with or stolen or whatever until that night, the night of the operation or where it would carry out the bombing.*⁶¹²

9.73. It should be noted that the initial evidence given by Detective Garda McMahon to the effect that he had no information in respect of the Rossnowlagh finds prior to the 18th of July 1994⁶¹³ was consistent with the line of questioning followed by his counsel when cross-examining Ms. McGlinchey in the course of the Tribunal’s hearings.⁶¹⁴ In addition, further questions were posed to Ms. McGlinchey suggesting that further information in respect of the find became available a week to ten days after the find and not before it.

⁶⁰⁸ Transcript, Day 137, Q.251.

⁶⁰⁹ Transcript, Day 137, Q.252-259.

⁶¹⁰ Transcript, Day 137, Q.272.

⁶¹¹ Page 99 of the interview.

⁶¹² Transcript, Day 137, Q.279-289.

⁶¹³ Transcript, Day 136.

⁶¹⁴ Transcript, Day 18, Q.151 on.

Adrienne McGlinchey and the Caravan

9.74. As with all of her evidence, the Tribunal approached all that Ms. McGlinchey said with scepticism. Support for any scenario put forward by her was sought out in surrounding evidence. Ms. McGlinchey was questioned before the Tribunal in respect of Detective Inspector Lennon's denial that he was involved in anything untoward at Rossnowlagh. As already stated, part of this denial referred to the fact that Ms. McGlinchey was supposed to have given information that there was explosive material in a disused shed in the Rossnowlagh area and that it was to be taken and placed in a disused touring caravan up the road nearby and then used as a bomb at a British Army checkpoint. She was asked whether she had informed Detective Garda McMahon about a proposed 'Provisional IRA' scheme whereby a caravan loaded with a large quantity of homemade explosives would be driven to the checkpoint at Rosscor and then, by means of some pedal or hydraulic equipment, unhitched by the driver of the car at the checkpoint. The car would then speed off and the caravan would be detonated from a safe distance. She replied in respect of the use of the caravan that:

... Before the house was picked out, the stuff was going to be put in a caravan and that was arranged by Noel McMahon and I'd been down at a caravan looking as well, but the caravan was sitting right in the middle of all these caravans and it was never put into it. That is the only thing I remember about a caravan.⁶¹⁵

9.75. Although Ms. McGlinchey concedes in this answer that there was a discussion about a caravan with Detective Garda McMahon prior to the choosing of the location of the explosives for Rossnowlagh, she clearly denies the specific suggestion of giving any information of the bomb plot described in the letter of the 15th of July. However, it may be noted that no issue was raised on behalf of Detective Garda McMahon that she may have been in some way mistaken or wrong in her recollection about information which she had passed to him in respect of a caravan prior to the find of the 18th of July 1994. Indeed, he expressed through his counsel the proposition that he had no knowledge whatsoever of the finds at Rossnowlagh until the evening of the 18th of July 1994 on a number of occasions in the course of Ms. McGlinchey's cross-examination.⁶¹⁶

Conclusion in respect of the reports of the 10th of June and the 15th of July 1994, and Knowledge of the Caravan.

9.76. The existence of Garda documents, namely the letters of the 10th of June and the 15th of July 1994 from Detective Inspector Lennon to Chief Superintendent

⁶¹⁵ Transcript, Day 13, Q.307.

⁶¹⁶ Transcript, Day 18, Q.151, 152, 153 and 175. This is in accordance with the evidence given by Detective Garda McMahon on Day 136 but changed by him on Day 137, which is referred to elsewhere in this section.

Anderson and the fact that at least one of them, that of the 15th of July, can be shown to have been transmitted internally to Crime & Security, might suggest that the normal channel of communication was used by Detective Inspector Lennon in respect of very important intelligence. It is suggested by Detective Inspector Lennon that this tends to support his proposition that he acted entirely above board and in a manner which was open to scrutiny by his superiors.

- 9.77. The Tribunal has examined the contents of these letters and the evidence relating to the events leading up to the finds at Rossnowlagh and has noted enormous conflicts of evidence between Ms. McGlinchey, Detective Garda McMahon, Superintendent Lennon, Mr. Duffy and other Gardaí, notably Mr. Aidan Murray, in respect of these matters.
- 9.78. The Tribunal is satisfied that the caravan located at the side of the road between the two finds at Rossnowlagh was moved to that position some seven to ten days in advance of the finds. It is also satisfied that the caravan was legitimately used by a number of young men working on a nearby building site. It could not therefore have been the subject of any worthwhile intelligence concerning its use by subversives said to have moved it there from some other location for the purpose of carrying out a bomb attack at Belleek. The only attention it received from the Garda Síochána prior to the finds at Rossnowlagh was unrelated to subversive activity and arose from other local concerns. It was not entered by the Garda Síochána prior to the 18th of July 1994.
- 9.79. The Tribunal does not accept that there was any basis for the intelligence reports of the 10th of June and the 15th of July 1994 and concludes that they were invented by Detective Inspector Lennon with a view to the creation of hoax finds at Rossnowlagh. The elaborate detail set out in the reports was not sustained in the evidence in relation to events on the ground. It was not supported by the evidence of Detective Garda McMahon until he changed his evidence to the Tribunal on Day 137 of the hearing. On that day, he changed his evidence to give partial support to the evidence of Detective Inspector Lennon who, at all times, contended that the intelligence set out in these letters was furnished to him by Detective Garda McMahon from Adrienne McGlinchey. This change of evidence was seismic as far as Detective Garda McMahon was concerned. The Tribunal does not accept his excuse that all his prior statements and all prior memos of interview and prior cross-examination by counsel on his behalf of witnesses appearing before the Tribunal in relation to this issue could be disregarded by reason of Detective Garda McMahon's lapse of memory, fatigue, ill-health or alcoholism. His persistent insistence over the years that he first heard of the Rossnowlagh finds on the evening of the 18th of July 1994 cannot be so easily

explained or abandoned. Detective Garda McMahon was aware for a very long time of the serious issues which he had to confront in respect of the Rossnowlagh finds. His change in evidence was a lie calculated to buttress the evidence of Detective Inspector Lennon and present, at a belated stage, some sort of common front to the Tribunal with Detective Inspector Lennon.

9.80. When Detective Garda McMahon sought to support the evidence of Detective Inspector Lennon in relation to the intelligence allegedly furnished by Ms. McGlinchey to him prior to the 18th of July 1994 concerning Rossnowlagh, he was unable to confirm in important detail, elements of that information as set out in the letter of the 15th of July 1994. His story is completely different from Ms. McGlinchey's. There are also important omissions from the reports. For example, Detective Garda McMahon stated that he passed on information to Detective Inspector Lennon about the identity of those involved in the planning of this event at Rahan. This information does not appear to have been passed on in the report or in any other way to Crime & Security by Detective Inspector Lennon. The Tribunal concludes that the evidence given by Detective Garda McMahon in an attempt to support the two reports and the suggestion that Ms. McGlinchey furnished intelligence in respect of the finds at Rossnowlagh prior to the 18th of July is totally untrue.

9.81. The Tribunal further concludes that the letters of the 10th of June and the 15th of July 1994 are concocted and calculated to lay a false intelligence basis whereby the pretended finds in Rossnowlagh, if subsequently evaluated, could be used to extol the operation from beginning to end as a great success. In that context, the reports could be pointed to as evidence of prior intelligence. However, they are extravagant in their detail concerning Rossnowlagh. They are not followed up by subsequent reports, e.g. names of those attending the meeting at Rahan. The evidence on the ground in relation to these matters undermines what may superficially appear to be the existence of intelligence reports which were the prelude to a major find. Very little of the detail set out in these reports was either investigated following the find or confirmed prior to, at the time of, or following the find. In particular, the total lack of a Garda response to the potential takeover of a house in the area and the holding of people hostage at gunpoint in the course of such a criminal operation, is unlikely to have occurred.

9.82. The Tribunal also concludes that Detective Inspector Lennon drew Superintendent Duffy into participation in these finds by peddling false intelligence to him. However, his inaction as the local commander in taking any initiative in respect of these events, whether by mounting surveillance or the search and seizure of the caravan or otherwise, was negligent and inexplicable. The facts as determined by the Tribunal do not support his present version of events and are

in the Tribunal's view contrived in hindsight in a misguided effort to sustain the integrity of events of which he was unwittingly a part.

Alleged Information concerning the Members of the 'Provisional IRA' involved in the Rossnowlagh Finds

9.83. Mr. Duffy, in a letter to the solicitor for the Commissioner of An Garda Síochána dated the 18th of March 2003, in reference to these finds stated that he was told by Kevin Lennon that the materials were:

Prepared in Letterkenny and conveyed as far as Laghey, Co. Donegal by people from Letterkenny and handed over to people from the Ballyshannon area.⁶¹⁷

9.84. This was repeated in evidence by Mr. Duffy.⁶¹⁸ This information was conveyed to him on the morning of the 18th of July.⁶¹⁹ The information was that the material was handed over to people, members of the 'Provisional IRA', from Ballyshannon at Laghey by the people from Letterkenny who had assembled it in Letterkenny town, and then that it was brought by the Ballyshannon people to the sites at Rossnowlagh. Detective Inspector Lennon was not able to identify the people concerned to Superintendent Duffy at the time. He did, however, confirm that he had made contact with Crime & Security and that they were aware that the explosive substances were in Rossnowlagh. The information conveyed by the letter of the 18th of March to the solicitors for the Commissioner had not been included by him in any of his previous statements, which the witness ascribed to lapse of memory due to the passage of time.

9.85. Detective Garda McMahon was also asked about the intelligence which Mr. Duffy indicated he had been given by Detective Inspector Lennon to the effect that the material had been manufactured in Letterkenny and conveyed as far as Laghey by Letterkenny people, meaning 'Provisional IRA' people, and handed over to Ballyshannon people, being Ballyshannon 'Provisional IRA' people, to be taken to Rossnowlagh by the Ballyshannon personnel. Detective Garda McMahon stated that he did not provide any such information to Detective Inspector Lennon and that this information did not come from Adrienne McGlinchey. Detective Garda McMahon indicated that Ms. McGlinchey informed him that, "Most of it ... came from or a lot of it came from the Quigley's Point area as far as I recall ... and was moved down in one movement not transferred to Ballyshannon people and I don't ever remember Laghey coming up in a conversation." His information from Ms. McGlinchey was that she was involved in the movement of the materials. She was collected in a van loaded with materials by a senior 'Provisional IRA' man and somebody else, both from Letterkenny, and was then driven to the location at which the materials were left.⁶²⁰

⁶¹⁷ Emphasis supplied.

⁶¹⁸ Transcript, Day 101, Q.350-369.

⁶¹⁹ Transcript, Day 101, Q.366-367.

⁶²⁰ Transcript, Day 137, Q.333-357.

9.86. Superintendent Lennon stated that he believed Mr. Duffy was mixing up this event with another serious event in Ballyshannon that had occurred a year or two earlier.⁶²¹ Apparently, in the course of this incident certain items were brought down and exchanged at Laghey by members of the 'Provisional IRA'. No further information was furnished to the Tribunal in relation to this alleged incident. If Superintendent Duffy was told of the exchange at Laghey, there was no basis upon which Detective Inspector Lennon could have done so. It either did not occur or it was a further deception by Detective Inspector Lennon. The Tribunal does not accept this testimony by Mr. Duffy as support for the proposition that prior intelligence was furnished to him by Detective Inspector Lennon in advance of the 18th of July. The Tribunal notes that Superintendent Duffy was not provoked into taking any action about the supposed involvement of local elements by speaking to his local detectives about who the local elements might be or what was happening locally. The Tribunal does not believe the evidence of Mr. Duffy in this respect and considers it to be part of the same process whereby he now seeks to give validity to events in which he was unwittingly involved.

'Provisional IRA' Reaction

9.87. Mr. Aidan Murray was asked whether word ever came back to him from his local contacts in relation to the involvement of the 'Provisional IRA' in these finds at Rossnowlagh. He said:

I know I got information through certain people that the IRA ... It wasn't the people that I dealt with in Bundoran and Ballyshannon, it wasn't their stuff. I got that more or less through sources of my own ... More or less [straight away], that is not to be taking credit for stuff that didn't belong to them.

9.88. He agreed that the 'Provisional IRA' were puzzled in relation to the matter.⁶²² He did not believe that he went looking for this information on the basis of suspicions which he had. He believed he was out doing some other work and "somebody mentioned it to me".⁶²³

9.89. Mr. Murray was asked further about the doubts which he had about the finds at Rossnowlagh and said:

I would go further, even when I found the stuff ... I had my own suspicions in the Ardeelan one, when I saw the .22 bullets. That aroused my suspicions, that the IRA would never use .22. It was too small a calibre. They would be taking armalite, as I heard the previous witness, armalite or some crown missiles or something

⁶²¹ Transcript, Day 148, Q.296.

⁶²² Transcript, Day 78, Q.163-168.

⁶²³ Transcript, Day 78, Q.179.

*like that. It would be heavier stuff of weaponry. There would be heavier stuff for ammunition rather than .22. I have never in my experience heard that the IRA used .22 not along the border anyway. .. It wasn't the stuff that they used up against the British Army, or an RUC station or planting bombs.*⁶²⁴

- 9.90. When asked whether he had doubts in relation to the two Rosstownlagh finds he replied:

Just the Rosstownlagh, with the .22 I just couldn't, I know a lot of members there discussed it that it was strange and that there was .22 instead of heavier stuff.

- 9.91. He went on to give the opinion that ground-down fertiliser was used in the seventies and that in terms of bomb-making the 'Provisional IRA' had advanced since that time. They had semtex and gelignite and detonators and cortex. "They didn't need to go back on that stuff." However it was the bullets which caused his doubt more than anything else.⁶²⁵

- 9.92. These doubts or suspicions were put to Mr. Duffy when he gave evidence. He claimed that he was never privy to any of the doubts expressed by Sergeant Murray or any other members in his district. Mr. Duffy was asked to comment on the doubts expressed by Sergeant Murray's contact in respect of the authenticity of the find at Rosstownlagh. He said:

*I was aware of it but I believe it came through a uniform member, this is my recollection of it, and at the time that information was discussed and it was believed to be mischievous ... I know that came through some of the uniform guards and I know the source of it and that's what led me to believe at the time that it was mischievous.*⁶²⁶

- 9.93. When asked what his reaction to the information was he said:

*My reaction to that was, Chairman, that it was propaganda, IRA propaganda, because I knew the individual that had said it ... An individual on the periphery of the IRA. And he would be very mischievous to say the least. ... We discounted it. I discounted it ... as propaganda.*⁶²⁷

- 9.94. **The Tribunal is satisfied that Sergeant Murray received information from a source which questioned the legitimacy of this find and that Superintendent Duffy became aware of this information either through**

⁶²⁴ Transcript, Day 78, Q.183.

⁶²⁵ Transcript, Day 78, Q.184-202.

⁶²⁶ Transcript, Day 101, Q.210-212.

⁶²⁷ Transcript, Day 101, Q.228-237.

Sergeant Murray or some other uniform members in the district. It was dismissed as information from a mischievous source by Superintendent Duffy. Since no real investigation was launched into these finds it is difficult to see how Sergeant Murray could progress any further with this information, even if he wished to investigate it. Superintendent Duffy was happy to 'take the material out of circulation'. However, it is difficult to understand why nothing in the nature of a 'case conference' took place between the various members of An Garda Síochána involved in these finds, whereby all the information available could be pooled and discussed fully, especially if Superintendent Duffy believed the local 'Provisional IRA' in Ballyshannon was involved vis-à-vis the exchange of materials at Laghey. The Tribunal has, once again, a sense that there was a reluctance on the part of members of An Garda Síochána up to Sergeant rank to challenge views held by officers. There was a reluctance on the part of Superintendent Duffy to engage in such a discourse, which might have been of very real benefit in the assessment of this find. Indeed it may be that the absence of such a discourse made the deception of Superintendent Duffy by Detective Inspector Lennon much more readily achievable. The existence of an unduly rigid hierarchical structure within An Garda Síochána appears in this instance, as in others investigated by the Tribunal, to have blinded the senior officer to consideration of all possible scenarios and continued to colour Mr. Duffy's evidence to the Tribunal. Superintendent Duffy's failure to listen to an experienced subordinate and his failure to properly evaluate the facts with his members constitutes a failure of leadership and professionalism amounting to negligence on his part.

18th of July 1994

- 9.95. The Tribunal also heard evidence from the three participants about the journey down to Rossnowlagh on the evening of the 17th of July and into the early hours of the morning of the 18th of July 1994. The accounts of Adrienne McGlinchey, Detective Garda Noel McMahon and Detective Inspector Kevin Lennon in respect of this journey were given by them on different occasions prior to the Tribunal hearings to members of the Carty team, in evidence to the Court of Criminal Appeal, and to the Tribunal investigators. Their respective accounts have been contradictory and inconsistent to varying degrees with their evidence to the Tribunal. Though they are agreed that they went together to the area of the finds they disagree as to whether this was in the course of a legitimate Garda operation or in the course of organising and perpetrating a hoax. The Tribunal is satisfied that each of these witnesses has lied, or attempted to mislead the Tribunal, in the course of their evidence. If there was nothing to hide, and the

Garda operation on that evening was legitimate, the truth would have been very easy to tell. A summary of the testimony given by each witness is now set out along with the relevant elements of their previous statements. The testimony of ex-Superintendent Michael Duffy relevant to these events has already been addressed.

Adrienne McGlinchey's Testimony

- 9.96. Ms. Adrienne McGlinchey gave evidence in respect of the finds at Rossnowlagh. Her evidence is recited here with the warning that the Tribunal has had to engage in a lengthy analysis of other evidence in order to test the reliability of any piece of it. She said that a find at Rossnowlagh was to be the last one. The plan was that materials would be planted in a house. It was not intended originally that material should be planted in the shed. Materials were to be in place before the 12th of July 1994. Detective Garda McMahon wanted the materials found around the 12th of July and even went to the extent of putting surveillance on the house on the 12th of July in order to ensure that materials left there were not discovered by those participating in the public events surrounding the 12th of July walk by the Orange Lodge organisations. At the time of this find, Yvonne Devine and Ms. McGlinchey were living in a house at Clonmany. She alleged that Detective Garda McMahon told her that Detective Inspector Lennon and Chief Superintendent Fitzpatrick were putting him under pressure because of the materials which had been taken out of the flat. Apparently they had to say "that it was being used somewhere in the summertime".
- 9.97. The two young women had moved from the flat at The Crescent, Buncrana to another house at Ballyliffin and from there to a premises at Clonmany attached to which there was a shed. The materials which were found at Rossnowlagh were prepared at Ballyliffin. They had moved from Ballyliffin to Clonmany "because Tom Sreenan wouldn't leave the place alone". The house at Clonmany was isolated and "the stuff was definitely being stored in the garage there or in the shed there". She also recalled "getting stuff ready" in Detective Garda McMahon's house for Rossnowlagh, and brought catering bags of icing sugar from the wholesalers to Kevin Lennon's house one night. She described how there was a considerable amount of grinding of fertiliser going on in the house in Clonmany in a room upstairs. She said she did it with Detective Garda McMahon. She used to do it sitting in front of the television. She described this grinding process as follows:

... In 1994 I was just pulling a bag of fertiliser out and watching television. I think I had come to a stage I didn't really care, ... Yvonne could have seen me, she could have been there with me, I

*didn't really care then, I just came to the stage where I didn't care. .. There was fertiliser being hauled everywhere, from Ballyliffin to Clonmany, it was being done in his place. It wasn't being done in my home in Letterkenny [Ashbrook] in 1994. .. I remember sitting in the flat and I would have been grinding away myself. Yvonne would have been sitting there and whether she helped me or not I can't even remember. ... I remember Noel coming down to Clonmany. I don't know where Yvonne was but she definitely wasn't there. I remember the stuff being put out to the wee sheds. I don't remember was the shed locked, I can't remember. The stuff was being taken away from Clonmany. I don't actually remember how the stuff was taken away from Clonmany, so I mustn't have lifted it myself. ...*⁶²⁸

- 9.98. Ms. McGlinchey indicated that Detective Garda McMahon wanted the Rossnowlagh finds to be made on the 12th of July 1994 but the materials were not ready. She described the lead-up to the Rossnowlagh finds and how the location was chosen:

*What happened was ... myself and Noel McMahon would drive around all the different areas trying to find locations and that would have happened maybe for weeks, you know. We would go off and we would look and he'll say aye or no. ... I remember the surveillance van coming and us loading the stuff in the surveillance van and I remember us picking up Kevin Lennon. I remember us going to the UDC offices and picking up the beer keg. I have a feeling, I remember, maybe I shouldn't say I have a feeling but some of the stuff that was in the shed was brought over to the council offices, so I must have brought that over and it was put into the surveillance van as well. I only remember going once in the surveillance van down to Rossnowlagh but the surveillance van was the second location in Rossnowlagh. But I remember being in the first location as well, but I can't remember was I there with Noel McMahon.*⁶²⁹

- 9.99. She described how she travelled down in the surveillance van to Rossnowlagh with Detective Inspector Lennon and Detective Garda McMahon:

*We had it full with diesel and fertiliser and sugar. Whatever was in Clonmany was put in with myself and Noel. He reversed the van in and the stuff was put from the shed. [The trip was done with a view] to putting it in place, collecting it and putting it in place.*⁶³⁰

⁶²⁸ Transcript, Day 13, Q.248-269.

⁶²⁹ Transcript, Day 13, Q.279.

⁶³⁰ Transcript, Day 13, Q.280, 281, 283 and 290.

- 9.100. Ms. McGlinchey said that she travelled with Detective Garda McMahon in the surveillance van from Clonmany and picked up Detective Inspector Lennon. Prior to that Ms. McGlinchey and Detective Garda McMahon had loaded the van in Clonmany with material.

... The surveillance van pulls up to Clonmany. We load whatever is in Clonmany, we put it into the van. We go and pick up Kevin Lennon. We then, the three of us went to the UDC offices, where we picked up the beer keg and I think there was stuff taken from the shed to there by me and it was put into the surveillance van too. Kevin Lennon and Noel McMahon put the stuff into the van as well at the UDC offices.

- 9.101. She also indicated that some diesel was loaded at the UDC offices by Detective Garda McMahon and Detective Inspector Lennon.⁶³¹

- 9.102. Ms. McGlinchey then described the drive to Rossnowlagh:

*We stopped on the way down where Kevin Lennon got out and said he would buy me vodka to unwind with all the pressure. He got out in Donegal town and he went to the off-licence and he came back with the vodka. Now, he has denied that, yes. He got out in Donegal town and he got the vodka. We went to Rossnowlagh then and I remember the van pulling up, the two of them had their guns as well as they were comparing guns on the way down and that is how I remember why Kevin Lennon's was different to Noel McMahon's. We pulled up to the shed and they unloaded the stuff, I didn't unload it and it was unloaded into the shed. ... They just hunked it in ... I just remember them unloading it. I don't even remember did we drive up to the other place, we could have. All I can remember that night was going to the shed with them and them unloading it.*⁶³²

- 9.103. Ms. McGlinchey was challenged in relation to her evidence implicating Superintendent Lennon and, in particular, was referred to a statement made by him denying any knowledge that there was anything wrong or illegal about the finds at Rossnowlagh. She then said:

Well that tells me a story in its own because he was there, he unloaded it. And it was always my belief that he wasn't involved in it until the very end. Sometimes you think maybe Noel is telling him that I am doing it for the IRA. Now he can't even tell the truth about going down in a surveillance van and that tells me that he

⁶³¹ Transcript, Day 13, Q.293.

⁶³² Transcript, Day 13, Q.295-297.

*knew about it from day one and he was involved in it from day one. He was there, he brought it there. I was there. And, you know, we could sit and talk about it all day but he was there.*⁶³³

9.104. Later she added

*... that night we didn't go near no house up the road or anywhere. We went to the shed and they unloaded the stuff and that is all we done that night. That stuff in that house was there before ten days or whatever before that shed. We drove up in the surveillance van and they got out, I don't know why I was there. From what I remember the only reason I was there was if they were stopped. I don't know why but they got out and they unloaded it and their fingerprints should be on the things because they weren't wearing gloves and they unloaded the stuff ... I don't remember if I was in the house, I could have went down myself with Noel. I can't really remember. I vaguely remember the house. It was an old house but I was in that many houses, I can never remember ... I can't actually remember going into the other house ...*⁶³⁴

9.105. Whilst Ms. McGlinchey did not recall the placing of bullets at Rossnowlagh she stated in evidence that:

*There was bullets got from Noel McMahon and also I got bullets from the fellow up the stairs ... Bernard Logue [but] to be honest I can't really know where the bullets came from ... There was that many times of bullets and cartridges and they were being put everywhere.*⁶³⁵

9.106. Ms. McGlinchey made a number of statements prior to giving evidence and has resiled to varying degrees from parts of these statements in the course of her evidence. In order to emphasise the huge difficulty of the Tribunal in dealing with her evidence, some quotes are highlighted. In relation to Rossnowlagh she was noted in a statement taken on the 29th of June 1999 by Inspector Hugh Coll, subsequently witnessed by Inspector Coll and Sergeant James Fox on the 9th of July 1999, as saying:

I bought more fertiliser in the co-op in Carndonagh and it was taken to the house in Clonmany. ... Noel McMahon and I had gone for drives on many occasions. On one occasion we went to Rossnowlagh. We looked at a caravan down the Strand Road. Noel suggested that we should put some of the fertiliser into this caravan. *It was decided not to use the caravan and I picked out a house and shed to leave the stuff there. I knew that there*

⁶³³ Transcript, Day 13, Q.326.

⁶³⁴ Transcript, Day 13, Q.341-344.

⁶³⁵ Transcript, Day 13, Q.366-370.

was always an Orange march in Rosstownlough and Noel and I decided to put the stuff there before the march. I made a couple of runs to Rosstownlough and left ground-down fertiliser, icing sugar, diesel, a beer keg and some bullets in the house. I probably purchased the bullets somewhere. On the last occasion that I went to Rosstownlough Noel McMahon called to the house in Clonmany. He was driving a beige Garda van. He reversed the van into the shed at the house and we loaded whatever ground-down fertiliser was left into the van. I cannot recall whether Kevin Lennon was in the van at Clonmany or whether we picked him up in Letterkenny. Anyway we drove to our shed at Letterkenny and loaded containers of diesel into the van from the shed. We then drove to the County Council offices in Letterkenny and loaded two beer kegs into the van. The beer kegs had been hidden in trees at the County Council offices. I may have carried the diesel over to the County Council offices and they were not collected at our shed as I previously stated. Kevin Lennon was told by Noel and I that the reason for moving the stuff was that the Provos were going doing a job in Belleek and that I was asked to move this stuff for the Provos. This was only a story that was being spun to Kevin Lennon. Noel McMahon was driving the van. Kevin Lennon was in the front passenger seat and I was in the back. We drove to Rosstownlough and Noel reversed the van down to a small shed and we unloaded the stuff into it. We then drove to a nearby derelict house where I put the other stuff. We went up the stairs and looked at the stuff which was in an upstairs room. On today's date I drove with Inspector Coll and Detective Sergeant Kyne to Rosstownlough and I recognised the shed where the fertiliser etc. were placed. I also now remember the house in Rosstownlough where the stuff was put. Noel McMahon, Kevin Lennon and I then went back towards Letterkenny and on the way back we were stopped at a Garda checkpoint near Ballybofey. I cannot recall where I purchased the bullets that we put into the house at Rosstownlough.⁶³⁶

- 9.107. In the course of her evidence Ms. McGlinchey claimed to the Tribunal that the sections of the statement which are set out in italics above were taken out of context. She also asserted that the underlined sentence in the above quote was never said by her, i.e. that they had driven to a nearby derelict house having unloaded materials into the small shed and had then unloaded other materials into that house. She claimed that she did not remember saying that she had made a couple of runs to Rosstownlough and left ground-down fertiliser, icing sugar, diesel, a beer keg and some bullets in the house. The interviewing Gardaí have at all material times stated in evidence that they took down what Ms. McGlinchey told them and the Tribunal accepts their evidence in this regard.

⁶³⁶ Tribunal Documents, pages 462-463.

- 9.108. On the 23rd of September 1999 Ms. McGlinchey met again with Detective Sergeant George Kyne and Inspector Hugh Coll and amongst other things told them that she had three tape recordings one of which was:

A recording of Kevin Lennon and the journey to Rossnowlagh when they were travelling there in the surveillance van. She states that Kevin Lennon on one part of the tape is talking about buying a bottle of vodka for her.

This tape was never produced to the Carty team or to the Tribunal.

- 9.109. At a meeting on the 22nd of March 2000 with Detective Sergeant George Kyne and Inspector Hugh Coll Ms. McGlinchey again referred to the Rossnowlagh find. She said that her friend Yvonne Devine was not staying with her at the time and had temporarily moved to Newtowncunningham. She continued:

On one occasion Noel McMahon and I were out looking for houses to leave explosives in. At the time Noel wanted to leave the explosives in a caravan on a caravan site and near a restaurant in Rossnowlagh. I was not happy with this as it was right out in the public, opposite a restaurant. I can't recall who chose the house in Rossnowlagh. In relation to the time that Kevin Lennon, Noel McMahon and I brought the load of explosive material to Rossnowlagh in the Garda van, Kevin Lennon did not want to park at the house and from what I remember it was Kevin Lennon who chose the shed, as it was down a laneway and out of view. Noel McMahon and Kevin Lennon unloaded the stuff from the van and put it into the shed. It was on the way back from this delivery that we were stopped at a checkpoint on the Ballybofey road. That Gardaí that stopped us were from Ballybofey.⁶³⁷

Ms. McGlinchey in the Court of Criminal Appeal in *The People (DPP) v Frank Shortt* said in evidence that on the night of the trip to Rossnowlagh Detective Inspector Lennon had allowed her to hold his gun, which she swirled around in her hand.⁶³⁸

- 9.110. In a further statement furnished to the Tribunal on the 14th of February 2003 Ms. McGlinchey describes her involvement in the finds at Rossnowlagh as follows:

9.03 Noel McMahon and myself went for drives on many occasions, and on one such occasion we went to Rossnowlagh. We spotted a caravan and Noel McMahon suggested that we should put some of the fertiliser into this caravan. However, we decided not to use the caravan and instead I picked out a house and shed where stuff could be left.

9.04 There were two drops planned for Rossnowlagh. I cannot remember

⁶³⁷ Tribunal Documents, pages 578-579.

⁶³⁸ Transcript, Court of Criminal Appeal Day 6, Q.253-62.

the first drop, though I do remember being there. I cannot remember whom I was with, how I got there or what was there. I do recall, however, that both drops were prior to the Orange march and that Noel McMahon told me that he had arranged for surveillance and he even remarked that one or more of the marchers had stopped and urinated in the garden.

9.05 On the second occasion that I went to Rossnowlagh, I was with Noel McMahon. He had called to the house in Clonmany, driving a beige Garda van. He reversed the van into the shed of the house and we loaded whatever ground-down fertiliser was left into the van. Icing sugar was also loaded. I cannot recall whether Kevin Lennon was in the van at the time, or whether we picked him up in Letterkenny. We then drove to the County Council offices in Letterkenny, and loaded two beer kegs into the van: the beer kegs had been hidden in trees. I also recall diesel being placed in the van. We then went in the van to Rossnowlagh with Noel McMahon driving, Kevin Lennon being in the front passenger seat and myself in the back. Kevin Lennon bought me a bottle of vodka as we passed Donegal which he said would help me to unwind. I also remember fiddling with his gun. When we arrived we went to the house first and put a few bits and pieces there. Then we went to the old shed where the remainder of the haul was unloaded by Noel McMahon and Kevin Lennon.

9.06. On the way back towards Letterkenny we were stopped at a Garda checkpoint near Ballybofey. Noel McMahon got out and spoke to the Gardaí. When he got back in he made a joke of the “idiots” not even recognising Kevin Lennon. I also recall that on the way back, Kevin Lennon gave me £200 for the deposit which we had lost after leaving The Crescent.⁶³⁹

- 9.111. In this statement she also confirmed that she had pointed out to Detective Sergeant Kyne the relevant house and shed at Rossnowlagh on the 30th of June 1999.

Detective Garda Noel McMahon’s accounts of the Trip to Rossnowlagh

- 9.112. A lengthy account of the Rossnowlagh incident was given to the Tribunal in evidence by Detective Garda McMahon on Day 136 of the hearings. He recounted how in the course of a phone call at approximately 23.30 hours on the 17th of July 1994, Ms. McGlinchey informed him that she knew the location of a place near Rossnowlagh that contained the makings of a homemade explosive bomb and that on this occasion she was willing to take himself and Detective Inspector Lennon and point it out to them. She indicated that she would accompany them as he was not familiar with that area. Detective Garda

⁶³⁹ Tribunal Documents, page 2582.

McMahon then contacted Detective Inspector Lennon, collected Ms. McGlinchey in Buncrana, drove over to Letterkenny and met with Detective Inspector Lennon near his residence in Letterkenny. They then drove in Detective Inspector Lennon's car towards Rossnowlagh. Ms. McGlinchey gave them directions. The first stop that she identified was an old two-storey dilapidated derelict looking house. Ms. McGlinchey and Detective Garda McMahon were dropped by Detective Inspector Lennon, who drove off. He did not recall Detective Inspector Lennon actually coming into the house with them:

... I followed Ms. McGlinchey who led the way as she was familiar with the premises had to push the door open, the front door, and we proceeded directly upstairs, which I am sure was directly in front of us. On coming near the top of the stairs she warned me that the last step was a sort of booby trap type, an improvised booby type trap where I had to take a large step over or else I would go through it, or something to that effect. I then think actually the room was on the right to where she brought me. I had a flashlight, which I shone around the room and on the direct right hand side of the gable wall, was a large quantity of plastic bags which appeared full. I can't recall ... whether I actually saw stuff or not ... but the large quantity of bags and the previous experience with Ms. McGlinchey I believe warranted a follow-up and I immediately reported back to Detective Inspector Lennon that indeed there was a large quantity of bags in an upstairs bedroom of this house. Ms. McGlinchey then indicated that further on down the road there was a second hide or storage point, and approximately a quarter of a mile, half a mile down the road she indicated to pull in at what I would describe as a sort of cattle shed type thing, and that this was also a storage point. I'm not sure if she got out of the car with me, I got out of the car. I don't think I actually had to enter the premises to view it. My recollection is that I was able to shine it through holes in an old door, I have a notion it was actually a split door. But I was able to confirm that there was a number of bags inside in it also. And again I confirmed this to Detective Inspector Lennon and he indicated that he would get in touch with a local Superintendent, being again Superintendent Michael Duffy, and have it investigated and followed up.

- 9.113. He went on to describe how Ms. McGlinchey was then questioned and she then told them that:

This device was to be loaded into an old caravan that was alongside the road, parked and packed into it and towed towards

the Belleek checkpoint using a hitch type device that had been used on several occasions previously in the North, by means of releasing the caravan from its hitch while inside the car, disengaging the car, the towing car from the caravan at the checkpoint and that this bomb would detonate within a time period after the car would be regarded as being enough distance away from it.

- 9.114. They then returned to Donegal almost immediately. They reached Donegal town after 02.00 hours. Ms. McGlinchey wanted some chips; both he and she had something out of the takeaway on that night. Ms. McGlinchey was dropped back to her home or to within close proximity of it. He added that he had entered the two-storey house:

With my official weapon drawn and ready, as due to the time of night, even though Ms. McGlinchey felt safe ... that there would be no-one there that night, I was not prepared to go in unprepared, so to speak.⁶⁴⁰

- 9.115. In further questioning before the Tribunal, he referred to the context in which he had been told for the first time about the proposed use of the caravan which was parked on the side of the road between the two locations, the house at Ardeelan and the shed at Rathfragan. On Day 137 of the Tribunal hearings, Detective Garda McMahon sought to correct his evidence in relation to this and in effect changed it to indicate that he had received intelligence prior to the night of the 18th of July 1994 from Ms. McGlinchey regarding the intended use of a caravan in the attack on Belleek. This is dealt with elsewhere.

- 9.116. Detective Garda McMahon told the Tribunal that when driving away from Rossnowlagh he had a discussion with Detective Inspector Lennon in the course of which he indicated his thought that surveillance would be appropriate in this case. Detective Inspector Lennon pointed out to him that that was not the policy. He replied that he thought the place should at least be monitored overnight in case something would happen:

I felt ... that at least the place should be monitored overnight because we would look very stupid, clowns or people with egg on our face, if on the following morning or whatever time the search was going to be, that both places had been emptied in the meantime.⁶⁴¹

- 9.117. Detective Inspector Lennon allegedly replied that it was Chief Ginty's policy simply to remove the materials, and Detective Garda McMahon took it that Detective Inspector Lennon had been instructed to operate in this way and that he would

⁶⁴⁰ Transcript, Day 136, Q.487.

⁶⁴¹ Transcript, Day 137, Q.300-305.

go back and inform Superintendent Michael Duffy, who would take the matter up. He thought Superintendent Duffy was to be contacted immediately and that Detective Inspector Lennon would go directly to him rather than later at 10.00 hours. He was clear that they had returned to Letterkenny at 03.45 hours approximately.⁶⁴²

- 9.118. He also told the Tribunal that Ms. McGlinchey had told him that most of the material came from the Quigley's Point area and had been moved down to Rossnowlagh in one movement. She had been involved in the movement of material to Rossnowlagh. On one occasion she was collected by a Hiace van which was loaded with material. She did not say that she had been at the actual collection point of the material or that she had participated in, or viewed, the loading of the van. She allegedly named the two people involved in this delivery who were from Letterkenny, one of whom was the senior 'Provisional IRA' man with whom she was in a relationship.⁶⁴³ There was no suggestion of a delivery to Laghey or that "Ballyshannon people" were involved.⁶⁴⁴
- 9.119. He strongly denied the suggestion that there was any stop on the way down to buy vodka in Donegal town. He acknowledged that he had consumed some alcohol that night. He did not think that Adrienne McGlinchey had taken any. He thought that she had taken drink at Ardchicken but not on the Rossnowlagh excursion. This differed from his account of the 11th of June 2000 to Detective Garda Maloney and Flynn. He did not recall her as being very drunk that night because she was able to lead him into the house and warn him of the booby trap in the house. She had no problem negotiating the stairs or coming back down the stairs. He explained the difference between his evidence and the prior statement on the basis that, as the custody record for the 10th of June 2000 indicates, when arrested on the 10th of June he was smelling of alcohol and was on medication. However, the Tribunal notes that this interview took place late on the 11th of June 2000 and in circumstances where Detective Garda McMahan was afforded the facility of speaking with his solicitor. There is no evidence to support the proposition that he was unable by reason of his physical condition to address the questions posed to him in relation to Rossnowlagh.
- 9.120. He also indicated to the Tribunal that though there was a follow-up by him with Ms. McGlinchey following the finds, no further information was elicited from her in respect of the finds: "I would have asked her every conceivable question that I could think of but nothing came of that". She did not experience any problems with the 'Provisional IRA'; she had no worries about her security whatsoever.

She had none prior to going down and she did tell us that it was one other item that she could show us without fear of being

⁶⁴² Transcript, Day 137, Q.319-327.

⁶⁴³ Transcript, Day 137, Q.348-356.

⁶⁴⁴ Transcript, Day 137, Q.356-357.

*exposed ... she felt it. Who was I to say different.*⁶⁴⁵

9.121. He accepted that the 'Provisional IRA' would probably carry out an inquiry into loss of munitions in these circumstances. He replied that Ms. McGlinchey was not worried in any way whatsoever and did not feel in any danger of any kind relating to these events. He did not consider it odd that nobody from the 'Provisional IRA' approached her in relation to the loss of these materials. He would have expected her to tell him if she had been approached or investigated in any way. He never gave this matter any further consideration.⁶⁴⁶

9.122. In the Court of Criminal Appeal in *The People (DPP) v Frank Shortt*, Detective Garda McMahon was questioned about his knowledge of the Rosstownlough find. He told the Court of Criminal Appeal that on the night of the 17th of July 1994 he got a phone call from Ms. McGlinchey who had something important to tell him. He arranged to meet her. She sat into his car and told him that she knew the location of a bomb or the makings of a bomb in Rosstownlough that was going to be moved across the border:

This was going to be put into a caravan and there would be some sort of device that you could unhitch the caravan from within the car, the car was to drive across the checkpoint at Beleek, pull the device, the caravan would drop off and the car would speed off. As far as I know there was to be a metal plating in the back.... I immediately contacted Kevin Lennon [at home] and told him it was urgent.⁶⁴⁷

9.123. He travelled to Rosstownlough in Superintendent Lennon's blue Honda Civic. They did not stop, purchase vodka or any drink on the way:

First of all, she brought us to an old vacant two-storey house. It was pitch black and I hadn't a clue where I was. Even for the life of me, or if my life depended on it, I would not find that location today. ... After leaving the house she brought us to a second location and pointed out a caravan on the way down, which was the caravan that was supposed to be used. She brought us to a sort of a double byre cowshed and the doors weren't great, I shone the flashlight lamp in. There was a great amount of stuff there, we didn't go through it, obviously we had no gloves or nothing ... How I placed the time was because I was hungry and I think, as far as I remember, Ms. McGlinchey wanted something to eat as well and Mr. Lennon didn't have anything to eat. I went into a chipper directly opposite the Pulse [a nightclub] on the right hand side. The Pulse is on the right hand and they own the chipper as well⁶⁴⁸

⁶⁴⁵ Transcript, Day 137, Q.385-390.

⁶⁴⁶ Transcript, Day 137, Q.387-405.

⁶⁴⁷ Transcript, Court of Criminal Appeal, Day 12, Q.222-44.

⁶⁴⁸ Transcript, Court of Criminal Appeal, Day 12, Q.465.

9.124. He then described how he thought surveillance should be put in place on the location and asserted that it had been discussed with Detective Inspector Lennon.

But he said the policy of the then Chief Superintendent Ginty, the policy was not to risk. When doing a surveillance operation on a place like that, the men had to be relieved, you have to get men in and to get men out.⁶⁴⁹

9.125. Apparently, the problem was claimed to be that surveillance required a heavy commitment of manpower and the locations of the finds were vulnerable to surveillance operations being detected by persons in the area. He was aware that the materials were removed by members of An Garda Síochána the following day and that Detective Inspector Lennon liaised with Superintendent Duffy in this regard.

9.126. Detective Garda McMahon was interviewed on a number of occasions in relation to the finds at Rossnowlagh. These have become relevant having regard to the testimony which Detective Garda McMahon gave to the Tribunal in relation to these events. The Tribunal places importance on the numerous differences which emerged between the various accounts given by Detective Garda McMahon and Detective Inspector Lennon in respect of these events. This is important as regards all witnesses, having regard to the suspicions focussed on Ms. McGlinchey's evidence. Notwithstanding the submission made on Detective Garda McMahon's behalf and the evidence given to the effect that he was on various occasions unwell during the course of such interviews, or fatigued or unfocussed, the Tribunal is not satisfied that these differences can be accounted for on the basis solely of these matters. Many of the statements take the form of positive and strong assertions of fact. The Tribunal, having heard Detective Garda McMahon in respect of these matters and having reviewed these statements has concluded that he has never attempted to address these issues in a truthful way and his evidence to the Tribunal was, in many respects, untruthful, misleading and obstructive.

9.127. Detective Garda McMahon was interviewed on the 13th of July 1999 at Letterkenny Garda Station by Inspector Hugh Coll and Detective Sergeant K. Barker. He told the members that Adrienne McGlinchey:

Gave the info for Rossnowlagh. I can't remember how we went to Rossnowlagh. Kevin Lennon, myself and Adrienne went to Rossnowlagh and the two houses were pointed out to us. I went into the houses and saw the stuff. I think Kevin Lennon was driving his car that night. I remember we were stopped by a Garda one time, I can't recall much about it. In Rossnowlagh – the two locations were (1) a shed and (2) a house.

He said he was unaware about ammunition found in Rossnowlagh.⁶⁵⁰

⁶⁴⁹ Transcript, Court of Criminal Appeal, Day 12, Q.265-270.

⁶⁵⁰ Tribunal Documents, pages.1457-1458.

- 9.128. On the 14th of July 1999 in the course of a statement he gave to Detective Sergeants Ken Barker and Jim Fox, Detective Garda McMahon again returned to the topic of Rossnowlagh and gave the following account:

I am now being asked about two finds in Rossnowlagh on 18/7/1994. These finds resulted from information supplied to me by Adrienne McGlinchey. My recollection on this is that having received information from McGlinchey I contacted Kevin Lennon and all of us, Kevin Lennon, Adrienne and myself, travelled in Kevin's car to Rossnowlagh some time after midnight in order that she point out the locations to me. Kevin dropped us off at a point where Adrienne pointed out an old vacant two-storey house. I don't remember exactly where the house was but it was on the left side of the road before you enter Rossnowlagh from the Donegal/Sligo Road direction. Adrienne and I entered the house through the front door. She led the way in and I don't remember if the door was locked. It was an old derelict house. She led the way upstairs and pointed to a section of floorboards on the landing which were a trap and we had to stretch over them. She went straight to the door of a bedroom and opened it and pointed out that stuff was in there. I had a quick look in with my mag light and there were bags of stuff there. We then left the house and she then brought me with Kevin in the car down the road. She brought me to a shed on the opposite side of the road about a quarter of a mile from the house. I don't remember entering the house but I know that there were bags of stuff in the shed. We then returned to Kevin and I confirmed to him that there was some stuff in both locations and I was finished with it then. We returned back to Letterkenny and back home to Buncrana. On the way back I recall we stopped for food at a chip shop in Donegal town. I think this was about 2.00am.⁶⁵¹

- 9.129. On the 10th of June 2000 Detective Garda McMahon was arrested and detained at Ennis Garda Station where he was questioned in relation to a number of matters including that of Rossnowlagh. On the 11th of June, he was questioned by Detective Sergeant Healy and Detective Sergeant Martin concerning the allegation that Adrienne McGlinchey claimed that he had arranged to pick out a house at Rossnowlagh in which to leave fertiliser and that he had told her to get the fertiliser ready. He insisted that that was "pure and utter lies". He further denied the allegation that he called to her house at Clonmany driving a Garda surveillance van and collected material there and that he had then called to the shed at Letterkenny to load containers of diesel into the van from the shed and then to the County Council office in Letterkenny to load two beer kegs into the van. Ms. McGlinchey had also said that Detective Inspector Lennon was informed

⁶⁵¹ Tribunal Documents, pages.1465-6.

by Detective Garda McMahon that the reason for moving the material was that the 'Provisional IRA' were doing a job in Belleek and that she was asked to move the material for the 'Provisional IRA'. He denied this and said:

She told Kevin Lennon and I that this fertiliser, but she called them explosives, was to be put in a caravan and that there was a device on the hitch to unhitch the caravan at a joint RUC army checkpoint. Kevin did all the dealing about this with the local Super in Ballyshannon, Mick Duffy. I wasn't driving a beige Garda van and I did not put fertiliser into a Garda van. I had no reason to do this. I couldn't even claim overtime or expenses for this. In fact I had a gripe with Lennon over claims ... I wasn't driving because I had a good drop of drink on me. To be honest, I think we were in Lennon's car. We didn't have any stuff, we didn't unload stuff. We did look into the shed and saw the bags and then went off home. We stopped for chips in Donegal town.⁶⁵²

9.130. In an interview on the same day with Detective Sergeant Kyne and Detective Sergeant Martin, he confirmed that he told Detective Inspector Lennon "straight away – minutes" after Ms. McGlinchey told him about Rossnowlagh. Detective Inspector Lennon made the decision to travel to Rossnowlagh and he travelled straight away that night. He thought they had travelled in Detective Inspector Lennon's car. It was obvious to him that she had been there before. He confirmed that they had stopped in Donegal town at the chip shop because he wanted something to eat. Adrienne McGlinchey was not consulted or asked about how safe she felt the finds were.

9.131. When further interviewed on the 11th of June 2000 about the Rossnowlagh find, Detective Garda McMahon was asked whether he had asked Ms. McGlinchey how she knew about the find. His reply was that she had named two senior members of the 'Provisional IRA' who operated at Letterkenny. He suggested that she was having a relationship with one of them. He was further asked when she said that she became aware of the location in Rossnowlagh. He replied:

I don't know, she said she was down, she said the Provos often used her to locate houses. If a patrol car happened to call to a house a woman is less suspicious.

9.132. He was asked whether Ms. McGlinchey was delivering the stuff to this location and he replied that they used her to do so and he said the senior 'Provisional IRA' man from Letterkenny, who was having a relationship with her, was with her when she delivered the materials to the location in a Hiace van. In relation to the information which had been supplied concerning the caravan, he said:

⁶⁵² Tribunal Documents, pages 1559-1562.

She said going down in the car that the explosives were going to be put in a caravan. The caravan was then going to be brought to a joint RUC/British Army checkpoint. There would be a device to throw the caravan off the towing vehicle to give them a bit of distance. Whoever was towing the caravan would pull off at the checkpoint and the device would then detonate.

- 9.133. Importantly, the emphasis here is on the receipt of this information “going down in the car.” In a further interview with Detective Garda Flynn and Detective Garda Maloney on the 11th of June 2000, Detective Garda McMahon repeated that Ms. McGlinchey had told him that it was a senior ‘Provisional IRA’ man from Letterkenny who was involved in the Rossnowlagh find with her.⁶⁵³
- 9.134. Despite his denial that any vodka was purchased for Ms. McGlinchey on the way down to Rossnowlagh, he told the interviewers when asked about the return journey that he had drink taken and that, “Adrienne McGlinchey was poleaxed drunk as well.”⁶⁵⁴ Ms. McGlinchey alleges that on the way down to Rossnowlagh on this important excursion vodka was purchased for her. Detective Garda McMahon acknowledges that he had drink taken but denies that vodka was purchased. He gave testimony to the effect that Ms. McGlinchey was able to negotiate the house and the “booby trap” part of the stairs and that she was not intoxicated. However, in evidence he acknowledged that he had consumed alcohol on the night prior to the excursion. Detective Inspector Lennon denies the purchase of vodka also. However, there was no basis upon which to allege that Ms. McGlinchey was “poleaxed” drunk on that occasion. The Tribunal is left to wonder why the allegation was made at all. The Tribunal concludes that there was a consumption of alcohol on the occasion of the excursion to Rossnowlagh by both Detective Garda McMahon and Ms. McGlinchey. It was entirely wrong and, given that the two members concerned were armed, highly reckless and dangerous, especially if they thought that they might encounter terrorists at the location to which they were brought by Ms. McGlinchey. It is more understandable if there was no prospect of encountering a terrorist at the sites because they had nothing to do with the ‘Provisional IRA’. However, if Detective Garda McMahon was telling the truth, there was no basis upon which to allege that Ms. McGlinchey was “poleaxed” drunk.
- 9.135. The Tribunal investigators also interviewed Detective Garda McMahon in relation to Rossnowlagh. Again he recited how the find had occurred. He denied ever travelling to Rossnowlagh with Ms. McGlinchey prior to providing the information to Detective Inspector Lennon. He told the investigators that he had enquired of Ms. McGlinchey how the material came to be on site and that she

⁶⁵³ Tribunal Documents, page 1585.

⁶⁵⁴ Tribunal Documents, page 1588.

replied that she had been down at some stage with a senior ‘Provisional IRA’ man in Letterkenny in a van and that, “she said she was in the van with him and if anyone came along that they’d let on that they were necking.” He confirmed that, “She talked about it being loaded onto the caravan and being pulled across the checkpoint and that there would be a device to release the caravan from the car leaving it in around the checkpoint to explode.” He was asked:

Q: Was this information with respect to what was to be done with it given to you by Adrienne McGlinchey at the same time that she told you about the location of where the homemade explosives were hidden?

A. Yes around the same time, maybe on the way down or when we got down there.

- 9.136. In the course of this interview he indicated that he thought the area suitable for surveillance but he had no authority to authorise it. He added that Detective Inspector Lennon told him that: “He was going by the policy of the Chief Superintendent which was to remove the stuff immediately without any risk of it being moved by the ‘Provisional IRA’ and he couldn’t question the Chief Superintendent’s policy”.⁶⁵⁵

Detective Inspector Lennon’s accounts of the Trip to Rossnowlagh

- 9.137. Detective Inspector Lennon gave evidence to the Tribunal that Detective Garda McMahon had phoned him at approximately midnight on the 17th of July. He told him there was an emergency and that he wanted to take him to a hide with Ms. McGlinchey and that it was somewhere down in the Ballyshannon area. He met with Detective Garda McMahon and Ms. McGlinchey at the end of his road.

*She wanted confidentiality and wanted to be made safe in respect of this matter because she said that a lady had been murdered in Enniskillen some weeks before that, for giving information, and I assured her she would be protected at all cost.*⁶⁵⁶

- 9.138. In the course of the telephone call, Detective Garda McMahon had told Detective Inspector Lennon that an attack was going to take place on the checkpoint at Belleek. He understood that the previous information which had been given to him by Detective Garda McMahon was now coming to fruition.⁶⁵⁷ He told him to get Ms. McGlinchey. Detective Garda McMahon said that Ms. McGlinchey would tell him all about it.⁶⁵⁸ He then gave the following account of what happened:

So I met up with Ms. McGlinchey, I discussed it in depth, what was happening. She said there was a bomb down in Ballyshannon area that was destined for the checkpoint in Belleek. I said that I knew

⁶⁵⁵ Tribunal Documents, pages 2796-2800.

⁶⁵⁶ Transcript, Day 148, Q.503-509.

⁶⁵⁷ Transcript, Day 148, Q.518.

⁶⁵⁸ Transcript, Day 148, Q.520-522.

*about that from the reports of Detective McMahon. I asked her to set out the position. She told me that there was a caravan down there that was going to be loaded with explosives and driven into the checkpoint in Belleek. I asked her who was behind all this and she told me the names of two people from Letterkenny. I went on to develop it out with her and I said I don't know that area, and she undertook to take us there. So she wanted confidentiality and assurance that she wouldn't be put at risk because there had been an informer shot in Enniskillen some weeks beforehand or ten days beforehand. I gave her that assurance that she would be covered. So we drove down to Ballyshannon and she drove in around them roads and she pointed out the two scenes to us. The first scene I recall going to was the shed along the road and I parked my car up the road and I drew my firearm and walked back to it and I took up a covered position and in this disused shed there was a number of plastic bags. She went in to check to see what was in the shed. She took us then to this house which was further up the road and I stood at the bottom of the stairs. She said there was a decoy at the top of the stairs, you fall down through it and the IRA boys will know you were here. Detective McMahon went up that stairs with a little torch and he went into a room at the top of the stairs where she directed to the left and he came back down and he said there were bags of materials up there. She said that caravan, which was along the road was going to be used for that purpose and I was in a panic situation in case we get caught out in the area and I left the area to consult ... well I intended to consult with Michael Duffy and I went down with him the next morning and pointed out the scene.*⁶⁵⁹

- 9.139. Detective Inspector Lennon claimed that he was a bit frightened that night because he had no guarantee from Ms. McGlinchey, as he had in Ardchicken, that the 'Provisional IRA' were not out that particular night.⁶⁶⁰ She pointed out the caravan that the 'Provisional IRA' intended to use and he presumed that it was the same caravan that had been identified by Superintendent Duffy in the period leading up to the find.⁶⁶¹ His attention was drawn to an answer which he had given during an interview to the Carty team on the 23rd of May 2000 in the course of which he indicated that they had asked Ms. McGlinchey about the risks to their personal well being at Ardchicken and Rosstownlagh. In the answer, he said that she advised him that she was aware that the 'Provisional IRA' "were not operational on those particular nights and that she had personal knowledge of

⁶⁵⁹ Transcript, Day 148, Q.525.

⁶⁶⁰ Transcript, Day 148, Q.529-533.

⁶⁶¹ Transcript, Day 148, Q.534-536.

their whereabouts. This was the people that she said was involved in these deposits and that they were not immediately to be moved into operations to the target” He accepted that the answer referred to Rossnowlagh as well as Ardchicken. He went on to say, in his answers to the Carty team:

It was quite late in the night time and I knew from my own experiences and from operational knowledge in this border area that the members of the PIRA didn’t usually operate in striking targets after certain hours. The only attack I am aware of that took place in the late night or early morning, by which I mean before dawn, was the one at Coshquin military checkpoint. It was early morning when I contacted Superintendent Duffy and it was over to him after that.

9.140. He agreed that he took her assurance in relation to the safety of the operation and the fact that the ‘Provisional IRA’ weren’t going to operate at that late hour⁶⁶².

9.141. On that basis, he concluded that, in the intervening period between the find in the early hours of the morning at Ardchicken and Rossnowlagh and the time at which he informed Superintendent Duffy, the ‘Provisional IRA’ would not come and remove the materials or shift their operation into gear.⁶⁶³ The reason for not informing the district officer immediately in the case of Ardchicken and Rossnowlagh was:

*There was no device in situ, there was no supporting materials in situ and calling them out late at night in the middle of the night wouldn’t have achieved anything and that was the decision I took based on the facts ...*⁶⁶⁴

9.142. Though the names of the ‘Provisional IRA’ personnel involved in Rossnowlagh which were known to him do not appear in any documents forwarded to his superiors, or to Crime & Security at Headquarters, Superintendent Lennon claimed that he discussed these names with Chief Superintendent Fitzpatrick after he came back from leave and told him who was involved in it.⁶⁶⁵ However, it would appear that Crime & Security at Garda Headquarters were never informed of any names in respect of Rossnowlagh. He also disagreed with the proposition put on behalf of Detective Garda McMahon that information which Detective Garda McMahon got about the names came after the find at Rossnowlagh and not before it.⁶⁶⁶

⁶⁶² Transcript, Day 148, Q.539.

⁶⁶³ Transcript, Day 148, Q.540-546.

⁶⁶⁴ Transcript, Day 148, Q.547.

⁶⁶⁵ Transcript, Day 148, Q.558.

⁶⁶⁶ Transcript, Day 150, Q.336.

- 9.143. It is clear also from his evidence that Detective Inspector Lennon did not take the opportunity to call into Donegal Garda Station because he believed that might compromise his source and that the Gardaí in Donegal Garda Station might realise then that the information in respect of any finds made had come from her. It would not have been in Ms. McGlinchey's best interests if he had done anything to compromise her confidentiality and identity by giving anyone any basis for a suspicion that information had come from her. In addition, he did not feel that stopping in Donegal town for chips on the way home from the finds at Rosstown in any way compromised Ms. McGlinchey. He also felt that the delay between the finds and informing Superintendent Duffy of the finds was commensurate with his duty to maintain Ms. McGlinchey's safety and confidentiality. However, he had to acknowledge that a telephone call to Donegal Station in relation to the matter might have been appropriate following the finds. The Tribunal does not find convincing the notion that stopping for chips on the way home from Donegal town was consistent with the preservation of confidentiality or the safety of Ms. McGlinchey. There does not appear to be any good reason why Superintendent Duffy or some other senior Garda officer could not have been informed of these finds immediately.
- 9.144. Detective Inspector Lennon was interviewed by Chief Superintendent Austin McNally and Inspector Hugh Coll at Letterkenny Garda Station on the 14th of July 1999 in respect of Rosstown. He gave the following account:

I have been referred to a find of explosive material in Rosstown on or about the 18th July, 1994. This information came to me via Detective Garda Noel McMahon. I went to the scene in Rosstown with Detective Garda McMahon and his informer, Adrienne McGlinchey. From my recollection I drove my own car and they came with me. She had information that there was explosive materials in a disused shed in the Rosstown area and it was to be placed in a disused touring caravan up the road nearby and was to be taken to a British Army checkpoint at Beleek, Co. Fermanagh and that the caravan was to be unhitched in to the checkpoint. At the time this appeared to be a similar operation to the devastation that was committed at Coshquin in 1990. I was concerned about it and in accordance with the policy in existence in the division I decided this should be taken out of commission. We drove around the Rosstown area looking for the shed and Adrienne McGlinchey pointed out the shed, I think it had a red door which was broken and it was near a junction on a side road. The three of us entered the shed and I saw a transparent plastic bag containing what appeared to be fertiliser. It was night time. The three of us then left the scene and returned to Letterkenny.

As far as I can recollect, I notified Superintendent Michael Duffy at Ballyshannon. I think I rang Superintendent Duffy either that night or early the following morning. I wish to add on reflection that when we drove to the shed in Rossnowlagh, Adrienne McGlinchey then took us to a ramshackle house further up the road and I further wish to add that she said there was a decoy at the top of the stairs that you would fall through and would be an indicator to the Provos that people had been in the house. I also remember seeing transparent plastic bags in an upstairs room in this house. I don't recall seeing any drum of diesel or other items in the room. The plastic bags contained what appeared to be fertiliser. After contacting Superintendent Duffy I know he set up an operation including a search and all the materials were recovered by the Gardaí. I wish to add that I saw this as a legitimate operation based upon the best interests of the force for the public good. I acted on the information as I received it and in accordance with the obligations imposed upon me to do so. I also wish to add that I never took part in nor would I condone the conveyance of any materials, explosives or component parts of such explosives or munitions to any site.⁶⁶⁷

- 9.145. The Carty team further questioned Superintendent Lennon about these events on the 23rd of May 2000. For the most part, he repeated the account which he had already furnished in his previous statement. Additional information was provided, however, in that he said:

I drove straight to Rossnowlagh. I was not in the town of Letterkenny. I drove to Rossnowlagh and en route there I queried this operation and Adrienne McGlinchey informed me that she had information that there was explosive materials in a disused house in the Rossnowlagh area and it was to be placed in a disused touring caravan up the road nearby and to be taken to the British Army checkpoint at Beleek in Co. Fermanagh and the caravan containing the explosives was to be unhitched into the checkpoint.

- 9.146. He then goes on to relate how he decided to take the material out of commission in accordance with existing divisional policy. Having been brought to the shed by Ms. McGlinchey he then told the interviewers that:

She took us to a house further up the road which was a ramshackle two-storey house and she said there were further materials in a room upstairs and that the shed was a feeder base ... and with a small torchlight we went up the stairs and on the way, she stopped us and warned us that there was a decoy at the top of the stairs on the landing which she said

⁶⁶⁷ Tribunal Documents, pages 1646-7.

you would fall through, and the Provos would then know that people were in the house. There had been interference with the landing and you would come down through it.

In a room at the top of the stairs he saw more transparent plastic bags which contained what appeared to be fertiliser. He continued:

The caravan was in the vicinity and she told me, it was unlocked and that she had been in it previously. I asked her why this had been put there in Rossnowlagh and she said the Provos in Letterkenny were saying that the organisation in Ballyshannon were useless in mounting operations.

- 9.147. He also said that he didn't carry out any further search because, "I believed there could be a risk involved if some of the 'Provisional IRA' members came upon us." When asked whether he got information about the bomb at Rossnowlagh on the 18th of July 1994 he replied:

I was not the recipient of this information. I have already explained the circumstances of this matter⁶⁶⁸

- 9.148. He was then also asked if he had carried out any inquiries as to who left the explosives at various locations including Rossnowlagh, and whether he had ever asked his informer where she got the explosives or who was responsible for placing them there. He replied that he had been given one name of a 'Provisional IRA' member by her as the crusher of the fertiliser and that another senior 'Provisional IRA' member "was the deliverer" and this person has been referred to by Detective Garda McMahon as the boyfriend of Ms. McGlinchey in various statements and in evidence. He did not put surveillance on finds at Rossnowlagh because he left that task to the local district officer, Superintendent Duffy. He complied with the divisional policy at the time "which was to take out materials which were on the move."⁶⁶⁹ It should be noted, in this regard, that no written documentation exists suggesting that any names furnished to Detective Inspector Lennon by Ms. McGlinchey in respect of the finds at Rossnowlagh were ever passed to the Superintendent at Letterkenny or to Crime & Security.

- 9.149. In an interview with the Tribunal investigators Kevin Lennon said that he did not know where Ms. McGlinchey got her information about Rossnowlagh or how she knew the location of the finds. He said:

That's what I don't know and she wouldn't tell me. She said she wasn't putting herself at risk because, that same month, there had been a girl murdered in Fermanagh and she said she wasn't going to be the subject of the same treatment and she said I am giving you the information and

⁶⁶⁸ Tribunal Documents, pages 1687-1689.

⁶⁶⁹ Tribunal Documents, pages 1752-1753.

that's all I am telling you. That's how it's to be done. That's what is going to happen and I couldn't get any more out of her.⁶⁷⁰

That conflicts with his statement to the effect that names had been given to them by Ms. McGlinchey in identifying the two individuals whom he previously mentioned as the “grinder” and “deliverer” of the fertiliser. He went on to say in the same interview that Ms. McGlinchey had said that she had been in the caravan earlier and that she wouldn't disclose who was with her,⁶⁷¹ and he accepted that he didn't take any steps to secure the area.⁶⁷² He had a fear going down that he might run into a number of 'Provisional IRA' men that may have been there when they arrived. However, he did not consider having any cover and when asked why he replied:

Because you were going down there on an intelligence mission, not knowing exactly what you were going to see. You weren't told the specifics of what was there until you got there.⁶⁷³

- 9.150. Detective Inspector Lennon gave evidence to the Court of Criminal Appeal in *The People (DPP) v Frank Shortt*. In respect of the finds at Rossnowlagh, he denied that he had travelled in a van with Adrienne McGlinchey to Rossnowlagh and had planted certain items. He was contacted by Detective Garda McMahon on the evening of the 17th of July 1994 who informed him that Ms. McGlinchey had information to give him. He went with Ms. McGlinchey and Detective Garda McMahon to Rossnowlagh and there was informed by McGlinchey that materials were in situ. They were to be placed in a touring caravan and dropped at a checkpoint in Belleek in Co. Fermanagh. A visit to Rossnowlagh occurred in the early hours of the morning of the 18th of July 1994 between 00.00 and 02.30 hours. He travelled in his own blue Honda Civic. Ms. McGlinchey pointed out two locations – one a house and one a shed in which there were bags of materials. The house was a disused two-storey house and both were on the back road coming out of Ballyshannon.

We entered the shed and Ms. McGlinchey started counting bags to see how many bags were there. She rummaged through them. We then travelled on to the old house and upstairs in the old house there was a room with other materials.

- 9.151. He did not inspect these. At a later stage he established that the material consisted of crushed material and “a mix”. He then notified the district officer at Ballyshannon and his Detective Superintendent in Letterkenny on the following morning. He had no more dealings with the material after that. He denied that any vodka had been purchased on the trip but he had purchased a burger and chips in a chip shop in Donegal for Ms. McGlinchey on the way home.⁶⁷⁴

⁶⁷⁰ Tribunal Documents, page 5103.

⁶⁷¹ Tribunal Documents, page 5103.

⁶⁷² Tribunal Documents, page 5108.

⁶⁷³ Tribunal Documents, page 5109.

⁶⁷⁴ Transcript, The Court of Criminal Appeal, June 6th, 2002, Q.218.

Conclusions regarding the 18th of July 1994

- 9.152. Ms. McGlinchey, in evidence, gave a lengthy account about how the finds at Rossnowlagh came to be planted by her, Detective Garda McMahon and Detective Inspector Kevin Lennon. She directly implicated both members in the conveyance of material to the shed at Rathfragan. She gave a lengthy account of how she and Detective Garda McMahon readied the fertiliser for use in this 'find' and where it was stored prior to its removal to Rossnowlagh. She described how she and Detective Garda McMahon discussed the possibility of putting the material in the caravan. She had been to a caravan park, but they had decided not to. Instead, they drove around looking for suitable locations in which to plant the materials. She confined the involvement of Detective Inspector Lennon to the evening of the 17th of July when he assisted in conveying the material to Rathfragan. She alleged that Detective Inspector Lennon purchased vodka for her on that journey. When they arrived to the scene, Detective Inspector Lennon and Detective Garda McMahon loaded the contents of the van into the shed. She maintains that they did not visit the house at Ardeelan that night.
- 9.153. This evidence differed in material respects from statements previously furnished by her to various members of the Carty team and, through her solicitor, to the Tribunal. For example, in her statement of the 29th of July 1999, she told the Gardaí that she had made a number of runs to Rossnowlagh and left ground down fertiliser, icing sugar, diesel, a beer keg and some bullets in the house. She referred to the fact that they had driven to a shed at Letterkenny and loaded containers of diesel into the van from that shed. She said that Detective Inspector Kevin Lennon had been given a story by Detective Garda McMahon and herself to the effect that the reason this was happening was that the 'Provisional IRA' were doing a job in Belleek and had asked her to move the materials for them. She said both locations were visited that night.
- 9.154. In a statement on the 22nd of March 2000 she alleged that it was Detective Inspector Lennon who chose the shed at Rathfragan as the location in which to store materials.
- 9.155. In her statement to the Tribunal on the 14th of February 2003 Ms. McGlinchey said that there were two drops at Rossnowlagh, both of which had occurred prior to the Orange walk. She stated that on the journey down, Detective Garda McMahon and Detective Inspector Lennon had called to the house first and put a few bits and pieces there, and then went on to the shed into which the remainder of the load was placed by Detective Garda McMahon and Detective Inspector Lennon.

- 9.156. Detective Garda McMahon and Detective Inspector Lennon, for their part, agree that there was a journey in the course of which they called to the two locations, the house and the shed. If that be the case, then the seeming inconsistency between Ms. McGlinchey's statements and the evidence given by her as to whether both of the locations were visited, are to be viewed on the basis that the two members accept that both locations were visited. That element of the prior statements made by Ms. McGlinchey, which refers to a visit to both, can be regarded as accepted by the two members.
- 9.157. Insofar as there is a conflict of evidence as to whether or not vodka was purchased for Ms. McGlinchey by Detective Garda McMahon, it would appear that Detective Garda McMahon accepts that he had drink taken on the night. At one stage in one of his statements he described Ms. McGlinchey as being intoxicated. The Tribunal is satisfied that both she and Detective Garda McMahon had consumed alcohol on the evening of the 17th, that Ms. McGlinchey did so on the excursion to Rossnowlagh. The Tribunal rejects the evidence of Detective Garda McMahon and Detective Inspector Lennon in this regard.
- 9.158. Detective Garda McMahon gave evidence that he travelled to the house at Rossnowlagh first and that he entered it preceded by Ms. McGlinchey and found the materials. He reported this back to Detective Inspector Lennon. He does not say Detective Inspector Lennon entered the house or was involved in any way in the search of the house. In a statement on the 14th of July 1999, he could not recall entering this house. In a further statement of the 11th of June 2000 he did not state that Detective Inspector Lennon had entered the house, only that he and Ms. McGlinchey entered the house. Detective Inspector Lennon's testimony in this regard is that he first drove to the shed, parked his car, drew his firearm and took up a covered position. Ms. McGlinchey then went in to check to see what was in the shed, and then took them to see the house. He entered the house with Detective Garda McMahon. Detective Inspector Lennon's account in this regard is also to be found in various statements made by him and in his interview with the Tribunal investigators. Indeed, Detective Inspector Lennon told the Court of Criminal Appeal that the three of them had entered the shed and that Ms. McGlinchey had started counting the bags there and had rummaged through them. He said they then travelled to the old house and that there were other materials upstairs which he did not inspect. Both members gave untrue accounts of their part in the excursion to Rossnowlagh.
- 9.159. The evidence of Detective Garda McMahon and Detective Inspector Lennon to the effect that Ms. McGlinchey was an informer who required protection was not borne out by the actions of either member at Rossnowlagh. Detective Inspector Lennon said that he was told that Ms. McGlinchey was afraid because another

woman who had informed on the 'Provisional IRA' had been recently murdered. This conversation was not given in evidence by Detective Garda McMahon. Detective Garda McMahon and Detective Inspector Lennon both gave evidence to the effect that they did not believe the 'Provisional IRA' would be out at Rossnowlagh that night and consequently Ms. McGlinchey was content to visit the scenes. These are somewhat contradictory positions. No steps were taken by Detective Garda McMahon or Detective Inspector Lennon to protect Ms. McGlinchey: to ensure her anonymity on the journey down or on the location of the finds. No steps were taken to protect her anonymity on the return journey. Indeed, they travelled openly from Letterkenny down to Rossnowlagh. Ms. McGlinchey apparently led the way into the house, according to Detective Garda McMahon. She entered both premises, according to Detective Inspector Lennon. No enquiries were made by either member of her in relation to any follow-up investigation by the 'Provisional IRA' into the loss of their materials. Procedures which are described elsewhere in this section were not followed so as to minimise any risk of her exposure. In fact, there is evidence before the Tribunal that the mode of operation adopted by the two members was extremely reckless if she were indeed an informer. The Tribunal does not accept the evidence of Detective Garda McMahon or Detective Inspector Lennon as to how these finds were made by them.

- 9.160. **The Tribunal concludes that Detective Garda McMahon was involved in the preparation of materials and the movement of materials from the house and shed at Rossnowlagh. Detective Inspector Lennon was involved in organising this hoax with him and Ms. McGlinchey and in assisting in the movement of materials to the shed at Rathfragan on the evening of the 17th of July. In reaching this conclusion, the Tribunal approached the evidence of Ms. McGlinchey with caution, having regard to the lies which she has told in the past in respect of various matters and the inconsistencies which exist between some parts of her evidence and statements previously made. However, having also heard the two members in evidence it determined that they have told lies and have been shown to be inconsistent from the statements which they have made in the past. Taking this into account, and all the other evidence heard by the Tribunal in relation to these matters, the Tribunal is satisfied that they were involved in the creation of this hoax find.**

Proper Investigative Procedures

- 9.161. Garda enquiries revealed, in relation to the finds at Rossnowlagh, that no investigation file concerning these finds was to be found in the divisional office in Letterkenny. Inspector M. Finan carried out a search in relation to this matter

as part of the Carty investigation but could find no file. The Tribunal heard evidence from Superintendent Tadhg Foley, Superintendent Coll and Chief Superintendent Brian Garvie RCMP in relation to appropriate police practice and procedures concerning important finds of bomb-making materials such as that which occurred at Rossnowlagh. Their evidence has been most useful in providing a standard against which what actually happened or was said to have happened at Rossnowlagh can be measured.

- 9.162. Superintendent Foley gave evidence and noted that there were similarities between the manner in which the finds at Rossnowlagh were treated and that at Ardchicken in November of 1993. By way of criticism of the finds at Rossnowlagh he said:

There was no coordinated Garda investigation, no suspects were identified or arrests effected. The scene was not technically examined and the items found were not preserved for fingerprinting or photographing. No investigation was carried out to determine the origin of the material found. Again, no consideration was ever given to coordinating a surveillance operation and no efforts were made to secure the area and prevent removal of the vital evidence. Again, that is basic police procedure. If there is a chance of catching someone coming to the scene, covert surveillance or protection, whatever way you want to word it, could have been put on and that would be what I would regard should have been done.

- 9.163. He made reference to a find of a device at Donnyloop, Castlefinn on the 4th of March 1994, which was a find in which Detective Inspector Lennon had an input into the investigation. He noted the following about that investigation:

The team under him, the team who was coordinating, I found in relation to the find at Donnyloop, houses in the immediate vicinity were evacuated and people in the wider area notified of potential danger. Twenty-five families in all were evacuated from the scene. A Garda/Army cordon sealed off the area. Army EOD were called and visited the scene. The operations were suspended until first light when they would endeavour to make safe the device. Garda Ballistics, fingerprint and photography were requisitioned and a press release was prepared. House to house questionnaires were conducted. Conferences were held. Inquiries were carried out and vacant houses in the area were searched. Surveillance was conducted on one of the suspects. I found the difference between

*it and all the other finds that I would regard this as a proper and thorough procedure. If that was indicative of the divisional policy it would be a good example.*⁶⁷⁵

- 9.164. Superintendent Foley was asked whether he thought there was anything which might give rise to suspicions about the manner in which the Rossnowlagh find was handled vis-à-vis the informer. He replied:

*If you look at it and if you have a person like Adrienne McGlinchey and all the stuff was being found, I would know from experience the IRA would carry out their own investigations and it wouldn't be too long before they would find out where the fault lay and it wouldn't happen ... to my knowledge an investigation is carried out and I have seen on the border results of where people have been found that would have transgressed that, their own law if you like, if you know what I mean ... I have seen them on the border in a plastic bag people who have lost property of the IRA.*⁶⁷⁶

- 9.165. Superintendent Hugh Coll confirmed that he directed inquiries and searches to be carried out for files in relation to finds at Rossnowlagh, amongst others, at the divisional office in Letterkenny, and that he went to Donegal town, Ballyshannon and Burnfoot stations and requested any investigation files in relation to their areas. None was produced in relation to Rossnowlagh. He acknowledged that he did receive a ballistics report relating to the find of ammunition at Rossnowlagh. He gave evidence that if a genuine homemade explosive is found in large quantities, in the region of twenty kilos or fifty kilos or more, it would be classified as a very serious crime and it would be unusual not to have an investigation file in respect of it. When asked whether it would be highly unusual or highly improbable that no investigation file would be available, he said:

When you have finds of materials that may be capable of serious destruction or maybe loss of life it should be important to have an investigation file in relation to that amount of material. ... In serious crime the district office had overall responsibility for the investigation of the crime with the assistance of other members. The divisional officer had a commanding role in ensuring that the investigation was carried out.

- 9.166. In relation to the finds at Rossnowlagh he said:

I would have served along the border for all my service and any incidents of this nature there would be an investigation file. There would be normally, or you may have suspects, or possible suspects,

⁶⁷⁵ Transcript, Day 97, Q.492-494.

⁶⁷⁶ Transcript, Day 97, Q.500-503.

*especially for giving information, you would have probably an incident room set up and proper investigation carried out I would say that it is highly unusual overall when you look at the overall picture ...*⁶⁷⁷

- 9.167. Chief Superintendent Garvie gave evidence to the Tribunal in respect of the finds at Rosstown. He had examined the locations and reviewed documents in respect of the matter and had conducted various investigations concerning these finds on behalf of the Tribunal. He stated as follows:

The scene was not preserved, there was no forensic examination conducted, samples of the exhibits were seized, retained and examined. There is no record of any significant investigation, no surveillance was conducted and fingerprint evidence was not sought. It is interesting to note that the Carty investigation team interviewed retired Sergeant Michael Collins. In his statement, he told investigators that he recalled finding coloured tape, pliers and a torch lying on the floor. All of these items, if they had been examined, could have yielded fingerprints suitable for examination and identification. And I again was shown these sites by Inspector Hugh Coll and I am of the view that surveillance could and should have been conducted. There was potential evidence available that could have produced positive results regarding the identity of these suspects, if such suspects existed and ... again the investigation was non-existent and there was no apparent attempt to ascertain who was responsible or why the potential explosive mix had been left at those locations or for what purpose.

- 9.168. The proposition was put to Chief Superintendent Garvie, and accepted by him, that police in the investigation of crime are not simply interested in the person found in possession of munitions or explosives for terrorist purposes but also in ascertaining the origin of the substance, the identities of those manufacturing the substance and, if an informer is involved, the identities of the members of the cell with whom the informer is involved. This is done with a view to ascertaining how such persons might be otherwise subject to police attention, for example, by searches or follow-up surveillance to determine what their activities might be. He said:

I think that is a duty that is imposed on us in terms of expectation of public service as a police officer, that we cannot simply ignore those things. There is a responsibility for the police to investigate

⁶⁷⁷ Transcript, Day 93, Q.399-411.

*and in circumstances such as you've described to determine, if possible, who was responsible for committing the crime.*⁶⁷⁸

9.169. Chief Superintendent Garvie also noted that the question of surveillance should at least have been considered at Rossnowlagh.⁶⁷⁹

9.170. Chief Superintendent Garvie also commented in relation to the absence of preservation of the scene at Rossnowlagh. He noted that, as in the find at Ardchicken, the finds at Rossnowlagh were pointed out to Detective Inspector Lennon at night.

*He then left the scene knowing by his own admission that he did not intend to survey it and that it was going to be removed and reported the following day to Superintendent Duffy. In that case, it should have been preserved. It should have been preserved right from that point onwards.*⁶⁸⁰

Very simply, somebody could have removed the materials in the meantime.⁶⁸¹

9.171. Chief Superintendent Garvie also noted that he had been given the opportunity to review files in Garda Headquarters of finds of a similar nature that were not handled in the same way as the finds under review at Rossnowlagh, amongst others. He made the point that the standard that he was applying was not only his own standard but that which he had seen applied in other Garda files. He had no doubt that the Garda Síochána had set appropriate standards for their operatives to follow in the investigation of crime.⁶⁸²

9.172. Chief Superintendent Garvie was also asked for his comments in relation to the handling of informers after events such as the finds of explosives and, in particular, in relation to finds at Rossnowlagh. He said:

The standard for our police force, and I am aware the standard for others, is after every contact with an informant a debriefing report or contact report should be submitted. Now it is possible, for example, that you may speak to an informant and the individual may not provide you with any significant information, the expectation is that that contact, the time and date and circumstances be recorded in our file. Debriefing reports for information as provided are completed and there are short paragraphs identifying the information that has been provided by your informant and subsequently that information by paragraph is

⁶⁷⁸ Transcript Day 95, Q.149-151.

⁶⁷⁹ Transcript, Day 95, Q.160.

⁶⁸⁰ Transcript, Day 95, Q.156.

⁶⁸¹ Transcript, Day 95, Q.158.

⁶⁸² Transcript, Day 95, Q.160.

*identified as being believed to be reliable, believed not to be reliable, or essentially possibly reliable. There are categories for determining the type and nature of information that is provided ... that information is then provided to appropriate individuals or agencies that have an interest. So in these cases, if, for example, the information was developed with respect to Rosstownlagh it is quite possible that it would be appropriate to send a copy of the debriefing report to the Superintendent responsible for that district so they have the same information and that information should also be reported to district or national headquarters.*⁶⁸³

- 9.173. It was crucial to enquire of the informer who was responsible, who was involved, what was intended, what use was to be made of the substances, were the substances to be further transported by asking the relevant questions:

*I think the expectation is that the information that is gleaned or obtained from an informant would support to the extent possible the further investigation that would be conducted by the regular uniform members or by your Detective Branch.*⁶⁸⁴

- 9.174. He was asked to comment on a situation in which the informer at Rosstownlagh may not have been debriefed in this manner and he said:

*From my personal experience because of the standards that are imposed on our force, I would suggest that it was inexplicable. But that is mandatory for us in terms that any contact or meeting with an informant has to be reported and subsequently an informant has to be debriefed.*⁶⁸⁵

- 9.175. Chief Superintendent Ginty was asked to comment expressly on the failure to carry out surveillance at the time of the Rosstownlagh finds. He said it wasn't carried out because of the manpower situation. For a surveillance operation such as one which might be considered in relation to Rosstownlagh, a large number of skilled or trained people would be required from the National Surveillance Unit. These could remain covertly in observation of the material over an indefinite period of time. He had to take into account the fact that it was the natural practice that any time the 'Provisional IRA' had a hide they had a minder who observed any activity and reported it back to the 'Provisional IRA'. They were careful in not exposing themselves to capture. It was noted by the Chairman that the Garda Commissioner's representatives had expressly accepted the evidence of Mr. Garvie in relation to the procedures which should apply in these circumstances and that his evidence was to the effect that if you have a find of a

⁶⁸³ Transcript, Day 95, Q.152-153.

⁶⁸⁴ Transcript, Day 95, Q.155.

⁶⁸⁵ Transcript, Day 95, Q.156.

cache of materials such as that at Rossnowlagh surveillance should be considered. Chief Superintendent Ginty replied that there was no surveillance unit automatically available any time they wanted it in Donegal. Application had to be made and they had to wait their turn. The occasion for surveillance could have passed by the time that turn came. In addition, surveillance operations which they had mounted in Donegal had been for the most part unsuccessful. Following one particular case, he decided as far as Donegal was concerned:

That if in doubt in these situations I would play safe, take it [munitions] out of circulation in the interest of safety. The priority at that time was well established and the message was, find the bunkers.... We made many finds in the early 70s ... it was the practice then to take them out of circulation, if anything presented itself by way of evidence we took it. We did not put on surveillance, nor did we complete extensive or full investigation unless there were circumstances which clearly warranted the doing of a full investigation and the manpower and resources needed for that which if we were to do the investigation on all those cases would have denied the kind of service in searching and taking this ... out of circulation. Someone had to weigh one against the other. I say this that it was common practice in the Garda to treat safety as the first priority and rightly or wrongly the enforcement of law, which would involve surveillance and extensive investigation, took second place. That was my experience.

He thought that Superintendent Garvie did not have an insight into the Garda Síochána's full mindset, and factors such as whether the resource situation was sufficient for surveillance and that they "were taking on the particular work as an adjunct to our regular domestic police work."⁶⁸⁶

- 9.176. Another officer with considerable border experience in the investigation of subversive crime was Chief Superintendent Monahan who, when asked about whether surveillance was appropriate in the context of the Rossnowlagh finds, said: "Absolutely, if you had that kind of specific intelligence, if it was genuine intelligence, it certainly would merit surveillance."
- 9.177. In general terms, Chief Superintendent Monahan acknowledged the difficulties that can arise in relation to surveillance, some of which coincided with the evidence of Mr. Ginty. He said that if surveillance was possible and likely to produce results, certainly it would be the way to go in order to get some people associated with the materials and get sufficient evidence to bring charges. It would be part and parcel of normal policing practice and procedure. Some things

⁶⁸⁶ Transcript, Day 111, Q.97-103.

would be considered on a case-by-case basis. The example which he gave was that if one found a primed bomb hidden in some sort of transit hide one might be confident that somebody was going to pick that up in the short term and move it on to a target. Therefore, the natural thing to do was to try and keep it under discrete surveillance such that if somebody came and tried to pick it up one could then intercept those people.⁶⁸⁷

9.178. The Tribunal is satisfied that best police practice and procedure required that the find at Rosstownlagh be subjected to surveillance, having regard to the intelligence which it is said was available to those handling the informer and in the possession of the district officer, Superintendent Duffy. If that intelligence were correct the materials in place were to be used to attack the Roscor checkpoint and kill or maim security personnel there and devastate the structure. The intelligence, which Detective Inspector Lennon says was treated as reliable, indicated that a house would be taken over by 'Provisional IRA' personnel and that a caravan would be brought there for the purpose of preparing it for the attack in the manner already outlined. In addition, intelligence also suggested that the caravan to be used was in place on the side of the road between the two locations at which the material was found. The Tribunal has already determined that this intelligence was not available until the morning of the 18th of July. Even then it appears that the conditions for the mounting of the potentially successful surveillance operation could not have been more propitious. It did not happen. No credible excuse or explanation has been given to the Tribunal as to why it did not happen and why it was not even considered. The Tribunal is satisfied that Superintendent Duffy was negligent in his handling of this issue and this alleged find.

9.179. Chief Superintendent Monahan gave evidence that it was his view that the 'Provisional IRA' would not have had a person like Adrienne McGlinchey in their ranks. The kind of information which led to the seizure of large quantities of explosives would have been available from a person at the rank of a volunteer and he or she would not have been treated very kindly if he or she became known for passing on such information. He did not think information of that kind could be picked up casually on some sort of romantic association with members of the 'Provisional IRA'. In this regard he said:

In my experience the IRA operated a cell system for one thing and secondly, they operated a very strict and very effective intelligence service of their own. They had an intelligence officer in each area and certainly if some of their operatives were keeping company with people who were likely to create a risk for them they would have, they switched that off very quickly, they would put a stop to

⁶⁸⁷ Transcript, Day 164, Q.17-30.

it. So I would doubt very much if that information came via that route ... The type of people that Ms. McGlinchey was alleged to be associating with at that time were serious IRA people and they continue to operate very effectively and I believe they would not be leaking that kind of information and never did These were genuine IRA materials they are very considerable quantities. And as I understand the IRA as they evolved and developed they developed into a cell unit, they became very concerned about losing firearms and what you had, you had an intelligence officer in a particular area and also a quartermaster and from the information available to us, the quartermaster had a right of veto over every operation that was planned by a cell if you consider the risk to the equipment to be too great. So what you would have is people selected to carry out a bombing mission or maybe a shooting incident. The leader of the cell would contact the quartermaster who would release X number of firearms and ammunition or direct the cell to where quantities of explosives may be available or a bomb available to be picked up. So everybody didn't know everything about what was happening. They cut people out ... somebody in charge of the cell would get a phone call to pick up the materials that were required for the operation that is planned that's how it happened⁶⁸⁸

- 9.180. On this evidence, the Tribunal infers that there was knowledge available to Detective Inspector Lennon in light of which the status of Ms. McGlinchey as an informer could have been realistically assessed or at least questioned.
- 9.181. Chief Superintendent Monahan was asked to comment directly on the handling of Ms. McGlinchey as an informer at Rossnowlagh and the fact that she was brought to the site and he said as follows:

If you were running an informant, passing on that information, I couldn't foresee myself bringing that informant on site at any stage. Particularly, certainly not at night time and to go into a building with you where the IRA may or may not be. If there was a house to be pointed out by an informant I would arrange a very secure way of doing it which would certainly not be going there in the dead of the night to enter a house to show where the stuff was If the IRA had materials in a particular place there was no way of knowing somebody wouldn't be around that night. It would be extremely risky in my experience to go to a location like that

⁶⁸⁸ Transcript, Day 164, Q.90-99.

*where it was suspected IRA materials were stored. You would want to have a very very substantial and grade A intelligence to know the IRA wasn't there, that people wouldn't be there working. The one certain thing you would do is you would ensure that if you had that information you would not expose it to risk or you wouldn't expose your source to risk. You certainly wouldn't expose it to the risk of losing it again once you knew it was there.*⁶⁸⁹

- 9.182. Quite apart from bringing the informer to the site, Chief Superintendent Monahan indicated that he would have been very apprehensive about visiting the site himself. He thought that entering the site at night time was very foolhardy without serious armed backup because it was very difficult to know with certainty whether armed 'Provisional IRA' personnel were there with this material or not. Approaching the scene in any fashion late at night unaccompanied by quite considerable backup support was an unacceptable risk in his view. If he decided that he had to bring his informer down to the finds he would try and devise a method of identifying the house without exposing his source to any likelihood of being identified and certainly without exposing the source to any form of danger, which he thought could be quite easily achieved.⁶⁹⁰ There were absolutely no circumstances in which he would have stopped for chips on the way back from such an excursion, and he doubted very much if a genuine informer would do that, as they would be so nervous themselves. The Garda Síochána in dealing with a genuine informer would not allow such a thing to happen because this would expose the informer to risk.⁶⁹¹

The Packaging of the Fertiliser at Rossnowlagh

- 9.183. The homemade explosives found at the house at Ardeelan, Rossnowlagh were packaged in seventy bags each weighing 11.5lbs., making a total of 805 lbs. The second find of homemade explosives at the shed at Rathfragan consisted of about 3.5 cwt of homemade explosives and 84 lbs of icing sugar. It was clear from the RTÉ footage of the finds that the materials were contained for the most part in clear plastic bags which have been described from time to time as "freezer" bags. A number of senior Garda officers have indicated that this was unusual in that normally in finds of this kind ground down fertiliser was found in ordinary fertiliser bags and was not normally found in freezer bags. Superintendent T.V. O'Brien gave evidence that the only find in which he had come across the use of "freezer" bags was in Ardchicken. Likewise, Chief Superintendent Monahan, who had extensive experience in this area, said that any time he or other members made a find the material was usually in 100 cwt

⁶⁸⁹ Transcript, Day 164, Q.100-101.

⁶⁹⁰ Transcript, Day, 164, Q.106-9.

⁶⁹¹ Transcript, Day 164, Q.109-112.

fertiliser bags:

*... which would have contained the fertiliser which was ground down and then when it was mixed it would have gone back into those bags again for transport purposes. But I haven't come across them in freezer bags, five kilo freezer bags, I haven't heard of that I haven't seen that.*⁶⁹²

- 9.184. In particular, he said he would have been surprised if the find at Rossnowlagh, because of its size, was stored in anything other than 100 cwt bags at a minimum.⁶⁹³ The Tribunal felt that it could rely on both officers' testimony in full.
- 9.185. The Tribunal notes that the use of freezer bags was common to the finds at Rossnowlagh, Ardchicken, and Oatfield and Covehill. It is regarded by these intelligent officers as an unusual feature of such finds. If these officers considered it an unusual feature, it is somewhat difficult to understand why senior officers such as Detective Inspector Lennon, Superintendent Duffy or other members of An Garda Síochána did not. It also notes that retired Sergeant Aidan Murray found that freezer bags were an ideal type of surface to accept a fingerprint but this was dependent on the conditions in which the bags might be found: if dry there was a good chance of getting a print.⁶⁹⁴

Reaction to the Finds at Rossnowlagh

- 9.186. Information supplied by the Garda Commissioner indicates that during the course of 1994 eleven seizures of terrorist arms, ammunition and explosives were made in County Donegal. Six of these finds contained amounts of homemade explosives. Five of these finds are subject to the Terms of Reference of the Tribunal, each of which find the Tribunal has found as a hoax and, has, as a common element, the involvement of each of Ms. Adrienne McGlinchey, Detective Garda Noel McMahon and Detective Inspector Kevin Lennon⁶⁹⁵. The Garda Commissioner has indicated that seizures of homemade explosive mix in the absence of any ancillary material were the subject of telex messages to Garda Headquarters but did not of themselves attract attention nationally when viewed in the context of the overall level of activity for the period.⁶⁹⁶ The Commissioner also indicated that this material did not form the basis of significant discussion with colleagues from the RUC, nor did it constitute a topic for further discussion in meetings with international colleagues. However, it is clear that the find at Rossnowlagh attracted immediate attention from the Northern Ireland Office. On the 19th of July 1994 the Minister of State at the Northern Ireland Office, The Right Honourable Sir John Wheeler, DLMP wrote to the Minister for Justice, Mrs. Máire Geoghegan-Quinn offering his congratulations to An Garda Síochána in

⁶⁹² Transcript, Day, 82, Q.144-148.

⁶⁹³ Transcript, Day, 164, Q.220-27.

⁶⁹⁴ Transcript, Day, 78, Q.132-133.

⁶⁹⁵ Tribunal Documents, 3085-3091.

⁶⁹⁶ Tribunal Documents, page 2868.

relation to the find. The letter read:

Mrs Máire Geoghegan-Quinn TD
Minister for Justice
Department of Justice
72-76 St Stephen's Green
Dublin

19th July 1994

Dear Máire,

May I offer my congratulations to an Garda Síochána on their excellent find of explosives, bomb-making equipment and ammunition in Co. Donegal yesterday.

Invaluable counter-terrorist work such as this will maintain relentless pressure on the terrorist gangs. Members of the Gardai and Irish Army can take satisfaction in the knowledge that their professionalism will surely prevent the death and injury of innocent people, and I sincerely hope that such efforts will continue to bring rewards.

I understand that the Gardai are hopeful of making arrests following the operation. Please convey my thanks to Pat Culligan and his colleagues on this heartening success.

Yours sincerely,

THE RT HON SIR JOHN WHEELER DL MP
Minister of State⁶⁹⁷

- 9.187. The British Embassy in Dublin sent a facsimile of the letter, the original of which was to follow, to the Minister for Justice on the 20th of July 1994. A flurry of activity followed in relation to this letter. On the 3rd of August 1994 the Minister for Justice directed that a copy of the letter be sent to the Commissioner of An Garda Síochána. The Commissioner then forwarded this correspondence to the Deputy Commissioner of Operations:⁶⁹⁸ "For information of Assistant Commissioner, Crime & Security and all concerned". The Assistant Commissioner then sent a letter to the Chief Superintendent at Letterkenny enclosing all of this correspondence, which was then forwarded to each of the members of An Garda Síochána involved, with the exception of Detective Inspector Lennon and Detective Garda McMahon.⁶⁹⁹ The Sergeant in charge at Ballyshannon was furnished with the congratulatory correspondence and with a document requesting that all involved in the search be furnished with a copy of this correspondence. They were requested to sign and date a document acknowledging receipt of this correspondence and the Sergeant in charge was

⁶⁹⁷ Tribunal Documents, page 1116.

⁶⁹⁸ Tribunal Documents, page 1127.

⁶⁹⁹ Tribunal Documents, pages.1125-1126.

then requested to return the material to Letterkenny when the process had been completed. It was apparently completed on the 29th of September 1994.

- 9.188. This flurry of congratulations was in stark contrast to the total inactivity on the part of the personnel involved in this operation at Ballyshannon and Letterkenny in the investigation of this matter. On the 25th of July 1994, Chief Superintendent Noel Anderson had written to Superintendent Duffy offering his congratulations. His replacement, Chief Superintendent Fitzpatrick, reviewed the telexes which had been sent up and in respect of the initial telex caused the following note to be entered on it in typed form:

Noted. Excellent work again by members from Ballyshannon district.
Forward copy of full file in course.⁷⁰⁰

Garda Management

- 9.189. Superintendent Duffy was responsible for the preparation of an investigation file in relation to this matter. Like Detective Inspector Lennon he left the finds unprotected pending their 'discovery' by members of An Garda Síochána in the course of a general sweeping search, which he organised. In the case of Rossnowlagh, this meant that the materials in the derelict house were left unpreserved and unguarded from approximately 10.00 hours until 20.30 hours and, in respect of the shed, remained unpreserved and unguarded until some time between 20.30 hours and 22.00 hours on the evening of the 18th. It had already been left unpreserved and unguarded from approximately 02.30 hours on the morning when supposedly first discovered by Detective Garda McMahon and Detective Inspector Lennon.
- 9.190. If, by this stage, Superintendent Duffy knew that the caravan parked on the side of the road was to be used in an imminent bomb attack at Belleek using these materials, which he says he did, he took no action in relation to this caravan. One might have expected a search and seizure of the caravan and a forensic examination. In fact, Superintendent Duffy did not make any attempt to ensure any forensic examination was carried out in relation to these finds and was quite content to take the materials out of circulation. **The Tribunal is satisfied that if this was supposedly a police practice it was an appalling police practice. The Tribunal does not accept that Superintendent Duffy had no discretion in this matter to exercise a professional judgement in relation to the situation with which he was faced. If there was to be a bomb attack at Belleek using these materials and the caravan, everything pointed towards the initiation of an investigation of these finds and the caravan in as thorough a way as possible. The Tribunal, having regard to the small**

⁷⁰⁰ Tribunal Documents, page 1117.

number of HME finds made in this district and indeed in the County of Donegal in 1994, does not accept that there was any basis for inaction due to overwork, pressure of time or resources or otherwise, or for not pursuing a proper investigation in relation to these finds. Further, surveillance was not even contemplated in relation to the finds. On the basis of Superintendent Duffy's evidence, if he knew all he said he knew, the mounting of a surveillance operation was clearly something which a professional police officer should have considered. The Tribunal concludes that Superintendent Duffy's handling of this operation was grossly incompetent.

- 9.191. Furthermore, no report was obtained from either of the Sergeants who carried out the searches; no statements were taken from the owners of the land on which the finds were made and no file was prepared as directed by Chief Superintendent Fitzpatrick. It is not clear to the Tribunal whether the contents of this note were conveyed to Superintendent Duffy but clearly Chief Superintendent Fitzpatrick expected a file on the matter. When no file was received in Letterkenny, no action was taken by Chief Superintendent Fitzpatrick. There appears to have been no follow-up in relation to the preparation of such a file. There seems to have been a total Garda disinterest outside Ballyshannon in the further investigation of this matter or the fruits of the intelligence obtained. There was no discussion between the senior officers concerning the identities of those who were involved. Crime & Security in Dublin made no enquiries in relation to this major find, which one might have expected having regard to the letter which they had received on the 15th of July 1994. It is clear to the Tribunal that there was knowledge of these events stretching from Ballyshannon, to Letterkenny, to Crime & Security in Dublin. Apart from the self-congratulatory correspondence referred to above there is no evidence of any further interest on the part of An Garda Síochána in these finds or what lay behind them. This is shocking.

Conclusions

- 9.192. The Tribunal concludes that the finds at Rossnowlagh were hoax finds which were organised and perpetrated by Ms. Adrienne McGlinchey, Detective Garda Noel McMahon and Detective Inspector Kevin Lennon. The finds were preceded by an initial process whereby ex-Superintendent Duffy and Mr. Lennon's superiors at Letterkenny and at Crime & Security in Dublin were acclimatised to expect developments at Rossnowlagh by means of the reports furnished by Detective Inspector Lennon on the 10th of June 1994 and the 15th of July 1994. Conclusions in relation to these documents are set out at paragraphs 9.76 - 9.82.

- 9.193. The Tribunal is satisfied that, for months in advance of the finds, preparations were made on the ground by the trio involved in these finds, Ms. McGlinchey, Detective Garda McMahan and Detective Inspector Lennon. This involved the grinding of fertiliser and the transport of fertiliser and other materials to the scene of the finds at Rossnowlagh. These preparations included the grinding of fertiliser by Ms. McGlinchey and Detective Garda McMahan. She could not have done it on her own. The Tribunal is further satisfied that Detective Inspector Lennon, Detective Garda McMahan and Ms. McGlinchey were involved in the movement of material to the shed at Rathfragan on the evening of the 17th of July 1994.
- 9.194. The evidence which supports the hoax nature of these finds comes from a variety of sources. It should be borne in mind that at many turns in the search for the truth of what happened at Rossnowlagh, lies told by Detective Garda McMahan and Superintendent Lennon gave clear support to the allegations of wrongdoing. In reaching conclusions on this matter the Tribunal has attempted to use logic, experience and commonsense in drawing inferences from basic facts established in evidence. In doing so, the Tribunal has been mindful of the caution with which the evidence offered by Ms. Adrienne McGlinchey must be approached. Further, the Tribunal has also had the benefit of the expertise of senior officers of An Garda Síochána and Chief Superintendent Garvie of the RCMP, who were called before the Tribunal to assist it in understanding the norms of police practice and procedure that one might expect to have applied to events leading up to the finds, the finds themselves and the events subsequent to the finds. This enabled the Tribunal to assess the reasons advanced by Detective Garda McMahan and Superintendent Lennon for their various acts and omissions in respect of the finds. The Tribunal already noted their responses in large measure were untruthful and tended to support rather than undermine the allegations made against them.
- 9.195. In dealing with the ‘finds’ on the ground, retired Superintendent Duffy acted in disregard of ordinary commonsense. His evidence on his actions was unreliable. He was negligent to a high degree.
- 9.196. Chief Superintendent Fitzpatrick, on becoming aware of major ‘finds’ of homemade explosives, failed to manage the Donegal division by checking on the perpetrators, their motivation and their future plans. In failing to follow up on the paperwork that should have been seen to by Superintendent Duffy, he fell down in the role of supervisor. In apparently accepting yet another ‘Adrienne McGlinchey story’ as fact, he failed to use the inquiring mind that is the hallmark of police work. This was negligence.

CHAPTER 10 SUBSEQUENT EVENTS

Introduction

10.01. The purpose of this section of the report is to deal with events which occurred subsequent to the finds, on which the Tribunal is obliged to report, and which were not necessarily connected with them. Given the conclusions which the Tribunal has so far reached, it will be unnecessary to survey these events in the same detail. It suffices to say that nothing which happened subsequent to the final 'finds' at Rossnowlagh has altered the Tribunal's view as to the dynamic behind the events on which it has reported, or the culpability to be attached to same.

Late 1994

10.02. The Tribunal is aware that during August of 1994 Detective Inspector Kevin Lennon accompanied Detective Superintendent John Gallagher into Belleek in Co. Fermanagh. There they visited the scene of a type of bomb which had become colloquially known as 'A Barrack Buster'. During the course of conversation, Detective Inspector Lennon made reference to information which he had dealt with in relation to a similar bomb which was being planned or assembled by persons in the Ballindrait region. The Tribunal is satisfied that no sinister inference can be drawn from this visit. It would appear that this kind of cross-border cooperation was routine. The Tribunal is aware that Detective Inspector Lennon had other contacts, apart from his supposed contact with Adrienne McGlinchey, and that he would have been capable of contributing to ordinary police work apart from the unfortunate events which it has been the Tribunal's task to outline.

10.03. On the 31st of August 1994 the 'Provisional IRA' declared a ceasefire. This ceasefire lasted until the 9th of February 1996 when a huge bomb exploded at Canary Wharf in London resulting in the death of a number of people and widespread destruction of property. A further ceasefire was called after a period of seventeen months on the 18th of July 1997.

10.04. During the course of her evidence, Adrienne McGlinchey has claimed that in the period when the 'Provisional IRA' were off ceasefire, Kevin Lennon again approached her. She claimed that after the Rossnowlagh find, he had left her more or less to her own devices. The re-instigation of the terrorist campaign by the 'Provisional IRA' opened a window when it might be possible that further 'finds', of the kinds described in this report, might be initiated. Her evidence was, indeed, to this effect. In a vague way, Adrienne McGlinchey attempted to

implicate Kevin Lennon in attempting to initiate the planning stage for yet further frauds. She said that he had approached her and told her that he had a friend in another border county for whom he wished to do a favour of some kind. That would have involved the planting of suspicious subversive paraphernalia so that it could be discovered, in the manner outlined in the previous chapters.

- 10.05. The dating of this is unclear but it is appropriate to refer to this evidence here as it completes the picture as to the termination of the relationship between Adrienne McGlinchey and Detective Garda McMahon and Detective Inspector Lennon. Detective Garda McMahon, however, maintained that the contact was not ended abruptly but that there were periodic meetings. The result of these was, even on his own account, minimal.⁷⁰¹ Having been asked by the Chairman of the Tribunal as to whether she had done any more grinding of explosive material after the declaration of the ceasefire, Adrienne McGlinchey responded as follows:

*Well, after we came back from America, I would say probably, it was some time in early 1995. The next thing I remember, being up in Noel's house, and he had a bag of fertiliser. He was saying that Lennon had taken all the glory again and that he owed somebody a favour in Monaghan and he wanted a load of stuff brought down to Monaghan. We had a row about this. At this time there was another situation, a personal situation going on and we had a row and the next thing, he brought Kevin Lennon to meet me and Noel McMahon and they said that they were going to arrest my flatmate and they were going to do her ... Yes, there were a lot of threats and all that there. Nothing ever came of it, we fell out. This is from what I remember ... I remember falling out with him anyway, they wanted to go and arrest Yvonne [Devine] ... What we did was, we got a job in the Fruit of the Loom in Milford and we worked there for a while. Well, some time then, I don't know how long I worked there, I had no contact with Noel McMahon then at all or Kevin Lennon. Then I worked in the family business then, if you want to say, I returned to the fold or something of that line. Yvonne, she did a FÁS painting and decorating course.*⁷⁰²

- 10.06. The Tribunal is not content to rely on such evidence with a view to finding any culpability against Detective Garda McMahon or Superintendent Lennon. The evidence is impossibly vague. It is unsupported by any detail. It is not backed up by any evidence which concurs as to the facts. It is not corroborated in any material way that the Tribunal might find, as a matter of inference, implicates

⁷⁰¹ Transcript, Day 138, page 16.

⁷⁰² Transcript, Day 13, pages 98-100.

Superintendent Lennon and Detective Garda McMahon in a plan to plant yet further explosives. This evidence is rejected.

Trip to New York

10.07. In November of 1994 Adrienne McGlinchey and Yvonne Devine travelled to New York. This trip has been the subject of considerable discussion in closed session of the Tribunal. In consequence, the conclusions which are herein set out make reference not only to the limited information on this incident which was publicly discussed, but are also based on evidence and documents which the Tribunal is not at liberty to disclose.

10.08. The Tribunal is satisfied that notification that Adrienne McGlinchey and Yvonne Devine were to travel to New York was sent to Garda Headquarters. Detective Garda McMahon described his knowledge of these events in the following form:

The best I can remember about it is that she informed me that she was going to America more or less on behalf of the PIRA and that she had to collect some documents and there was reference to a plate with regards to counterfeit money and that she would be taking these things back to Ireland and that that was the main reason for going and that her expenses were being paid for by the PIRA. She promised that she would show me these documents and whatever she picked up but on her return she said it never materialised and that she didn't collect anything. That's basically it ... As per usual, I informed my authorities of the job she was supposed to do and that I was supposed to see the stuff on her return. I have a vague recollection that [the documents] were about some type of weapon ... I think it was something to do with the ability to take helicopters down ... Other than that I'm sort of digging very deep ... my actual thinking was a rocket-type propellant.⁷⁰³

10.09. The Crime & Security Branch of An Garda Síochána responded to this notification in good faith. It was necessary for them to have liaison with foreign security agencies. Notwithstanding the existence of the ceasefire, the matter was presented by Detective Garda McMahon as an attempt by the 'Provisional IRA' to secure missiles of some kind. The activities of Adrienne McGlinchey and Yvonne Devine were monitored in the United States. Everything they did in that country was not suggestive of any serious intent to pursue a terrorist plan but was, rather, a bizarre re-flowering of the worst of their behaviour during the height of their Buncrana activities. They dressed as leprechauns. Having brought with them a

⁷⁰³ Transcript, Day 138, pages 1-5.

number of pieces of turf from their native county, they packaged these into parcels of some kind and proceeded to sell them as ‘pieces of the ould sod’ in various places in New York. Apparently, business was brisk. It suffices to say that any security agency that might have had any dealing with them would very quickly have concluded that their activity was either an extraordinary diversion or was inconsistent with the actions of persons intent on terrorism.

Comment on the New York Trip

10.10. The circumstances detailed of the trip to New York by Adrienne McGlinchey and Yvonne Devine conform to the worst of their behaviour during the Bunrana period. Characterising that chapter of events was a complete refusal by senior officers to confront a situation which was without parallel. On travelling to New York, this behaviour took on an international dimension. It expressly involved Crime & Security in an incident which was both bizarre and inconsistent with the purpose of the trip stated, which was to facilitate a professional terrorist organisation. It is extremely disappointing and mystifying as to why the Crime & Security Branch of An Garda Síochána did not follow this matter up by making a full enquiry of local officers in Donegal as to the nature of what was going on. Headquarters were expressly put on warning, through this trip, that someone who had been presented as an informer against a major terrorist organisation was behaving in a manner that could not be fitted within any profile of which the Tribunal has heard. At the least, this incident demanded that Garda Headquarters should interest themselves in Adrienne McGlinchey, her handler Detective Garda McMahan, his supervisor Detective Inspector Lennon and all those officers who had dealings with her in respect of the major finds that have been the subject of the Tribunal’s investigations. Headquarters did not know of the involvement of Adrienne McGlinchey in these finds because her handler, his supervisor and the Superintendents and the Chief Superintendent in Donegal did not inform them. However, this New York trip is something of which they knew and it demanded that questions should be asked. To have failed to have asked appropriate questions was negligence on the part of the Crime & Security Branch of An Garda Síochána.

The End of the Relationship

10.11. Adrienne McGlinchey and Yvonne Devine returned in due course to Co. Donegal where they continued with their lives. A watershed had been passed. Whatever fascination with police forces, or other motives, had guided them along the extraordinary path that they had taken over the previous three years had now dissipated. They thereafter continued to lead their lives in a quiet way distant from the attentions of An Garda Síochána. Probably their story would have remained dormant but for the appointment of the Carty investigation team, its

subsequent contact with Sheenagh McMahon and the discovery of the strange piece of hardware in the Detective Superintendent's office in Letterkenny. The Tribunal will briefly discuss the initial contact between the Carty investigation team and members of An Garda Síochána in a later chapter.

Detective Garda McMahon in 1995

10.12. The Tribunal is satisfied that whatever problems Detective Garda McMahon had had over the course of his contact with Adrienne McGlinchey, his behaviour markedly deteriorated after he had lost regular contact with her. The Tribunal regards the two matters as unconnected. It is not the purpose of this Tribunal to discuss the family problems of Detective Garda McMahon and his wife Sheenagh. Any reference to this matter was therefore kept to a minimum in evidence and will be referred to only briefly now.

10.13. The Tribunal is satisfied that in 1995 Detective Garda McMahon's alcohol problem became worse. Nonetheless, he continued to act as a Detective Garda and continued to hold a standard issue firearm. Some Garda stations will have firearms available to members, on a need to carry basis, from a supply kept secure in locked firearms cabinets. Ordinarily, however, Detective Gardaí who carry firearms will keep possession of their personal issue weapon at all times. Apart from tours of duty, therefore, such a Detective Garda will have his or her weapon in their home. In the case of Detective Garda McMahon, this posed obvious issues. The evidence of Detective Garda McMahon was that his drinking and the carrying of a weapon never posed a problem. The Tribunal merely notes those positions without deciding on the evidence. In evidence, Detective Sergeant Tom Sreenan said that on "one or two occasions" he went to Superintendent John P. O'Connor. His concern was expressed in the following form:

... I told them that I felt he was, I suppose, too heavy on the drink, for want of a better explanation, and he should not really be carrying a firearm ... It wasn't a long discussion, I just went to him and merely told him it was my opinion, and it was up to him to deal with it ... I don't think he dealt with the situation. He may have after I retired, it may have been dealt with then. But as far as I recall no, the situation [continued].⁷⁰⁴

10.14. Detective Sergeant Sreenan further said that on no occasion did he go back to Superintendent O'Connor and indicate to him that the problem which existed had now lessened or disappeared. On the 16th of January 1995, Superintendent John P. O'Connor made the following diary entry:

⁷⁰⁴ Transcript, Day 38, pages 136 and 143.

At 12.30 p.m. Detective Sergeant Sreenan called to my office. He was seeking to have the official firearm taken from Detective Garda McMahon whom he alleged was misbehaving in various ways. The Detective Sergeant felt he was a threat to his wife. The Detective Sergeant has no substantial evidence, just hearsay, innuendos etc. I made some notes and I told him I would consider the matter. I had already been in regular contact with the Detective Inspector, Letterkenny, on this matter and I have no grounds presently to intervene. I, on the same date, discussed this visit with Detective Sergeant Leheny and I am satisfied to leave the weapon with Detective Garda McMahon. The matter is being kept under review.⁷⁰⁵

- 10.15. The response of Superintendent John P. O'Connor was to tell Detective Sergeant Leheny about the problem and to ask him to talk to Detective Garda McMahon in order to warn him. The Superintendent expected Detective Sergeants Leheny and Sreenan to monitor Detective Garda McMahon. In addition, he was in contact with Detective Inspector Lennon who, in some way, was also described as having been monitoring the situation.⁷⁰⁶ Superintendent O'Connor accepts that Sergeant Sreenan had told him that Detective Garda McMahon was a threat to his wife.⁷⁰⁷ In that context, it was not appropriate to deal with the situation by casting a burden upon two Detective Sergeants that they should have a responsibility for monitoring the dangerousness of a colleague who had descended into alcoholism, especially as one of them had already warned the district officer of the situation. Detective Inspector Lennon, for reasons connected with the incident when Detective Garda McMahon pointed a gun at Garda Gordon, was hardly going to be a useful check on the situation which had developed. In fairness to Superintendent O'Connor, he was not aware of that situation. **His handling of this problem, however, was an abdication of responsibility. The Tribunal cannot see that it is appropriate that someone with an alcohol problem should be allowed to carry a firearm.**⁷⁰⁸

Barring Order

- 10.16. On the 16th of June 1995 a barring order was granted to Sheenagh McMahon against her husband. It is not the function of the Tribunal to decide whether Mrs. McMahon had good grounds to pursue this application but it is to be presumed that a court would not grant such a severe order in the absence of firm evidence. In the result, however, such evidence was not presented either to the court or, following an objection by counsel on behalf of Detective Garda McMahon, to the Tribunal. The application was granted by the District Court in Merville on the consent of the parties.

⁷⁰⁵ Tribunal Documents, page 2429.

⁷⁰⁶ Transcript, Day 120, page 77.

⁷⁰⁷ Transcript, Day 120, page 78.

⁷⁰⁸ See also the evidence of Detective Sergeant Leheny, Day 85, page 33.

- 10.17. A matter of controversy arose, in the course of the Tribunal hearings, as to the relationship between Detective Garda McMahon and the other members of An Garda Síochána in Buncrana. This matter was described in Sheenagh McMahon's evidence in the following way:

When we arrived into the courthouse, I walked into the courthouse and I got an awful surprise when I seen all these gentlemen that I would have known for a long time and I would have believed would have been friends of mine. And I was kind of shocked at the fact that they were all there, but anyway, I suppose my idea at the time was I just said to myself: "This is the Garda club arriving now to" – that is just the way – that is just the way I had thought about it. I had gone – the judge just said: "Look leave this until after lunch", so we went off for lunch. So, we went off for lunch and we were sitting in [a hotel] in Moville ... And Dr. Bradley was there and myself. Noel was sitting with Kevin Lennon. His sister too had arrived, Kathleen Hayes had arrived at the court as well and the other guards were a distance from Noel and Kevin Lennon ... So, during that the two solicitors were talking, his solicitor, Marian Dee from Buncrana and my solicitor Frank Dorrian were talking and Frank Dorrian came back over to me at one stage and he says: "Look, Sheenagh ... The situation that we have here today is that these men are here to take your children off you. Is there anything that you have not told me that happened?". I told Frank Dorrian then that Noel McMahon had put a gun to my head. He went back then and he relayed the story to Marian Dee who went back and relayed the story to Noel McMahon and the next thing I knew it was consented to.⁷⁰⁹

- 10.18. The Gardaí present, and apparently ready to give evidence, were Detective Inspector Kevin Lennon, Detective Sergeant James Leheny, Detective Sergeant Des Walsh, Sergeant Michael Murray and Garda Tom Rattigan. The incident leading to the application for the barring order was heavily disputed in cross-examination by counsel on behalf of Noel McMahon. It is no business of the Tribunal to resolve the issue. The Tribunal makes no finding of fact as to any assault. On whatever account might be accepted, should the matter ever come to be tested, a serious situation had arisen in the McMahon household.
- 10.19. All of the Gardaí who were present in court that day gave evidence to the Tribunal. They denied being a part of what might be seen as an intimidatory group. They, each of them, explained that they could not give evidence of anything other than facts which were within their own knowledge. These facts,

⁷⁰⁹ Transcript, Day 7, pages 42-43.

they claimed, could not extend to an attempt to take Mrs. McMahon's children away from her. In some instances, they were not witnesses to any events occurring within the McMahon household. The hearsay rule prevented the repetition of rumour or information received from their colleague Detective Garda McMahon. Given the serious nature of the allegation against him, Detective Garda McMahon was entitled to call character evidence in an attempt to prove that it was unlikely that he could have perpetrated the serious assault referred to in the extract quoted above. Some of the Gardaí indicated that they were there as character witnesses. This story is not, therefore, beyond belief.

- 10.20. The Tribunal cannot resolve this controversy as, if it were to do so, it would be stepping outside the Terms of Reference and the facts necessary to decide the issues pertinent to same. It suffices to record that within a matter of weeks of the granting of the barring order on consent, Sheenagh McMahon allowed her husband to return to their household. Their problems continued.

Superintendent Kevin Lennon - Buncrana

- 10.21. In February of 1996 John P. O'Connor was transferred from his position of district officer at Buncrana. He moved to other duties out of the division. Kevin Lennon was promoted to the rank of Superintendent and appointed district officer in his place.
- 10.22. The arrival of Superintendent Kevin Lennon in Buncrana was not universally welcomed. However, the appointment of a senior officer to a district does not necessarily have to generate universal enthusiasm. He or she is there to do a job of work. In that respect, some may welcome the appointment and others may feel disappointed or annoyed. It is not the function of the Tribunal to report on labour relations in the Garda district of Buncrana. It suffices to say that what the Tribunal has heard in evidence indicates that confrontation had, to a large degree, replaced cooperation and the pursuit of common goals in the Buncrana district. That situation may not be unusual in certain Garda districts. The Tribunal is not prepared to come to the conclusion that Superintendent Kevin Lennon was wholly, or indeed at all, to blame for that situation. Nor does the Tribunal feel entitled to reach any opposite conclusion by seeking to point the finger of blame at other persons working within the division. It suffices to explain that the conflict which ensued between Superintendent Kevin Lennon and Detective Sergeant Jim Leheny gave rise to some extraordinary actions on the part of both of them.
- 10.23. Shortly after Kevin Lennon arrived as Superintendent in Buncrana a number of members of Detective Branch were spoken to by him. The purpose of the conversations appeared to have been to find out whether they had any problems with him regarding his authority as Superintendent. The Tribunal regards any

attempt at calm interaction by an officer with his subordinates as being a laudatory measure and draws no adverse inference against anyone from this incident.

- 10.24. All during this time, the difficulties that Detective Garda Noel McMahon was experiencing with alcohol continued. Much evidence was produced before the Tribunal as to the effect that this had on him, and on those working with him. The immediate superior, and working partner, of Detective Garda McMahon was Detective Sergeant Leheny. Essentially two views were painted as to the relationship between them. On the one hand, it might be seen that Detective Sergeant Leheny spent a great deal of his time and effort, during his tours of duty, in fostering the potential rehabilitation of Detective Garda McMahon. There was also some evidence that he took steps to reach out to Detective Garda McMahon's family. The view, however, as expressed by Noel McMahon to his wife was that Detective Sergeant Leheny was "being nosy".⁷¹⁰ He claimed to have found his Detective Sergeant over-controlling to the extent that he found it more than difficult to work with him.

The 'Letter of Satisfaction'

- 10.25. A number of disagreements and rows broke out between Detective Sergeant Leheny and Detective Garda McMahon. On one occasion this led to a physical manhandling. The Tribunal is not prepared, because it is not within its Terms of Reference, to attempt to resolve the rights or wrongs of any of these situations. The purpose in referring to them is to show the context of three documents to which it is necessary for the Tribunal to refer. Both Detective Sergeant Leheny and Detective Garda McMahon have given extensive evidence on the background to the documents in question. One of these was referred to in the course of the judgement of the Court of Criminal Appeal in *The People (DPP) v Frank Shortt* as the 'letter of satisfaction'.⁷¹¹ The discovery of this document was described by Detective Sergeant Leheny in the following manner, in answer to an initial question from counsel as to whether he had entered the Detective Branch office on the night of the 26th of March 1996:

There was nobody in the office, and this would have been the following night. ... There was just a few lockers, a table and a computer. Also there we had our – each individual member has his own safe, a wee small safe. I went in there and I saw a document on the table, beside the computer, which drew my attention ... I picked up the document, I read it. It was a photostat copy of a typed document on an A4 sheet. It was stamped 'Detective Branch Office, Buncrana'. The stamp bore the date the 26th of March

⁷¹⁰ Transcript, Day 7, pages 76-77.

⁷¹¹ Transcript, Day 7, pages 76-77.

1996. The document was addressed to Superintendent Kevin Lennon, and it was signed by Noel McMahon, Detective Garda. ... I was amazed at reading it. It took me a long time to understand what the contents meant. I made a firm decision. I locked it away in my locker and I never divulged it or discussed it to any member of the Force or any person until – it was June 1999, when the Carty investigation team commenced, when I was first interviewed by Superintendent Coll and Superintendent [Jackie F.] O'Connor ... I made disclosure of the document [to them].⁷¹²

10.26. The Tribunal feels this document should now be quoted. It reads:

Superintendent K. Lennon,
Buncrana.

Re: Allegation made against Superintendent K. Lennon,
Buncrana Garda Station

With regard to the above caption I wish to state as follows:-

I do not have anything whatsoever against Superintendent K. Lennon, Buncrana Garda Station. I do not know anything that would endanger his career or that I could say about him to endanger his career.

I have known Superintendent K. Lennon for the past 19 years and during that time I have held and remain to hold the highest respect for him. In all of this time I have found Superintendent K. Lennon to be a hard-working efficient member of the force who obtained his rank through hard work and integrity. I can only say that any time I needed help in any matter, either in the job or indeed in my personal life, the same was readily available from Superintendent K. Lennon and also his wife, Mary Lennon.

My respect and loyalty will always remain with Superintendent K. Lennon.

Forwarded for your information please.

_____ D/Garda
(Noel J. McMahon.)⁷¹³

10.27. According to Noel McMahon, this document had its origin in a row that occurred in a public house between himself and Detective Sergeant Leheny. The background is essentially irrelevant. It suffices that passions between them had run high but the Tribunal refuses to comment as to who was in the right and who

⁷¹² Transcript, Day 85, pages 66-68.

⁷¹³ Tribunal Documents, page 1876.

was in the wrong. In the course of an exchange, Noel McMahon was reported by Detective Sergeant Leheny as having said of Superintendent Lennon that he knew something about him that could have him either dismissed or suspended within twenty minutes. This conversation was reported back to Superintendent Lennon. Instead of attempting to discover more as to the nature of the knowledge that Detective Garda McMahon might have, or looking into the fraught relationship between Detective Sergeant Leheny and Detective Garda McMahon, Superintendent Lennon was, understandably, upset. However, Superintendent Lennon indicated that he did not solicit Detective Garda McMahon to write this document. It was presented to him by Detective Garda McMahon at or around the time that a different version of the Leheny/McMahon conversation was related to him. This version, the version by Detective Garda McMahon, was to the effect that a number of allegations had been made by Detective Sergeant Leheny against Superintendent Lennon. These were both professional and personal.

10.28. As to why Detective Garda McMahon should present Superintendent Lennon with such an extraordinary letter was not explained satisfactorily in the course of evidence. Detective Sergeant Leheny is supposed to have said to Superintendent Lennon, that Detective Garda McMahon had said to him that he knew something about Superintendent Lennon that could have him suspended within twenty minutes.⁷¹⁴ That communication “came out of the blue”.⁷¹⁵ This is the explanation of Superintendent Lennon, in answer to questions from the Chairman of the Tribunal:

Q. Did you enquire from him, what are they, what are these things [being said about you]?

A. Yes, Sir, he said he wouldn't – he got him drunk one night and he wouldn't say.

Q. He said what?

A. That he got Detective McMahon drunk one night and tried to get it out of him but he wouldn't say.

Q. And he wouldn't say? ... Now I know there was more in that conversation but is that effectively the relevant parts of it?

A. That is the relevant part of it, yes.

Q. What was the next thing that happened?

A. Then I called over Detective McMahon to my office.

⁷¹⁴ Transcript, Day 148, pages 112-113.

⁷¹⁵ Transcript, Day 148, page 113.

- Q. Yes?
- A. *And I asked him what was going on, in terms of what's going on, what's these discussions about, Leheny saying he'll have me suspended within twenty minutes and he said, no, it was Leheny was making allegations against you. He told me he referred to these [allegations outlined].*
- Q. *Oh right, go on?*
- A. *And then that was it. I said, I'll deal with the two of you guys in terms of discipline.*
- Q. *Right?*
- A. *Then he went away and he came back with this letter and it was unsolicited, saying that he had nothing against me and all that. I told him he wrote to the wrong person, he should have written to Detective Sergeant Leheny.*
- Q. *Why would he write to Sergeant Leheny?*
- A. *Because Sergeant Leheny was the person who was saying things about me.*
- Q. *Why would that make it necessary for him to write to Leheny?*
- A. *To put it up to Leheny that he wasn't to go saying them.*
- Q. *No. It still doesn't make sense?*
- A. *Well, if Detective Sergeant Leheny was making these allegations against me.*
- Q. *That is nothing to do though, I understood you to say, with the new genie that had hopped out of the bottle, that McMahon could have you suspended. Forget about what Leheny might have been saying about you, McMahon had something up his sleeve?*
- A. *He said he hadn't. He said Detective Sergeant Leheny – sorry, Sir, I'm trying to explain. He said it was Detective Sergeant Leheny was saying these things about me.*
- Q. *Oh right. It doesn't matter what Leheny was saying about you?*
- A. *It does to me, Sir.*

Q. *No, but it doesn't matter in the context of what I am asking you. Do you not see what it is, McMahon is saying to you, I know things about Lennon that could have him suspended in twenty minutes. That's what McMahon is saying?*

A. *Yes. And that's what Sergeant Leheny said to me.*

Q. *Yes?*

A. *That's what Sergeant Leheny said to me, that McMahon said things about me.*

Q. *Yes?*

A. *And when I asked McMahon about it, he said it was in the context of obtaining monies from two individuals, business people and in terms of ... (interjection).*

Q. *So McMahon had the same story, had he?*

A. *Yes, but Leheny said that to him.*

Q. *Superintendent, at no stage did McMahon ever indicate what it was he was supposed to have against you?*

A. *No, Sir, never. ...*

Q. *And I still don't understand why he came trotting into you with the letter saying "I don't know anything against you"?*

A. *Yes.*⁷¹⁶

10.29. It is important to note that the case made by Detective Sergeant Leheny, on this issue, was that he had no reason to "look for dirt on Kevin Lennon",⁷¹⁷ nor did he do so. He did not suggest any personal misbehaviour, or any professional abuse of trust, by Kevin Lennon either at the time or later. A further extraordinary allegation was put, in cross-examination, to Detective Sergeant Leheny. It was to the effect that he suggested to Detective Garda McMahon that he should break into Superintendent Lennon's office in Buncrana Garda Station using a ladder stored at the station. This is vehemently denied by Detective Sergeant Leheny.⁷¹⁸

10.30. When Detective Sergeant Leheny saw the document above quoted, in the detective office in Buncrana Garda Station, he concluded that it had been generated as a result of what Detective Garda McMahon had stated to him. In other words, that it was a rebuttal of Detective Garda McMahon's statement that he knew something about Superintendent Kevin Lennon that could cause him to be suspended within twenty minutes.⁷¹⁹

⁷¹⁶ Transcript, Day 148, pages 112-116.

⁷¹⁷ Transcript, Day 6, page 80.

⁷¹⁸ Transcript, Day 86, page 81.

⁷¹⁹ Transcript, Day 85, page 68.

- 10.31. On the presentation of the foregoing document to Superintendent Lennon by Detective Garda McMahon, their evidence concurs as to what his response was. The testimony of both of them was to the effect that Superintendent Lennon had remarked that it was inappropriate to be sending a letter to him effectively indicating that he was of good character: instead, such a letter should have been addressed to Detective Sergeant Leheny. In the result, Superintendent Lennon picked up a pen and wrote down the following. He claimed that he wrote this in order to instruct Detective Garda McMahon as to the kind of letter that should be addressed directly to Detective Sergeant Leheny:

I have worked with Superintendent Lennon as a D/Inspector.

1. We have worked on sensitive operations
2. We have carried out all operations to the best of our ability
3. I have never known Superintendent Lennon while in any rank to take part in or authorise either accompanied by me or otherwise
 - (a) Any unlawful activity or operation
 - (b) To act illegally during the course of duty or off-duty
 - (c) To act illegally while participating in any operation⁷²⁰

- 10.32. These documents came to light when Sheenagh McMahon disclosed them, as was her duty, during the course of preparations for the approach of the appeal in *The People (DPP) v Frank Shortt* case. The copy made by Detective Sergeant Leheny, on coming across the letter of satisfaction by accident in Buncrana Garda Station, was actually signed by Detective Garda McMahon.⁷²¹ The documents disclosed by Sheenagh McMahon included the original handwritten note of Superintendent Lennon⁷²² and an unsigned typed copy of the letter of satisfaction “presented in an unsigned form by Detective Garda McMahon to Superintendent Lennon”.⁷²³

- 10.33. The Tribunal notes that both Superintendent Lennon and Detective Garda McMahon have denied that any of these documents have anything whatsoever to do with the relationship which they had with Adrienne McGlinchey. The Tribunal also notes that minimal and, in the view of the Tribunal, misleading explanations were given in relation to the documents by Detective Garda McMahon and Superintendent Lennon to the Court of Criminal Appeal. Neither Adrienne McGlinchey nor Sheenagh McMahon could be expected to know anything as to the origin of the documents. In the result, the Court of Criminal Appeal ascribed the relevant documents to be an indication of guilt regarding the operation whereby Frank Shortt was convicted under Section 19 of the Misuse of Drugs Act 1977, as amended by the Misuse of Drugs Act 1984, in respect of his control of the Point Inn premises at Quigley’s Point. The reference to Superintendent Lennon “as a D/Inspector” could be referable to the time when

⁷²⁰ Tribunal Documents, page 1874.

⁷²¹ Tribunal Documents, page 3142.

⁷²² Tribunal Documents, page 1874.

⁷²³ Tribunal Documents, page 1876.

he worked supervising Noel McMahon in his relationship with Adrienne McGlinchey. The reference in one document to “sensitive operations” could also refer to the handling of an informer. The reality is that the Tribunal is unable to say as to whether the documents refer to the Adrienne McGlinchey affair or to the Point Inn affair. The Tribunal has inferred from the evidence before it that Kevin Lennon was interested in Adrienne McGlinchey at a time before he became a Detective Inspector. However, the vast bulk of illegal activity which the Tribunal has documented occurred while he held Detective Inspector rank. The activities at the Point Inn were conducted ‘undercover’ and could perhaps be described as ‘sensitive’, though this is less likely.

- 10.34. One matter of which the Tribunal is certain is this: the Tribunal has not been told the truth by Detective Garda McMahon or by Superintendent Lennon as to the origin of these documents. The Tribunal is also certain that these documents could not have come into existence but for Detective Garda McMahon and Superintendent Lennon sharing a guilty mind in relation to their past activities. The documents are not explicable on the basis of an attempt to restore discipline within the Garda force at Buncrana and the Tribunal rejects this evidence. None of the documents were, in the result, shown to Detective Sergeant Leheny.

A ‘Confession’

- 10.35. On the 7th of July 1996 Detective Garda Noel McMahon and Sergeant John O’Keeffe were partaking of refreshments in O’Flaherty’s Bar in Buncrana. The Tribunal is satisfied that, during the course of that conversation, Detective Garda McMahon became increasingly drunk. He told Sergeant John O’Keeffe that he had been responsible for driving a bomb into Strabane on behalf of Adrienne McGlinchey.
- 10.36. The Tribunal has investigated this incident both in Ireland and in Northern Ireland. On the 3rd of July 1993 a bomb attack occurred at Strabane courthouse. The Tribunal has been fortunate in gaining access to the relevant documents as a result of the cooperation of the Northern Ireland authorities. The Tribunal would like to thank the Police Service of Northern Ireland for making it possible for its legal team to see the appropriate documents and also for assisting in the interviewing by counsel of former serving members of the Royal Ulster Constabulary GC. The Tribunal is satisfied that there is no question but that this attack was the work of the ‘Provisional IRA’. The Tribunal is also satisfied that neither Adrienne McGlinchey nor Detective Garda McMahon had anything to do with this bomb.
- 10.37. In the course of a number of rambling statements to the Carty investigation

team, Adrienne McGlinchey had appeared to initially claim that she had had some involvement in this bombing. These were lies. The Tribunal is satisfied that, not for the first time, she was making much of herself. The unfortunate aspect of these allegations is that she has dragged a number of responsible serving members of An Garda Síochána into a fictitious web of conspiracy centred on that bombing. The Tribunal is satisfied that anything that she knew about the Strabane bomb could have been gleaned easily from nationally and locally available media reports at the time. The Tribunal is satisfied that none of the persons whom she claims had something to do with the preparation and transportation of the bomb had anything to do with it.

- 10.38. The Tribunal notes that, in giving evidence, Adrienne McGlinchey distanced herself from the earlier statements which she had made and attempted to explain them on a different, but not entirely coherent, basis. I am satisfied that my legal team investigated this matter with the utmost thoroughness and had at their disposal all the information that was relevant. It is to be noted that none of the materials found in the course of the various searches that led to the ‘finds’ detailed above involved an active or primed bomb. The actual destruction of life and property was beyond the competence of those involved in the hoaxes which we have noted. While the Tribunal is satisfied that Detective Garda McMahon made the statements reported by Sergeant John O’Keeffe, he was speaking while badly intoxicated and against a background of history of alcohol abuse. It is probable that the tension of having been involved in the events detailed in the previous chapter left him desirous of confiding in a friend or colleague. In the result, perhaps to emphasise his culpability as to those events, he referred to a real bomb exploding on a real occasion. Having thoroughly investigated the matter the Tribunal is satisfied that there is no validity to this claim.

Detective Garda McMahon’s Firearm

- 10.39. Detective Sergeant Leheny continued to report on the condition of Detective Garda McMahon on a periodic basis. The Tribunal makes no finding of fact as to whether the correspondence directed by him to the Superintendent in Buncrana was correct or incorrect in terms of the facts which it alleges. The Tribunal merely notes that he had concerns as to the fitness of Detective Garda McMahon to carry out his duties.
- 10.40. On the 4th of January 1997 a lengthy letter was written by Detective Sergeant Leheny to Superintendent Kevin Lennon at Buncrana Garda Station.⁷²⁴ It notes that Detective Garda McMahon’s Garda firearm and his licensed shotgun had been removed by Superintendent Lennon on the 6th of November 1996. It noted an incident on the 3rd of January 1997 at the McMahon household. The Tribunal

⁷²⁴ Tribunal Documents, pages 3151-3163.

is not entitled to comment on this matter as it is not within its Terms of Reference and has not been made the subject of full examination and cross-examination in the course of hearings. The letter makes a strong case that there was cause for concern as regards the behaviour of Detective McMahon. Any issue which touched on the abuse of alcohol by Detective Garda McMahon during the course of his evidence in the Tribunal was met by him stating that he had never abused his rank as a Detective Garda by turning up for work the worse for the abuse of alcohol. The Tribunal makes no finding of fact in relation to this matter. Evidence has also been received as regards the firearms register kept in Letterkenny Garda Station but, again for the same reasons, the Tribunal makes no finding of fact in relation to that matter.

- 10.41. During January of 1997, Detective Garda McMahon presented a number of certificates justifying a number of absences from work. This seems to fit within a pattern of absences indicating poor health. The Tribunal makes no comment in relation to this matter. Detective Garda Leheny wrote to Superintendent Lennon concerning these absences on the 16th of January 1997.⁷²⁵ It would appear that Superintendent Lennon attempted to respond to the illness of Detective Garda McMahon, whatever its nature was, by humanely proffering him the time to deal with his problems.⁷²⁶ Detective Sergeant Leheny responded to the directives from his Superintendent, in that regard, in an appropriate way by accepting and following through on the relevant orders. Eventually, in June of 1997, Detective Garda McMahon was transferred permanently from the Detective Branch at Buncrana to the Detective Branch at Letterkenny.

Detonators Discovered

- 10.42. The transfer of Detective Garda McMahon's employment from Buncrana to Letterkenny had the consequence that the McMahon family moved house. As would be usual, their original home at Porthaw in Buncrana had to be cleared out for the purposes of the move.⁷²⁷ Reference has already been made in this report to the shed and garage that were situated to the rear of the original McMahon family home. Sergeant Michael Brennan was assisting the McMahon family. Because he has been unwell, the Tribunal has not had the benefit of his evidence. An incident involving him was described by Sheenagh McMahon in evidence in the following way:

... He was out in the shed cleaning out the shed, just packing stuff and the next thing I was out in the shed, I went out to the shed while I was in the shed with him and he produced this little cardboard box to me. He opened it and he said to me that they were detonators ... I then went into the house and I said to Noel:

⁷²⁵ Tribunal Documents, pages 3173-3175.

⁷²⁶ Tribunal Documents, pages 3185 and 3187-88.

⁷²⁷ Transcript, Day 7, page 68 gives the year of the move as 1997.

Mick Brennan is after finding detonators in the shed. ... Noel said to me: Ah, let him go, he says, everybody will know where they come from ... I had never seen them before until that day ... Mick Brennan had them in his hand, I don't know where he got them from ... Well, to the best of my memory now, it is like two little, at the end of them it was just like two little wires coming out each side of them. It seemed to be in a cardboard box with kind of tissue in them. There was three of them in it ... You know the large matchbox ... About that size of a box ... It was just an ordinary ... A brownie box like.⁷²⁸

- 10.43. Detective Garda McMahon did not deny having a conversation with his wife of the kind testified by her. He indicated that he might have said “ah let him go, everybody will know where they came from” and proffered the explanation that:

I might have said that because I knew there was nothing out there.⁷²⁹

- 10.44. This, apparently, was some kind of a joke.⁷³⁰ The case made to the Tribunal was that Detective Garda McMahon had been interested in the past in fishing. In consequence, he may have had some fibreglass fishing floats which possibly resembled detonators.⁷³¹

- 10.45. For the matter to have occurred in the manner in which Detective Garda McMahon suggests that it did, there would have had to have been an extraordinary coincidence of sense of humour between Sergeant Michael Brennan and himself. In the first instance, Sergeant Brennan would have had to have recognised that the objects were fishing floats but pretended they were detonators. Secondly, Detective Garda McMahon would have had to engage in ‘leg-pulling’ of a similar kind. It is very hard to believe that this could have occurred. It is equally hard to believe that Sheenagh McMahon, a woman born and raised in the seaside town of Buncrana, would not have seen fishing tackle of various kinds and would not have been able to recognise a fishing float for what it was.

- 10.46. The description which she gave in evidence of glass objects with wires coming out of them was a reasonable description of the genuine object. The Tribunal had the benefit of the evidence of Detective Sergeant William Brennan, an acknowledged expert on this subject. He gave the Tribunal the following description of detonators: these could be either copper or aluminium tubes that would be packed with very high explosive; the purpose of the detonator is to create the original explosion from which the chain reaction in the rest of the

⁷²⁸ Transcript, Day 7, pages 62-65.

⁷²⁹ Transcript, Day 159, page 80.

⁷³⁰ Transcript, Day 159, page 80.

⁷³¹ Transcript, Day 159, page 81.

explosive mix is then initiated. For comparison purposes he produced detonators to the Tribunal, as physical items. Some of those produced were synonymous with terrorism. One of these consisted of a copper tube which employed an electronic flash bulb inside the port to detonate an explosive charge. This had two wires coming out of it⁷³²

- 10.47. The Tribunal is satisfied that the object seen by Sheenagh McMahon on clearing out her house at Porthaw in Buncrana was either a genuine detonator or an object prepared in order that it should look like a detonator.

The ‘Lofty Gallagher’ Search

- 10.48. During 1996 Superintendent Kevin Lennon had been asked to assess an individual called William Doherty. The purpose of the exercise was to report on his usefulness as a potential informer. There had been some delay in conducting that assessment. No evidence heard by the Tribunal in this module suggests that there was any culpability attaching to Superintendent Lennon for the delay in that regard. In meetings with William Doherty, Superintendent Lennon questioned him with a view to establishing his credibility. The Carty investigation team reported that shortly before Christmas 1996, Kevin Lennon assessed the credibility of William Doherty as being “promising”. Again, the Tribunal makes no finding in relation to this matter. What is of importance, however, is that in a later meeting with William Doherty, he had told Superintendent Lennon of his record as to criminality. In the result, on checking what he had said, the Superintendent concluded that he was unworthy of credit. In a statement to the Carty investigation team, Superintendent Lennon addressed what he perceived to be a lie told to him by William Doherty. He said:

I had no further interest in his information which was unsupported. I had at this time checked his background to establish any criminal convictions and record and in fact he had lied to me and I told him so.

- 10.49. This determination was made in or about the 7th of February 1997. However, within two to three weeks, information was received through Garda John O’Dowd that involved William Doherty as the source. This was to the effect that mortar bombs had been primed in order to be moved across the border for immediate use. William Doherty was reported as claiming that the location of storage for the explosives that were to be involved in this attack was on the western side of the border in one of the buildings in the farmyard belonging to the Gallagher family at St. Johnston, Co. Donegal. A trailer, of the kind William Doherty described, had been stolen across the border. That kind of theft was not unusual.

⁷³² Transcript, Day 78, page 105-111.

- 10.50. The Tribunal here refers the reader to the principles set down by the Canadian Supreme Court in *R v Debot* which are set out in Chapter 3. There is nothing in the information to indicate that any prediction by William Doherty of the imminent commission of a criminal offence was compelling. There is nothing to indicate that William Doherty was credible. Finally, nothing was done, apart from discreet surveillance in the vicinity of the Gallagher farm, to attempt to indicate the reliability of his information through independent confirmation prior to initiating a search.
- 10.51. A surveillance operation was conducted by Detective Gardaí Anderson, Smith, Scanlon and Keating. They had been briefed that a trailer with explosives had come to the Ardagh pub on the previous Saturday night. This location is near to the Gallagher's farm. It should also be said that it is near enough, and closer, to many other farms. The express instructions given were that these explosives were supposed to have been primed. On two separate Saturday/Sunday nights, from 21.00 until 03.00 hours in the morning, detectives sat in a ditch awaiting developments at the locality of the Ardagh public house.
- 10.52. This operation was based on information which the Garda Síochána chose to act on. This was notwithstanding the fact that Superintendent Lennon was of the view that the source had been discredited. The Tribunal is not aware as to whether Superintendent Lennon chose to share his misgivings in relation to William Doherty with other senior officers of An Garda Síochána. The countervailing principle, having analysed the credit worthiness of an informer prior to taking action, is to look to the background of the citizens whose liberty it is proposed to infringe. The Tribunal is satisfied that there was nothing in the background of the Gallagher family which could have suggested a link to subversion. Indeed, the evidence was expressly to the contrary.⁷³³
- 10.53. Although the warrant, under Section 29 of the Offences Against the State Act 1939, as amended, was in fact issued by Superintendent Joseph Shelly, the Tribunal is satisfied that the directing mind in relation to this operation was the district officer, Superintendent Kevin Lennon. It may have been possible, had the matter been considered, for the Gardaí to visit Mr. Gallagher's farm and to seek his assistance prior to conducting a search on warrant. Whereas this is not necessary as a legal requirement prior to the issue of a search warrant, it might have been a prudent course to take in these particular circumstances. Instead of doing this, on the evening of the 3rd of March 1997, a party of armed detectives, backed up by uniformed members, arrived at the Gallagher farm.
- 10.54. The Tribunal is satisfied from the evidence of James Gallagher, the son of the farm owner, that considerable disruption was caused both in the farmyard and in the

⁷³³ Transcript, Day 22, pages 48-55.

house in a futile search for the munitions in question. Furthermore, the Tribunal is satisfied that a briefing was given in respect of this matter by Superintendent Lennon and that, in consequence of that briefing, Garda attention was focussed on a particular shed or outbuilding. This was checked on the first full day of the search, which was the 4th of March 1997. The report back to a later conference was to the effect that the condition of the shed rendered it impossible that a vehicle had moved in or out of it for a number of months. Sergeant Martin Moylan described the matter as follows:

... We had been out searching, we came back in ... I remember Superintendent Lennon briefing us. I remember also the first evening ... I met Superintendent Shelly there on the first evening, the evening I met Mr. Gallagher. He said I have been in that shed. He says there's a tractor in there and there's dust all over it and he says nobody has been in that place for 6 months ... On one of the evenings there was a briefing of all the detectives on the search and we were directed to go back out the next day and Superintendent Lennon and Garda John O'Dowd said that they would go up that night and mark where the bunker was with the stick. It was a corner of the field he said and so that we'd go out the next morning and find where the stick was.⁷³⁴

- 10.55. The Tribunal is satisfied that the initial focus of the search was on a particular building and on a trailer of a particular kind. It is true to say, as noted, that a check had been made with the RUC as to whether a trailer of that kind had been stolen, as William Doherty had stated, within the relevant period. It had. When a report was made that this trailer was supposed to have been parked in a particular building on the Gallagher farmyard, it may have been reasonable to initiate a search. However, the Tribunal notes that when that search proved to be negative, the focus of the operation changed from the specific information allegedly supplied by William Doherty into a generalised trawl through the entire farm. Instead, now, on looking for a trailer, further information was supposed to have been received from William Doherty which justified looking for an arms bunker which, the Tribunal is satisfied, never existed.
- 10.56. During the course of the search, the Emergency Response Unit was called in from Dublin, numbering perhaps up to a dozen men and women, and a number of units of the Defence Forces were called in support of the Gardaí. Detective Garda Henry and Detective Garda Moylan were sent up in a helicopter, which swept over the land, attempting to find points of disturbance that might indicate excavation. The Tribunal is satisfied that the Gallagher family had no sympathy for

⁷³⁴ Transcript, Day 128, pages 45-46.

any terrorist organisation. This ought to have been taken into account in the decision as to whether or not a search operation should be directed. Furthermore, if the conditions for a search had been justified, then it would have been right to focus that search on targeting the specific information which William Doherty had provided. Instead of doing that, the search was conducted over a period of up to four days with considerable disruption of the lives of the Gallagher family.

10.57. The opinion of Chief Superintendent Brian Garvie, RCMP on this issue was, that even though William Doherty had been assessed as being an unreliable informer, if information amounting to more than rumour had come to the attention of the Gardaí, it might be worthwhile considering a limited search to check through that information. He could not justify bringing all the available resources of the State to bear on an extensive search of the ninety acres of the Gallagher farm over several days.⁷³⁵ It had many consequences. Firstly, livestock were killed as a result of a number of helicopter sweeps. Secondly, ewes aborted for the same reason. Thirdly, some equipment was damaged in the course of searches, as were hedgerows. Fourthly, damage was caused to a newly instituted forestry plantation. Fifthly, damage was caused to other possessions of the Gallagher family.

10.58. However, the most serious consequence was the psychological effect which the search had on the Gallagher family. As explained to the Tribunal, this family have lived in this area for three centuries and they are, and always have been, well regarded by their neighbours of all Christian denominations. James Gallagher had started a business. This involved courageous borrowing of money and purchase of vehicles for either hire-out or site and farm works. He found himself shunned by decent people in the area who, perhaps understandably, concluded that with an operation of these dimensions, some justifiable suspicion must have been pointing in his direction. He explained:

As I said, especially with the type of business it is, you have to keep working, actually working, keep getting in money to sustain payments for machinery and upkeep and tight margins. I found myself sitting high and dry with a lot of payments and very little options to do and I decided that there was – because of the collapse of the business to just, I had to make a cut and just try and seek out a fresh start somewhere.⁷³⁶

10.59. In the course of cross-examining witnesses Superintendent Lennon claimed that he had no responsibility in relation to this search. The Tribunal is satisfied that he

⁷³⁵ Transcript, Day 95, pages 72-77.

⁷³⁶ Transcript, Day 128, page 18.

was the person with overall responsibility. The Tribunal is satisfied on all the evidence that he caused the search to be made, caused it to be continued beyond what was immediately necessary and caused other officers to treat it with the seriousness that required the deployment of extraordinary resources. Superintendent Lennon sought to distance himself from the search to the extent that he claimed not to have actually been present beyond the occasion when he, accompanied by William Doherty, had traversed the lands at night and placed a stick to guide one of the search parties towards an underground bunker. The evidence of Sergeant Moylan was that Detective Inspector Lennon had announced at a briefing that he was proposing to put a stick in the ground on a hillside. The purpose of this was to indicate the area where the bunker might be discovered. This evidence was described, in cross-examination at the Tribunal hearing, by Superintendent Lennon as a “mischievous comment because I didn’t put a stick in the ground”.⁷³⁷ Sergeant Moylan was sure of his evidence and claims to have seen a stick in the ground at the place described by Superintendent Lennon. The Tribunal accepts this evidence.

- 10.60. Although an issue arose as to where the stick was planted, the Tribunal is satisfied that the nature of Superintendent Lennon’s questioning of Sergeant Moylan was to attempt to distance himself from this entire operation. One question put to Mr. Gallagher was as follows:

*Will you accept that I took no part in that search, I was not on the search party that took part in the search and I was not aware of what you allege today before the Tribunal, will you accept that, Mr. Gallagher, until today?*⁷³⁸

- 10.61. Other questions were to the same effect.⁷³⁹ Further, Superintendent Lennon claimed that his purpose in going out to the lands at night, while at the same time in some way not taking part in the search, was to pinpoint a location where explosives were supposed to be in order that they could be more readily discovered.
- 10.62. The Tribunal is satisfied that this incident occurred. The Tribunal is further satisfied that the denial of Superintendent Lennon was made with a view to distancing himself from his responsibility in relation to this matter and is untrue.
- 10.63. In the course of the evidence of James Gallagher, he mentioned that his father, John Alfred Gallagher had encountered Superintendent Lennon at the farm on that day. In cross-examination, this was denied by Superintendent Lennon. However, Mr. J.A. Gallagher was then called and described the following, in answer to a question as to whether he had any contact with Superintendent

⁷³⁷ Transcript, Day 128, Q.429.

⁷³⁸ Transcript, Day 128, Q.78.

⁷³⁹ Transcript, Day 128, Q.79, 83 and 87.

Lennon during the course of the search:

... On one occasion my wife at 11 o'clock in the day she had an appointment with her doctor ... in Letterkenny, and cried most of the night, sat up most of the night, she cried most of the night [so] I persuaded her anyhow to go up to the doctor ... but she couldn't get the car out of the yard so she drew it to my attention. So I asked a couple of guys would they mind moving the car. They were just coming in one after the other at this stage in the day ... seven cars [were] in our garden at this stage. ... I asked him would he please remove the vehicle because my wife had to get out. One just smirked at the other. So I went up the road ... I saw Superintendent Lennon standing out in the road about 15 minutes before that. But I went out to the road and I looked up the road ... and I saw him standing about 150 yards from the house and I called up to him and I said Superintendent Lennon, and he called yes, and I says I want these cars removed please because my wife wants out. I says my wife has an errand to go on. She's not under arrest. I says you can't treat her the way you are treating the rest of us. He came down then and told the guys to move the vehicle.⁷⁴⁰

- 10.64. In cross-examination, Superintendent Lennon put it to Mr. Gallagher that he was mistaken in relation to this matter. The Tribunal is satisfied that this incident occurred. The Tribunal is further satisfied that the denial of Superintendent Lennon was made with a view to distancing himself from his responsibility in relation to this matter and is untrue.

Conclusion

- 10.65. The Tribunal has touched on a number of issues some of which are strictly beyond the Terms of Reference. The Tribunal is happy to accept in full the evidence of the Gallagher family. The matters which have been detailed as leading up to the finds very definitely illuminate both the responsibility for the finds and the state of management, and the state of morale, of An Garda Síochána within the Donegal division. The later events, set out in this chapter, illustrate a closeness between Detective Garda Noel McMahon and Superintendent Kevin Lennon. The Tribunal had already reached such a conclusion before considering the events set out in this chapter.

⁷⁴⁰ Transcript, Day 128, page 38.

CHAPTER 11 OTHER MATTERS

Introduction

11.01. In this brief chapter the Tribunal proposes to dispose of certain other issues which arose in the course of the hearings. The necessity for touching on them comes from the fact that many of them were used with a view to undermining the credibility of witnesses. The rule that an answer as to credit is final, save in exceptional circumstances, is a useful aspect of the law of evidence because it tends both to focus, and shorten, hearings. As the reader of this report will gather, the Tribunal's view as to credibility in respect of the main players in this unfortunate drama has already been formed. The Tribunal wishes to make it clear that those views were arrived at expressly in relation to the events which are the subject matter of the Term of Reference being dealt with in this report. Certain other background matters touched upon the facts that, of necessity, had to be found in order to answer the request of the Oireachtas to report on this matter. These have been referred to in detail. The matters considered in this section were ones where challenges to credibility were made but which, in the end result, have not resulted in the Tribunal considering it proper to alter its position.

Adrienne McGlinchey and the Carty Team

11.02. While initially a reluctant witness, Adrienne McGlinchey was interviewed by the Carty investigation team members over a period of about forty days. Of necessity, these sessions were lengthy as they involved her being picked up in Letterkenny and driven to Sligo where the interviews took place. Having listened to Adrienne McGlinchey in the witness box over a period of ten days I am of the view that she was a poor historian. Many of her answers veered off the question and it was only through the skill of Tribunal counsel that a coherent narrative emerged. Whenever an awkward question was posed to her, she showed a marked reluctance to answer forthrightly. When examples of statements inconsistent to her testimony were put to her, in the overwhelming majority of instances she refused to accept any fault on her part. Instead, she blamed the Carty investigators for taking down her words incorrectly, for putting words in her mouth or for taking matters out of context. In the result, over one weekend, she was asked to conduct an exercise by re-reading all of her statements and marking these in three different colours so that the nature of what she disputed, and what she accepted, might be made clearer.

- 11.03. Having listened to her evidence and having heard a degree of limited evidence from the Carty investigation team, the Tribunal is satisfied that the interviews conducted with Adrienne McGlinchey were proper fact-finding exercises. In respect of her most lengthy statement she signed her name at the bottom of every page over approximately eighty pages. No attempt was made to coach her. Her evidence was not influenced by the Carty investigators and any errors or falsehoods which emerged in her evidence before the Tribunal remain entirely her own responsibility.
- 11.04. In the course of submissions, and during cross-examination, it was pointed out on behalf of Detective Garda McMahon and on behalf of Superintendent Lennon that Adrienne McGlinchey had made many false allegations against them. These allegations were of a hurtful nature which ranged far beyond the issue of explosives which the Tribunal is mandated to enquire into. In cross-examining Superintendent Hugh Coll, a list of these apparently false allegations was put to him by Superintendent Lennon. His invariable response was he could not adjudge whether the allegations, additional to those within the Term of Reference, were falsely made and instead he merely stated that as yet no evidence had emerged to substantiate the allegations. Some remained under investigation.⁷⁴¹
- 11.05. The Tribunal cannot ignore the reality that a multitude of florid allegations were made by Adrienne McGlinchey in addition to those which have been investigated over the course of our hearings. The allegations were made in circumstances where Superintendent Lennon and Detective Garda McMahon would have no opportunity of defending themselves because no formal process was ever initiated on foot of them. Instead, the Tribunal accepts that the Gardaí initiated an investigation. They appear to have done their best to follow through on these allegations to determine whether or not there is any truth to them. Some of them are both demonstrably false and personally hurtful to those against whom they are made. The Tribunal has already commented on the unsound basis of findings of fact which are founded upon the testimony of Adrienne McGlinchey alone. As previously noted, it was necessary to scrutinise all of the collateral and surrounding facts pertaining to the allegations central to this module before any conclusion could be reached. In reaching those conclusions, as set out in the pages aforesaid, the Tribunal has not lost sight of the infirmity of Adrienne McGlinchey's evidence. Rather, noting that infirmity, the Tribunal has determinedly set itself the task of attempting to discover the truth.

⁷⁴¹ Transcript, Day 96, pages 59-159; Day 97, pages 3-47 and Day 94, pages 140-174.

Aftermath of the Carty Investigation

- 11.06. The Carty investigation continues, as the Tribunal understands it, even as this report is being published. When Commissioner Noel Conroy gave evidence before the Tribunal, he was cross-examined by counsel for Adrienne McGlinchey as to the threat which, it was alleged, existed against her by virtue of her cooperation with the Garda authorities.⁷⁴² During the course of her interviews with the Carty investigation team, Adrienne McGlinchey alleged that she had been put under threat to life and limb by sinister figures who, it must have been assumed, had some connection with the 'Provisional IRA'. A friend of hers, Eleanor McDermott, gave similar evidence of threat which seemed to corroborate the allegations being made by Adrienne McGlinchey.⁷⁴³ The Tribunal is not mandated to enquire into, or to reach findings of fact based upon any issue as to whether Eleanor McDermott was honest in terms of the apparent corroborative evidence which she presented to the Carty investigation team. The Tribunal makes no finding of fact.
- 11.07. The Tribunal, however, notes that the Carty report comments on the fact that Adrienne McGlinchey was afforded full-time protection from a specialist Garda unit over a period of time. The Tribunal will not comment as to whether this was the correct or the incorrect decision. The Tribunal also notes that the Carty investigation team found Adrienne McGlinchey a person who was difficult to protect from whatever threat, real or imagined, there might be against her. The culmination of their difficulties was an incident where she apparently smashed her own windscreen and then attempted to blame the damage on an attack by sinister forces.⁷⁴⁴
- 11.08. The following exchange with counsel illustrates the difficulties of dealing with Adrienne McGlinchey and the dangers inherent in her evidence:

Q. Can I just take one simple incident and I want to ask for your view on it. On the 20th of September 1999, when you were under full-time protection, you told Detective Garda Twomey that someone had just smashed the windscreen of your car, isn't that right?

A. Yes, I did.

Q. You said that someone had come up and smashed the windscreen of your car. What he says [in a written statement] is that you got into your car at 12.25 a.m. at Port Road in Letterkenny and sped up a laneway towards your home. He followed you, obviously at a distance because you

⁷⁴² Transcript, Day 169, pages 115-119.

⁷⁴³ Transcript, Day 91, page 77 on.

⁷⁴⁴ See Chapter 14 of the Carty Report and Tribunal Documents, pages 237-270.

had bolted away, and he found you in your car wearing a black glove on your left hand and you were claiming that someone was after breaking your windscreen. He examined the windscreen and found there was no damage.

A. *Yes, I broke my windscreen ... A lot of things had happened, I did not have a black glove on. I will say that I was completely off the head. But, secondly, the week before, and what was happening two or three weeks prior to that, they told me that nobody would know and they parked outside my business and everybody knew. What was happening was the icing on the cake, if I remember rightly, was the day before while visiting a home of one of the staff members, they photographed the house, they photographed me going into it, they photographed the people and everybody was talking about me. The woman came in to ask me what I had done, the mother, was the daughter alright, which was a Mrs. [Deleted]. And you can get her here if you want but she told me and I tried. I did this thing on purpose about my windscreen, the whole thing I did.*

Q. *Why?*

A. *Because I wanted them away from me then because they wouldn't take them off me then.*

Q. *You had applied for them to be removed, they wouldn't remove them?*

A. *Yes.*⁷⁴⁵

11.09. The Tribunal does not propose to comment on this issue beyond recording that it found nothing to suggest misbehaviour on the part of the Carty investigation team.

Sheenagh McMahon

11.10. An issue which must be disposed of is as to whether Sheenagh McMahon was influenced in her evidence by the Carty investigation team, or by the Gardaí in Donegal, or by any other party. This was canvassed in evidence over several days, particularly during the evidence of Superintendent Tom Long. The matter was also discussed extensively with Adrienne McGlinchey. Clearly, if there was a conspiracy between Adrienne McGlinchey, Sheenagh McMahon and members of the Gardaí to present a particular view to the Tribunal then their evidence would

⁷⁴⁵ Transcript, Day 13, pages 138-139.

be rendered unreliable. It would not, of course, be rendered inadmissible, as it is the duty of a Tribunal to hear all relevant evidence and to determine whether or not there is any merit to it.

- 11.11. Sheenagh McMahon was the first person interviewed by the Carty investigation team as to the issues discussed in this report. She had initially been contacted, not by them, but by Adrienne McGlinchey. Their acquaintanceship had begun during the time when Adrienne McGlinchey was dealing with Detective Garda McMahon and Detective Inspector Lennon in the manner already outlined in this report. In the intervening years, Mrs. McMahon and Ms. McGlinchey had become reasonably well acquainted with each other due to social and family reasons. Because Ms. McGlinchey had opened a sweet shop on the Port Road in Letterkenny, employment opportunities arose and these, through her kindness, were extended to at least one of Mrs. McMahon's children.
- 11.12. During a time, which was probably late February to early March of 1999, Adrienne McGlinchey telephoned Sheenagh McMahon. As a result of this they later met in Burt. There, Adrienne McGlinchey played Sheenagh McMahon a cassette tape which she described as being a conversation between Detective Garda McMahon and Chief Superintendent Fitzpatrick. This tape has not been produced to the Tribunal by Adrienne McGlinchey and it has not otherwise been available. On listening to it, however, Sheenagh McMahon came to the conclusion that the conversation was between her husband and his brother-in-law. The Tribunal has had descriptions as to the conversation proffered to it. It is not content to rely on the description given by Adrienne McGlinchey and, regrettably, Sheenagh McMahon has now little recollection of it.
- 11.13. Following on this meeting, Sheenagh McMahon had a lengthy conversation with Des Walsh, who was then a recently retired Detective Sergeant. He was supposed to have given her some forthright views as to the true origin of the explosives finds which are detailed in this report. The Tribunal is satisfied that this conversation did not influence the recollection of Sheenagh McMahon and nor did it distort the testimony which she later gave to the Tribunal. The result of the conversation, however, was that she ultimately became forthright in her determination to have her version of events made known. As will be apparent to the reader of this report, the Tribunal accepts that Sheenagh McMahon told the Tribunal the truth. Certain events that were mentioned caused her to reflect on matters that were in her memory. This was not a question of recovering a memory but, rather, of a memory being triggered in respect of material that was already there.

- 11.14. During this period, Sheenagh McMahon was living with her sister, who was then a solicitor in Buncrana. On the 16th of March 1999 a message was recorded on her answer phone from her estranged husband Detective Garda Noel McMahon. This concerned their children, and what he was complaining of was a lack of access to them. The message was greeted with alarm as, at that time, it was construed as being a threatening message. During the course of cross-examination, however, Sheenagh McMahon has accepted that the tone of the message may have led her to misconstrue it and that the concerns expressed by her estranged husband were genuine, though clumsily stated. In the result, Moya Jane O’Doherty, her sister, made a complaint to the Gardaí at Buncrana.
- 11.15. Sergeant James Leheny, whom she had known for years, by reason of what has already been outlined, visited her. It is fair to say that he found an excited situation which he did his best to calm. There was confusion as to how Sheenagh McMahon and her sister ought to deal with matters. Sergeant Leheny then reported the matter, properly in the Tribunal’s view, to Superintendent Tom Long who was then the district officer. Superintendent Long then rang Sheenagh McMahon and arranged a meeting. Over the course of a lengthy discussion in the Lake of Shadows Hotel the first version of the events as known to Sheenagh McMahon were outlined. Unfortunately, Superintendent Long did not keep notes and nor did he write the matter up afterwards. He asked her to meet with Chief Superintendent Denis Fitzpatrick. A later meeting took place between Superintendent Long, Chief Superintendent Fitzpatrick and Sheenagh McMahon accompanied by her sister at her solicitor’s practice. At this meeting, such metal tubes as were in Sheenagh McMahon’s possession were shown to these officers.
- 11.16. Because of the seriousness of the situation, and the immediate availability of the Carty investigation team, a meeting was then arranged with Assistant Commissioner Kevin Carty. It is important to note the consistency of the allegations made by Sheenagh McMahon from the outset of her meetings with members of An Garda Síochána through to her evidence before the Tribunal. In that respect the Tribunal refers to the memo made by Chief Superintendent Fitzpatrick as to meetings on the 26th and 29th of March 1999. As to the 26th of March 1999 the following is recorded:

Mrs. McMahon alleged that Superintendent Lennon and D/Garda McMahon were involved in moving stuff (explosives) with Adrienne McGlinchey and she mentioned the following locations, Strabane (two cases), Bridgend, Donegal Town and Rossnowlagh. Mrs. McMahon stated that she had possession of a number of items and documents, she made a sketch of two items she had in her possession in my notebook.

None of the items were shown, she stressed that she wanted to get her marriage and custody of her children sorted out first and then she would make a statement. After some discussion she agreed to assist with a list of allegations in dated order in the near future. Mrs. McMahon was stressed and tired and at 8.15 p.m. the meeting was concluded ...⁷⁴⁶

11.17. As to the meeting of the 29th of March, the following was recorded:

Mrs. McMahon alleged that Sergeant Michael Brennan, Burnfoot had possession of what she thought were three detonators and hid them so they could be rediscovered.

Mrs. McMahon produced the following:

(a) Two metal items which she alleged were part of a mortar bomb. I viewed the items, the larger item could be described as a metal tube three inches in diameter, fourteen inches high with a base of fourteen metal fins on the end, each one about one inch long and painted silver. The smaller item was about half as high and rusting, it had no paint

(b) A notebook – the property of D/Garda Noel McMahon

(c) Handwritten (A4) sheet purporting to be the handwriting of Superintendent Lennon

(d) Typed sheet (A4) credited to D/Garda McMahon, not signed with reference to Superintendent K. Lennon.

I requested possession of all the items and this was refused, neither was a photocopy of the papers allowed. It was stressed that full cooperation would be forthcoming after the family affairs were sorted.⁷⁴⁷

11.18. Other items of interest were also included in a memo and the Tribunal has not lost sight of these in quoting these partial extracts.

11.19. Considerable cross-examination was generated by reason of an item described as "Item No. 8" in an interview by Tribunal investigator Michael Finn with Mrs. McMahon at the Tribunal offices on the 7th of March 2003. This reference was taken from the discovery made by Mrs. McMahon to the Tribunal under formal process. Item No. 8 is written in the handwriting of Superintendent Tom Long and it reads:

⁷⁴⁶ Tribunal Documents, pages 317-318.

⁷⁴⁷ Tribunal Documents, pages 318-319.

Rossnowlagh
Donegal Town
Crescent Bunrana – Stuff in garden
Ballybofey
Mick Brennan's detonators⁷⁴⁸

- 11.20. Superintendent Lennon cross-examined Superintendent Long on the basis that this note could possibly be construed as a hint to Mrs. McMahon as to the “right thing” for her to say. Explicitly, a question was put as to whether any person had prompted Mrs. McMahon into naming particular locations.⁷⁴⁹ Superintendent Long denied this but said that names may have been mentioned. These names, however, the Tribunal is satisfied derived from Mrs. McMahon's earlier conversation with Mr. Des Walsh. The Tribunal feels it important to note that the list, in fact written on a brown envelope, was given to Mrs. McMahon in order to help her focus her memory on the events of importance when dealing with the Carty Investigation team.⁷⁵⁰ Mrs. McMahon was not in a position to offer any evidence on the locations set out in the list. Therefore, she could not have been prompted. Her evidence was confined to the conversation which she had with Des Walsh; to the discovery of various documents which have already been referred to in the course of this report; to the retaining of the metal items which were given to the Carty investigation team and later examined by the Tribunal; to an incident involving the moving of bags by Superintendent Lennon and Detective Garda McMahon around her home; and to the relationship between those Gardaí and Adrienne McGlinchey. All of these matters were confined to her own personal recollection as to what she had seen and, less importantly, to certain things said by her estranged husband during the course of her marriage.

Withdrawal of Sheenagh McMahon's statement

- 11.21. A comprehensive statement setting out Sheenagh McMahon's knowledge of events was prepared in the course of a series of interviews with Superintendent John F. (Jackie) O'Connor and Superintendent Tom Long on various dates between the 26th of April and the 13th of May 1999. Sheenagh McMahon's sister, Moya Jane O'Doherty, a practising solicitor, was present at a number of these interviews and Mrs. McMahon also sought additional legal advice before signing the statement on the 24th of May 1999. In evidence to the Tribunal, Sheenagh McMahon maintained that she did not have any difficulties with the manner in which the interviews were conducted and that she was happy with the contents of the statement.⁷⁵¹

⁷⁴⁸ Tribunal Documents, page 3317.

⁷⁴⁹ Transcript, Day 5, page 30.

⁷⁵⁰ Transcript, Day 6, pages 39-40.

⁷⁵¹ Transcript, Day 6, page 123.

- 11.22. On the 9th of July 1999, an event occurred that threatened to temporarily derail aspects of the Carty investigation. Sheenagh McMahon, in the presence of Garda Martin Leonard and Garda Pauline O’Hara, signed a statement, which purportedly withdrew the various allegations contained in her earlier statement. The withdrawal statement read as follows:

I wish to withdraw my statement made to Superintendent Tom Long, Superintendent Jackie O’Connor in the presence of Moya Jane O’Doherty, Solicitor made approximately two months ago at The Crescent, Buncrana. I am not happy with the way they conducted this investigation. I feel completely used by the Investigation Team. This statement has been read over to me by Garda M. Leonard and I declare that it is true to the best of my knowledge and belief and that I am liable to prosecution if I have stated in it anything false or did not believe to be true.⁷⁵²

- 11.23. The Tribunal heard evidence in this matter from Sheenagh McMahon, Garda Martin Leonard,⁷⁵³ Garda Pauline O’Hara,⁷⁵⁴ Detective Garda Noel McMahon⁷⁵⁵ and Mr. Niall Sheridan.⁷⁵⁶ The circumstances surrounding the making of that withdrawal statement were outlined by Sheenagh McMahon as follows:

I had gone over to Letterkenny to the court and I met with Noel in Gallagher’s Hotel and, of course, we started talking again and he had said to me that day that, you know, about the statement that I had made, that if it goes ahead, if you keep that statement there, that we are going to lose everything. The home is going to go and everything is going to go and we sat and we talked about it just. And what was to happen was, that I was to go to the house at 2 Kilty Court along with him and he was going to write something out for me for a withdrawal of the statement and I was going to sign it, but what started out as a very formal thing - what was not a formal thing turned into a very kind of formal thing. Mr. Sheridan [my solicitor] came to me that day and told me that he had been approached by a Garda Leonard and that he was talking about me withdrawing my statement and he just said: You are in no fit state Sheenagh to be making any major decisions... What happened then was...Noel had been on his mobile phone and the next thing Martin Leonard popped his head around the corner and Noel says: Oh, God, it couldn't be better, look, there's Martin Leonard now, he said, sure he will do it, he will come up to the house or whatever. I still did not think it was going to be very formal - I still thought it was sort of an informal thing. Martin

⁷⁵² Tribunal Documents, page 363.

⁷⁵³ Transcript, Day 1, pages 132-166.

⁷⁵⁴ Transcript, Day 1, pages 2-58.

⁷⁵⁵ Transcript, Day 138, pages 53-96.

⁷⁵⁶ Transcript, Day 1, pages 46-67.

Leonard came over to myself and Noel and Noel said to him, it was Noel that had the discussion with him, he just said: Look, Sheenagh wants to withdraw her statement, he said, would you come. I think maybe it was just to witness the whole thing. So that was fine, I agreed with that, I said: That is okay. So Martin Leonard said he would meet us up at the house at four o'clock in the evening. So we went up to the house and myself and Noel were just there, we were getting on fine and the next thing, I got a shock, because Martin Leonard then arrived at my house with a Ban Gharda, I know now her name is Pauline O'Hara, but I didn't know who she was at the time. They walked into the kitchen, it was all very, very quick, so it was, and Martin Leonard got Noel by the shoulder and escorted him out of the kitchen and closed the door and I said, what are you doing and he said, we want to do this right ...He put Noel out of the kitchen. So anyway, I sat down at the table then and - you see, I didn't know what to say. So Martin Leonard says: You want to withdraw your statement, this statement or whatever. And I said: Yes. And he started to write...So what happened then was, I sat down at the kitchen table along with him and Pauline O'Hara and I was still kind of quite upset about the whole thing, I was taken aback by the way it got with Guards and everything. So I did not really know what to say or how to withdraw a statement or what I was supposed to be saying, so I was sort of tongue tied about it. He said to me: What do you want to put down? And I said: I do not know what to put down. And he said: Right, we will put down - you see, he put the words into my mouth because that is not the vocabulary there or I would not have used those words there.

- 11.24. In her direct evidence to the Tribunal, Mrs. McMahon admitted that she had signed the withdrawal statement on the day in question. However, she went through the withdrawal statement, outlining various aspects of the statement that she claimed were not of her own making. One example she cited was the line "I feel completely used by the investigation team", which she claimed was a phrase that "would have come from Martin Leonard".⁷⁵⁷
- 11.25. Mr. Sheridan confirmed that he had been retained by Mrs. McMahon on the date in question in relation to family law proceedings. He confirmed that his client was in an agitated state on that day, and that he had advised her not to do anything in relation to her previous statement. Garda Martin Leonard had approached him

⁷⁵⁷ Transcript, Day 6, page 124.

outside the door of the court on the morning in question. Garda Leonard indicated to him that Mrs. McMahon wished to withdraw the allegations that she had made against her husband. Garda Leonard went on to seek Mr. Sheridan's assistance in taking the statement, but Mr. Sheridan was not prepared to do so. Mr. Sheridan then went to seek instructions from his client. He advised her that as she was in an agitated state she should not make any statement one way or the other on that day.⁷⁵⁸ He believed that she accepted his advice and assured him that she would do nothing in relation to the matter there and then. Mr. Sheridan also gave the following evidence:

I subsequently met Garda Martin Leonard on the street outside Gallagher's Hotel, immediately in front of Gallagher's Hotel and I told him the instructions that I had received and indeed the advice I had given to Sheenagh McMahon on the subject. I recall being quite forceful and saying that she was in no condition to make any statement on that date...I wanted to underline the condition that I felt that Sheenagh was in, it wasn't that I thought that he was going to go away and actually take a statement from her. I didn't think he was going to do it at the end of the conversation...I was quite surprised subsequently when I found out what transpired afterwards...I was shocked in fact.⁷⁵⁹

- 11.26. Detective Garda Noel McMahon gave evidence to the effect that he had previously seen the earlier statement made by his wife, when visiting their house the previous month on an unrelated matter, but had dismissed its contents as rubbish and "didn't place any great importance on it."⁷⁶⁰ He discussed the contents of the statement with Garda Leonard who had accompanied him on this visit.⁷⁶¹ In fact, Garda Leonard, in his capacity as a local representative of the Garda Representative Association, was advising Detective Garda McMahon at the time in relation to his dealings with the Carty investigation team. Detective Garda McMahon denied placing any pressure on his wife to withdraw the statement and said that his wife made the approach to Garda Leonard of her own volition on the 9th of July 1999, owing to concerns on her own part that she had previously articulated to him. Detective Garda McMahon gave evidence as follows:

...She actually said she wanted to withdraw the statement and as she knew Martin Leonard, she wanted to do it through him and she made the approach to him herself in the hotel...I didn't see anything inappropriate with her – in acceding to her request that she deal with Garda Leonard...She did approach him [in the hotel].

⁷⁵⁸ Transcript, Day 1, page 58.

⁷⁵⁹ Transcript, Day 1, pages 58-59.

⁷⁶⁰ Transcript, Day 138, page 27.

⁷⁶¹ Transcript, Day 138, pages 56-57.

I don't know the conversation that took place between them but I know that the arrangement was that he was going to call to the house in Letterkenny at a later stage and take the withdrawal of the statement in statement form from her. I became aware at some stage that Mr. Sheridan had expressed, definitely to Sheenagh, that he wasn't keen that she do it on that day, as he didn't feel she was well enough. She said she was going ahead anyway and some time in the afternoon Garda Leonard arrived with Garda O'Hara and I left the - I thought it better or appropriate that I leave the room and I actually went outside for some fresh air and walked around until they later appeared at the doorway and I went back in and just spoke casually to my wife. I was aware that she had withdrawn it in writing to Garda Leonard and Garda O'Hara.⁷⁶²

- 11.27. Garda Martin Leonard gave evidence to the effect that he had had general discussions with Detective Garda McMahon about the contents of Mrs. McMahon's statement in the weeks leading up to the 9th of July. He was in court that day, and received a phone call from Detective Garda McMahon summoning him over to a nearby hotel.⁷⁶³ Garda Leonard gave the following direct evidence:

I went into Gallagher's Hotel...and Mrs. McMahon was sitting with her husband over at a table...It was lunchtime...They were talking. Mrs. McMahon indicated to me she wanted to withdraw her statements, okay. Noel was with her. I remember when I left Gallagher's Hotel I met Mr. Sheridan...He told me not to take a statement, that she was not fit [to] make a statement...⁷⁶⁴

- 11.28. Garda Pauline O'Hara, who was a probational Garda attached to Letterkenny Station at the time of this incident, gave evidence in the following terms:

I was on duty in Letterkenny Station in the public office and Garda Leonard came in and stated that he needed a female guard to accompany him to witness him taking a statement off another female...I told him that was okay...So I went with him in our patrol car...The two of them [Detective Garda Noel McMahon and Sheenagh McMahon] were in the house when we got there...Then Noel McMahon left the room and Garda Leonard asked Sheenagh if she still wanted to make her statement...She indicated that she did, yes...Then Garda Leonard, I think he pointed out the fact, he did point out the fact that it was against her solicitor's advice...As I recall he said, You realise this is against the advice of your

⁷⁶² Transcript, Day 138, pages 55-82.

⁷⁶³ Transcript, Day 1, page 136.

⁷⁶⁴ Transcript, Day 1, pages 135-146.

solicitor. Because he said it a few times, because I didn't know anything about that before I went to the house...I know he said it a few times during the taking of the statement...[Mrs. McMahon] indicated that she understood that but that she just wanted to get it over and done with...She wanted to make the statement, it did not occur to me that she did not want to make it at all...Garda Leonard took the statement in writing...She said: I know it is against the advice of my solicitor, but she did not want it. She was aware it was against the advice of her solicitor but that she did not want that put in the statement...I thought that was unusual. At the time, that is why it stuck out in my mind...Garda Leonard read back the statement to Sheenagh McMahon and asked her if it was correct. She said it was and he asked her would she sign it and she did...She appeared to me to be normal from what I recall now, just normal...I did not notice anything, nothing sticks out in my mind that was missing or anything like that, that she was any different to any other statement that I had taken at that stage from any other person.⁷⁶⁵

- 11.29. The Tribunal accepts the version of events as outlined by Mrs. McMahon and Mr. Sheridan. It accepts that she was in an agitated state on the date in question, and that Mr. Sheridan acted in an appropriate and completely professional manner in advising his client that she should not do anything in relation to withdrawing her statement on that date. The Tribunal believes that Detective Garda McMahon took advantage of his wife's vulnerable state of mind on that date, with a view to derailing the investigation into the allegations that had been made against him. In this, he was aided and abetted by Garda Leonard, who conspired with Detective Garda McMahon to frustrate the legitimate inquiries being conducted by the Carty investigation team. In this, he completely abused his position as a member of An Garda Síochána, and acted in a manner that was completely at variance with the legitimate interests of the Garda Representative Association of which he was a prominent member in the division. The Tribunal believes that Garda O'Hara played a passive, but unfortunate, role in the incident. She was manipulated.
- 11.30. The context in which the withdrawal statement was taken illustrates the finding that Detective Garda McMahon and Garda Leonard entered into a conspiracy to obtain the withdrawal statement from Mrs. McMahon and thereby undermine the Carty inquiry team. The allegations contained in Mrs. McMahon's earlier statement had first been put to Detective Garda

⁷⁶⁵ Transcript, Day 2, pages 3–20.

McMahon in a formal manner in an interview conducted by Superintendent John. F. (Jackie) O'Connor and Inspector Hugh Coll at Letterkenny Garda Station on the 1st of June 1999.⁷⁶⁶ Detective Garda McMahon dealt with the allegations in a cursory manner and it was agreed that he would submit a written statement in relation to the various allegations made against him. Such a statement had not been provided to the Carty team before the events of the 9th of July, as outlined above. On the 11th of July, Garda Leonard accompanied Detective Garda McMahon to an interview with Inspector Hugh Coll and Detective Sergeant James Fox at Sligo Garda Station. The upshot of that meeting were the following interview notes signed by Detective Garda McMahon:

I wish to state that I am totally unhappy with the way this investigation was conducted, with the references made about my family by Jackie O'Connor to my wife, with the insertions that were put into her statement without her knowledge and the terminology used. I also wish to state that the way in which the security of touts, disregarding my advice, was abused in this investigation.⁷⁶⁷

- 11.31. A further memo of this meeting taken by Inspector Coll⁷⁶⁸ and notes of the meeting taken by Garda Leonard⁷⁶⁹ indicate a definite decision on the part of Detective Garda McMahon not to cooperate in any meaningful way with the Carty inquiry team. This approach was undoubtedly emboldened by his knowledge of the existence of the withdrawal statement obtained from his wife by Garda Leonard two days previously. Garda Leonard attended this meeting, apparently uninvited, and was introduced by Detective Garda McMahon as his GRA representative. Garda Leonard asked the investigators if they were conducting a criminal inquiry or a discipline inquiry, and was told by Inspector Coll that it was neither: that it was a fact-finding mission into certain allegations. Detective Garda McMahon refused to talk to the investigators about the allegations made against him without Garda Leonard being present. Detective Garda McMahon was pleased that his GRA representative had acted to suppress the truth. That is not the role that the GRA is mandated to pursue.
- 11.32. The Tribunal is satisfied that the evidence of Sheenagh McMahon was completely truthful. It was not influenced by any interview that she had with Superintendent Tom Long, Chief Superintendent Fitzpatrick, members of the Carty investigation team or any retired member of An Garda Síochána.

⁷⁶⁶ Tribunal Documents, pages 1445-1446: memorandum of interview in respect of this meeting.

⁷⁶⁷ Tribunal Documents, page 1452.

⁷⁶⁸ Tribunal documents, 1448 – 1451.

⁷⁶⁹ Transcript, Day 1, pages 141 – 144.

CHAPTER 12

THE MANAGEMENT OF THE DONEGAL DIVISION

Introduction

12.01. This chapter deals with the circumstances in which the various ‘finds’ of materials as outlined in the Tribunal’s Terms of Reference were made. It identifies the serious shortcomings, particularly within the management of the Donegal division at the time of the finds, in light of which the deception could and did take place. The extent to which many senior officers abdicated their duties and brushed aside the legitimate concerns of their subordinate officers gave rise to the apprehension by the Tribunal that the conspiracy to commit fraud was widespread.⁷⁷⁰ The chapter also looks at a number of so-called policies that emerged in the Donegal division. These served to militate against the detection of any internal conspiracy. These, coupled with the failure to adhere to basic police procedures in the investigation of crime, undoubtedly contributed to a malaise in the Donegal division at the time of the finds.

Communications

12.02. The issue of communications within An Garda Síochána throws up a number of areas of concern. These arise out of the system for reporting finds that had been made by the Gardaí within the Donegal division to Garda Headquarters. In simple terms, the procedure was that when a find was made in a district, other than the Letterkenny district, the district officer would send in a report to the Divisional Communications Centre based at Letterkenny Garda Station. This report would normally be transmitted initially by telex and then followed up by post. When the report was received at the Divisional Communications Centre, a telex would be forwarded to various branches within Garda Headquarters, including Crime & Security Branch, the Commissioner’s Office and the Garda Press Office. This procedure was one of the most important day-to-day means of keeping Garda Headquarters abreast of developments within the division. The Tribunal has heard in evidence that only an officer of Inspector rank or above could authorise the sending of a telex. That officer was responsible for ensuring that the information contained in the telex was accurate. This was vital from the point of view of transparency and accountability. A feature of many of the hoax explosives finds in Donegal was the inaccuracy of the information contained in telexes.

12.03. A primary example of inaccurate information being sent to Garda Headquarters concerns the report of the ‘test blast’ that purported to confirm the explosive nature of the materials found at Ardchicken. As outlined in greater detail in Chapter 6, on the 19th of November 1993, the Gardaí found a quantity of material in a derelict house at Ardchicken on the main road between Donegal town and Ballyshannon.⁷⁷¹ At 16.52 hours, Superintendent Michael Duffy sent a report to the Chief Superintendent in Letterkenny informing him of the making of the find at 15.30 hours that afternoon.⁷⁷² At 21.23 hours he sent a further

⁷⁷⁰ The Tribunal has outlined its findings in this regard in the chapters detailing the various incidents concerning the activities of Ms. McGlinchey and in its summary chapter.

⁷⁷¹ The circumstances of this find are described in detail at Chapter 6, paras. 6.76-110.

⁷⁷² Tribunal Documents, page 4812.

report to the Chief Superintendent informing him that the searches had ceased, that the find had been removed by the army EOD Officer to Finner Camp and that a sample of the suspect mixture had been taken for analysis.⁷⁷³ On the 22nd of November 1993 Superintendent Duffy sent a third report which stated:

Further to previous fax messages re: above, I am to inform you that the EOD Officer at Finner Army Camp carried out a test blast with one of the bags of HME and confirmed that same was indeed an explosive substance. Each bag was weighed and contained exactly 5 kilos per bag.⁷⁷⁴

- 12.04.** The difficulty with the third report sent up by Superintendent Duffy was the evidence of Dr. Sheila Willis of the Forensic Science Laboratory, which was to the effect that analysis of the one bag of material which was sent to her from the Ardchicken find revealed it to be urea, which is an animal feedstuff. It is not an explosive substance. It has to be put through a process of nitration before it could be effective for use as an explosive material.⁷⁷⁵ Superintendent Duffy stated that where the army were going to carry out a test blast, some member of the Gardaí would normally be present. As a result, he claimed to believe that this information had been given to him by one of his detectives.
- 12.05.** Commandant Colm Farrell was the army EOD Officer who dealt with the material found at Ardchicken. He stated in evidence that he attended at the scene of the find at Ardchicken on the 19th of November 1993. Having satisfied himself that it was safe to move the material, he took sixty of the sixty-one bags of material to Finner Camp.⁷⁷⁶ The remaining bag was left with the Gardaí for analysis. On the following day, he brought the material to a tidal area adjacent to the camp, for disposal by means of depositing the material in the sea. He stated that, out of personal interest, he carried out what he described as a “crude field experiment” to ascertain if the material was an explosive substance. He was at pains to emphasise that this was only a crude experiment, rather than any sort of scientific test. Commandant Farrell explained in evidence the method by which he carried out this field experiment.⁷⁷⁷ He placed approximately 0.5lb of army plastic explosive in contact with a quantity of the substance found in Ardchicken. He then detonated the material. Based on visual observation of the size of the ensuing explosion, he was able to come to an opinion as to whether the substance, in contact with the army explosive, was in fact an explosive substance. In short, if there was an enhanced explosion, this would indicate to him that the substance in question was an explosive mixture.
- 12.06.** Commandant Farrell stated that he could not actually recall doing the test. He only came to the conclusion that he had done such a test, because on checking the army records, he saw that he had signed out a small quantity of army explosive at the relevant time. It was this fact which led him to believe that he had carried out such a test. He could not recall the results of the test. There was no formal written report done by him or by any person serving under him, in

⁷⁷³ Tribunal Documents, page 4813.

⁷⁷⁴ Tribunal Documents, page.4814.

⁷⁷⁵ Transcript, Day 79, pages 106-126.

⁷⁷⁶ Transcript, Day 123, page 4.

⁷⁷⁷ Transcript, Day 123, pages 13-14.

relation to the test which he had carried out.⁷⁷⁸ When asked as to how Superintendent Duffy could have written his third report, Commandant Farrell stated:

...[I]t's possible that I carried out this field experiment, possible that I misconstrued that I got a slightly enhanced effect, possible that I verbally said this to somebody ... who passed this information on to the Guards.

Chairman: So, passed down more or less as gossip more than a formal report?

*A: Yeah. As I say, it can't be taken, because it was not a proper test.*⁷⁷⁹

12.07. The Tribunal finds it unacceptable that a report can be generated by a district officer which, at best, was based on what was said to him by a Detective Garda, who in turn could only have obtained the information from a verbal report which was nothing more than 'gossip' from some unidentified army person. Where reports are sent up by a district officer, which reports will be included in a subsequent telex sent to Garda Headquarters, the content of such reports should be carefully checked by the district officer before dispatch. It was due to a lack of proper checking of the content of this report that an erroneous impression of the significance of the Ardchicken find was communicated to the divisional office in Letterkenny and onwards to Garda Headquarters. Had proper enquiries been made of the army EOD Officer, it would have been discovered that no proper test had been carried out on the material found at Ardchicken. As a result, the views of Dr. Willis should have been obtained, causing the Gardaí to discover that the material was urea, which in turn should have raised their suspicions as to the authenticity of the find as genuine subversive material. It would appear that none of this was done due to the fact that reliance was placed on the erroneous and inaccurate third report sent up by Superintendent Duffy.

12.08. A second area of concern in relation to communications arose in connection with the telexes sent from the Divisional Communications Centre in Letterkenny to Garda Headquarters concerning the find adjacent to the Oatfield factory premises made on the 4th of June 1994 and the find at Covehill made on the 13th of June 1994.⁷⁸⁰ The system for sending telexes to Garda Headquarters which was adopted at the time in Letterkenny was described in evidence by Inspector Michael Finan and by Garda Vincent Cafferkey.⁷⁸¹ In summary, they explained that where a find of explosives had been made, a written note or report must be submitted to the Divisional Communications Centre for onward transmission via telex to Garda Headquarters. In order for a telex to be sent, this note or report must be signed by either a Superintendent, an Inspector, or a member of the district officer's staff, which would usually be the district officer's clerk. This note or report constitutes the authorisation for the sending of the

⁷⁷⁸ Transcript, Day 123, page 16.

⁷⁷⁹ Transcript, Day 123, page 42.

⁷⁸⁰ These finds are dealt with in detail in Chapter 8 of the report.

⁷⁸¹ Transcript, Days 93 and 127.

telex. When the information is typed onto the telex machine, four copies of the telex are printed off. The original note or report is stapled to the first telex, which is sent over for the attention of the divisional officer, being the Chief Superintendent. When he has read it, he would initial it, and either direct that further action be taken or would mark it “PA”, meaning “put away”. The telex would then be filed in the divisional office files for its relevant district. Thus, the telexes emanating out of an event in Buncrana would be indexed and inserted into the Buncrana folder in the divisional office. Similarly, telexes from Letterkenny would be placed onto the Letterkenny folder. Garda Cafferkey did concede that, occasionally, a telex could be placed onto the file of a particular person, if such person was named or identified in the telex and if such a file was kept on the person in the divisional office. The second copy telex printed from the machine would be retained by the Divisional Communications Centre itself as a record of all telexes sent by it. The third copy would be collected daily by the Detective Superintendent for his information. A fourth copy would be given to the district officer for the area concerned.

- 12.09. There has been great controversy surrounding the alleged finds at Oatfield and Covehill. The only documents which seem to exist are the telexes which were sent at 00.45 hours on the 5th of June 1994⁷⁸² and at 15.40 hours on the 13th of June 1994.⁷⁸³ Garda Cafferkey gave evidence of having carried out a search of the files in the divisional office, but he was unable to find any trace of either of the telexes, or of the covering notes or reports which would have authorised the sending of the telexes.⁷⁸⁴ He stated that, in respect of the Letterkenny district file kept in the divisional office, there was no trace of these telexes either in the index to that file, or in the file itself. This led him to the conclusion that the telexes never made their way on to the file in question.⁷⁸⁵ Inspector Michael Finan has given evidence that there were no investigation files for either of these finds located in the divisional office in Letterkenny.⁷⁸⁶ Indeed, no supporting documentation of any kind has been produced to the Tribunal concerning these alleged finds.
- 12.10. Garda Cafferkey was not in a position to give any evidence about the files of telexes held by the Divisional Communications Centre because all the files for the years prior to 1996 have been destroyed. As for the telexes going to the Detective Superintendent’s office, he came to the conclusion that, because there was reference in the confidential monthly report for June of 1994 to the two finds, these telexes must have been sent to the Detective Superintendent’s office, because that was the means by which he was able to compile the report and insert details of the relevant finds into the confidential monthly report for the Letterkenny district.⁷⁸⁷ However, under cross-examination by Superintendent Lennon, Garda Cafferkey stated that he was of the opinion that the signature which purported to be that of Detective Inspector Lennon on the confidential monthly report for June of 1994 was not in fact the true signature of

⁷⁸² Tribunal Documents, page.1111.

⁷⁸³ Tribunal Documents, page 1111-1.

⁷⁸⁴ Transcript, Day 127, page 165.

⁷⁸⁵ Transcript, Day 167, page 93.

⁷⁸⁶ Transcript, Day 93, page 32.

⁷⁸⁷ Transcript, Day 167, page 94.

Superintendent Lennon.⁷⁸⁸ Superintendent Lennon has also given evidence that he did not sign the report. This aspect is dealt with in more detail in chapter 8 of this report.

- 12.11. The copies of the telexes in relation to the Oatfield and Covehill finds dated the 5th of June 1994⁷⁸⁹ and the 13th of June 1994,⁷⁹⁰ forwarded to the Tribunal, came from Garda Headquarters. There is no record of these telexes in the divisional office in Letterkenny, from whence they were sent. A copy of the telex for the 5th of June 1994 was subsequently found in what has been described as ‘Lennon’s locker’. This was a shelf in one of the storerooms in Letterkenny Garda Station that also contained a series of notebooks and officer’s journals belonging to Superintendent Kevin Lennon. It would appear that, although the particular shelf in question was accessible to all members of the station party, the concentration of documents relating to both Superintendent Lennon and Ms. Adrienne McGlinchey, and in particular the presence of Superintendent Lennon’s official journals and diaries, would tend to indicate that these documents were assembled and placed there by Superintendent Lennon. In direct evidence, Superintendent Lennon admitted that he had seen the telex for the 5th of June 1994, but that he had no involvement in sending either it or the telex of the 13th of June, despite the fact that he was serving district officer on the latter date. The absence from the files in the divisional office or the Divisional Communications Centre of either of these telexes, or of the paper work giving rise to same, has made it impossible for the Tribunal to satisfactorily reconcile the differing accounts concerning the finds which are the subject matter of these telexes.

Crime & Security Branch and Bridgend

- 12.12. The instances as set out above demonstrate a lax attitude to paperwork, which should not have been tolerated in a modern and efficient police service. It is essential that all necessary paperwork is completed in an accurate manner. There should be a regular audit of records, so as to ensure that all paperwork has been completed and is accurate in its content.
- 12.13. A further area of concern in relation to communications with Garda Headquarters related to the inaccuracy of the information sent regarding the Bridgend operation. As outlined in greater detail in Chapter 6, explosive materials contained in holdall bags were recovered by the Gardaí at Bridgend on the 11th of January 1994. This find was portrayed to the public as having occurred due to the fact that an anonymous telephone call was made to Burnfoot Garda Station reporting a sighting of two youths acting suspiciously in the area. When Gardaí investigated, they found the bags containing the HME hidden behind a pallet in the yard of a premises adjacent to the roundabout at Bridgend. As has been described in detail in Chapter 6, the reality of the situation was quite different. It was, in fact, supposedly a carefully planned ‘frustration’ operation, which had been made possible by the prior intelligence allegedly furnished by Adrienne McGlinchey. The operation, which had been sanctioned at the highest level

⁷⁸⁸ Transcript, Day 167, page 98 and Day 168, page 4.

⁷⁸⁹ Tribunal Documents, page 1111.

⁷⁹⁰ Tribunal Documents, page 1111-1.

within the Donegal division, was designed, firstly, to frustrate the transportation of explosives by the 'Provisional IRA' from Buncrana to Derry and, secondly, to protect the identity of the informer. To this end, the plan was that upon seeing the Garda checkpoint, Ms. McGlinchey would get the taxi to stop at the roundabout, where she would abandon the materials. It is not necessary, at this stage, to go through all the details surrounding this operation. The aspect of concern is the extent to which Crime & Security Branch were not apprised of the true situation.

- 12.14. Two telexes concerning this find were sent from the Divisional Communications Centre in Letterkenny to Crime & Security Branch on the 12th of January 1994.⁷⁹¹ These telexes do nothing more than give the 'official' version of the find. This would have led Crime & Security Branch to believe that the find was a fortuitous occurrence resulting from a routine Garda investigation of a report of a sighting of youths acting suspiciously in the area. No documentation has been produced to the Tribunal which would indicate that Crime & Security Branch was apprised of the true situation. The fact that Crime & Security Branch do not appear to have been told of the true nature of the operation which was mounted by the Gardaí that night is startling, given that Chief Superintendent Ginty, Detective Superintendent Fitzpatrick, Superintendent O'Connor and Detective Inspector Lennon were all aware of the information which had apparently been supplied by Ms. McGlinchey. They were all fully aware of the 'frustration' operation which had been put in place. The latter three officers actually played varying roles in the execution of the operation. That none of them would bother to ensure that Crime & Security Branch were given the details of the operation is incredible and shocking.
- 12.15. In cross-examination by Mr. Paul Murray B.L. for Adrienne McGlinchey, Superintendent Lennon was asked as to whether there had been any debriefing of Adrienne McGlinchey after the operation in order to ascertain by whom the materials had been supplied, or to whom she was to convey them. He replied that he could not recall if it was he or Detective Garda McMahan who had debriefed Ms. McGlinchey after the Bridgend operation. However, Detective Garda McMahan had told him that Ms. McGlinchey had said that people from Rahan were behind the 'Provisional IRA' operation that night. She supposedly named two people as being the persons involved.⁷⁹² Despite allegedly receiving this information, neither Detective Inspector Lennon, nor Detective Garda McMahan sent up any C.77, or any report, to Crime & Security Branch about the Bridgend operation, or about the information received on the subsequent debriefing of their informer. Somewhat ironically, it would appear that the RUC were informed by the Gardaí in some detail about the operation, including being furnished with the name of a person suspected of being behind the transportation of 'Provisional IRA' explosives on this occasion. This information was not given to Crime & Security Branch in Garda Headquarters. Thus, it would appear that the RUC were given more information than Crime & Security Branch.

⁷⁹¹ Tribunal Documents, pages 1251-71, 1251-72.

⁷⁹² Transcript, Day 150, page 65.

- 12.16. The failure to inform Crime & Security Branch of the true nature of this operation, or of the subsequent information obtained on the debriefing, was a gross dereliction of duty on the part of all the members concerned. Since the early 1970s circulars had issued from Garda Headquarters exhorting all members of An Garda Síochána to try to develop all sources of information and to send up all pieces of information so received, no matter how trivial or insignificant that information may appear. Chief Superintendent Martin Callinan has stated in evidence that Crime & Security Branch were always interested in receiving relevant information, even if it was in an incomplete form. Further developments in relation to the information could always be supplied subsequently. He went on to say that even if the information came after an event, rather than referring to an event which was to take place in the future, it was still useful. When asked as to whether Crime & Security Branch were interested in receiving both prior information and information after the event, he replied:

Absolutely. It goes without saying. I mean, probably the only essential difference is that pre-activity the Gardai may be in a position to intercept those responsible or perhaps disrupt the operation and thereafter, of course, when something happens it is always particularly useful to get an indication as to who is responsible.⁷⁹³

- 12.17. In relation to the Bridgend operation, it was a gross dereliction of duty on the part of Superintendent Lennon and Detective Garda McMahon that they failed to report either the true nature of the operation, or the subsequent information allegedly received from Ms. McGlinchey to Crime & Security Branch. This dereliction of duty by them is of course attributable to reasons that have been elaborated upon elsewhere in this report. However, in respect of the other officers, it was grossly negligent for Chief Superintendent Ginty, Detective Superintendent Fitzpatrick and Superintendent O'Connor to fail to ensure that the operation was properly reported to Crime & Security Branch. They knew that they were under an obligation to keep Crime & Security Branch fully apprised of all relevant information. No excuse has been forthcoming as to why this was not done on this occasion.

Hostilities between Senior Officers

- 12.18. It is inevitable that within any organisation tensions will, at times, emerge between two or more members that have a detrimental effect on the smooth running of the organisation as a whole. If left unchecked, these tensions can have disastrous consequences for morale within the organisation. It sometimes takes decisive action at the highest levels to ensure that the issue giving rise to the tension is adequately resolved or that the hostile parties are either kept apart or removed from the tense situation altogether. In an organisation such as An Garda Síochána, with its hierarchical structure, the opportunity exists to abuse one's

⁷⁹³ Transcript, Day 154, page 120.

rank to settle old scores. The less than transparent promotion process and the allocation of overtime appear to be the focus of much tension that has at times spilled over into open hostility between members. The Tribunal's attention was drawn to a series of disputes between members of the force in the Donegal division that undoubtedly hampered the sort of teamwork and co-operation that is necessary if members are to carry out their work effectively.

12.19. It would appear that Detective (later Chief) Superintendent Fitzpatrick and Inspector (later Detective Inspector) Lennon worked together in a harmonious manner throughout the period in which the alleged finds of explosives were made. A major rift appears to have occurred between the officers in the wake of Superintendent Lennon's report into the death of Mr. Richard Barron, which was forwarded to the Director of Public Prosecutions in March 1998. When the Carty team commenced their investigations the following year, and particularly when Mrs. McMahon came forward with her allegations, the conduct of Chief Superintendent Fitzpatrick in relation to Superintendent Lennon appears to have been less than wholly honourable. This is exemplified in his report of the 6th of April 1999,⁷⁹⁴ which contained the allegations, allegedly received from Mr. Dorrian, that Superintendent Lennon had been involved in holding back materials from specific arms finds.⁷⁹⁵ In the light of his evidence to the Tribunal that he did not believe these allegations, and that he decided not to conduct any preliminary investigation, which he admits would have shown them to be without substance, the Tribunal is of the view that Chief Superintendent Fitzpatrick abused his position to settle an old score. Superintendent Lennon is justified in feeling aggrieved about this and about the damaging publicity that he received at the time. However, the Tribunal does not feel that it is able to attribute the leaking of the information contained in that report to the media to Chief Superintendent Fitzpatrick. It is impossible to conclude, however, that this nasty abuse of the media came from anywhere apart from An Garda Síochána.

12.20. Superintendent John J. Fitzgerald alleged in evidence at the Tribunal that both Detective Superintendent Denis Fitzpatrick and Detective Inspector Kevin Lennon deliberately set out to undermine his position as Superintendent in the Letterkenny district. After Detective Superintendent Fitzpatrick was appointed as divisional officer, Superintendent Fitzgerald alleges that he was made to feel more and more isolated as the new Chief Superintendent and Detective Inspector Lennon conducted business in the division without due regard to his intermediate rank and supervision of by far the largest district in the division. He believed that they were attempting to squeeze him out with a view to Detective Inspector Lennon taking over his role in Letterkenny. Superintendent Fitzgerald recounted that he was so frustrated with the manner in which the two officers treated him that he sought a transfer out of the division. This request was eventually acceded to in February of 1997. He was replaced as district officer in Letterkenny by Superintendent Lennon.

⁷⁹⁴ Tribunal Documents, page 4941. The report was addressed to Assistant Commissioner "B" Branch – Personnel and Assistant Commissioner, Northern Region.

⁷⁹⁵ This issue has already been addressed more extensively in Chapter 1.

- 12.21. Superintendent Fitzgerald set out a number of incidents which he claimed were orchestrated by both Chief Superintendent Fitzpatrick and Superintendent Lennon with a view to undermining him. One such incident involved the manner in which a member who fell asleep on protection duty was dealt with. It would appear that the member was discovered by Detective Superintendent Fitzpatrick and Detective Inspector Lennon and was issued with a reprimand without any consultation with Superintendent Fitzgerald, who was the member's district officer and who would have been responsible for assigning him to the protection duty. While it may appear that the failure to consult with Superintendent Fitzgerald was a relatively trivial matter, attributable to professional discourtesy rather than malice, it would appear that the incident itself was deemed to be serious enough to be raised in the course of Superintendent Fitzgerald's subsequent interview for promotion. To that extent, there is indeed some substance to Superintendent Fitzgerald's grievance in the matter. Superintendent Fitzgerald's evidence in the matter was as follows:

...[T]here was a post whereby a person was being protected...in Letterkenny district, of which I was district officer. So, I prepared a protection order and that protection order set out what should be done with regard to this armed post....I inspected that post fairly regularly and I made sure that other people inspected it as well. So I inspected it on a particular day and I understand that the very following day Denis Fitzpatrick and Kevin Lennon were coming back from somewhere....I feel it would have been in 1995. And they inspected it and they did find the member asleep. Immediately, they took action, which was correct. The person was relieved of his post. He was sent back to his station...In the normal practice the Superintendent in the district would have been told about this, and I wasn't...Now, I didn't pass much remarks on that but I did learn that it happened and I went for interview some time after that...for promotion...[to] the rank of Chief Superintendent. And to my surprise this was put to me...to the effect of what kind of control have you down there, that people would fall asleep in your post? Maybe through a question or something to that effect. So I explained to the best of my ability...I don't know how it came to the interviewer's knowledge, but then having said that it would be correct that it would come to his knowledge in the normal course...If it were an isolated incident, I wouldn't have mentioned it at all.⁷⁹⁶

- 12.22. Although Superintendent Fitzgerald stopped short of alleging that he felt that Chief Superintendent Fitzpatrick and/or Detective Inspector Lennon had set him up by bringing the matter to the attention of the interview board, the circumstances do appear to be suspicious. In any event, the Tribunal accepts that this incident was an example of the sort of 'exclusion' experienced by Superintendent Fitzgerald in his dealings with Chief Superintendent Fitzpatrick and Detective Inspector Lennon.

⁷⁹⁶ Transcript, Day 123, pages 46-52.

- 12.23. A second, and more serious, incident alluded to by Superintendent Fitzgerald concerned Chief Superintendent Fitzpatrick and Detective Inspector Lennon conspiring to undermine him by suggesting that there was a spy in his office. Superintendent Fitzgerald's evidence was as follows:

I can remember about 12.20 a.m. one morning, and I was just about to go to bed, my family were in bed, and I got a call to say that there was a mole in my office and "you better look after that"...I got a call that night from Chief Superintendent Fitzpatrick...He may very well have been passing on something he was told but it had been mentioned to me before by Superintendent Lennon...It had to be between 1994 and before the spring of 1996. So I can put it down into that period...[Superintendent Lennon had told me] that there was a mole in my office, without mentioning a name...One of my office staff was not reliable, in other words...that there was a danger that they would give out information...[to] subversives. In relation to subversion...I quite satisfied myself that that was not the case...I didn't set up any traps or anything like that...I just kept a close eye on my staff and was quite satisfied that they were all sound...I don't know what was in his mind or their minds at the time. But I'm giving it as an example of something that I felt was bringing pressure on me.⁷⁹⁷

- 12.24. If either Chief Superintendent Fitzpatrick or Superintendent (possibly then Detective Inspector) Lennon had any information that could possibly have identified espionage in Superintendent Fitzgerald's office, to do anything other than bring the information to him in an open and direct manner would be highly unprofessional, never mind discourteous. Alternatively, to have done so without any justification, as a sort of a practical joke, would be equally beyond the pale of acceptable behaviour. No good reason was advanced by either officer at the Tribunal for their actions in relation to this matter. The Tribunal therefore adopts the view that this occurrence amounted to a conspiracy on the part of both officers to undermine Superintendent Fitzgerald's position.
- 12.25. It is perhaps not surprising that coexistent with the sort of 'do not examine the facts' attitude amongst many senior officers that informed their inaction and/or complicity in relation to the various hoax explosives finds, hostilities and tensions emerged between the senior officers directly involved in the finds and certain other senior officers in the Donegal division. **It is reasonable to suggest that at least a part of these hostilities was fuelled by the sort of scepticism in relation to the activities of Ms. McGlinchey that was apparent amongst many of the Detective Branch members who gave evidence at the Tribunal. Those members of the Detective Branch showed a real commitment to Garda work and the proud tradition of the force. These detective Gardaí were not negligent. Their senior officers were. Unfortunately, no senior**

⁷⁹⁷ Transcript, Day 123, pages 139-149.

officer who worked in the Donegal division at the time echoed such scepticism, with each of them ‘pleading ignorance’ of the true nature of Ms. McGlinchey’s activities. In any event, the hostilities between certain senior officers can only have had a detrimental knock-on effect on morale and discipline within the division, accelerating the emergence of various cliques and power bases, which further undermined the effectiveness of policing in Donegal at the time.

“Hoovering-up” Policy

- 12.26. The “hoovering-up” policy was presented to the Tribunal as a means by which apparent finds of explosive materials were expeditiously ‘taken out of commission’ in Donegal. It was described to the Tribunal by various officers as a policy of former Chief Superintendent Sean Ginty. He, in turn, sought to justify this on the basis that he had neither the manpower nor the expertise at his disposal to ensure that the finds were investigated thoroughly. Scenes of finds were not placed under surveillance, a thorough technical examination of the scenes were not conducted, the materials were removed from the scenes, sometimes prior to the arrival of the Army EOD Officer. The corollary of all of this was that investigation files into the finds were compiled, if at all, in a haphazard manner.
- 12.27. The Tribunal has had the benefit of oral evidence in relation to proper policing procedures when a find of explosives is made from a number of experienced serving police officers.⁷⁹⁸ In essence, the same principles apply as to when materials are uncovered in the course of investigations into what is described as crime ordinary. Where an informer is involved, extra safeguards will be taken, but basic police procedures still apply. **The evidence before the Tribunal only served to reaffirm the impression that the procedures adopted in Donegal in relation to the various finds outlined in the Tribunal’s Terms of Reference were wholly inappropriate.**

Surveillance⁷⁹⁹

- 12.28. The decision not to mount surveillance on the various finds when they were made was attributed, by all senior officers involved in the finds, with the exception of Superintendent Michael Duffy,⁸⁰⁰ to the policy of Chief Superintendent Sean Ginty whereby subversive materials, when discovered, were to be taken out of circulation as soon as possible. Chief Superintendent Ginty justified this policy on the basis that long-term surveillance of materials tied up resources. This, combined with the additional difficulties in replacing surveillance units without tipping off the subversive elements, which may in turn be conducting covert surveillance on the site, undermined the usefulness of such operations. He also cited the expertise of the subversive groups at not leaving evidence at the scenes

⁷⁹⁸ This issue is dealt with generally in Chapter 3 – “Police Procedures and Standards” with the expert testimony of Chief Superintendent Brian Garvie, RCMP, Detective Superintendent Tadhg Foley, Superintendent Hugh Coll and Chief Superintendent Tom Monahan relied upon to illustrate the divergence from both international and national standard procedures that occurred in Donegal in respect of the finds as set out in the Terms of Reference.

⁷⁹⁹ See also Chapter 3, paragraphs 24-26.

⁸⁰⁰ Transcript, Day 100, pages 55-57. Q.209-219.

of arms bunkers. Removing the materials would remove the immediate threat to life and property that the materials constituted.⁸⁰¹

- 12.29. Any given situation in which police action is necessary requires an appraisal of all of the available evidence and information to formulate an appropriate plan of action. As resources are not limitless, some evaluation of the public benefit to be attained from such action is central to this deliberation. The Tribunal is satisfied, and members of the force in Donegal have testified to the fact that there was no greater public benefit to be achieved through police action than the apprehension and prosecution of those engaged in terrorism. The Tribunal accepts the evidence of Detective Superintendent Tadhg Foley that:

*... materials can be got at any time but it is to take the people who are operating or using those materials out of circulation, that is the priority and that should be the priority.*⁸⁰²

- 12.30. Superintendent Hugh Coll gave the following evidence in relation to his experience of conducting investigations in border areas:

*If there was a bomb factory or finds of that nature recovered, or other border incident, it generally depended on the gravity of the situation, an investigation room would be set up, ballistics, and forensic from Garda Headquarters would be summoned to the scene, the scene would be preserved. Depending on the circumstances, surveillance would be carried out on areas of such a find if we had information in relation to a find to try and establish who was moving, or using the materials to identify the people involved which would be very important...More than to try and take out maybe a number of bags of fertiliser that could be replaced fairly easy, it was more important to try and identify the people involved to take those out of commission.*⁸⁰³

- 12.31. The expert evidence to the Tribunal indicates that a determination not to mount surveillance on an apparent find of subversive materials would be justified only in exceptional circumstances, such as where the site of the find was very exposed and offered no real opportunity to covertly monitor the site or where the material discovered was essentially incapable of grounding a prosecution. However, all of the available evidence on best practice indicates that such an approach amounts to no more than an exception to the rule that surveillance be seriously considered in all circumstances where material of an apparently subversive and/or ordinary criminal nature is discovered. It might also be noted that, in terms of combating subversive crime, it had for many years been possible to secure a prosecution for “membership of an illegal organisation” on the word of a Chief Superintendent on its own, whereas the courts now require some other evidence to corroborate the charge. In light of this development, an even greater onus was placed on Gardaí to ensure that any possible corroborative evidence be obtained from the scene of a find.

⁸⁰¹ Transcript, Day 102, pages 139-144.

⁸⁰² Transcript, Day 97, page 111.

⁸⁰³ Transcript, Day 97, page 84.

- 12.32. When recalled to give evidence, Sean Ginty suggested that his policy was not designed to be interpreted as a blanket ban on surveillance, and that the senior officers on the ground had the discretion to call up surveillance if the circumstances of the find suggested to them that this was the appropriate course of action. His evidence was as follows:

...[W]e have had the special surveillance unit down from Dublin on occasions in Donegal during that period. Where it was thought, it was felt that surveillance could usefully lead to capture. In my experience it didn't. The other thing...take Ardchicken for instance, which I confess that I cannot even recall, the matter was in hand, well in hand and I trusted the others to deal with it, I felt it didn't call for my personal intervention. But in every location, one of the factors to be looked at is, can the surveillance be mounted covertly. Now, every find in IRA practice is under the supervision of some person living in the area. People living in the area, especially in rural areas, the slightest deviation from the norm is noticed by them and is reported back to the IRA. They will not take any chances, they allow themselves a great measure of safety. To mount the kind of operation, surveillance operation in that, one would technically examine the scene and I would suggest, from what little I know of Ardchicken, that it was not suitable for surveillance of that kind. Surveillance is not automatically put in place, even if you have resources. It's a very difficult thing to do...I wouldn't seek to justify everything that we did, even in my own case. In terms of priorities, we were more concerned with taking the stuff out of circulation than in committing the resources and all that was involved in that and more concerned with the former, that is taking the stuff out of circulation, than following through on the off chance, as I would see it, of being able to bring a prosecution and then getting on with the next job. There were always demands on resources for other things. I don't want to put out the poor mouth on it too much but, you know, but it was a hand to mouth, a wing and a prayer type of operation insofar as we were concerned...What happens is, the local officer and the scenes of crime man generally go out there, they make an assessment. In other words, they do a preliminary investigation designed to discover whether or not a full investigation is warranted...There is a lot to be taken into consideration in that. They don't necessarily sit down and confer formally on that, they do it automatically, it's par for the course. But, yes, surveillance would be it is generally not followed through on. Our experience with surveillance was not good.⁸⁰⁴

⁸⁰⁴ Transcript, Day 167, pages 8-10.

- 12.33. Given the failure of officers to take the option of summoning up surveillance in relation to any of the alleged finds, it appears to the Tribunal that this evidence of Mr. Ginty amounts to no more than an attempt on his part to distance himself from the finds. If he had been doing his job properly, he would have taken a much more proactive role in ensuring that the various finds of significant quantities of apparently subversive materials discovered in his division were investigated thoroughly. Given the number of finds, this effort was not insupportable. He should have offered his senior officers every support in terms of ensuring that what resources were available were placed at their disposal.
- 12.34. Superintendent Hugh Coll gave the following evidence, which the Tribunal accepts, in relation to the Ardchicken and Rossnowlagh finds:

I think in any operation like this, it is my understanding from my discussion with Detective Garda McMahon and Superintendent Lennon, that when they initially visited the scene, they did so in a covert manner and it was done at night which afforded the opportunity for them afterwards to make a decision about conducting surveillance and, if the intent of going covertly was to view it, then in order to have a satisfactory result and to determine who was responsible for putting those items there etc. etc., then in terms of good policing practice, surveillance is something that definitely should be considered and where appropriate conducted.⁸⁰⁵

- 12.35. In terms of the responsibility of other senior officers at the scenes of the various finds, the 'policy' of Chief Superintendent Ginty could never be said to have overridden accepted police practice in Donegal. The Tribunal does not accept that the senior officers involved in the finds could have reasonably relied upon it to justify not mounting surveillance in respect of the finds at Ardchicken, Oatfield/Covehill and Rossnowlagh.

Fingerprinting and Forensic Analysis

- 12.36. The issue of fingerprinting scenes of crime was addressed by a number of witnesses. Fingerprints were not taken from the scene of the various finds as outlined in the Terms of Reference. The duty to take fingerprints from a crime scene rests with the scenes of crime officer, who in turn liaises with the investigating officer to ensure that all relevant evidence is included on the investigation file. There are circumstances in which, owing to the location and/or nature of a find, especially where it is found in a damp environment, it is impossible to obtain fingerprints.⁸⁰⁶ Expert testimony was also given to the effect that fingerprints do not adhere well to certain plastic and/or other materials often found at crime scenes. However, the failure to obtain and/or retain fingerprints in respect of the various finds, most of which were found in relatively dry locations, with ground-down fertiliser stored in bags that could have yielded fingerprints, is indicative of the less than rigorous manner in which they were investigated.

⁸⁰⁵ Transcript, Day 95, page 31.

⁸⁰⁶ See evidence of ex-Detective Sergeant Aidan Murray at Transcript, Day 78, pages 39-41.

- 12.37. The extent to which forensic analysis of materials found was either not conducted, partially conducted or the information derived from such analysis not appropriately disseminated or acted upon, gives rise to further concerns about the manner in which the various finds were investigated. Given the aforementioned necessity of some corroborative evidence additional to a Chief Superintendent's opinion to sustain a membership charge, the failure to conduct adequate forensic analysis of materials might indicate either an inability or an unwillingness on the part of the senior officers to ensure that sufficient pressure was brought to bear on subversives known to be living in the division. In light of the Tribunal's findings as to the lack of authenticity of the various finds with which it is particularly concerned, there may be a different, albeit equally inexcusable, explanation for the deviation from standard police procedures. It should be further noted that, according to figures released by Crime & Security Branch,⁸⁰⁷ a total of twelve seizures of terrorist arms, ammunition and explosives occurred in the Donegal division in 1994, of which five are covered by the Tribunal's Terms of Reference. **The Tribunal cannot reasonably infer from these figures that the frequency of finds was such that the abandonment of proper police procedures which the "hoovering-up" policy represented was in any sense justified by the exigencies of the time in terms of the effective deployment of resources and manpower in combating subversive crime.**

Failure to Preserve the Scenes where Finds were Made

- 12.38. A common theme, which runs through nearly all the finds of material that have been examined by the Tribunal in the course of its work, has been the failure of numerous Gardaí to protect, or preserve, either the materials found or the scenes where the finds were located. There are two aspects to this lack of protection of the sites. The first concern is the failure by the Gardaí who were first on the scene to protect and preserve the area, including the find itself. In a number of cases the first Gardaí to be aware of the location of a find were Detective Inspector Lennon and Detective Garda McMahon. Their explanation for not remaining at the scene with the materials that they had discovered was primarily a desire to protect their 'informant', Adrienne McGlinchey. Given the findings elsewhere in this report concerning the involvement of Detective Inspector Lennon and Detective Garda McMahon in the alleged finds, it is not necessary to look at their actions in failing to preserve the scene of the finds in any great detail.
- 12.39. The second area concerns the actions of various Gardaí, other than those dealing with Ms. McGlinchey, who were made aware of the location of finds and yet did nothing to protect, or preserve, the relevant areas until the finds were 'officially' made, some time later. Each of the relevant finds have already been dealt with in detail elsewhere in this report, so it is not necessary to go through each in an exhaustive fashion. However, it is necessary to examine the finds from the point of view of the failure of the Gardaí to preserve same.

⁸⁰⁷ Tribunal Documents, pages 3085-3091.

- 12.40. In relation to the Ardchicken find on the 19th of November 1993,⁸⁰⁸ evidence has been given that Detective Inspector Lennon and Detective Garda McMahon were taken to the scene of the find by Adrienne McGlinchey on the night of the 18/19th of November 1993. According to Superintendent Lennon, this trip took place in the early hours of the 19th of November, with their arriving back in Letterkenny at about 03.00 hours.⁸⁰⁹ Superintendent Lennon states that he rang Superintendent Michael Duffy early in the morning of the 19th of November 1993, at 08.00 hours or 08.30 hours. He states that he told him of the location of the find.⁸¹⁰ Superintendent Duffy puts the call as having been received by him during night hours, sometime after 00.00 hours.⁸¹¹ Thus, the material was left unattended by Superintendent Kevin Lennon and Detective Garda Noel McMahon from the time when it was first discovered at approximately 01.00 hours/02.00 hours, until notified to Superintendent Duffy later that morning. However, even then the find remained unprotected. Later in the night or early in the morning, Superintendent Duffy telephoned Superintendent T.V. O'Brien, who was then a Detective Sergeant, requesting him to have a look at the locus to verify if materials were to be found there. He reported back to Superintendent Duffy. The Superintendent then drove out to the scene with Sergeant Aidan Murray to have a look at the layout of the terrain. Some time after 14.00 hours Superintendent Duffy issued the search warrant. The materials were 'officially' found by a search party of uniformed Gardaí at 15.30 hours.⁸¹² Accordingly, the find was left unprotected from the time of its first discovery at 01.00 hours/02.00 hours on the 19th of November 1993, until its official discovery by the search party at 15.30 hours that day.
- 12.41. The Tribunal accepts the evidence of Chief Superintendent Tom Monahan that, once discovered by Superintendent Lennon and Detective Garda McMahon, this find should not have been left unprotected for fear that the materials might be retaken by subversive elements.⁸¹³ Similarly, the Tribunal accepts the evidence of Detective Superintendent Tadhg Foley that in accordance with standard instructions that were in force at the time, this find should not have been left unprotected once discovered by the Gardaí.⁸¹⁴ The find should have been preserved for proper forensic examination. The evidence of Chief Superintendent Brian Garvie was also to the same effect.⁸¹⁵
- 12.42. In relation to the find of materials at the flat occupied by Ms. McGlinchey and Ms. Devine in The Crescent, Buncrana, on the 14th of March 1994,⁸¹⁶ there was an appalling dereliction of duty by Garda Tom Rattigan in failing to preserve the scene and in failing to notify the Garda authorities of the existence of the find. When Detective Garda Noel McMahon was notified by Garda Rattigan of the presence of the suspect materials in the flat, he too departed from acceptable practice in failing to have the scene preserved, with the effect that it was left

⁸⁰⁸ This find was dealt with in detail in Chapter 6 of the report.

⁸⁰⁹ Transcript, Day 146, page 105 on.

⁸¹⁰ Transcript, Day 146, page 107.

⁸¹¹ Transcript, Day 100, page 37.

⁸¹² Tribunal Documents, pages 1251-69.

⁸¹³ Transcript, Day 164.

⁸¹⁴ Transcript, Day 97, pages 108-109.

⁸¹⁵ Transcript, Day 93, page 30.

⁸¹⁶ This find is examined in detail in Chapter 7 of the report.

unprotected from the time of its discovery before lunch time on the 14th of March 1994 until circa 19.45 hours that evening. This failure by these two Gardaí to notify the Garda authorities and/or to preserve the scene constituted an inexcusable dereliction of duty by each of them. As the Tribunal is satisfied that Detective Inspector Lennon knew of the situation that pertained at the flat as and from early afternoon that day, he too was guilty of the same dereliction of duty.

- 12.43. When Garda P.J. Thornton and Garda Martin Leonard apparently found materials adjacent to the Oatfield Sweet factory on the 4th of June 1994,⁸¹⁷ they simply removed the two holdall bags from the locus. There was no attempt made to have the materials examined at the scene, nor was there any attempt made to preserve the scene itself for forensic examination. This was completely contrary to the established principles of good police practice as outlined in evidence by Detective Superintendent Tadhg Foley⁸¹⁸ and Chief Superintendent Brian Garvie.⁸¹⁹
- 12.44. Moving on to the finds at Rossnowlough in July 1994, Detective Inspector Kevin Lennon and Detective Garda Noel McMahon state that they were brought to the sites of the Rossnowlough finds by Adrienne McGlinchey during the night of the 17/18th of July 1994. Having verified the existence of the materials at the two locations, Detective Inspector Lennon and Detective Garda McMahon simply left them there unprotected. Superintendent Michael Duffy stated that at approximately 10.00 hours on the morning of the 18th of July 1994, Detective Inspector Lennon came into his office in Ballyshannon Garda Station and told him of the finds. Detective Inspector Lennon brought him to the sites of the two finds in Rossnowlough. Their trip ended circa 11.00 hours. Ex-Superintendent Duffy stated that on his return to Ballyshannon Station he brought Sergeants Kennedy and McFadden out to Rossnowlough to point out the locations where the materials were to be found. He proceeded to organise search parties to commence in the afternoon. The first find was 'officially' made at 15.30 hours and the second find was made at some time in the early evening. There are differing accounts as to the exact time of the second find at Rossnowlough. However, it is clear that both finds remained unprotected from the time that they were first discovered by Detective Inspector Lennon and Detective Garda McMahon until the time of their respective 'official' discoveries in the afternoon and evening of the same day. Again, the Tribunal accepts the evidence of Detective Superintendent Tadhg Foley⁸²⁰ and Chief Superintendent Brian Garvie⁸²¹ that leaving the finds unprotected in this way constituted a gross departure from proper police procedures in the circumstances.
- 12.45. **In each of the cases discussed above, there was a failure by Gardaí to preserve, or protect, the scenes of the various finds. This was a failure by the Gardaí who initially found the materials, being Detective Inspector Lennon and Detective Garda McMahon in the case of the Ardchicken and the Rossnowlough finds, Garda Rattigan in respect of the find at The Crescent, Buncrana, and Gardaí Thornton and Leonard in respect of the**

⁸¹⁷ This find is dealt with Chapter 8 of the report.

⁸¹⁸ Transcript, Day 97, page 120.

⁸¹⁹ Transcript, Day 95, page 58.

⁸²⁰ Transcript, Day 97, page 124.

⁸²¹ Transcript, Day 95 page 66.

find on the lands adjacent to the Oatfield factory. There are findings elsewhere in this report, which may explain why Detective Inspector Lennon and Detective Garda McMahon departed from the proper procedure. Garda Rattigan's conduct, which involved the abandonment of proper police procedure, was motivated by misguided loyalty on his part to a friend of long standing, Detective Garda McMahon. In respect of Gardaí Thornton and Leonard, the Tribunal is of the opinion that they did not adhere to proper police procedure, either through incompetence, or for some other reason which the Tribunal has not been able to discover.

- 12.46. The second area concerns what the Garda authorities did when they were notified of the finds. In this regard, Superintendent Duffy failed to act promptly to preserve the scenes of the Ardchicken and Rossnowlagh finds. The materials were left unprotected for lengthy periods. This was contrary to proper police procedure. It was particularly inexcusable in respect of the Rossnowlagh finds because his information at that time was that the material was to be used in an imminent attack on a vehicle checkpoint at Rosscor. His failure to have these areas protected immediately constituted gross incompetence.

Failure to create Investigation Files in respect of the Finds

- 12.47. There was repeated failure by the Gardaí in the Donegal division to create any proper investigation files in respect of the finds which have been examined by the Tribunal. The first find was at Ardchicken on the 19th of November 1993.⁸²² The search party was lead by Sergeant McPartlan, to whom a search warrant had been issued under Section 29 of the Offences Against the State Act, 1939 (as amended). He did make a report on the search and the ensuing find.⁸²³ However, this was done in his capacity as the Sergeant executing the search warrant. He stated in evidence that he was not told to investigate the find itself. That was a matter which would normally be done by the Detective Branch on the direction of the district officer.⁸²⁴
- 12.48. Of the three other Gardaí on the search party, two had made statements to the Carty team that they were not asked to make any statement at the time and one has stated that he did make a statement about his involvement in the search itself.⁸²⁵ Detective Sergeant T.V. O'Brien stated that he carried out house-to-house enquiries. A statement was also taken by members of Detective Branch from the owner of the property. The find was examined by Sergeant Aidan Murray, as the scenes of crime officer. He sent a sample of the material to the Forensic Science Laboratory who sent back a report on the matter, stating that it was urea, an animal feedstuff. There was also a short report from the army EOD officer, Commandant Farrell.⁸²⁶ There were also three short reports about the find by Superintendent Michael Duffy, which reports were sent to divisional headquarters at Letterkenny. These reports were sent up as a means of generating the telexes which would inform Garda Headquarters of the find.

⁸²² This find is dealt with in detail in Chapter 6 of the report.

⁸²³ Tribunal Documents, page 2385.

⁸²⁴ Transcript, Day 78, page 147.

⁸²⁵ Tribunal Documents, pages 4026, 4028.

⁸²⁶ Tribunal Documents, pages 1251-65.

12.49. Inspector Michael Finan was asked to carry out a search at the divisional headquarters in Letterkenny Garda Station to see if any investigation file had been forwarded in the matter. He stated in evidence that no such file had been found at Letterkenny Garda Station.⁸²⁷ He stated that the only documentation in Letterkenny were the three short reports sent up by Superintendent Duffy in respect of the find. He stated that normally there would be some follow-up from the divisional headquarters in the event that no file was sent up. However, in this case, no further paper trail existed after the third report had been submitted by Superintendent Duffy on the 22nd of November 1993. No file was forwarded by Superintendent Duffy, nor was its absence chased up by the divisional headquarters.

12.50. Superintendent Duffy confirmed that no investigation file had been forwarded by him to Letterkenny Garda Station. He explained this as follows:

Well, that's what happened. There was no file prepared on it. ... Why? There was no evidence, Chairman. It would have been a waste of time to have submitted a file on it. ... It wasn't done. But, I don't know why. There was a different attitude to subversive crime. Well, you didn't get that first of all, you hadn't the assistance of the public. Well, not to prepare a file. Maybe you could have gathered a few statements together but it wasn't done.

Q. Chairman: Your answer is; maybe I could have gathered a few statements together, but it wasn't done. Is that your only justification for not having prepared a file in this case? I am hoping that you are going to tell me something to the effect that for security reasons it wasn't done or something of that sort. But you have no explanation to offer?

A. No, I haven't, Chairman.⁸²⁸

12.51. A similar picture emerged in respect of the finds in Rossnowlagh on the 18th of July 1994.⁸²⁹ Notwithstanding the intelligence which was available in advance of the find, and the effusive congratulations which were sent afterwards by higher authorities, Superintendent Duffy admitted that no investigation file was prepared. No statements were taken from those on the search teams; no statements were taken from the owners of the properties where the material had been found; and no reports were submitted by the Sergeants who were in charge of the search parties.⁸³⁰ Superintendent Duffy maintains that the finds were dealt with "in the usual manner". Inspector Finan confirmed in evidence that there were no investigation files on the Rossnowlagh finds in the divisional office in Letterkenny Garda Station.⁸³¹

12.52. **The Tribunal finds it totally unacceptable that no investigation files were sent forward in respect of the finds at Ardchicken or Rossnowlagh. This was the responsibility of the district officer Mr. Duffy. No adequate**

⁸²⁷ Transcript, Day 92, page 166.

⁸²⁸ Transcript, Day 100, pages 89-95.

⁸²⁹ These finds are dealt with in detail in Chapter 9 of the report.

⁸³⁰ Transcript, Day 100, page 131.

⁸³¹ Transcript, Day 93, page 36.

explanation has been forthcoming from him as to the failure to prepare and forward the files on these occasions. The divisional officer and his staff were also at fault for failing to chase up the investigation files, when they had been made aware of the finds as a result of receiving the initial reports from Superintendent Duffy. This failure is highlighted having regard to the fact that all in the Donegal division were receiving hearty congratulations in respect of the Rossnowlagh finds from the highest levels within An Garda Síochána and indeed, through no fault of her own, from the Minister for Justice. That no investigation whatever took place of the finds at Rossnowlagh is inexplicable.

- 12.53. Somewhat curiously, the nearest thing to an investigation file was created in respect of a find which was not a find at all but was in fact the seizure of materials as a result of a carefully laid operation by the Gardaí. This was in relation to the find at Bridgend on the 11th of January 1994.⁸³² Sergeant Michael Brennan was the person deputed to go to the area to investigate the report of youths acting suspiciously in that area. This report had been made by means of an anonymous telephone call received that evening at Burnfoot Garda Station. That call had in fact been made by Chief Superintendent Denis Fitzpatrick.
- 12.54. While there is evidence that Sergeant Brennan attended a meeting in Bunrana Garda Station, it is not clear to what extent he was made aware of the Garda operation which was to be put in place that evening. He was certainly directed to set up a vehicle checkpoint on the Derry side of Bridgend roundabout. It is not clear what further details he was given. In due course he compiled a detailed report on the search of the area and the resultant find, based on the anonymous call to Burnfoot Garda Station.⁸³³ He obtained eleven statements from the Gardaí who were involved in searching the area. He also obtained forensic analysis of the material and included an extract from the Ordnance Survey map of the area, showing the exact location of the find. It would appear that these documents were forwarded by Sergeant Brennan to the district officer, Superintendent J.P. O'Connor. Perhaps it was correct not to have forwarded these documents to the divisional headquarters, given that they proceeded on an incorrect understanding of the situation. However, some investigation file should have been forwarded to the divisional headquarters so that an investigation could be carried out into the purpose for which the materials had been intended, or who may have been involved in the manufacture of the materials. This was never done. Inspector Finan has confirmed in evidence that no investigation file was to be found in divisional headquarters in respect of the Bridgend find.⁸³⁴
- 12.55. The find at The Crescent on the 14th of March 1994⁸³⁵ also failed to produce any investigation file. Some documents were recovered, such as the initial reports from Inspector McMorrow and the telexes which were forwarded from the Divisional Communications Centre in Letterkenny, together with custody records for Adrienne McGlinchey and Yvonne Devine, and notes made by Sergeant John O'Keeffe, then a Detective Garda, of his interview with Yvonne Devine. However,

⁸³² This find is dealt with in detail in Chapter 6 of the report.

⁸³³ Tribunal Documents, pages 125-143.

⁸³⁴ Transcript, Day 93, page 30.

⁸³⁵ This find is dealt with in detail in Chapter 7 of the report.

the 'file' as such has never been located. Ex-Sergeant Des Walsh stated in evidence that there never was any investigation file prepared. In his evidence in chief, he denied that he had received the statements which had been referred to in his statement made to Superintendent McKeon, who was investigating a disciplinary charge against Detective Inspector Lennon. In that statement, he had stated that he had been responsible for the file and that he had destroyed the file some years later. In evidence, he stated that he made this statement simply to protect Detective Inspector Kevin Lennon. He was taking responsibility for a file which did not exist. He stated that he knew that there was no investigation file at the time that he made that statement.⁸³⁶ However, in cross-examination by counsel on behalf of Mrs. Sheenagh McMahon, he stated that he did have some documents, being a copy of a custody record in Burnfoot Station and maybe one or two statements.⁸³⁷ Under further cross-examination, he admitted that he destroyed these statements at some later time, possibly in 1996. He stated that he did this because as far as he was concerned at the time, the whole matter was "dead and buried".⁸³⁸

- 12.56. Inspector Finan confirmed that no investigation file could be located at the divisional headquarters in Letterkenny.⁸³⁹ He stated that the preparation of a file was the responsibility of the Sergeant who executed the search warrant initially, but thereafter the investigation of the find and the preparation of a file thereon is the responsibility of the district officer, or acting district officer, as the case may be.⁸⁴⁰ The reasons why no investigation file was prepared in respect of this find have been thoroughly examined elsewhere in this report. The Tribunal has already set out its findings with regard to the issues that arise in respect of this find. It is only necessary to note at this stage that no file was ever sent to divisional headquarters, nor does it appear that anyone in the divisional office ever sought one from the district officer.
- 12.57. The finds at Oatfield and Covehill produced almost no paperwork of any kind, save for the somewhat inconsistent telexes which were sent up to Garda Headquarters. There is no evidence of any investigation file having been opened in Letterkenny Station in respect of these finds.⁸⁴¹
- 12.58. **In respect of all the above mentioned finds, the failure on the part of the district officers, Superintendents O'Connor and Duffy, to furnish an investigation file to the divisional headquarters, even a file that would show that the investigation into the matter could not be taken any further, was inexcusable. The fact that when the finds had been reported to the divisional headquarters, there does not appear to have been any follow-up from them back to the district officers enquiring as to when an investigation file would be forwarded, shows the careless and disinterested approach which was adopted to these finds at two senior levels within the Donegal division at that time.**

⁸³⁶ Transcript, Day 41, pages 19-20.

⁸³⁷ Transcript, Day 41, page 106.

⁸³⁸ Transcript, Day 42, page 12.

⁸³⁹ Transcript, Day 93, page 30.

⁸⁴⁰ Transcript, Day 93, page 31.

⁸⁴¹ Transcript, Day 93, page 32.

Missing documentation

- 12.59. It must be clearly acknowledged that both the Carty team, in particular Superintendent Coll and Detective Garda Whelan, together with the Garda Liaison Officer to the Tribunal, Superintendent Terry McGinn, have done enormous work in assembling a huge volume of material relevant to the Tribunal's deliberations. They have furnished great assistance to the Tribunal in the understanding of this documentation. I am satisfied that the Garda Commissioner has made full discovery of documents to the Tribunal. Accordingly, the comments which follow are not intended as a criticism of any of the officers named above.
- 12.60. The Tribunal has been hampered in its work by virtue of the fact that some important documentation has gone missing, or has been destroyed. The following are examples of some of the relevant documentation which has not been available to the Tribunal:
1. Custody record for the first arrest of Adrienne McGlinchey on the 8th of July 1991.
 2. First page of the custody record for the arrest of Adrienne McGlinchey on the 18th of May 1993.
 3. Diaries and journals kept by Chief Superintendent Denis Fitzpatrick for the relevant period.
 4. Search warrant for the search of The Crescent on the 14th of March 1994: if same ever existed.
 5. Statements concerning the search of the flat at The Crescent on the 14th of March 1994.
 6. Covering reports leading to the telexes sent from the Divisional Communications Centre in Letterkenny on the 5th of June 1994 and the 13th of June 1994, concerning the finds at Oatfield and Covehill.
 7. Miscellaneous records from Bunrana Garda Station.
 8. Notes made by Superintendent Tom Long of his meeting with Mrs. Sheenagh McMahon.
 9. Missing Garda notebooks.
- 12.61. The only explanation which has been given in respect of the documents listed at items 1 and 2 above, is that they have simply gone missing over the passage of time. In the absence of a recognised archives policy in the Donegal division, this may not be that surprising. This aspect is dealt with further below.
- 12.62. In relation to the search warrant concerning the search at the flat at The Crescent on the 14th of March 1994, there is a direct conflict of evidence between Superintendent J.P. O'Connor and ex-Sergeant Des Walsh as to whether any such warrant was issued by the Superintendent to Sergeant Walsh.⁸⁴² Sergeant Walsh has stated that after the search he placed the search warrant on a file where such

⁸⁴² This is dealt with in detail in Chapter 7 of the report.

warrants were kept in Bunrana Garda Station. Nobody has been able to inform the Tribunal what might have become of the search warrant after that. It has never been produced to the Tribunal if it ever existed at all.

12.63. Leaving aside the question of the search warrant, Sergeant Walsh had made a statement on the 26th of July 2001 to Superintendent John McKeon, wherein he stated that he had, “obtained statements from every member involved in the investigation”. In evidence before the Tribunal, he admitted that he had never received the statements referred to in his statement to Superintendent McKeon. He stated that he had simply made that statement for the purpose of protecting Superintendent Kevin Lennon, who was facing a disciplinary charge. He stated that he was taking responsibility for a file which did not exist. He knew that there was no investigation file.⁸⁴³ Mr. Walsh went on to admit under cross-examination that he had received a copy of the custody record in respect of Ms. McGlinchey’s detention in Burnfoot Garda Station on the 14th/15th of March 1994 and had also received one or two statements from Gardai involved in the search. He stated that he destroyed these documents circa 1996, because he thought that the file was going nowhere.⁸⁴⁴ Leaving aside the controversy as to the existence of a search warrant, the Tribunal finds it unacceptable that an experienced Garda who held the rank of Sergeant, would destroy relevant documents. The implications of his conduct have been dealt with in Chapter 7 of the report.

12.64. Chief Superintendent Denis Fitzpatrick stated in his evidence in chief that he destroyed his notes and Officer’s Journal when he left Letterkenny in August of 2002.⁸⁴⁵ Under cross-examination, he corrected the date of destruction of the notes and journals to August 2000.⁸⁴⁶ Even allowing for the earlier date, this action was taken at a time when the Carty team, of which he was a member, was in the course of carrying out a full investigation into matters which involved him. The Tribunal finds it difficult to understand why the Chief Superintendent would have destroyed notes and journals which he must have known were relevant to the matters under investigation by the Carty team. When asked by counsel for the Tribunal as to why he had destroyed these documents when they might have been highly relevant to future criminal prosecutions, civil actions or disciplinary hearings, he stated:

*It’s possible, yes. But I didn’t attach any relevance to my journals or my diaries or the materials I had. They were discarded. I’m sorry but that’s the way it was and I would prefer if I didn’t have discarded them and I wouldn’t have to explain why. I would have them. But the fact of the matter is I discarded them with lots of other material which I had collected. And I didn’t take them with me.*⁸⁴⁷

12.65. The Tribunal does not accept this as a rational explanation of his conduct. At the very least, it was grossly negligent of him to have destroyed such potentially relevant documentation.

⁸⁴³ Transcript, Day 41, page 19 on.

⁸⁴⁴ Transcript, Day 41, page 106 and Day 42, page 12.

⁸⁴⁵ Transcript, Day 114, page 51.

⁸⁴⁶ Transcript, Day 115, page 50.

⁸⁴⁷ Transcript, Day 114, page 53.

- 12.66. Sergeant Chris Lavin, now retired, gave evidence that circa 1998 he destroyed an amount of documentation that had been stored in Bunrana Garda Station. He explained that the documents had been kept in a shed which was adjacent to the main Garda Station building. This shed was separate from the station buildings. It was unheated. He stated that damp penetrated the structure, rendering much of the documentation illegible, possibly through moulds forming. Over time, the shed had become full of documents. The Sergeant decided to do a cleanout so as to create some space. He checked with an Inspector, then stationed in Monaghan, who was knowledgeable in these matters, as to the length of time for which official Garda records should be retained. He was informed that he could destroy any documentation which was more than two years old. However, Sergeant Lavin decided to adopt a more cautious approach, so he only destroyed documents more than five years old at the time. He confirmed that there was no archives policy in existence in Bunrana Garda Station.⁸⁴⁸
- 12.67. The Tribunal accepts that, in destroying this documentation, Sergeant Lavin was acting without any sinister motive, but did so merely to clean out the shed in the manner described. In the absence of any archives policy, he cannot be criticised for what he did. It is recommended that a divisional archives policy should be put in place immediately. It may be that with computerisation of files, the same volume of paperwork will not be generated as in the past. However, a clear and comprehensive policy should be adopted catering for the preservation and retrieval of both paper and electronic files. This could possibly be done on microfiche, or a computer scan equivalent.
- 12.68. In the early stages of the Tribunal's deliberations on this module, evidence was given by Superintendent Tom Long in relation to an important meeting which he had with Mrs. Sheenagh McMahon in the Lake of Shadows Hotel in Bunrana on the 22nd of March 1999. It was at this meeting that Mrs. McMahon made serious allegations to Superintendent Long concerning the conduct of her husband and Superintendent Lennon. Superintendent Long took notes of what was said at the meeting. Clearly these notes were going to have considerable significance. They represented a contemporaneous note of the first occasion on which a member of the public, Mrs. McMahon, has made serious allegations in this matter to a high-ranking police officer. The notes were important because they represented an accurate record of the first occasion on which the allegations were made by Mrs. McMahon. Unfortunately, Superintendent Long destroyed his notes of this meeting. He stated in evidence that he had destroyed them because they were just rough notes to assist him in making his statement to the Carty team. He stated that he destroyed them sometime after he made his statement in May of 1999, and before his transfer to Monaghan. He denied that there was any sinister motive behind his actions.⁸⁴⁹
- 12.69. The Tribunal is satisfied that there was no sinister motive behind Superintendent Long's actions in this regard. However, it was negligent of him to have destroyed the notes, when their importance as a contemporaneous note of the first occasion on which the allegations had been made by Mrs. McMahon ought to have been clear to him.

⁸⁴⁸ Transcript, Day 169, pages 138-139.

⁸⁴⁹ Transcript, Day 4, pages 31-35.

- 12.70. The Tribunal has also been hampered by virtue of the fact that a significant number of Gardaí have been unable to produce copies of their notebooks for the relevant periods. Very often the notebooks were simply destroyed by their owners after a period of time had elapsed and when it was clear that they would no longer require the notebooks for use in any criminal trials. If not already in place, there should be clear guidelines governing the retention by all Gardaí of their notebooks. A specific recommendation in this regard has been included in Chapter 13 of this report.
- 12.71. The destruction by a member of any official files after retirement, such as was admitted by ex-Sergeant Walsh, can never be tolerated. If a member has copies of statements, or other elements of Garda files, on retirement he should surrender these to a designated officer in his station for placing in the archive, or destruction, if they are merely copies of material already on file. It should be made clear to all Gardaí that such documentation is the property of An Garda Síochána. It does not belong to the member concerned.

Traceability of Search Warrants

- 12.72. One of the issues which took up a considerable amount of the Tribunal's time, was the question as to whether any search warrant had issued for the search of the flat occupied by Ms. McGlinchey and Ms. Devine at The Crescent on the 14th of March 1994. The retention of search warrants amounts to more than compliance with police procedures and guidelines. These documents are fundamental guarantors of the citizen's right to personal liberty.⁸⁵⁰ There is a direct conflict of evidence on this issue between Superintendent O'Connor on the one hand, and Sergeant Des Walsh and Detective Garda Noel McMahon on the other.⁸⁵¹ Had the fact of issuance of the search warrant been properly traceable, this controversy would not have arisen. Inspector McMorrow stated in evidence that he referred in his report to the fact that the warrant had been issued under Section 29 of the Offences Against the State Act, 1939 (as amended), because this was what he had been told when he came into Buncrana Garda Station at circa 21.00 hours on the 14th of March 1994. He stated that he never saw any search warrant. Based on what he was told, he wrote his first report, which mentions the issue of the warrant and recites what had been found in the flat.⁸⁵² This report forms the basis of the first telex sent from the Divisional Communications Centre in Letterkenny to Garda Headquarters on the 15th of March 1994.⁸⁵³ Mention of the search warrant also appears in the monthly confidential report for March of 1994.⁸⁵⁴ This report was signed by Superintendent O'Connor on his return from holidays. However, he has stated that he did not issue a search warrant, nor did he see it.
- 12.73. In relation to the obligation to record the issuing of all Section 29 search warrants, the Tribunal is aware that a direction was issued by the Assistant Commissioner

⁸⁵⁰ Article 40.5 of the Constitution states that: "The dwelling of every citizen is inviolable and shall not be forcibly entered save in accordance with law".

⁸⁵¹ This is dealt with in detail in Chapter 7 of the report.

⁸⁵² Tribunal Documents, page 2389.

⁸⁵³ Tribunal Documents, page 2388.

⁸⁵⁴ Tribunal Documents, page 5680.

of D Branch in Garda Headquarters on the 13th of March 1984. This circular bore reference number D.505/84. It was addressed, inter alia, to each divisional officer. It provided that as and from the 1st of April 1984 all searches carried out under Section 29 of the Offences Against the State Act, 1939, were to be reported in writing to D Branch on completion of the search. The report was to contain the following information:

- name of owner or occupier of the premises searched;
- address of the premises;
- reason for search;
- date and time of search;
- outcome of search;
- occupants present during the search; and
- the name and rank of the member in charge of the search.

This circular further provided that at the end of each month the divisional officer was to submit a return of the number of searches carried out in their division. It was stated that this information was sought for the purpose of computerising details of all searches and thereby having addresses, etc. which might not otherwise be available outside the district where the search was carried out. To an extent, the provisions of this circular were carried forward into the content of the monthly confidential report, which is submitted from each division. As has been noted, in the monthly confidential report for March of 1994, there is reference to the fact that a Section 29 warrant issued in respect of the search of The Crescent on the 14th of March 1994, but there are no details contained therein as to who issued the search warrant or who executed same. The report merely states that the search was carried out under Section 29, gives a description of the material found and states that Ms. McGlinchey and Ms. Devine were arrested under Section 30 of the Offences Against the State Act, 1939 (as amended). Thus, as regards the actual issue of a search warrant itself, on this occasion, the Tribunal is none the wiser as a result of reading the monthly confidential report for March of 1994.

12.74. If there had been a procedure in place whereby the fact of issuance of a search warrant pursuant to Section 29 of the Offences Against the State Act, 1939 (as amended) was recorded, then the question as to whether any warrant had in fact issued may have been resolved in a satisfactory manner. As it is, there appears to be no provision whereby the issuing of a search warrant is recorded in a formal manner. If the provisions of the circular of 1984 were complied with by virtue of the content of the monthly confidential report, this did not give the required information.

12.75. Inspector McMorrow has stated that normally the Superintendent who issued the warrant would keep a note of the Sergeant to whom the warrant had issued,

details of the property to be searched and the reasons for so doing. This was only done so as to enable the Superintendent to prepare a statement at a later stage for inclusion in the prosecution file, should the search yield positive results and should someone be made answerable for the materials so discovered. This note would normally be entered in the Superintendent's diary. He confirmed that no file as such would be opened at the time that the warrant was issued.⁸⁵⁵ Superintendent O'Connor maintained that if he had issued a search warrant, he would have noted this fact in his diary. However, he conceded that not every search warrant issued by him would be so recorded.

12.76. **The Tribunal is of the view that the following should be mandatory requirements whenever a warrant is issued by a Superintendent pursuant to Section 29 of the Offences Against the State Act, 1939 (as amended):**

(a) There should be a register of search warrants maintained in the station where the Sergeant to whom the warrant has issued is based. This register should record the date of issuance of the search warrant, by whom it was issued, to whom it was issued, a description of the property to be searched, the results of the search and a description of any further development as a result of the search. If for any reason the warrant is not executed, this should also be entered onto the register. The reasonable grounds justifying the issue of a warrant should also be noted concisely. The obligation should rest with the Sergeant who executed the search warrant to ensure that these details are entered in the register.

(b) The Superintendent who issued the search warrant should be required to record in his journal details of when, to whom, in respect of what property and on what grounds the search warrant was issued by him. It will be noted that a recommendation has been made elsewhere in this report that the obligation on all officers to maintain a journal of their day's work should be reinstated.

(c) There should be specific provisions in place giving directions as to where the original of the search warrant should be kept once executed by the Sergeant concerned.

Improper Handling of Explosive Materials

12.77. The cavalier manner in which apparently explosive materials were removed from the scene of alleged subversive bunkers and brought back to Garda stations raises serious questions as to the extent of the guilty knowledge in relation to the origin of these substances. Garda policy in relation to not removing material from the scene of a find prior to the completion of a thorough technical examination is set out in a series of circulars.⁸⁵⁶

12.78. The first document produced to the Tribunal is a circular⁸⁵⁷ from Crime Branch, Garda Headquarters to "Deputy Commissioner, D.M.A., Dublin Castle and Each Divisional Officer" entitled "Precautions to be taken in handling devices which

⁸⁵⁵ Transcript, Day 74, pages 187-188.

⁸⁵⁶ Tribunal Documents, pages 5598-5600.

⁸⁵⁷ Tribunal Documents, page 5598.

may include explosives” and dated the 20th of March 1974. It cites a series of previous circulars in connection with:

- (a) Care in approaching areas where explosives are likely to be and
- (b) Objects likely to be booby trapped, etc.

12.79. The circular continues:

It is desired to once again draw the attention of all concerned to these circulars for strict compliance with instructions contained therein.

Despite the necessity for a careful technical examination of all objects likely to reveal fingerprints, etc., nothing should be disturbed or handled until the area is “cleared” by the Army Ordnance Officer. The latter personnel are being given a copy of this directive with a request to handle objects only in so far as it is absolutely necessary to do so, and then only with rubber gloves so that damage, or erasure of material clues, is kept to a minimum.

All members must ensure that not only are the public to be kept at a safe distance from these situations but that the same principle is applied to all members present, who may be acting from motives of overzealousness or curiosity.

To sum up all members must act and behave as if an imminent danger exists until the Army Officers present give directions to the contrary.

Please acknowledge receipt of this circular.

Assistant Commissioner⁸⁵⁸

12.80. A further circular from the Security Department, Garda Headquarters to the same parties dated the 23rd of December 1976, warns of the dangers of premature initiation of improvised detonators due to careless handling. Entitled “Improvised Detonators: Mercury Fulminate”, the report initially describes the manner in which a substance used in the commercial manufacture of detonators had been adapted by subversives to produce improvised detonators. In relation to finds of subversive materials it reads:

It should be remembered that quantities of mercury fulminate may be encountered in finds of subversive bomb-making material, house searches, etc., and because of the extreme sensitivity of this material, great care should be exercised when it is believed that improvised detonators or mercury fulminate have been or are likely to be encountered. A heat source, e.g. electric light, match, cigarette, should, on no account, be brought near suspect material. Neither should such material be casually swept aside. Detonators made from mercury fulminate are powerful and effective explosive devices in their own right and premature initiation due to careless handling could lead to death or serious injury. There must, also,

⁸⁵⁸ Tribunal Documents, page 5598.

be the possibility that the subversives involved in the production of mercury fulminate will become less careful and it is most likely that a premature explosion will occur.

When it is believed that such detonators and material have been found, the assistance of an Army Ordnance Officer should be sought and all items kept carefully in isolation until he arrives. The Ballistics Section of the Technical Bureau should be notified, and also this Office. Gardaí should not handle or tamper with suspect detonators or material thought to be mercury fulminate.

Please acknowledge receipt.⁸⁵⁹

- 12.81. On the 10th of April 1980, a further circular was issued by Assistant Commissioner Ainsworth of the Security and Intelligence Branch, Garda Headquarters to the “Assistant Commissioner, D.M.A. and Each Divisional Officer”. Entitled “Care and handling of Firearms and Explosives”, it read as follows:

Please refer to previous Circulars issued from this office relative to the subject.

I wish to draw your attention once again to the extreme care that must be exercised by all members when dealing with firearms, explosives and explosive substances.

Divisional Officers will ensure, once again, that the terms of these Circulars are brought to the notice of their Divisional Force. The contents of these Circulars should be emphasised regularly at parades, inspections, etc., by Divisional and District Officers.

Acknowledge receipt please.⁸⁶⁰

- 12.82. Although the aforementioned documents predate the various finds as set out in the Tribunal’s Terms of Reference by more than a decade, it is inconceivable that the fundamental message, the need to exercise the utmost caution when dealing with finds of apparently explosive materials, was somehow lost on the wind. A feature of a number of the finds that are in controversy is the bohemian manner in which they were gathered up, thrown in the back of Garda cars or carried back to the local Garda Station. It was only then that the Army Ordnance Officer was called in to take away the material, or, in the case of the find at The Crescent, some of the material. Although the danger of finds being booby trapped was much less likely in the Republic than in Northern Ireland, two members of the force have lost their lives in explosions while conducting searches. The fact that the senior officers involved in managing the finds were happy to allow members to approach the material, examine it and remove it from the scene before the scene had been declared safe gives credence to the suggestion that they had pre-knowledge of the extent and stability of the materials uncovered. The Tribunal is content to make that finding in respect of Detective Inspector Lennon in relation

⁸⁵⁹ Tribunal Documents, page 5599.

⁸⁶⁰ Tribunal Documents, page 5600.

to Bridgend and The Crescent. It prefers the finding of gross negligence in respect of Superintendent O'Connor and Chief Superintendent Fitzpatrick in relation to Bridgend and Gardaí Thornton and Leonard, who apparently acted off their own bat in gathering up the materials at Oatfield.

- 12.83. A further inexplicable departure from normal police procedures with regard to the handling of explosive materials arose when the materials recovered from the Oatfield and Covehill finds in June of 1994 were deposited in the hallway and later in the gymnasium of Letterkenny Garda Station. No record of these materials appears in the station property book, but the evidence would tend to suggest that they remained there for a period of some years before disappearing shortly before the arrival of the Carty team in early 1999.⁸⁶¹ This is shocking. A number of parties at the Tribunal have made the case that they either handed over these materials to another member to investigate the matter, or that they believed that somebody else was dealing with them. Irrespective of such beliefs, it must have been obvious to all members that the materials had not been dealt with in an appropriate manner.
- 12.84. No valid reason was adduced at the Tribunal that would explain why the materials were not technically examined by an EOD officer at the scene of the find. No valid reason was adduced as to why a forensic examination of the materials by a scenes of crime officer was not conducted, nor was any valid reason given as to why samples of the material were not forwarded to the Forensic Science Laboratory for further analysis. Whilst the aforementioned matters may not have been actually known to all members who viewed the materials in the gymnasium, each member must have wondered why the materials had not been disposed of in the ordinary manner by an EOD officer. Even the most basic concern for health and safety must have caused members to make sufficient enquiries so as to satisfy themselves that the materials were not in any way hazardous. It is inconceivable that there was not also some general discussion in the station as to the provenance of these materials.
- 12.85. Every member of An Garda Síochána who served in Letterkenny Station at this time was written to by the Tribunal, and asked to submit any information he/she may have in respect of the various Terms of Reference. The investigations into the finds of explosives on the 4th and the 13th of June 1994 are specifically set out in Paragraph (e). Nobody has given an account of any attempt by him/her to have the matter properly investigated. Nobody outlined a legitimate reason for not so doing, nor has anybody suggested that he/she was somehow thwarted in his/her attempt to follow up on the matter. There was a duty on all members who became aware of the existence of these materials to take some positive action to either investigate the matter himself/herself or to satisfy himself/herself that the matter was being investigated.
- 12.86. The Tribunal heard evidence from the individuals most closely associated with the finds, but each of these persons has attempted to shift the responsibility for investigating the matter onto someone else. The Tribunal

⁸⁶¹ Transcript, Day 79, page 60.

investigators have also conducted numerous interviews in an attempt to clarify the issue. In the absence of any explanation as to why the materials were allowed to lie around the station for years without any investigation being conducted into them, the Tribunal can only conclude that there was a collective unwillingness in the station to properly investigate this matter. The Tribunal might speculate that this unwillingness was informed by an awareness of the “hands off” policy that existed in relation to Ms. McGlinchey, but this, at most, mitigating factor was not articulated by any member. The Tribunal must therefore conclude that there was either a more general wilful blindness tending towards tacit acceptance of the manner in which Ms. McGlinchey was being dealt with in Letterkenny Station or a complete disinterest amongst the station party as to what should be done with these materials.

“Hands off” policy

- 12.87. Former Chief Superintendent Ginty explained the so-called “hands off” policy in relation to Ms. McGlinchey as being a direction that only the nominated Garda handlers were to deal with the informer. Other members of the Gardaí were not to try to extract information from the informer, as this could have led to the exposure of the informer thereby putting her life in danger. While he denied that the “hands off” policy had a wider dimension, whereby Ms. McGlinchey was to be allowed to engage in illegal activities without being prosecuted.⁸⁶² While he did not direct that she was not to be prosecuted, he accepted that that was his intention.⁸⁶³ He stated that he reached that view because he felt that the greater good would be served by not prosecuting her for such a minor matter as she had provided useful information to the Gardaí. He felt that the benefits which could be received from Ms. McGlinchey outweighed the harm caused by not charging her with various minor offences. He was, therefore, prepared to take the risk of not doing so.⁸⁶⁴ As long as she was providing information to the Gardaí, he felt it would be unethical to prosecute her for doing actions which she undertook so as to furnish such information.⁸⁶⁵ He denied that there was any general ‘don’t prosecute’ policy in respect of Ms. McGlinchey. A decision on whether or not to prosecute was made on a case-by-case basis.
- 12.88. He did not direct any prosecution of Ms. McGlinchey arising out of the incident on the 30th of April 1992 when the bullets were found in the church grounds in Buncrana, because Ms. McGlinchey was not found in actual possession of the bullets. He regarded it as a somewhat minor matter.⁸⁶⁶ He accepted that he directed her release when she had been arrested with stolen walkie-talkies. He stated that he had done this because he did not regard it as a serious crime. The Gardaí had recovered the property, so it could be returned to its owner. He stated that he trusted Noel McMahon and if he wanted Ms. McGlinchey to be released, he was prepared to do that. He thought that it was better to keep her out of the

⁸⁶² Transcript, Day 101, page 123.

⁸⁶³ Transcript, Day 101 page 127.

⁸⁶⁴ Transcript, Day 101, page 129.

⁸⁶⁵ Transcript, Day 101, page 130.

⁸⁶⁶ Transcript, Day 102, page 60-61.

public eye, because if brought before the courts, that could have exposed the whole situation and placed her in danger and they might have lost her as an informer.⁸⁶⁷

- 12.89. Mr. Ginty stated that he did not have any part to play in Superintendent O'Connor's decision not to prosecute her over the number plates issue. He accepted that the Superintendent would have known of his view that Ms. McGlinchey should be kept out of the public eye as much as possible.⁸⁶⁸
- 12.90. He stated that on receiving a "frantic phone call" from Noel McMahon, he called off a search of the McGlinchey lands at Covehill, Letterkenny, because Noel McMahon had said that to proceed with the search would compromise the informer.⁸⁶⁹ He told Superintendent Kevin Lennon to call off the search and instructed him to monitor the situation concerning the fertiliser allegedly on the lands.
- 12.91. In relation to the non-issue of a search warrant on the 12th of October 1993, Mr. Ginty stated that he had advised Superintendent J. P. O'Connor to refuse the search warrant, because he had issued the "hands off" direction, meaning that other Gardaí were not to interfere with the handling of Ms. McGlinchey. He thought that Detective Sergeant Sreenan might have been interfering with her. He felt that Superintendent Lennon and Detective Garda McMahon would be able to find out what was in the flat in a more subtle way.⁸⁷⁰ He felt that Detective Sergeant Sreenan was making the request as a means of asserting himself in the investigations section.⁸⁷¹ He told Superintendent O'Connor that Ms. McGlinchey should not be interfered with unduly by members other than Superintendent Lennon and Detective Garda McMahon.⁸⁷²
- 12.92. Chief Superintendent Denis Fitzpatrick gave a very detailed account of his understanding of the so-called "hands off" policy.⁸⁷³ He saw it as having a wider meaning, such that it extended to not prosecuting Ms. McGlinchey for minor offences:

I'd say in relation to minor matters, I'll say minor matters. I think in cases that practice, if you want to call it a practice of, I use the term "hands off". If an individual was giving what we call valuable information to the guards I can see that that would come into practice. Not alone in this case, but my experience would be that that practice was widely used in the guards. Not just in Donegal and I think it was an accepted practice in minor cases.⁸⁷⁴

- 12.93. He went on to expand upon the operation of the policy specifically as regards Ms. McGlinchey in the following way:

I think the way it operated when she was arrested ...she made

⁸⁶⁷ Transcript, Day 102, page 69.

⁸⁶⁸ Transcript, Day 102, page 74.

⁸⁶⁹ Transcript, Day 102, pages 102-103.

⁸⁷⁰ Transcript, Day 102, page 122.

⁸⁷¹ Transcript, Day 102, pages 123-124.

⁸⁷² Transcript, Day 102, page 126.

⁸⁷³ Transcript, Day 104, pages 111-126.

⁸⁷⁴ Transcript, Day 104, pages 116-117.

contact with Detective Garda Noel McMahon or somebody would, or Kevin Lennon or somebody else, and in turn that is the way it would be developed. That is my understanding of it. It wouldn't be the guard, she would make contact with Detective Garda McMahon or Kevin Lennon and they would initiate the release...They would make the call to who ever could make that call, if it was we will say the Superintendent in the district – wherever she was detained, which was generally Letterkenny or Buncrana...and they would make the call then. So it wasn't, my understanding was that she would initiate the contact with Noel McMahon...and either Noel McMahon or Kevin Lennon would initiate the release to the local Superintendent ...that's the way it worked as I understand it ...But I wouldn't put it, maybe, as a carte blanche. I think the case would be looked at, although in all cases I think she was released.⁸⁷⁵

12.94. It was Superintendent O'Connor who relayed the "hands off" policy to the Sergeants working under him in Buncrana. According to Detective Garda Noel Jones it was Superintendent O'Connor who instructed him to return the envelope containing the bullets and the cartridges to the area outside Ms. McGlinchey's flat on the 7th of September 1993.⁸⁷⁶

12.95. It was Superintendent O'Connor who, following telephone conversations with Detective Inspector Lennon and the Chief Superintendent at the time, Sean Ginty, refused to grant a search warrant to Detective Sergeant Tom Sreenan on the 12th of October 1993, when he had information that a man had been seen in Ms. McGlinchey's flat with what resembled a walkie-talkie or a gun and when the Gardaí at the scene had seen material, which seemed to be fertiliser, being thrown out the window of the flat.⁸⁷⁷

12.96. Superintendent O'Connor, for his part, denied that the "hands off" policy extended to giving Adrienne McGlinchey immunity from prosecution. He stated:

No. There may be a misunderstanding in just the question you put to me there in relation to the hands off policy meant that no member other than Garda McMahon would handle this lady. There was never any direction or understanding on my part that she was exempt from prosecution. Absolutely none. What the Chief Superintendent's policy was, I heard him enunciate it here, say it here, and that was my understanding of it. There was no exemption from the criminal law.⁸⁷⁸

12.97. He accepted, however, that Adrienne McGlinchey was never prosecuted for any offence following any of her sixteen arrests, including an arrest in respect of being in possession of stolen number plates in which he had written to the DPP stating that in his opinion there was insufficient evidence with which to mount a prosecution. The DPP, through an official, agreed: though on different grounds.

⁸⁷⁵ Transcript, Day 104, pages 123-125.

⁸⁷⁶ Transcript, Day 76, page 87.

⁸⁷⁷ Chapter 6, paras. 50-64.

⁸⁷⁸ Transcript, Day 118, page 169.

- 12.98. Whatever the stated understanding of the senior officers was at the time, the evidence clearly points to the existence of a policy whereby Adrienne McGlinchey was allowed to engage in activities which would ordinarily have resulted in a prosecution being mounted, but wasn't in her case. These activities have been described in detail in Chapters 6 and 7 of the report. The Tribunal has been furnished with documentation which establishes that Adrienne McGlinchey was arrested on no fewer than sixteen occasions in the period July of 1991 to March of 1994.⁸⁷⁹ On none of these occasions was she prosecuted for any offence. Furthermore, the Tribunal has heard evidence as to the existence of the "hands off" policy from a large number of present and former members of An Garda Síochána, including the following: Tom Sreenan,⁸⁸⁰ Des Walsh,⁸⁸¹ Detective Garda Noel Jones,⁸⁸² Sergeant Liam Tighe⁸⁸³ and Denis Doherty.⁸⁸⁴ Their evidence has been broadly to the effect that it was made known to them by senior officers that there was a general "hands off" policy in existence as regards Ms. McGlinchey. They understood this policy to mean that not only was she to be handled by Detective Garda Noel McMahon and Detective Inspector Kevin Lennon, but also that she was largely immune from prosecution. They reached this conclusion as a result of what they were told by their senior officers to the effect that they were not to interfere with her and also as a result of the fact that Ms. McGlinchey was never prosecuted in relation to the numerous incidents which have been described in detail.
- 12.99. The Tribunal is satisfied on the evidence that there was a "hands off" policy in existence as regards Ms. McGlinchey. The Tribunal accepts the evidence given by Chief Superintendent Denis Fitzpatrick in relation to the operation of that policy, that it operated in a way which had the effect that Ms. McGlinchey was largely immune from prosecution. Such a policy was wholly inappropriate in the circumstances.
- 12.100. The Tribunal accepts the evidence of Chief Superintendent Brian Garvie which was to the effect that except in cases where an agent was being used as part of an ongoing police operation, and where a grant of immunity had been sanctioned by the appropriate Law Officer, it was not permissible for the police to condone breaches of the law by an informer. When asked as to whether there could be such a thing as a "hands off" policy in a properly structured police force, he answered as follows:
- A. *Not with respect to the commission of criminal offences. And the only exception that I can see is in the particular circumstance where inadvertently a member stumbles on the role of an informer or an agent, it might be appropriate to*

⁸⁷⁹ Tribunal Documents, pages 4836, 5198.

⁸⁸⁰ Transcript, Day 38, pages 87, 122, 123, 127, 128, 162, 165, Transcript, Day 40, page 16.

⁸⁸¹ Transcript, Day 40, pages 76, 97, 111 and 112, Transcript, Day 126, page 141.

⁸⁸² Transcript, Day 76, pages 32, 33, 34, 86, 97, 104, 106, 110, 122, Transcript, Day 77, pages 5, 9, 12, Transcript, Day 78, page 24.

⁸⁸³ Transcript, Day 73, pages 16, 21.

⁸⁸⁴ Transcript, Day 34, pages 161-163, Transcript, Day 35, pages 10, 11, 41.

say to the individual that we are involved in an operation and it would be appropriate if in this particular case you did not have any contact with a particular individual. However, if the individual committed a criminal offence there is no way that that should or could be excused.

Q. Except in the circumstances that you have indicated: an immunity from the Law Officers in Canada or some form of prior immunity authorised apparently through higher ranks of An Garda Síochána, perhaps in consultation, which would seem to be necessary in this country, with the Director of Public Prosecutions?

A. I would accept that, yes.⁸⁸⁵

12.101. Save where immunity has been specifically granted by the Director of Public Prosecutions in advance of the commission of a criminal offence by an informer, where this is done as part of a Garda operation, it is never permissible for the police force in a democracy, which is subject to the rule of law, to condone breaches of the law by a person, even where such a person is a police informer. To have done so on such a persistent basis in relation to Adrienne McGlinchey was completely wrong. The fault for this state of affairs rests squarely with the senior officer of the day, being the Chief Superintendent at the time, Mr. Sean Ginty. The Tribunal does not accept the evidence of Mr. Ginty that he was unaware that the policy was being interpreted and implemented by the Gardaí other than in the restricted manner put forward by him in evidence. The Tribunal is satisfied that he knew, or ought to have known, of Ms. McGlinchey's multiple arrests. Furthermore, he knew, or ought to have known, that she was always released without charge. His conduct in allowing this state of affairs to exist in Buncrana and elsewhere in the division in the period in question was totally wrong. He should not have permitted the existence of such a policy. The fact that Ms. McGlinchey appeared to be allowed to breach the criminal law on a continual basis with complete impunity, was a most demoralising situation for those Gardaí who were trying to carry out their duties in a proper fashion. The Tribunal wants it to be clear that well meaning Gardaí were in a majority. The effect of such a policy on ordinary people living in Buncrana at that time, is not known. However, the existence of such a policy cannot have had anything but a demoralising effect on those persons who were aware of Ms. McGlinchey's conduct, as they were entitled to expect that the law would be applied equally to all citizens.

Dealing with Informers

12.102. The Tribunal will deal with this topic more extensively in its summary and recommendations chapter. However, a number of matters that relate to police practice in the Donegal division at the time are more appropriately dealt with

⁸⁸⁵ Transcript, Day 95, page 129.

here. A number of witnesses have given evidence to the Tribunal as to what it means to be stigmatised as a police informer, particularly in border areas. The need to protect a source in the subversive context has also been emphasised, as to fail to do so can, and has, led to the murder of the person providing the information. It should also be borne in mind that an informer is the property of the State and not of the individual police officer(s) involved in handling him/her, so the duty of officers to refrain from any activity that places the informer in unnecessary peril is more onerous than a mere personal moral obligation.

- 12.103. The meetings between Ms. McGlinchey and Detective Sergeant Hugh Smith and Detective Garda Matt Tolan have been described in detail in Chapter 4 of this report. The Tribunal is satisfied that the meetings did take place in the car parks and in the manner described in evidence by Detective Sergeant Smith and Detective Garda Tolan. That there were perhaps upwards of thirty such meetings, in such an open manner, with a person regarded by the Gardaí as a 'Provisional IRA' informer, is a cause for considerable concern.
- 12.104. The Tribunal is satisfied that at the relevant time Ms. McGlinchey was merely someone who may have overheard snippets of information and, in addition, was in all probability making up much of the information which she was imparting to the Gardaí. In such circumstances her life was probably not in any danger from any subversive organisation. However, her Garda handlers were not aware of this. To them she was an informer, who was passing genuine information on subversive matters. **In such circumstances it was not acceptable to have met with Ms. McGlinchey in such an open manner, whereby she would have been exposed to considerable risk to her safety if she had been a genuine informer. This method of meeting her may have been the modus operandi designated by Ms. McGlinchey, but it was none the less a casual method of meeting with an informer, which should not have been tolerated by two experienced Gardaí.**
- 12.105. Set against this background, as soon as Ms. McGlinchey started providing Detective Gardaí Tolan and Smith with the type of information which they felt it necessary to submit to Garda Headquarters on C.77 forms, the members should have adopted a much more discreet approach to meeting her than that outlined in their evidence and set out in Chapter 4 of this report. **Even in a situation where the informer himself/herself appears to be unconcerned as to the issue of personal safety, the handler owes a duty to the State to take all necessary precautions to ensure that the informer's safety is protected. This is not to suggest that police officers should adopt a cloak and dagger approach to their dealings with members of the public who might be regarded as casual contacts, but where the nature of the information is such that the disclosure of the identity of the person passing on the information to an interested third party might put that informer in jeopardy, the officer(s) receiving that information have a duty to ensure that that person's identity is protected.**

- 12.106. It would appear from the evidence of a number of Garda witnesses before the Tribunal that it was public knowledge that Ms. McGlinchey was an informer, particularly during her time in Buncrana, and that very little attempt at secrecy was made. Even Detective Garda Noel McMahon expressed his unease with the “hands off” policy as impressed upon members by Superintendent John P. O’Connor, as it served to alert them to her status.⁸⁸⁶

The C.77 Forms

- 12.107. The procedure for transmitting information by means of C.77 form was introduced by a circular issued by Assistant Commissioner E. P. Garvey on the 1st of October 1974.⁸⁸⁷ Certain amendments were made to the content of the C. 77 forms subsequently, which are not relevant at this stage. The Tribunal has heard evidence as to the operation of this system from a number of witnesses. In essence, the system provided for four copies of the relevant form. Two copies were to be sent by post from the Garda submitting the information, directly to Crime & Security Branch at Garda Headquarters. One copy was given to the Chief Superintendent, and the member himself, or herself, retained a copy. Some members also had a practice of furnishing a courtesy copy of the C.77 to their district officer.
- 12.108. The object of this system was to provide a secure method of transmitting sensitive information to the divisional officer and to the Crime & Security Branch. This system was designed so as to ensure that there was restricted circulation of the document, to protect the identity of the source and the secrecy of the information. At a later stage, if considered desirable by either the Chief Superintendent or by Crime & Security Branch, further enquiries could be carried out concerning the information submitted, or the information could be disseminated in a way which did not identify the source. This would be done by ‘topping and tailing’ the C. 77, which meant that only the bare bones of the information was divulged to the Gardaí to whom such disclosure was necessary, so as to enable them to progress investigations further, without identifying or endangering the safety of the informer or his/her Garda handler.
- 12.109. Evidence has been given by Detective Sergeants Sreenan⁸⁸⁸ and Kelly,⁸⁸⁹ and by Detective Garda Noel McMahon,⁸⁹⁰ that a practice existed in Buncrana Station whereby the C.77s submitted by members of Detective Branch were made available in a file to all the members of Detective Branch in that station. This was apparently done because it was felt that the pooling of such information among all the members of Detective Branch was a good practice, which enabled them to deal in a more efficient way with both crime ordinary and subversive activity. **While the Tribunal accepts that the practice was probably put in place from the best of motives, it nonetheless constituted a flagrant breach of the system, which had been established for the limited circulation of such documents. That system had been put in place so as to protect the identity**

⁸⁸⁶ Transcript, Day 133, pages 100-102.

⁸⁸⁷ Tribunal Documents, page 3098.

⁸⁸⁸ Transcript, Day 38, pages 82 and 83.

⁸⁸⁹ Transcript, Day 67, pages 13-19, 23, Transcript, Day 68, page 36.

⁸⁹⁰ Transcript, Day 132, page 10 on.

of the informer, which must be regarded as being of paramount importance. This was particularly important in relation to informers on subversive matters, given the grave risk that could be posed to their lives if their status as an informer were to become known to members of the subversive organisation. The practice of keeping the C. 77s on open file in Bunrana Station should not have been adopted or tolerated. It was a dangerous practice, which could have led to the death of the informers from whom the information had been gleaned. Senior officers should not have permitted such a practice to emerge in Bunrana Station.

Lack of Leadership and Appropriate Decision-making

- 12.110. A common theme throughout the Tribunal hearings has been the manner in which senior members of An Garda Síochána have tried to avoid accepting responsibility for their own actions or inactions by referring to the duties of others and/or Code regulations. Members have shown the minimum initiative and maximum dependence upon the limitation of their duty by a strict interpretation of either the directions received and/or possible ambiguity in the parameters of their role.
- 12.111. One of the most prominent examples of the latter phenomenon was the evidence of the senior officers in Donegal at the time of the finds in relation to the role of the Border Superintendent. The Tribunal heard the very helpful evidence of Chief Superintendent Tom Monahan⁸⁹¹ in relation to the true role and responsibility of the Border Superintendent. It also obtained a very informative memorandum of interview of Chief Superintendent Monahan,⁸⁹² who filled the role of Border Superintendent in the Donegal division between the years 1988 and 1990. This memorandum detailed the evolution of the position, which was originally established on an ad hoc basis in 1972 in response to the upsurge in subversive activity in border areas. It acquired a more formal footing in 1974 in the wake of the Sunningdale Agreement, when a joint coordinating committee was established between the Gardaí and the RUC to improve contact and liaison between the two forces along the border.⁸⁹³ A document was drawn up⁸⁹⁴ setting out the functions of the Border Superintendent. These included: acquiring a detailed knowledge of the area of border for which he/she was to have responsibility, liaising with divisional and district officers and with the Detective Branch to retain an up-to-date bank of intelligence on the movements and general activities of terrorists and terrorist suspects; and exchanging information with the RUC with a view to preventing terrorist activity, organising joint operations and apprehending terrorists. Four Border Superintendents were appointed at that time, based in Letterkenny, Manorhamilton, Monaghan and Dundalk. Originally a uniformed position, Border Superintendents were given the title of Detective Superintendent sometime in the mid 1980s. The Border Superintendent operated under the title of Detective Superintendent at the time of the hoax finds in Donegal.

⁸⁹¹ Transcript, Day 164, pages 3-64.

⁸⁹² Tribunal Documents, pages 5507-5523.

⁸⁹³ Transcript, Day 164, page 23.

⁸⁹⁴ Tribunal Documents, pages 5607-5609.

- 12.112. A number of witnesses gave evidence to the Tribunal to the effect that they were unsure of the role of the Border Superintendent vis-à-vis that of the district officers. A letter,⁸⁹⁵ sent by Chief Superintendent Sean Ginty to the Assistant Commissioner, Crime & Security Branch on the 10th of June 1988, suggested that “the division of responsibility as between the district officer and the Detective Superintendent is blurred”. Chief Superintendent Denis Fitzpatrick claims to have had no experience of dealing with informers prior to his appointment as Border Superintendent in August 1992. He also claimed to have received no formal briefing as to the delineation of his role within the division. Chief Superintendent Ginty told him that liaison with the RUC was his primary function and that he would assign other work to him as it arose. He had no formal handover meeting with his predecessor in the post, Chief Superintendent John McLoughlin.⁸⁹⁶ He described a certain level of discomfort with not knowing the parameters of his role in the following way:

*[Y]ou see you didn't have the same management role or the same role as the district officer. Any time I went to a district, I knew that the district officer was in charge. Either it be Letterkenny or Buncrana, Ballyshannon, they were mostly the districts I would have been in and out of. I was very conscious of that.*⁸⁹⁷

- 12.113. On his own evidence, Chief Superintendent Fitzpatrick was unaware of any circulars and/or other Garda documents, such as those alluded to by Chief Superintendent Monahan, setting out the role and responsibility of the Border Superintendent. Previous experience dealing with subversive crime appears to be a fairly basic job requirement for the position of Border Superintendent. The decision to appoint an officer, such as Denis Fitzpatrick, with no previous experience in the subversive field to the position of Border Superintendent was inappropriate. It should also be noted that Detective Inspector Lennon had no experience in Detective Branch before his appointment to that position in May of 1993, which compounded the lack of relevant experience amongst the senior Detective Branch officers in the division. Having been appointed, however, it was incumbent upon the person taking on the position of Border Superintendent to do everything in his/her power to lessen the infirmity that his/her lack of previous experience in the field entailed. Chief Superintendent Fitzpatrick's failure to source the documents alluded to by Chief Superintendent Monahan displayed a profound lack of initiative on his part. Equally, the failure on the part of both Border Superintendent Fitzpatrick and Chief Superintendent Ginty to clarify the parameters of the former's role in the absence of such documents is indicative of a lack of initiative on the part of both officers. Irrespective of where the role of the Border Superintendent and his deputy, the Detective Inspector, began and ended vis-à-vis the uniformed Superintendent/district officer, it was incumbent upon all the senior officers in the division to ensure that all bases were covered and that no

⁸⁹⁵ Tribunal Documents, page 5619.

⁸⁹⁶ Transcript, Day 104, pages 35-37.

⁸⁹⁷ Transcript, Day 104, page 38.

investigations fell through the cracks. There was a collective responsibility to ensure effective policing in the division, to which any concerns as to allocation of authority between officers was entirely subject.

- 12.114. A further instance of an officer seeking to absolve himself of responsibility by pleading the limitations of his role was Superintendent John P. O'Connor, in terms of his role as district officer in Bunrana for the period covering the various finds. Superintendent O'Connor served as district officer in Bunrana between August of 1992 and February of 1996. He claimed that he was not aware of the nature of the information being passed by Ms. McGlinchey, nor was he responsible for ensuring that appropriate investigations were conducted into the various finds in his district, i.e. subsequent to the Bridgend operation and the find in Ms. McGlinchey's flat on the 14th of March 1994, as these were subversive matters and the responsibility of Detective Branch under the control of the Border Superintendent. As has already been mentioned, he claimed to have operated the "hands off" policy not on his own initiative, but merely as a conduit for the orders of Chief Superintendent Ginty. The Tribunal rejects the evidence of Superintendent O'Connor in relation to these matters. He was the district officer and was ultimately responsible for all investigations in his area. He was also responsible for the day-to-day management of the members in his division, be they members of Detective Branch or Uniform Branch. To carry out this duty, he had to have sufficient information about the activities of the detectives in his district to maintain basic control and discipline. It is possible that, in certain circumstances, particular pieces of intelligence would have bypassed him en route to the Chief Superintendent and/or Garda Headquarters. But it is apparent from the documents before the Tribunal that Superintendent O'Connor conducted business with these parties on an informed basis, and his plea of lack of knowledge of Ms. McGlinchey's activities, therefore, does not stand up to scrutiny.
- 12.115. The Tribunal is satisfied that the unsatisfactory manner in which the alleged finds, as set out in the Terms of Reference, were managed and investigated represented an abandonment of their duties both by the relevant district officers and by the senior Detective Branch members present. In fairness to the latter, they were entitled to look to their superiors for guidance, at least, if not leadership. Both were seriously defective.

Matters of Discipline and Internal Investigations

- 12.116. The extent to which police culture generally militates against open and transparent cooperation with investigations, both internal and independent, was made patently clear throughout the public hearings by the manner in which many members of An Garda Síochána, called to give evidence, offered unsatisfactory excuses for discrepancies and/or omissions in prior statements, refused to address

the questions that were put to them by counsel, relied on a lack of primary evidence to deny all knowledge in relation to matters that were plainly in their cognisance and generally framed their answers to provide maximum advantage to their colleagues. The policy of “don’t hang your own” would appear to be central to this culture.

- 12.117. The Tribunal heard the evidence of Chief Superintendent John Kelly and Garda P.J. Stone of the Garda Representative Association in relation to disciplinary proceedings within An Garda Síochána. Whilst, it is an important aspect of fair procedures that a member about whom an allegation of wrongdoing is made should have the nature of such allegation clearly set out, it would appear that legitimate managerial requests of an individual to account for his/her actions during the course of his/her tour of duty have on occasion resulted in a standoff situation whereby the officer concerned has exercised his/her perceived right to silence. This has, in turn, transformed certain incidents that could have been resolved in an appropriate summary manner into full-blown disciplinary investigations. It has also been the case, as was evident throughout the Carty investigation, that other officers who have information vital to establishing the truth of what actually happened, have withheld this information in the belief that he/she was serving some common good. The evidence of Garda Martin Leonard is most relevant to this point:

When an examination or an investigation is done like this within An Garda Síochána there was no Tribunal following on. It is the nature of the Gardaí, we don't name the names – we don't want to get anybody into trouble in the Garda Síochána internal matters...We try our best to make sure – we are not going to be hanging our people.⁸⁹⁸

- 12.118. Another damaging aspect of this culture of silence was demonstrated in the aftermath of the incident in which Detective Garda Noel McMahon pointed his gun at Garda Seamus Gordon in the Day Room of Buncrana Station. All officers present, with the exception of Detective Garda McMahon and Superintendent Lennon, have described the incident as having been outrageous, and yet no formal complaint was made at the time by any of these officers. The Tribunal has already dealt with the inappropriateness of the manner in which Superintendent Lennon dealt with the situation and the fact that the other members present appeared to feel unable to take the matter further. The implications for internal discipline within the force if members feel unable to raise legitimate concerns about the conduct of fellow officers are immense. The Tribunal feels that this area should be addressed in legislation. It has made express recommendations.

Objects recovered not Properly Investigated

- 12.119. Another area, which has caused the Tribunal considerable disquiet, has been the failure by various members of An Garda Síochána to properly account for

⁸⁹⁸ Transcript, Day 80, page 46.

materials recovered from Ms. McGlinchey. In many instances, the Gardaí concerned treated the materials in a completely improper manner, without any formal processing of the materials so recovered.

- 12.120. At some time prior to Christmas 1991, Sergeant Danny Kelly (then a Detective Garda) and Detective Garda Noel McMahon came across Ms. McGlinchey in the Convent grounds in Buncrana.⁸⁹⁹ At the time she was either carrying a bag, or else she had just dropped it on the ground close to where she had been standing. The bag contained .22 bullets. Sergeant Kelly stated that he and Detective Garda McMahon jointly decided not to prosecute Ms. McGlinchey in relation to possession of the bullets. He stated that they reached this conclusion because Ms. McGlinchey was providing them with valuable information. He stated his reasons as follows:

That's correct, but I took a number of as I say, after careful consideration I took a number of points into factor. One would have been, she always talked about a large arms dump, especially two in the Buncrana district, one being in Culdaff and one being in a place called the North Pole. I thought to myself, well, if I charge her in relation to these bullets I am never going to get to find these. Another reason, .22 bullets were not bullets that were used by subversives, they are ordinary bullets that can be bought over a any firearms dealer with a firearms licence to be used in hunting or so. Another reason Ms. McGlinchey was attention seeking and I said to myself, is this another way of keeping in touch with us and in relation to it. I didn't think the find significant enough at the time to report the matter. In hindsight I may be wrong.⁹⁰⁰

- 12.121. Sergeant Kelly brought the bag of bullets back to Buncrana Station, where he placed them in his locker. He admitted that he did not inform his Sergeant of the incident.⁹⁰¹ The recovery of the bullets was not entered into the Property Book at Buncrana Station. The bullets were left lying in Sergeant Kelly's locker until he handed them over to the Carty investigation team years later.
- 12.122. Whatever about the motives for Sergeant Kelly's actions, it was unacceptable for him to treat the seizure of the bullets in such a cavalier fashion. There should have been some record of the incident and a record of the fact that the bullets had formally been taken into the custody of the police. For a Detective Garda to merely place the seized items in his locker was a departure from the proper procedures which ought to have been followed in the circumstances. In evidence, however, the Tribunal found him to be truthful.
- 12.123. Turning to another incident, on an unspecified date between 1992 and 1994, Garda John Murphy saw Adrienne McGlinchey and Yvonne Devine walking in the street in Buncrana. Ms. McGlinchey was carrying a holdall bag. Garda Murphy drove on some short distance and stopped his vehicle. When next he saw Ms.

⁸⁹⁹ This incident is described in detail in Chapter 5 of the report.

⁹⁰⁰ Transcript, Day 45, page 41.

⁹⁰¹ Transcript, Day 68, page 3.

McGlinchey she had discarded the bag. He, along with Gardaí Galvin and Clerkin carried out a search of the area. In an adjoining graveyard, they found the bag which Ms. McGlinchey had been carrying. In it was a hollow pipe which measured some one to two feet in length. It had holes bored in the side of it.⁹⁰²

- 12.124. Garda Murphy described how he brought the bag and the steel item back to the Garda Station in Bunrana. He then telephoned Detective Garda Noel McMahon at his home and told him what had been found. He states that Detective Garda Noel McMahon told him to bring the items, being the bag and the steel object, up to his home. Garda Murphy did this. He left the items with Detective Garda McMahon.⁹⁰³ He stated that Detective Garda McMahon said that he would bring the matter to the attention of Inspector Kevin Lennon.⁹⁰⁴
- 12.125. Garda Murphy admitted that he did not enter the property which had been recovered on that occasion into the Property Book at Bunrana Station. Nor did he make any notes of the incident, nor did he inform his unit Sergeant.⁹⁰⁵ He stated that he was not asked to make any statement about the event. He never saw the item again. He did not make any enquiries about it.⁹⁰⁶
- 12.126. Garda Murphy stated that he brought the item up to Detective Garda McMahon because he regarded him as a diligent detective and because he knew that Detective Garda McMahon had dealings with Ms. McGlinchey. He denied that he was told to treat the matter as ‘hush hush’, nor was he directed to cover up or conceal the event in any way.⁹⁰⁷
- 12.127. This event was significant in terms of the alleged activities of Ms. McGlinchey. It should have been brought to the attention of the Sergeant and Officers in Bunrana Station. The steel item should have been entered in the Property Book and, if considered significant, should have been forwarded to the Ballistics Section in Garda Headquarters for examination. There was no good reason why the object was simply delivered to Detective Garda McMahon without any of the normal procedures in relation to property received by the Gardaí being put in place. On this occasion the recovery of the steel item was treated in an off-hand and disinterested manner by the Gardaí.
- 12.128. The failure to deal with steel items in a proper manner was not confined to lower ranking Gardaí. In September of 1993, steel items were obtained ‘on loan’ by Detective Garda McMahon from Ms. McGlinchey. The issue surrounding the steel items recovered on this occasion has been dealt with in detail elsewhere in this report.⁹⁰⁸ Clear evidence has been given by retired Detective Inspector Edwin Handcock, formerly of the Ballistics Section at Garda Headquarters, as to what should have been done when the items had been obtained from Ms. McGlinchey and when a decision had been made by the Gardaí to retain one of the items. He stated as follows:

⁹⁰² Transcript, Day 37, page 129 on.

⁹⁰³ Transcript, Day 37, page 131.

⁹⁰⁴ Transcript, Day 37, pages 133, 139.

⁹⁰⁵ Transcript, Day 38, page 46.

⁹⁰⁶ Transcript, Day 37, page 136.

⁹⁰⁷ Transcript, Day 37, page 137.

⁹⁰⁸ Chapter 6 of the report

*Well, the item should have been brought to the Garda Ballistics Section for examination, and it should also have been brought, of course, to the fingerprint section as well. But I think it should have been brought to us for examination.*⁹⁰⁹

- 12.129. Chief Superintendent Denis Fitzpatrick gave evidence that, having taken the item up to the RUC for examination, he subsequently received from them a photograph of the item. He did not send the photograph to the Ballistic Section at Garda Headquarters for analysis.⁹¹⁰ When asked as to why he did not forward the photograph to that section in Garda Headquarters he stated:

*I was happy that we probably would get more information on this and that is why I didn't do it. There is no ... I don't really know why I didn't do it but that is what I probably thought, that we will get more on this, this is the initial on this.*⁹¹¹

- 12.130. In the course of cross-examination by Superintendent Lennon, Chief Superintendent Fitzpatrick stated that he telephoned the Ballistic Section some days later and described the steel object to them. They could make nothing of it from his description. He denied that he had possession of the object in his office at the time.⁹¹² He denied that the steel item was in his office during the period from 1993 until found by the Carty team in 1999:

It definitely does not make sense, that it was in that office seven years later.

Q. No, it doesn't, because it was taken away out of that office. It couldn't still be there seven years later; isn't that correct?

A. If it was what taken away?

Q. Yes and given back to Ms. McGlinchey, it couldn't be in the office seven years later?

A. I have no idea how that came into the office seven years later.

Q. Because I think your mind is somewhat confused on that issue, that it was always there and that it was in the press to the left hand side of the door and that is where it was in the office at all stages?

*A. That is not correct.*⁹¹³

- 12.131. The Tribunal is satisfied that the item that was found by the Carty team in the Detective Superintendent's office in Letterkenny Garda Station in 1999, was one and the same as the item recovered from Ms. McGlinchey in 1993. In circumstances where it had been retained by the Gardaí, it was inexcusable for

⁹⁰⁹ Transcript, Day 82, page 55.

⁹¹⁰ Transcript, Day 105, page 88.

⁹¹¹ Transcript, Day 105, pages 88-89.

⁹¹² Transcript, Day 116, page 128.

⁹¹³ Transcript, Day 116, pages 128-129.

those concerned, being Chief Superintendent Fitzpatrick and Detective Inspector Lennon, not to have the item forwarded to the Ballistic Section for examination. Having regard to the earlier findings in this report, Superintendent Lennon may well have had his own reasons why he did not want the item properly examined by the appropriate experts. However, there is no reason why Chief Superintendent Fitzpatrick, who was then the Detective Superintendent, did not ensure that the item was forwarded for proper examination. His reason for not forwarding the photograph, which he had received from the RUC, is not accepted as a credible excuse for his inaction on this occasion. In addition to the failure to forward the item, or the photograph of the item, to the Ballistic Section for examination there was also a failure on the part of those concerned with this episode to inform Crime & Security Branch in relation to same. There was no good excuse for failure to send up a C.77 in respect of this incident. This episode is yet another example of mismanagement within the Donegal division on the part of senior officers.

Conclusion

- 12.132. The Tribunal is of the view that in light of the above issues, and quite apart from the findings in relation to the involvement of certain officers in the various 'finds' of explosives as set out in the Terms of Reference, policing standards in the Donegal division of an Garda Síochána at the relevant time had been allowed to slip far below minimally acceptable levels. The Garda Code, and all other manuals and circulars designed to ensure that police action was both effective and accountable, were not being observed, and management in the division was not exercising proper control.

CHAPTER 13

RECOMMENDATIONS

Introduction

- 13.01. The purpose of this chapter is to make certain recommendations arising out of the evidence that the Tribunal has heard and the documents which it has studied.
- 13.02. The Tribunal makes the following recommendations as to the structure and management of An Garda Síochána, and its obligation to account for itself to the Government of Ireland and, through it, to the people.

I. The Role of Headquarters

- 13.03. In earlier sections of this report the Tribunal noted that the evidence given by Mr. Noel Conroy, Commissioner of An Garda Síochána, was helpful to its deliberations. It also noted that the meetings which Tribunal counsel had with former Ministers for Justice, the evidence actually received from two former Ministers for Justice and the cooperation afforded to the Tribunal by the Department of Justice, Equality and Law Reform, and by Garda Headquarters assisted it in its task. The Tribunal therefore feels able to make a comment as to the shortfalls noted in the relationship of a particular Garda division, that of Donegal, to Garda Headquarters and, in turn, the management of that division through Headquarters. This also brings into play the role which Headquarters has in informing the Department of Justice, Equality and Law Reform of developments of importance so as to ensure that the Department of Justice, Equality and Law Reform is kept properly informed as to the proper functioning of the national police force.
- 13.04. These comments might be regarded as specific to the Donegal Garda division. It might also be commented that Donegal was, to some extent, an isolated division. It comprises a county which is bordered on the south and east by a different jurisdiction and on the west by the sea. Only a narrow strip of land connects it with the rest of the jurisdiction exercised by the Government of Ireland. However, as has been previously indicated, the combination of corruption and negligence which characterised the relevant period in Co. Donegal could easily occur again under different circumstances but, obviously, in a different way. Equally, the management structures in place for dealing with Co. Donegal were no different to those in respect of other counties, save for the Dublin Metropolitan Area. Whatever differences exist, these make no difference to these

recommendations. The Tribunal regards its recommendations, therefore, as being of as general import as it does its findings of fact.

13.05. In the course of the examination of Minister John O'Donoghue by Tribunal counsel, the following exchange occurred:

Q. Would your officials be expected to keep a hands-on approach with the Garda Síochána or were they dependent solely on reports coming into them?

A. Invariably, they would be dependent on reports coming in from the Garda Síochána. I mean they were really, you know, in much the same position as myself in the sense that they were not investigators, nor was it their role to investigate, nor is it. That was a matter for the Garda Síochána and we were very, very careful always to ensure that the operational matters stayed within the competence of the Garda Síochána. And I, for my part as Minister, was adamant and extremely careful to ensure that at no point did I interfere with that operational independence. I feel it would be adverse to the interests of the State were I to do so, or indeed were any Minister to do so.⁹¹⁴

13.06. This description by the Minister was agreed with by the Garda Commissioner.⁹¹⁵ Only one body controls the Garda Síochána in its operational and day-to-day activities. That body is Garda Headquarters. From 1996 an Assistant Commissioner was appointed to the northern region with the responsibility of overseeing a number of counties, including Donegal. Therefore, the ultimate management role of Headquarters has, to a degree, been decentralised. Other regions, comprising other divisions, are in the same position. It may be that, in the future, the number of Assistant Commissioners might be increased, and the size of the regions might therefore diminish. However, that would not cure the structural problems which the Tribunal's analysis of the Donegal division has uncovered.

13.07. The Department of Justice, Equality and Law Reform is now utterly isolated from Garda Headquarters. Headquarters may receive queries, from time to time, in respect of the information which comes to them and which they pass on to the Minister and his officials. These queries are, however, extremely rare. The Minister expects that his or her officials should be briefed on developments of importance so that he or she will

⁹¹⁴ Transcript, Day 109, Q.58.

⁹¹⁵ Transcript, Day 169, pages 26-27.

be able to answer for them before Dáil Éireann and, in respect of developments which attract publicity, make an informed comment, if that course is chosen, to elements of the national media. The flow of information is in one direction. It goes from Garda Headquarters to the Department of Justice, Equality and Law Reform. The Minister is obliged to take everything on trust. There is nothing to suggest that the trust reposed by the Department of Justice, Equality and Law Reform in Garda Headquarters is misplaced. That is not to say, however, that the management structures are adequate. Whereas an argument can be made that the Department of Justice, in terms of the Garda Síochána Consolidation Act 1925, as amended, should be a receiving body in terms of information and should not interfere with investigations, the same cannot be said for Headquarters. What has been discovered in the Tribunal's analysis of the Donegal division makes it imperative that Headquarters should take a more active role in the management of divisions. There can be no basis upon which Headquarters, or indeed the Assistant Commissioners in the region as representatives of Headquarters, can be entitled to see themselves as merely the receivers of information. They are online managers.

- 13.08. The nature of management requires that the person with responsibility should direct and control operations. It is impossible to offer advice, or to issue a command, in the absence of knowledge. It is all too easy for Garda Headquarters, and its regional Assistant Commissioners, to be hoodwinked and misled if a situation of, even at a minimum, negligence is met by a determined effort on the part of Superintendents and Chief Superintendents not to report. If the situation were worse, as it was in Donegal, then it is impossible to justify any management theory which would allow for those who are in need of direction and command to be the final arbiters of the information that is sent by a division to any section of Garda Headquarters.
- 13.09. Fundamental to the proper pursuit of the role of policing is the concise, accurate and contemporaneous reporting of events of importance. The notion of contemporaneous reporting is something that the Tribunal is satisfied is inculcated into recruits from their earliest days in Templemore. The Garda Síochána, ultimately, have the responsibility of dealing with criminal investigations. If they fail in the most fundamental and important aspect of the preparation of files, that are later turned into disclosed documents and books of evidence, then the entire criminal justice system will break down. It is wrong to have in place a system whereby inspections by senior officers, including the divisional commander and the regional

commander, do not involve the scrutiny of paperwork. Management cannot be adequate where it simply involves a responsibility by a manager to question his or her subordinates as to their work. It is certainly the case that information may be missed and that such information can be valuable.

- 13.10. Every system that involves dealing with people has, however, to take into account the human character. It is unlikely that disasters will be reported in the course of a conversation, by a subordinate to a manager, that is clothed in language that betrays the extent of their failure. Lies, negligence and sloth can also be simply ignored, or actively hidden, if a report is sought in general terms. The Donegal division was left isolated from Headquarters. The situation of the implementation of regional command through Assistant Commissioners has not cured, nor will it cure, that situation. The Tribunal wishes to emphasise that in making this recommendation it is expressly not finding fault with Garda Headquarters. The Garda Commissioner, in his evidence, agreed that in the light of hindsight, matters could have been handled better. He also mentioned that steps were being taken, through the implementation of the PULSE computer system, of which the Tribunal had a helpful demonstration, to ensure that paperwork had to be dealt with by managers. While these ongoing developments are a positive sign, there is actually no substitute for imposing a requirement on a Superintendent to review the files of his Inspectors, Sergeants and Gardaí by physically taking them up and looking through them on a periodic basis. The same obligation has to apply to the Chief Superintendent commanding a division. The Assistant Commissioner, in making periodic inspections, should also be required to physically search for, and to examine, paperwork. If that had been done here by Headquarters, the disasters in Donegal would, it is to be hoped, have been discovered. If they had been discovered then a decision could have been made on dealing with them.
- 13.11. Whereas it may be difficult to define what is, or is not, an important case that therefore merits the attention of a Superintendent, of the Chief Superintendent doing a periodic inspection, or of the Assistant Commissioner reviewing the performance of a division, guidelines should be laid down by Garda Headquarters and these should be followed.
- 13.12. In the course of a written report to the Tribunal, Chief Superintendent Brian Garvie of the Royal Canadian Mounted Police, wrote the following:

There is one other area of supervision I consider relevant and that is the area of managerial review. The Commissioner is responsible for An Garda Síochána as to the general direction and control of the Force which is vested in him. He can delegate responsibility to subordinates, as he did with the division and district officers, but ultimately he remains accountable. In view of this, there is a requirement for periodic management reviews by Headquarters of divisions, divisions of districts, and districts of stations and independent units. To some degree this requirement is satisfied by the inspections that are identified in the Code of An Garda Síochána. However, I have been advised that there is no component of the inspections that requires an inspecting officer to conduct operational or administrative file reviews utilising the principles of modern risk management. The incidents [in question before the Tribunal] were reported to Headquarters as they occurred but there was no consistent standard of detail or required information and there was no apparent expectation from Headquarters that progress reports about the conduct of investigations would be forwarded.⁹¹⁶

- 13.13. It is obvious that in any large organisation, and the Garda Síochána is one of the largest, if not the largest, in the State, there must be devolution of authority. Equally, there must be trust. The Tribunal, however, comments that it is contrary to modern theories of risk management not to also interpose a barrier of distrust and to engage in the process of management assuming that fault, deceit, negligence and cover-up will occur. If there had been a review, for instance, of the file in relation to Rosstown, or Ardchicken, it would have become immediately apparent that the file, as an investigation file, did not exist. In respect of Ardchicken, a Chief Superintendent or Assistant Commissioner reviewing that file would have discovered that the substance being passed off as an explosive being planted by the 'Provisional IRA' was in fact an animal feed that was not capable of explosion at all. It is to be hoped that the important questions that should have been asked, but were not asked by the Superintendent responsible in that instance, would then have been asked. Similarly, when one deals with the shocking circumstances of the search of the 14th of March, a senior officer, reviewing the actual paperwork, might have asked questions as to the divergence between what was reported to Garda Headquarters and what was being presented as the official version, locally, as to the effect of the search. The reality is that a clean-up operation was underway by members of An Garda Síochána and that a senior officer should have discovered it. On reviewing

⁹¹⁶ Tribunal Documents, page 2559. As to the cross-examination of the Garda Commissioner on this issue see Transcript, Day 169, pages 70-75.

the paperwork, the most basic question which a competent reviewing managing officer would have asked would have been: “Why are these women not being prosecuted?”

- 13.14. It was the absence of structural command, coupled with utterly defective local management, that led to the situation in Donegal. It is not for the Tribunal to recommend how management structures need to be put in place to deal with this situation. It is certainly the case, however, that the Tribunal must recommend that a new system of review in respect of important cases must be brought in as a matter of urgency. Ardchicken, if the substance had been an explosive, would have constituted a major find, as would Rossnowlagh, the search of the 14th of March and the drop-off of material at Bridgend roundabout. All of these should have been subject to paper review by Garda Headquarters, or through Garda Headquarters by the Assistant Commissioner. Merely leaving that task, however, to an Assistant Commissioner may not, of itself, be adequate and it is for An Garda Síochána to deal with this matter by way of response to this report.
- 13.15. The Tribunal finally comments that any system of management review that is capable of being dealt with merely by indicating that a computer file has been received and that an investigation has been terminated, without looking into the detail of the reason why, would be utterly inadequate.

2. Reporting to Headquarters

- 13.16. The reader of this report will realise that all of the important ‘finds’ dealt with were the subject of a report to Garda Headquarters. Exceptions were the Bridgend and Strabane incidents. At the time, the method of reporting was by telex. More recently, faxes have been used and it is possible that in the future online computer communication may be substituted. The faults in the system of reporting, and the responses thereto, have already been extensively discussed in the course of this report. The Tribunal wishes to make a number of recommendations.
- 13.17. None of the telexes followed a standard format. The Tribunal’s enquiries led it to the conclusion that there was no document template upon which a report, in whatever format of transmission, could be made. There was no Garda circular, and nothing in the Garda Manual, dealing with the minimum requirements of reporting a major incident to Garda Headquarters. That must be rectified by the implementation of

instructions, coupled with an appropriate form in the way of a template, requiring minimum information on matters that are of importance.

- 13.18. It is for Garda management to set these standards. However, the Tribunal would suggest that a primary standard is that of the truth. It is not acceptable that a Garda division can actively lie to Garda Headquarters. This is what happened in relation to the 14th of March search, and the Oatfield and Covehill finds. All of the telexes to Headquarters were lying communications in the sense that each of them promised “further developments”. There were none.
- 13.19. Times, dates and places should be set forth accurately. The times of arrest, and the descriptions of the persons arrested, should be set forth accurately. An accurate description should be given of all of the elements of a find of contraband material, explosive or munitions. The location of the find should be precisely described. Because of the importance of establishing possession, the position within a premises of a find should also be noted. Where a search has taken place by virtue of a search warrant, the date and time of the issue of same, a note of the relevant power invoked by reference to legislation, and the names of the issuing Judge or Superintendent and the officer receiving same so as to be in charge of the search should be included. These are minimum and commonsense requirements and any other details should be filled in.
- 13.20. The role of Garda Headquarters is not the role of the Department of Justice, Equality and Law Reform. It is not adequate that Headquarters, or the regional commanders, should simply be receiving information without involving themselves in the process of checking on the ongoing course of an investigation. Some of the finds dealt with in this report were the subject of one communication to Garda Headquarters, many were the subject of more than one. What characterises all of them, however, is that they were signed off with some such phrase as “further developments will be reported”. The reality is that no further developments were reported because there were never any developments to report. Investigations were being stymied and stopped in their tracks in an abhorrent combination of corruption and negligence. Garda Headquarters never raised a query as to how an investigation was proceeding. The Tribunal is not finding fault against Garda Headquarters in that respect. On one matter, namely the Ardchicken find, a query was raised but only because of the publicity implications, as opposed to a desire to seek further information. In that respect, Commissioner Conroy is not to be faulted.⁹¹⁷

⁹¹⁷ Transcript, Day 169, pages 43-45.

However, as the Commissioner agreed, a structural problem has been identified. The receipt of information in management is not akin to watching a nightly news broadcast of national and international news. In that instance, items that seem of importance disappear and are never signed off on. A fire may be reported one day as ongoing and threatening a particular city, but on the next it may simply be dropped from the broadcast because a more important event has taken its place.

- 13.21. Garda Headquarters has to respond to major incidents on a countrywide basis by taking an ongoing interest in important events that are reported to it. Each event should be classified and given a number. A follow-up communication should be a minimum requirement. A template must be devised, indicating the status of an investigation, the eventual outcome of a search or the consequences of an interrogation, or indeed any other important step in an investigation. When the matter is disposed of, through the submission of a file to the Director of Public Prosecutions, or through the matter being dropped without the submission of a file, that should be reported to Garda Headquarters. The template proposed should indicate the minimum consequential reporting that is necessary and the minimum information that must be included in such communications.
- 13.22. On such communications being made, they should be passed to the relevant Superintendent, Chief Superintendent or Assistant Commissioner for the purpose of him or her allowing such incidents to be part of the paper file review already recommended.

3. Informants

- 13.23. Perhaps the most important aspect of police work that was touched on during the course of the hearings of the Tribunal was the handling of informers. A brief comment has been made on the context of this work in Chapter 3. It is now proposed to make recommendations as to reform.
- 13.24. The use of police informers has been a tool in the investigation of crime for centuries. There is a substantial body of law governing the privilege which attaches to the Garda Síochána in the protection of the identity of their informers and the information which is supplied by such persons. This body of law is not the subject of investigation by the Tribunal. However, the use of informers by the Garda Síochána is subject to self regulation by the force. Within the period thought to be relevant to the Tribunal's investigations, from 1988 to 1994, the use of informers was

subject only to directions and encouragement set out in circulars. Evidence concerning how informers, and Ms. McGlinchey in particular, were dealt with under this system has been considered elsewhere in this report and the Tribunal's conclusions in respect of issues of fact have been set out. This section of the report considers the extent to which the use of informers was regulated at the time, how the issue was addressed abroad, whether the position in this jurisdiction has changed since the period of 1988 to 1994, and concludes with recommendations which the Tribunal makes in this regard.

- 13.25. The branch of An Garda Síochána which deals with this issue is Crime & Security, which has its offices at Garda Headquarters. It is headed by Assistant Commissioner Joseph Egan and Chief Superintendent Martin Callinan at present, both of whom gave evidence before the Tribunal in public and private session. At the outset, it should be noted that the Tribunal considers that the handling of informers by An Garda Síochána is a legitimate topic for public debate. It accepts that there are elements of the business of An Garda Síochána in respect of the handling of informers which should remain secret. Thus the identity of the informer or any information which identifies, or tends to identify the informer, should not be discussed in public. Consequently, most of the evidence heard in relation to facts concerning the handling of any alleged informer has been heard in private by the Tribunal, subject to a protocol entered into with the Commissioner through his legal representatives.
- 13.26. However, the Tribunal's strong view is that the Commissioner's insistence on the application of this protocol to the document which presently governs the handling of informers within An Garda Síochána is unnecessarily restrictive. Indeed, from the investigations carried out by the Tribunal and the information supplied to it by An Garda Síochána, this document is restricted to higher officers within An Garda Síochána. There is no manual which governs the handling of informers within An Garda Síochána. Ordinary Gardaí, who do vital work on behalf of our community, need to know about informers and how to deal with them. Indeed, when specifically asked by the Tribunal whether they were aware that changes in the handling of informers had been effected in the last three years, the Association of Garda Sergeants and Inspectors and the Garda Representative Association seemed to know nothing of these changes, or to know very little about them.
- 13.27. This reticence to engage in public discussion concerning these important

issues can be contrasted to the approach in other common law jurisdictions. The Tribunal had the benefit of the evidence of Chief Superintendent Brian Garvie of the Royal Canadian Mounted Police in public session on these issues. There has been a full debate in the United Kingdom parliament, which led to the enactment of legislation and the introduction of a code of practice in relation to the handling of informers. However, though the Tribunal was given access to this document in private session, and counsel were furnished with an opportunity to read the document in advance of the hearings, neither of its investigators were given this opportunity. Therefore, the Tribunal was deprived of Chief Superintendent Garvie's comments on the document, and indeed those of ex-Superintendent Michael Finn. However, the Tribunal got on with its work in this area and heard evidence in respect of this document, in private, from Chief Superintendent Callinan and Assistant Commissioner Joseph Egan.

The Handling of Informers 1988 – 1994

- 13.28. Chief Superintendent Callinan gave evidence as to the system which applied to the handling of informers and the processing of information from informers in the period 1988 to 1994.
- 13.29. In order to understand the way in which informers and information were handled in that period one must refer to circulars which were issued in relation to this matter. The first relevant circular was issued on the 3rd of December 1973 from the Office of the Commissioner, Crime Branch at Garda Headquarters to the Deputy Commissioner of the Dublin Metropolitan Area regarding "Garda intelligence". This document exhorted members of An Garda Síochána of all ranks, whether uniformed or not, to engage in the gathering of intelligence and to cooperate with each other at all levels, with a view to the sharing of information. It stated that all ranks should be encouraged to make a determined effort to build up a sound intelligence system:

Information gleaned will through reports to headquarters, be a basis for a national information pool which must lead to greater efficiency within the force. Divisional and district conferences, together with formal inspections and informal visits should be availed of to the full in achieving these objectives. Divisional officers should regard it as an important part of their work to build up an efficient, intelligence service within their respective divisions, to collate and assess the information gathered and to pass on what is important to headquarters.

- 13.30. This was followed on the 11th of July 1974 by a further circular which once again exhorted the members to engage in intelligence gathering. It also announced the setting up of:

A separate unit ... to have responsibility for examining, assessing, and correlating all reports received here. In this way, it is hoped to build a good intelligence network and provide the necessary feedback to divisions as required. In introducing this system which was in preparation before in "C" branch and is the accepted method in other police forces, it has been decided that members receiving information will, in addition to sending reports through the usual channels, indicate to Commissioner "C" the name, address, occupation and general background of the informant in each case. It must be made clear that the latter particulars are for the sole information of Commissioner "C" and should be passed to him either verbally or under sealed cover marked Secret and Personal. They would be retained by him and will not be disclosed to any other person. They need not be sent through the usual channels. On receipt of particulars of an informant, the Commissioner will allocate a letter or a number to him by which he will henceforth be identified.

- 13.31. It was noted in the circular that this change in procedure was indicated to, and discussed by, Inspectors and Sergeants of Detective Branch at a conference at Garda Headquarters on the 11th of June 1974. The separate unit which was referred to in that circular was established and is now known as 'Crime & Security'.
- 13.32. A formal system of reportage was subsequently introduced following a circular of the 1st of October 1974. This required that reports should be submitted on a form C.77 in accordance with the procedure which was set out in the circular.
- 13.33. Three copies of the C.77 were to be forwarded to the Commissioner C3 (which is now Crime & Security) personally, and one to the divisional officer. The divisional officer's copy could be forwarded with the other three to the Commissioner's office for subsequent dispatch to the divisional officer, or could be sent directly under special cover by the reporting member. Circumstances such as urgency would determine which avenue was adopted.
- 13.34. When submitting a first report the member was directed to supply the name, address, age, occupation and all available data in relation to his informer directly to the then Commissioner C3 by personal visit. This data

would be kept in the personal custody of the Commissioner who would allocate a code identity (letter or number) for each informer. Informers would be classified as 'agents' or 'casuals'. The term 'agent' denoted a regular informer while the term 'casual contact' was thought to be self-explanatory.

- 13.35. It was also envisaged that members of An Garda Síochána would be given separate code numbers. In this way it was rendered possible only for the Commissioner C3 to identify any member with a number as he would have personal possession of the code key. The members' code numbers would be distributed under sealed cover individually and receipts for same were to be forwarded directly by the members to the Commissioner C3. The code number was to be quoted in a space provided after the words "member's reference number" on the form C.77. Underneath this were the words "reference number". After these numbers a file number, if available, was to be inserted relating to any reported crime with which the information might be connected. Subsequently, on the 3rd of December 1974, a further circular, issued in relation to information to be supplied by the member, conferred a discretion on the reporting member not to report the identity of his or her informer if he or she had a conscientious or any other valid objection. It said:

Any member who has a conscientious or other valid objection to supplying the name or other identifying details of an informant will not be obliged to do so, but he should give such details as will enable the information to be properly evaluated and processed by the Commissioner C3. Whether or not the names or other identifying detail of an informant is supplied, each informant will be allotted a code number to which information supplied by him will be related in C3 branch.

- 13.36. Originally, it was envisaged that the Commissioner C3 would be the holder of the true identities of all informers. This was subsequently changed by the circular of the 3rd of December 1974. Apparently, it was found that members in certain areas had a difficulty in supplying the identity of their informers. It was not entirely clear to Chief Superintendent Callinan why this change occurred: speaking historically, there was a problem. It became the norm that the identity of the informer was not included on the C.77 submitted by members. The practical consequence of this became clear to the Tribunal counsel when they sought to ascertain whether any C.77s had been submitted in respect of information supplied by Ms. Adrienne McGlinchey.

- 13.37. There was no file and could not have been any file held at Crime & Security in relation to such information. C.77s which were ultimately said by various members of An Garda Síochána to have been based on information supplied by Ms. McGlinchey, had to be obtained from the respective members' files of C.77s. Her reference did not appear on those files, nor did any code number or pseudonym attributable to Ms. McGlinchey, and indeed the informer was not identifiable from these documents. The Tribunal, therefore, had to depend on each member examining the files of C.77s submitted by him to identify those which he believed emanated from Ms. McGlinchey. This had the further practical consequence that Crime & Security itself did not have a file of C.77s submitted in respect of Ms. McGlinchey to which it could have ready access, if it wished to assess the nature, extent and quality of the information which emanated from her at any particular stage.
- 13.38. In addition, there was no method of tracing the history of the handling of Ms. McGlinchey. If she was initially used by one member of the force as an informer and then, subsequently, by others, the Tribunal believes that it was important that Crime & Security should know this and, indeed, that local officers should be fully aware of it. However, other than by word of mouth, there was no way in which this basic information was recorded, let alone monitored or reviewed in an accessible separate file.
- 13.39. A further circular, issued on the 7th of May 1993, dealt with the disclosure of an informer's identity to a member's superior. This issue had been referred to the law officers for consideration around that time. It was noted in that circular that care had to be taken in respect of the confidentiality inherent in the relationship between an informer and the member to whom information was given. A breach of this confidentiality, through carelessness or otherwise, was a serious matter carrying with it potentially grave consequences ranging from a loss of trust by the informer to the possibility of loss of life. It continued:

Even though the identity of an informant must not be disclosed save as required by law, it must be remembered that information in relation to the commission of crime which comes into the possession of a Garda is not his personal property, to be dealt with by him as he will. Consequently, the use of informants and information must never be contrary to legal requirements or the regulations of the force. In the interests of justice, or of good order or discipline within the force, it may become necessary that an informant's identity be disclosed. In such case, with the Commissioner's authority, the disclosure would be to a Chief Superintendent nominated by Assistant Commissioner "C" Branch.

- 13.40. The Tribunal notes that the Garda handbook “Crime Investigation Techniques” does not set out in any useful detail the procedures to be followed in respect of the cultivation and handling of an informer. It refers generally to the importance of people as a source of information, and to the fact that members engaged in outdoor duty should make every effort to cultivate good relationships with persons who might be a source of casual information, such as taxi drivers or postmen, newspaper vendors etc. It also refers to the fact that if an individual possesses detailed knowledge of a crime, and is willing to give such knowledge, he may well have been an active participant in the crime and caution must be exercised in this respect. It then goes on to emphasise the care which must be taken to respect the confidentiality inherent in the relationship between an informer and the member to whom information is given and summarises in effect the circular of the 7th of May 1993.
- 13.41. It was clear, from the evidence from Chief Superintendent Callinan, that, at that time, a specific review of an informer was not carried out by Crime & Security and that a great deal of reliance was placed on the assessment made by the Garda receiving the information. It was also acknowledged by him that there was nothing unusual about a Garda, upon receipt of such information, conveying it to his local Superintendent, despite the absence of provision for formal notification by way of a C.77 through the Superintendent in the circulars to which reference has been made.
- 13.42. The assessment made by the member receiving the information in respect of the informer, and the information received, was to be reflected by a ticking of the relevant boxes included on the C.77 form. This was referred to by Chief Superintendent Callinan as a 4 x 4 assessment as it took the shape of four letters and four numbers. Effectively this was the grading system in terms of assessment of a source and the information. In terms of the informer there were different boxes that could be ticked, such as ‘previously reliable’, ‘reliable’, ‘unknown’ and ‘impossible to say’. In relation to the information the form sought to elicit the level of weight attaching to the information - whether it was known to be good information, or if the Garda knew the information to be correct, or whether it was impossible to say.⁹¹⁸ In this regard, the same information was required upon the first receipt of information from an informer, as on any other. In other words, there was no very detailed assessment or inquiry in relation to the informer or the informer’s background or reliability by the Garda receiving the information, or by Crime & Security. It was clear to anybody using the system that there would be no great

⁹¹⁸ Transcript, Day 154, Q.566-570.

scrutiny or assessment of this relationship by other members of An Garda Síochána, by one's superiors, or by Crime & Security.

Changes to the Old System

- 13.43. The Tribunal was led to believe by the evidence of Assistant Commissioner Joseph Egan that this system had been reviewed, found wanting in certain respects and reformed late in the 1990s. Evidence in relation to this matter was received in closed session and a document was produced to the Tribunal which outlined changes which are said to have been made. The Tribunal also visited the offices of Crime & Security to ascertain the extent to which changes had been effected. The Tribunal notes this document, which has been furnished to it by way of a protocol because the Commissioner of An Garda Síochána claimed privilege over it, on the basis that disclosure would not be in the interests of public policy or national security. Having read the document, the Tribunal is absolutely satisfied that there is nothing in it, which the public should not know about. The Tribunal was astonished to hear that the document was restricted to senior members of An Garda Síochána and that there was very little knowledge of it amongst members of An Garda Síochána below the rank of Inspector. The Tribunal did not get the impression that there was any urgency displayed on the part of senior Garda management in the implementation of the terms of this document. Indeed, it was given the impression on its visit to Garda Headquarters and from the evidence heard from Assistant Commissioner Egan, that there was a great deal of foot dragging by senior officers, whose responsibility it was to implement this document, in doing so diligently and comprehensively. The Tribunal had a sense that implementation is mandatory but that there was very little serious intent to ensure compliance with its terms. The Tribunal is satisfied that there should be a robust review of this document and its implementation. This must be done, preferably by some officer or body outside An Garda Síochána.
- 13.44. The contents of the document in question contain many good proposals which are in line with best police practice, as evidenced by the correspondence of some of its provisions with evidence which has been received from Chief Superintendent Garvie RCMP and developments in the other common law jurisdictions, to which reference is made below. Broadly speaking, the Tribunal recommends that a full review take place of the terms of this document and its implementation, with a view to considering whether the present practice and procedure applicable to the

handling of informers by members of An Garda Síochána, can be improved in line with best police practice, or indeed, whether the regime covering the handling of informers should be the subject of legislation and a statutory code of conduct. The Tribunal is concerned that if the review of the document is not thorough in its nature and implementation in the future, that abuses of the system, possibly worse than those chronicled in this report, will be facilitated. Whatever system is implemented, after a full review, should take account of conditions in Ireland.

- 13.45. The Tribunal considers that Crime & Security have not come to grips with the new system. It has not been effectively launched. There is no adequate publicisation to members of An Garda Síochána of the procedure for the registration of informers. That is only an instance. Further, the Tribunal is of the view that elements of bad practice from the old system still pervade current practice. Enthusiasm is needed to bring in a complete change of practice. The absence of a replacement form in the new document for the old C.77 form is disturbing. In addition, forms are needed for registration, if that is to occur. Any question of a 'quiet word' between Headquarters and local Superintendents should have no place in such a system. As commented before, the approach taken to this matter by Garda Headquarters has dampened further meaningful comment. The Tribunal considers that an urgent study of international models, without recommending any particular one, is imperative. The new system seems hurriedly cobbled together and the models which follow are based on wide experience and real thought.
- 13.46. The Tribunal had the benefit of the expert evidence of Chief Superintendent Brian Garvie in respect of the handling and use of informers in the Royal Canadian Mounted Police, and of considering the relevant sections of the report of the Royal Commission into the New South Wales Police Service together with recent legislative changes in the United Kingdom on this topic. A summary of the material considered is set out below. These services will be used as a basis upon which to consider what constitutes best police practice in this area.

The Canadian Experience

- 13.47. In Canada, as the reader will be aware, there are three classifications of persons providing information to the police.

- (i) A casual contact is defined as a person one might meet in the course of one's everyday affairs. He or she might be working in various public places, such as race tracks or nightclubs, and it would be the duty of a police officer to cultivate such persons, especially where they may be in a position to notice things.
- (ii) Informants – these are people who wish to provide the police with information, very often for reasons of their own, who are close to the criminal fraternity and the commission of crime, and who provide information on a confidential basis. Confidentiality of these sources should be protected unless they wish to come forward as witnesses.
- (iii) Directed informants or agents – these are individuals who are doing things at the behest of police officers. These are individuals tasked by investigators to become involved in specific criminal or subversive operations. Such activity might well result in an agent becoming a compellable witness.

Dangers Involved in Handling Informants

13.48. There are a number of dangers in the use of an informer which have been recognised by the Canadian authorities. These include:

- (a) A lack of experience that results in inappropriate relationships or a relationship that lacks appropriate control.
- (b) The possibility that an informant may instigate an offence or act in such a way as to implant in others the intent to commit a criminal offence.
- (c) The motivation of an informant to give information with the intent of eliminating a rival in a criminal enterprise.
- (d) The provision by an informant of worthless information in an attempt to ascertain how much the police know about his or her activities or the activities of his/her associates.
- (e) The provision of false or misleading information by an informant so that suspicion is diverted from his or her criminal activities or those of his/her associates.

These difficulties serve to indicate that there is usually an ulterior motive behind the furnishing of information by an informant to the police.

The Handling of Informants

13.49. Chief Superintendent Garvie, whose assistance and evidence was most helpful on this topic, stated that an informer must be handled with

sensitivity and discretion and receive “ethical direction”. Any police officer who is to handle an informer should receive specific training with respect to handler relationships, the development of informers and the policy of the police force involved. This is crucial in the handling of an agent. Where an agent is directed to do something, they should work “under the authority and direction of experienced handlers.”

- 13.50. As in all jurisdictions, it is accepted in Canada that the identity of an informer must be protected at all times. The only occasion where it should not, is where the interest of justice requires otherwise. In Canada the only situation in which that occurs is where the disclosure of the identity of the informer is necessary “in order to prove the innocence of the accused.” This may be done by revealing certain information in an informer’s statement. But, a judge may have to go further where innocence is shown by ordering the release of an informer’s name. In those circumstances, a judge may order the name of an informer to be divulged, at least in private hearing. In such circumstances, it is necessary to divulge the identity of the informer in order to prove the innocence of an accused and not merely to reveal the identity of the informer in order to pursue some hint or rumour. However, a police officer may not mislead a court in any proceedings in order to protect an informer.
- 13.51. In handling an informer, a handler should not introduce the informer to the members of his/her family. Mr. Garvie noted that during the course of his enquires regarding the explosives module there were a number of occasions upon which informers were interviewed at members’ homes. He found this behaviour to be unacceptable in terms of the standards of dealing with police informers. The Tribunal notes that such behaviour offends the very basic notion that the informer’s identity must be protected at all times and constitutes inappropriate social contact.
- 13.52. In Canada, unless there are exceptional circumstances, the RCMP requires that an alternate handler be assigned to an informer. There are occasions when an informer may indicate that they are unwilling or not in a position to deal with anybody other than a particular police officer, and in exceptional circumstances and with permission such contact may be permitted. However, the general principle is that a second handler is assigned to any informer.
- 13.53. The Canadian authorities have concluded that a lack of supervision of the informer and the informer’s relationship with his handler can result in serious difficulties and, as a result, call into question the credibility of the

handler and those police officers involved in the investigation, or the police agency. Informers, therefore, must be supervised so that, where possible, misleading information is not disseminated that results in inappropriate conduct, inconsequential investigations or the misuse of police time and resources.

- 13.54. For these reasons, certain safeguards are employed in the handling of informers. Chief Superintendent Garvie gave evidence that before an informer or an agent is used by the police service, an extensive background check should be conducted. This should include the previous activity, if any, of that person as an informer. The informer's criminal record, if any, should be looked at. The personal history and apparent motivation of the informer should be assessed, together with their ability to provide information about, or to penetrate, a criminal or subversive organisation. In this regard, it is important that a handler should have a very good sense of the informer's potential. Consideration should also be given to issues that may arise as a result of the provision of information, such as informer/agent's protection or relocation.
- 13.55. In Canada, informers other than those who provide casual information are interviewed on an annual basis. The purpose of the interview is to ascertain that the informer/handler relationships are stable. It gives the opportunity for the informer to discuss any problems and confirmation is also made at that time of any payment that has been made to the informer. The interviews are conducted by experienced police officers other than the handler and it is usually not conducted by the handler's supervisor. It is an entirely independent interview.
- 13.56. Under the Canadian system it is also envisaged that supervisors will supervise the handler and make appropriate comments and give appropriate direction which they should record in respect of the handling of the informer.
- 13.57. When information is provided by an informer, any officer who is responsible for the review of this information or the 'debriefing reports' in respect of an informer, should not be involved in the handling or direct supervision of the source. Similarly, an officer who is responsible for the review of any major investigation involving an informer should not be so involved. This ensures that the officer can be objective with respect to his or her assessment of the information that is being supplied by the informer and any subsequent direction that is given is more likely to be objective.

- 13.58. In summary, Mr. Garvie gave evidence in respect of informers that they should be dealt with subject to stringent safeguards and reviews as outlined above, and also that a supervisor should be appointed to deal with the handler and to review the informer in order to try to ensure that the potential dangers involved in handling an informer are avoided. For the most part, the experienced handler on the ground should be able to manage and control an informer in an appropriate way. There may be circumstances in which this management is directed from headquarters, for example where the investigation is so major that it is appropriate that headquarters be advised on the basis that they need to have knowledge in order to provide appropriate direction in respect of the work in hand.
- 13.59. An important aspect of the handling of an informer is the debriefing procedure that is followed. Intelligence received from a source has to be assessed on its own merits and not on the basis only of what has previously been furnished by that source. The person who was reliable in the past may prove to be unreliable on another occasion and vice versa. The debriefing reports are intended to take the intelligence that has been reported, have it evaluated and appropriately disseminated, and to have a record available of the information that is being provided. These records and the identity of the informer should be protected. There is a commitment to the informer not to reveal his/her identity and under any acceptable policing standard it is not considered appropriate that the informer be identified: other than in the circumstance previously outlined.
- 13.60. A further protection in respect of the handling of informers is provided by periodic review. The purpose of this review is to take into account circumstances in which the continued use of an informer may be detrimental. It may be appropriate to terminate the use of an informer in certain circumstances. For example, termination could occur where there is a social or sexual relationship between the informer and the handler. If the informer is shown to be consistently unreliable or treacherous then the relationship should be terminated. If an informer or an agent on a major file is not following direction then the relationship should be terminated. Mr. Garvie makes various criticisms of the handling of Ms. McGlinchey, which are set out at pages 118 to 120 of Day 95.
- 13.61. This helpful and firsthand account of the workings of the Canadian system of informer handling can also be compared with consideration which has been given in other common law jurisdictions to this issue.

New South Wales, Australia – Report of the Royal Commission into the New South Wales Police Service

- 13.62. In the final report of the Commission (May 1997), the Hon. Justice JRT Woods considered the issue of the management of informers in Chapter 7 of the report, entitled “Integrity Measures – Criminal Investigations”. The report recognises that the existence of inappropriate relationships between police and criminals were the major cause for the emergence of corruption. It also conceded that the police service had tried very hard to introduce best practice guidelines for the management of informers, but this had achieved only limited success. Even though, over a period between 1986 and 1992, procedures in relation to the handling of informers became tighter, the report noted that these changes failed significantly to prevent the misuse of police/informer relationships.
- 13.63. Whilst the nature and breadth of the corruption experienced in New South Wales was worse than the corruption dealt with in this Tribunal’s Terms of Reference, the Tribunal has found it useful and instructive to consider the experience of, and conclusions drawn by, Mr. Justice Woods in relation to the issue of informer management. The issues faced by both Tribunals concern the abuse of the informer/handler relationship and how that can be best addressed. The history of the attempted reform of the New South Wales system of informer management also provides a somewhat salutary lesson.
- 13.64. In March of 1994, an Informer Management Plan was produced by the Independent Commission Against Corruption and the New South Wales Police Service:⁹¹⁹ It is useful to set out the Woods Commission’s assessment of this plan, the paramount principles of which were “control, accountability and evaluation”.

The Informant Management Plan

7.32 The ‘paramount principles’ for an effective informant management system were identified in this plan as ‘control, accountability and evaluation’. It specified that:

- an informant is a Service resource and not the property of any individual officer;
- all police officers who deal with informants must be accountable;
- each step in the informant management process should be supervised and documented;

⁹¹⁹ The New South Wales Police Informants Management Plan, March 1994.

- provision of rewards to informants, whether monetary or otherwise, should be monitored and regulated; and that
 - the relationship with the informant, its management, and the quality and use of information provided should be regularly and objectively assessed.
- 7.33. The Plan provided for the establishment of eight local registers to be maintained by each of the four Region Commanders, and by the Commanders of the State Intelligence Group, the Task Force Group, the Drug Enforcement Agency, and the Special Branch. A central computerised register was required to be maintained by the Commander, State Intelligence Group. Each registrar of a local register was required, at regular intervals, and at least once every three months, to forward by hand to the Commander, State Intelligence Group details of registered informants to be included on the central register.
- 7.34. The Plan provided for a tiered management structure, involving registration of an informant by the controlling officer, known as the 'case officer', and supervision by a nominated and a senior supervisor.
- 7.35. The Plan required a 'pre-registration assessment' including an assessment by the case officer's supervisor of 'the strength of the personality of the case officer against that of the prospective informant'. Following registration, all contact between the informant and case officer was to be regulated by the nominated supervisor.
- 7.36. Under the Plan, all contact (not just physical meetings) with informants was required to be 'reported, documented and subject to supervision'. For this purpose, a Contact Advice Report (CAR) was required, including:
- details of the contact made including any promise made or undertaking given by the case officer;
 - an outline of the intelligence provided by the informant;
 - the case officer's assessment of this intelligence; and
 - any other pertinent comments.
- 7.37 Each CAR was to be reviewed by the supervisor and the senior

supervisor and retained on the Informant Management File (IMF). The case officer and the supervisor were required to determine any appropriate dissemination of the information received.

7.38 The supervisor was required to review the IMF every three months, and every six months the senior supervisor was required to conduct a review of the relationship, and its product and management. They would then decide whether or not the informant should continue to be utilised by the Service.

7.39 All applications for, and grants of, benefits were to be recorded on the IMF, and on the local and central registers. The provision of monetary rewards and commendations was to be considered by the Reward Evaluation Advisory Committee (REAC). Letters of assistance (or letters of comfort) were required to be co-signed by the case officer and the senior supervisor.

7.40 The Plan required an audit by relevant commanders of the local registers at least once every 12 months, followed by a written report to the State Commander.

13.65. It was noted by the Commission that comprehensive safeguards and careful planning had gone into the preparation of this plan but that the evidence before the Commission revealed significant non-compliance with it and the continuing abuse of informer relationships for corrupt purposes. This salutary lesson should be noted in Ireland. The Woods Commission found that:

- (a) There was an astounding lack of knowledge of the plan, with numerous witnesses saying that they had received insufficient training on its operation, thought it too complicated, or did not understand it. Some officers said that they had not even read it;
- (b) Some officers asserted an almost proprietary interest in their informants and in the information they provided, notwithstanding the instruction that informants are the property of the police service and not of any specific officer;
- (c) In many cases the relationship formed was inappropriately close, making it difficult to keep control of an informant;
- (d) Often, corrupt meetings and dealings with informants occurred under the guise of a legitimate informant contact, being in truth occasions for corrupt behaviour;

- (e) Many officers seemed disinterested or unwilling to attempt to understand the plan or, worse still, regarded it as an unworkable interference with their investigative work;
- (f) Many officers did not complete CARs (Contact Advice Reports). Many said they had not thought it necessary to complete reports for contacts by telephone or chance meetings. Some said they noted the contacts in their duty books only. Others said that they were unaware of any need to report contacts with informants registered to other officers;
- (g) It was seen to be relatively easy for an officer to create a false CAR and thus manufacture the details of an informant relationship, if a corrupt relationship with a criminal was called into question;
- (h) Supervision was identified as a particular problem. In many cases, any sensible or reasonable attention to the task of supervision would have identified officers who were failing to comply with the plan. The evidence was strongly suggestive of failure by supervisors to draw attention to the plan and to supply training in relation to it; and
- (i) Discipline for failure to comply with the plan was non-existent, at best leading to 'counselling'.

13.66. The Commission went on to criticise certain deficiencies in case officer compliance which repeatedly emerged in their review of the procedures. These included the fact that information registration forms, pursuant to which informers were registered, lacked important information such as criminal records, photographs of the informer, warrant checks, reliability and motivation assessments, and any clear account of the information received. In some cases, there was duplicate registration of informers and meetings with informers continued to occur without advance notification to the supervisor. Those difficulties in another jurisdiction should provide a salutary lesson here.

13.67. There were also deficiencies in the supervision expected under the plan. It was found that there was a general unwillingness amongst police officers to use co-handlers or to apply conditions of contact to meetings between informers and case officers. The informer/case officer relationship was rarely explained in any depth. The supervisors of the same rank as the case officer simply accepted their assurance that their relationship was normal and proper. There was a general unwillingness to de-register informers, even though there had been loss of contact, or information was available suggesting that the informer was involved in criminal activity.

- 13.68. It was acknowledged by the Commission that the 1994 Informant Management Plan was detailed and gave officers far less discretion in their dealings with informers. It was also accepted by the Commission that the plan was a good one but was never fully implemented:

On paper, it can fairly be said that it represented a best practice plan but failed in its implementation and in its lack of acceptance by working detectives. As such it provided a further example of a service which lacked effective supervision, genuine accountability, a cultured professionalism and an ability to implement reform.

- 13.69. It is this difficulty which the Tribunal considers to be a live danger in the Irish context. The Tribunal is not satisfied that the reforms envisaged by the new policy document produced by An Garda Síochána has widespread application or acceptance in An Garda Síochána. The policy falls well short of full implementation. A determined effort needs to be made by Assistant Commissioner Egan.
- 13.70. A special audit of the local registers in relation to the special agencies in New South Wales was carried out in April of 1996. This found problems with the way in which informer information was managed by the police service. As a result of this it was recommended that procedures which were entirely manual and paper based be replaced by a computer system that would facilitate:
- (a) Standardisation of procedures and systems;
 - (b) Central identification and registration of informants;
 - (c) Improved evaluation of information provided by informants;
 - (d) Improved accountability and audit procedures; and
 - (e) The elimination of delays in information updates resulting from manual transfer.
- 13.71. These various reviews in New South Wales resulted in a further revision of procedures in consultation with the Royal Commission and on the 14th of April 1997 a new "Information Management Manual" came into effect. Important features of this manual included:
- (a) An emphasis on compliance, responsibility for which lay with the supervisor. Duties and responsibilities of supervisors were expanded to include a requirement that they personally meet with an informant to assess suitability for registration; and,

- (i) Complete and sign a form detailing the manner in which informant is to be managed;
 - (ii) Assess each Contact Advice Report (CAR) and discuss it with a senior supervisor;
 - (iii) Ensure information is assimilated appropriately;
 - (iv) Review the informant/officer relationship quarterly with each submission of a relevant CAR;
- (b) The manual re-emphasised the fact that informants are not in any way “the property” of an individual officer;
- (c) It became mandatory under the new manual that supervisors personally meet with informants prior to registration, consider the conditions to be imposed on contact prior to registration and select and appoint a suitable co-handler, who is to be present at all arranged contacts;
- (d) It became necessary for case officers to submit a report to their supervisor on a quarterly basis assessing the quality and the reliability of the information given and providing details against specific performance indicators such as arrests, property recovered and the like. The supervisor and senior supervisors were required to constantly re-assess the value of the informant to the service and to decide whether or not the informant/officer relationship should continue;
- (e) The supervisor became responsible not only for assessing the value of information provided but also for ensuring that it was appropriately disseminated; and
- (f) It became the responsibility of supervisors to approve working expenses after the submission of a voucher by the case officer.
- 13.72. The Royal Commission welcomed this initiative in developing the new informant management manual, in the course of which a number of amendments to the manual suggested by the Commission were accepted.
- 13.73. The Royal Commission recommended matters which should be quoted in full:

The Commission recommends:

- (a) All officers who are potentially involved in the management of informants must be trained in the procedures required under the Informant Management Manual, and in the dangers of associations with informants.
- (b) Failure to comply with informant management procedures lead to prompt management action or dismissal where the Commissioner cannot be satisfied that an association with a known criminal is maintained for proper policing reasons.
- (c) The informant management system be carefully monitored and reviewed regularly.
- (d) It be emphasised to supervisors and senior supervisors through training and specific statement in the Manual that its success depends on their reviews and that they are personally responsible and accountable for any failure to carry out this task effectively.
- (e) Provision should be made for regular random audits to determine compliance by officers who have an adequate security clearance and are sufficiently experienced to conduct a qualitative as well as a systems-based review. This could be carried out by the Office of Internal Affairs or the PIC.
- (f) It be emphasised to police that non-compliance or lack of understanding of the Manual will be regarded most unfavourably when assessing their integrity prior to promotion or transfer.
- (g) The Service emphasise and re-emphasise through training and also on the job that:
 - informants are resources of the Services not the individual case officer;
 - particular care must be exercised with pre-registration assessment;
 - every meeting with an informant must be properly recorded in detail;
 - case officers must maintain control in their relationships;
 - case officers must be wary of over-familiarity with informants;

- only active and reliable informants should remain registered;
- informants are not to be led in the belief that their status protects them from prosecution or affords them special privileges;
- care must be taken when using informants of the opposite sex to the case officer, including ensuring that meetings should take place only in the company of a second officer;
- there must be strict accountability for and recording of all rewards and benefits received by the informant and no sharing of such rewards; and
- operational commanders must ensure their staff understand and comply with the informant management procedures.

(h) Assistance from informants should be regarded as an aid to, rather than a substitute for, traditional lines of investigation.

13.74. It was the Royal Commission's view of the Australian experience that a strictly controlled regime was required for the relationship between police and criminal informers because it was fraught with danger. An understanding of the manual in respect of the handling of informers and training of all officers potentially involved in management of informers was essential. It also noted that though ultimate responsibility for compliance with the manual should always remain with the senior supervisor, provision should be made for regular but random audits to determine compliance by officers who have an adequate security clearance and are sufficiently experienced to conduct a qualitative as well as a systems based review. Apart from supervision and review, emphasis was also placed by the Commission on the requirement that contacts with informers be promptly recorded in detail and, where practical, by use of a handheld tape recorder.

13.75. It will be noted that views of best police practice in relation to the handling of informers in Canada and New South Wales seem to a large extent to coincide. In addition, the Canadian and New South Wales authorities appear to be a great deal more open about the structures necessary to effect change in this area than the Garda Síochána. Indeed the authorities in the United Kingdom have extended the debate even further into the public domain by enacting legislation in relation to the matter.

The Approach in the United Kingdom

13.76. In the United Kingdom the use of what were described as “covert human intelligence sources” was regulated by Part II of the Regulation of Investigatory Powers Act, 2000. A person is a “covert human intelligence source” pursuant to Section 26(8) of the Act if:

- (a) He or she establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c);
- (b) He or she covertly uses such a relationship to obtain information or to provide access to any information to another person; or
- (c) He or she covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.

Under Section 29 of the Act, designated persons have the power to grant authorisation for the conduct or the use of a covert human intelligence source. Such authorisation shall not be granted unless a designated person believes that the authorisation is necessary on grounds falling within Section 29(3) of the Act:

- (a) In the interests of national security;
- (b) For the purpose of preventing or detecting crime or preventing disorder;
- (c) In the interests of the economic well-being of the United Kingdom;
- (d) In the interest of public safety;
- (e) For the purpose of protecting public health;
- (f) For the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department; or
- (g) For any purpose (not falling within paragraphs (a) to (f)) which is specified for the purposes of this sub-section by an order made by the Secretary of State (and the order for which must be laid before the Houses of Parliament).

13.77. In addition to being necessary on the grounds set out at sub-section 3, Section 29(2) requires the authorisation not be given unless the designated person believes:

That the authorised conduct or use is proportionate to what is sought to be achieved by that conduct or use and that arrangements exist for the source's case that satisfy the requirements of Section 29(5) of the Act.

- 13.78. Section 29(5) of the Act sets out the arrangements the existence of which the designated person must be satisfied before authorising the use of the source. These provisions set out, in broad terms, the extent to which the register requires that the handling of the source be regulated and supervised. The designated person must be satisfied that such arrangements are in force as are necessary for ensuring that:
- (a) There will at all times be a person holding an office, rank or position with the relevant investigating authority who have day to day responsibility for dealing with the source on behalf of that authority, and for the source's security and welfare;
 - (b) There will at all times be another person holding an office, rank or position with the relevant investigating authority who will have general oversight of the use made of the source;
 - (c) There will at all times be a person holding an office, rank or position with the relevant investigating authority who will have responsibility for maintaining a record of the use made of the source;
 - (d) The records relating to the source that are maintained by the relevant investigating authority will always contain particulars of all such matters (if any) as may be specified for the purposes of this paragraph in regulations made by the Secretary of State; and
 - (e) Records maintained by the relevant investigating authority that disclosed the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons.
- 13.79. The persons designated, for the purposes of granting authorisations pursuant to Section 28 of the Act, are individuals holding certain offices, ranks or positions with relevant public authorities set out in a Schedule to the Act, which include various police forces, the intelligence services, the Commissioners of Customs & Excise, Inland Revenue and various other bodies.
- 13.80. Authorisation in respect of a source may be granted orally in any urgent case, or in writing. If it is granted orally then, pursuant to Section 43, the period of its duration is seventy-two hours. The authorisation may be

renewed at any time before the time at which it ceases to have effect by an authorising officer. This officer must be satisfied that a review has been carried out in respect of the use made of this source during the period of authorisation and of the tasks given to the source during that period and the information obtained. If requested to review this authorisation, the authorising officer must then consider this review in deciding whether to renew the authorisation.

13.81. Under Section 71 of the Act the Secretary of State is obliged to issue a code of practice relating to the exercise and performance of powers and duties of those concerned with the implementation of Part II of the Act. The present code in respect of the authorisation and the use or conduct by public authorities of covert human intelligence sources provides the scheme within which these authorisations take place within the United Kingdom legislation. It is interesting to note that the drafting of this legislation and code appears to have taken into account the provisions of Article 8 of the European Convention on Human Rights and Section 6 of the UK Human Rights Act, 1998 together with what might be regarded as the principle of proportionality required in respect of administrative acts which may infringe the rights of third parties.

13.82. In order to determine whether the use of a source is proportionate to what is sought to be achieved by the conduct and use of the source, the authorising officer (an Assistant Commissioner for the most part in the case of UK police forces) must balance the intrusiveness of the use of the source on the target and others who might be affected against the need to use the source in operational terms. Article 2.5 of the code states:

The use of a source will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. The use of a source should be carefully managed to meet the objective in question and sources must not be used in an arbitrary or unfair way.

13.83. The code advises that the authorising officer should also take into account the issue of what is termed “collateral intrusion”. Simply put, this means that measures should be taken, wherever practicable, to avoid unnecessary intrusion into the lives of those not directly connected with the operation. To this end, an application for an authorisation has to include an assessment of the risk of any collateral intrusion. The principle of proportionality must also be applied on this determination.

- 13.84. If the use of a source might give rise to particular sensitivities in a local community in which the source is being used, or may affect similar activities undertaken by other public authorities, a senior officer within the police force area in which the source is to be deployed should be consulted. Any adverse impact on community confidence or safety that may result from the use or conduct of a source or of information obtained from that source should also be considered; Articles 2.6-2.9.
- 13.85. The code also deals with the maintenance of records in respect of a source. Article 2.15 provides that the following records be kept by the relevant authority:
- (a) A copy of the authorisation together with any supplementary documentation and notification of the approval given by the authorising officer;
 - (b) A copy of any renewal of an authorisation together with the supporting documentation submitted when the renewal was requested;
 - (c) The reason why the person renewing an authorisation considered it necessary to do so;
 - (d) Any authorisation which was granted or renewed orally, in an urgent case, and the reason why the case was considered urgent;
 - (e) Any risk assessment made in relation to the source;
 - (f) The circumstances in which tasks were given to the source;
 - (g) The value of the source to the investigating authority;
 - (h) A record of the results of any reviews of the authorisation;
 - (i) The reasons, if any, for not renewing an authorisation;
 - (j) The reasons for cancelling an authorisation;
 - (k) The date and time when any instruction was given by the authorising officer to cease using a source.
- 13.86. Article 2.16 provides that records kept by public authorities should be maintained in such a way as to preserve the confidentiality of the source and the information provided by the source. There must also be a designated person within the relevant public authority who will have responsibility for maintaining a record of the use made of the source.

- 13.87. Each public authority must maintain a centrally retrievable record of all authorisations.
- 13.88. The code provides that a source who acts beyond the limits recognised by law will be at risk from prosecution.
- 13.89. In addition, special safeguards apply to the use or conduct of juvenile sources under the age of eighteen years. There is a specific prohibition on the use or conduct of a source under the age of sixteen years for the purpose of obtaining information against his or her parents or any person who has parental responsibility for him or her. A separate statutory instrument provides for the regulation of authorisations in respect of juveniles; Article 3.14.
- 13.90. Persons who are or who may be in need of community care services by reason of mental or other disability, age or illness, or who are or may be unable to take care of themselves or unable to protect themselves against significant harm or exploitation should only be authorised to act as a source in the most exceptional circumstances.
- 13.91. The Tribunal has set out and considered the evidence of Chief Superintendent Garvie, the findings of the report of Mr. Justice Woods in New South Wales, and the UK statutory provisions in respect of the handling of informers, including an account of the UK code of practice. The Tribunal considers that the Garda Síochána document, together with these materials, form a very good basis upon which to move forward and develop best police standards in the handling of informers in this jurisdiction.

Recommendations

- 13.92. The Tribunal urges that the following recommendations should be urgently looked at. The Tribunal commends a close study of the various systems set out above. As to which system is best suited to Irish conditions, this is a matter to be scrutinised by the Minister. Elements of crucial importance can be identified.
1. An informant handling manual should be produced and circulated to every member of An Garda Síochána which should include a code of conduct for the handling of informers.
 2. A proper level of training should be introduced for members of An Garda Síochána in respect of the handling of informants, and should incorporate instruction on procedures required in, and the dangers associated with, the handling of informers.

3. There should be compulsory in-house refresher lectures from time to time for all members of An Garda Síochána in respect of the handling of informers, with particular emphasis on any changes made to the procedure.
4. There should be an independent outside audit of the present state of the implementation of the new Garda policy on the handling of informants. This should be by some person having appropriate security clearance and experience in police operational matters and who should examine the operation of the system and recommend improvements if thought appropriate.
5. A periodic independent audit of the operation of the informant handling procedure should be carried out. Provision should be made for an outside authority, perhaps the proposed Ombudsman, to be involved. Such a body should be vested in such a person to make such inspections and see such documents as are necessary to carry out the audit, and to attend at Crime & Security, at Garda Headquarters or at any Garda station, at such times as they think appropriate in order to carry out this task. Part of the auditor's remit should be to carefully monitor and review the informer management system.
6. A system of registration of informants should be compulsory and not optional for each member of An Garda Síochána.
7. Prior to registration of a person as an informer, authority should be obtained from Crime & Security on the basis of a full and detailed assessment of the person proposed as an informant, which should include a full and detailed background assessment and, if possible, an interview with that person. Every meeting with an informer should be properly logged, noted and recorded in detail.
8. A separate and complete file containing all records relating to the informer and all dealings with the informer by members of An Garda Síochána should be maintained and kept up to date at Crime & Security.
9. There should be at least two persons involved in the handling of an informer, who should be present together at all meetings with the informer.
10. The relationship with the informer and members of An Garda Síochána should not be overly familiar and, specifically, the informer

should not have social contact with the member and/or members of the member's family or attend at the member's residence.

11. There should be a high level of supervision of the informer's relationship with members of An Garda Síochána by a superior officer. Any assessment or comments made or directions given by the superior officer arising out of such supervision, or any review of the relationship, should be recorded and furnished to Crime & Security for inclusion on the informer's file.
12. There should be a periodic review of the relationship between the informer and the handlers by an officer who is not a supervisor of the handler, but serves in Crime & Security, or has an appropriate level of security clearance.
13. An officer from Crime & Security should maintain close contact with the local supervising officer and the handlers on a regular basis and keep himself/herself fully informed in relation to the activities of the informer.
14. Handlers should receive such communication from Crime & Security as will assist them in understanding the value or lack of value of the information which has been supplied by the informant unless it is thought that this might compromise a Garda operation and the informer or another informer.
15. It is proposed that the implementation of Garda policy in relation to informants should be computerised. It is understood by the Tribunal that this has not happened to date. The process of computerisation should be completed as a matter of urgency. The strengths of computerisation will be the ability to cross-reference data in relation to information supplied by informers and to give those who assess the intelligence a greater access to and a clearer overview of information received.
16. A failure to comply with the informant management procedure should lead to prompt management action. Failure to comply with the procedure or to familiarise oneself with procedure should be regarded unfavourably. It should lead to disciplinary action of some kind. Members should clearly understand that such failure will have an adverse affect on a member's application for promotion. In this context, any foot dragging by officers or members of An Garda Síochána in relation to the implementation of Garda policy in this

area should not be tolerated. The Tribunal feels compelled to make this comment on the basis that it is not satisfied that there is complete commitment to full implementation of this new policy in light of the evidence heard, or submissions made, and the Tribunal's visit to Garda Headquarters.

17. Although no specific submission was made on behalf of Crime & Security or the Commissioner in respect of lack of resources in terms of the funding of Crime & Security, it seems to the Tribunal that the premises in which Crime & Security is housed are cramped. Insofar as the recommendations of the Tribunal involve further work for the personnel engaged at Crime & Security, it is recommended that the appropriate level of additional resources be given to Crime & Security in terms of personnel and infrastructure to enable them to carry out their highly important business in the most modern facilities and environment available.

4. Officer's Journals

- 13.93. One of the few almost reliable ways that the Tribunal has had of approaching the truth has been through contemporaneous documents. People may indeed lie in the correspondence which they send to other people, and in the notes that they keep of an event for their own use. However, any record of what is supposed to have happened in respect of an event of importance is, at the very least, a statement of the facts that can be compared with other versions and with later accounts. This Tribunal has been much delayed by the need to sort out departures from prior statements and by the need to compare testimony with earlier avowals as to the truth. In the absence of any early recording of an event, there is no point of comparison. There is therefore nothing to hinder alterations in memory, embellishments and untruths. Undoubtedly, any investigation is better for having before it the earliest version of an event.
- 13.94. The obligation for all Gardaí of Inspector rank and above to keep an officer's journal has recently been removed. This is disturbing. It is now a matter of personal practice as to what note of a day's duties and events is kept. The format is also open. In these circumstances, something might be recorded on a computer file. This leaves open the possibility of later alteration in a less discoverable way than with records kept in a numbered solid book entered in pen and ink. The Tribunal recommends that the old system should be immediately restored. Further, given the controversy that has been generated over ordinary duties, the Tribunal recommends

that all issues as to arrests and the reasons therefore; warrants and the reasons therefore; investigations and the reasons for commencing same; all other tasks of importance; and reports of importance should be recorded by all personnel of Inspector rank and higher on a strictly daily basis.

- 13.95. Such records should never be destroyed without the permission of a designated Assistant Commissioner in Garda Headquarters. The books should be surrendered on retirement. They should be subject to inspection as and when required. Headquarters must also devise a secure way of note keeping as to dealings with informers and the input that higher ranks have in the supervision of this process.

5. The Role of the Department of Justice, Equality and Law Reform

- 13.96. In respect of the recommendations made in this report, and any subsequent report which issues from this Tribunal, the Department of Justice, Equality and Law Reform has a role in ensuring oversight. The Department must, in consultation with the Garda Commissioner, address the structural defects and deficiencies that have been identified in this report to ensure that it is empowered by knowledge and that adequate steps are being taken to address the problems that have been identified.

6. Duty to Account

- 13.97. In any community, a police force fulfils two distinct duties. The force provides a service to people who need assistance in terms of the duties mandated to them. All of us like to feel that policemen and women are helpful in providing directions, stamping passport application forms and road traffic forms, and otherwise interacting with the community on a voluntary basis. Secondly, however, in contrast to the voluntary nature of the transactions that a police force may provide as a service, the police interact with members of the community who are the victims of crime or who are suspected of having committed criminal offences.
- 13.98. This function of enforcing the criminal law is completely at variance with the powers and responsibilities vested in other public bodies. It involves the potential use of force to arrest, detain and search the person who is reasonably suspected. It also involves the right to require the production of documents and to use force, pursuant to a warrant, to enter a dwelling house or business premises and to remain for a reasonable time to allow the seizure of property that has potential relevance to a criminal investigation. Violence can be authorised to officers of the law. The

various aspects of police work may thus be divided into its work as a service, and its work as a force.

- 13.99. It may be lawful to use violence to restrain a person resisting arrest. Where a person is detained, it is lawful to use imprisonment as an instrument of investigation. Where a person is suspected of hiding explosives or drugs on their premises, then force may legitimately be used to seek to fill the mandate given by a warrant. The potential for real harm to result in these situations is obvious. In the context of Donegal, it is only necessary to refer to the 'Lofty' Gallagher search and its aftermath for an illustration of the importance of police powers, the effect that the exercise of these may have on people's lives and the importance of responsible accounting.
- 13.100. A duty to account for one's actions as an employee is a fundamental aspect of any employer/employee relationship. No employee has the right to act in an independent and unaccountable manner. In any ordinary employment relationship, duties are set down, tasks are allocated and an account is to be made of the fulfilment of these. An employer who sets a task to his or her employee is entitled to know that it was fulfilled. If any difficulty arises in relation to it, for instance a claimed injury potentially resulting in a negligence suit, an employer is entitled to a full account of the actions of the relevant employee. The difference between any ordinary employment relationship, and that of engagement as a member of An Garda Síochána, is that the former are not vested with powers to use force in order to implement the law, whereas the latter are.
- 13.101. Regrettably, the Tribunal has sat through a year of evidence and read thousands of documents and, as a result, has come to the conclusion that An Garda Síochána is losing its character as a disciplined force. This is detrimental to the morale of members who wish to serve within the context of a police force that has a proud record. It is undermining respect for authority both within the force, and in relation to those who have to interact with it, on whatever basis.
- 13.102. Ultimately, the gradual erosion of discipline within An Garda Síochána is a developing situation that will, sooner or later, lead to disaster. It is no more than a statement of commonsense that a member of An Garda Síochána should be immediately obliged to account for anything that he or she has done in the course of a tour of duty or otherwise while using the powers invested in him or her as a member of the force. The employer, in this instance the Garda Commissioner and ultimately the Government,

is entitled to know how the law enforcement powers vested in a member of An Garda Síochána are being, or have been, exercised.

- 13.103. This Tribunal is an instance of the breakdown in clear lines of authority, through the duty to account within An Garda Síochána. As Chairman of the Tribunal, I can record that it took sometimes days of relentless cross-examination by counsel on behalf of the Tribunal to approach anywhere near to the truth of the events relevant to the Terms of Reference.
- 13.104. The Tribunal was set up, in part, because the thorough and detailed examination of the facts carried out by the team assembled by Assistant Commissioner Carty was unable to completely answer all of the questions which surrounded this, and some of the other Terms of Reference. There was a clear failure on the part of various members of An Garda Síochána to account for their actions while on duty when appropriate enquiries were made of them by senior officers. The attitude adopted by these members ranged from an unhelpful lack of candour and detail to an absolute refusal to cooperate other than by blanket rejections of the propositions put to them. It is clear that members of An Garda Síochána adopted a thoroughly uncooperative manner with my investigators. The Tribunal has noted the same attitude in testimony. It is completely at variance with the minimal standards of behaviour to be expected of members of a disciplined force.
- 13.105. The Tribunal notes the evidence of Superintendent Coll that he received appropriate cooperation from all but a few members of the force under investigation in Co. Donegal.⁹²⁰ It also notes the ‘don’t hang your own’ ethic identified by Garda Martin Leonard. It is unsupportable that a minority of members of An Garda Síochána should be entitled to stymie any legitimate investigation carried out by their employer, in this instance the former Commissioner Mr. Patrick Byrne, into any aspect of behaviour of a member of An Garda Síochána. It is also completely unacceptable that any individual member of the Garda Representative Association should see itself as mandated to prevent the uncovering of the truth. In the course of his evidence to the Tribunal, Garda P.J. Stone, who is the Chief Executive Officer of the Garda Representative Association, stated:

We support the concept of the discipline regulations and we try, insofar as we can as an association, to ensure that we don’t become involved or embroiled in, if you like, the investigative side of discipline, other than to advise members of the force of their entitlements and otherwise. To that extent, we obviously embrace

⁹²⁰ Transcript, Day 97, page 87.

*the notion that the discipline regulations are there to assist the entire force.*⁹²¹

- 13.106. When asked as to whether there was a distinction between a service provided by a voluntary company, such as a computer firm selling a product of service, and An Garda Síochána, Garda Stone answered:

*No. Well, I see both as providing a service, in the sense that the Garda Síochána is now providing a service to the public. It is more generated in the last number of years towards a service industry and I don't use that word lightly, but it is expected and the people expect it because they are paying our wages and we are subject to the taxpayers' good wishes that we provide a service and that it would be done to the best of our ability. ... We are the unitary police Force of the State and therefore the people expect the Garda Síochána to do the job.*⁹²²

- 13.107. The Tribunal rejects this. This evidence expressed a view of the purpose and role of a police force in a modern State that is not in any way tenable. Members of An Garda Síochána cannot be equated with a service industry. In the history of the State, many have been injured or died in the course of heroic efforts to enforce the law. They are vested with enormous powers and are obliged to account for these in a manner that preserves the integrity of the process of interaction through force with the people living in this country.

- 13.108. Garda Stone claimed in evidence that the Garda Representative Association took the attitude that when a member of the force was asked to account for his or her duties, they were encouraged by the Garda Representative Association to give such account. The Tribunal rejects this evidence as contrary to its experience.⁹²³ A fair representation of the attitude which the Carty inquiry team met, and which the Tribunal met as well, is illustrated by the following exchange between Garda Martin Leonard and counsel:

Q. Do you think the Commissioner is entitled to send out a fact-finding mission?

A. The members would be entitled to know, in all fairness, what are the questions being asked.

Q. You heard me opening this [module in an opening statement].

A. No I did not.

⁹²¹ Transcript, Day 165, page 10.

⁹²² Transcript, Day 165, pages 17-18.

⁹²³ Transcript, Day 165, page 23 on.

- Q. *I opened this morning on the basis of saying: Donegal isn't an isolated island floating off Ireland, it is part of Ireland and Headquarters are entitled to know and should keep on top of what is happening in Donegal ...*
- A. *Yes, of course.*
- Q. *... So if the Garda Commissioner came down and said: I'm investigating A, B, C and D would you answer his questions?*
- A. *Yes, if he would be asking specific questions. But he was not asking me ...*
- Q. *But if the answer to the question could have involved you in some kind of breach of discipline or some kind of breach of the criminal code you would say to the Garda Commissioner: no, I will not answer your questions?*
- A. *But he would carry on an investigation ...*
- Q. *So he can carry out any investigation apart from asking the actual Garda apparently involved and you are happy with that. But if he asks the Garda apparently involved what were you doing at such-and-such a time in such-and-such a place – no cooperation?*
- A. *If it is incriminating.*
- Q. *No cooperation?*
- A. *He does not have to respond.*
- Q. *So the Garda Commissioner isn't entitled to a response?*
- A. *Not within twenty-four hours.*
- Q. *Ok, twenty-five hours, is he entitled to a response?*
- A. *Then he has his response, yes.*
- Q. *But if it is incriminating the member is entitled to say: I exercise my right to silence?*
- A. *Yes.*
- Q. *The ESB man?*
- A. *I think it would be the same.*

Q. *You think?*

A. *Yes.*

Q. *You see no difference in terms of organising a police Force between the two, between organising an electricity supply and organising the supply of policing in a country?*

A. *I would say the rights of Garda would be paramount, the rights as far as I am concerned, that is what I am there for.*⁹²⁴

13.109. The Code of Discipline within An Garda Síochána is dealt with, the Tribunal understands, as respects all ranks, by the Garda Síochána (Discipline) Regulations, 1989.⁹²⁵ Two matters are noticeable from the review and analysis conducted by the Tribunal with the assistance of the evidence of Garda Stone, Garda Leonard, Chief Superintendent John Kelly and Superintendent Coll. Firstly, the schedule to the regulations describes what Regulation 6 deals with as a 'breach of discipline'. In short order, this includes conduct that is prejudicial to discipline; misconduct involving an assault, insubordination or abusive language; neglecting duty in terms of money, property or lawful orders; acting negligently; disobeying orders; falsehood or prevarication; making unauthorised communications; corrupt or improper practice; abusing authority; neglecting health; untidiness while in uniform; misusing property in the custody of An Garda Síochána; intoxication; criminal conduct; being an accessory to a breach of discipline; and engaging in certain prohibited spare time activities.

13.110. It is notable that it is not a breach of discipline to fail to account for one's actions. This is where the second notable characteristic of these regulations comes into play. Regulation 39 allows an investigating officer to require an account from a member of An Garda Síochána. In order for it to come into play, however, an investigation has to have been completed. The Director of Public Prosecutions has had to have been consulted and decided that there should be no prosecution and the Commissioner of An Garda Síochána, in the alternative, has had to decide that no breach of discipline has been committed. Further, the power is only brought into play where, in the course of the investigation, a member of An Garda Síochána has refused to answer a question, or to furnish information, or to produce a document or thing that is relevant to the investigation of the breach of discipline alleged. Where that has happened, the Commissioner may get a special report. He can then give a direction to the investigating officer to commence a further investigation. This, the Tribunal understands, has to be commenced under a separate

⁹²⁴ See also Garda Stone, Transcript, Day 165, page 29.

⁹²⁵ S.I. No. 94 of 1989.

investigating officer and is an entirely separate investigation into the failure to account. This separate investigating officer, on the completion of the first investigation, may give a direction to a member of An Garda Síochána that a question is to be answered, or information is to be furnished, or a document or thing is to be produced. Once such a direction is given, and explained in understandable language by the second and separate investigating officer, it is then the duty under Regulation 39(4) of the Discipline Regulations for the member of An Garda Síochána to comply with such a requirement. If he or she does not then it is a breach of discipline. This situation is unjustifiable.

- 13.111. An impression may have been created during the course of the hearings of the Tribunal that this situation is in the course of rectification by virtue of the Garda Síochána Bill 2004. This sets up a new Garda Ombudsman Commission with appropriate administrative backup. An investigation by the Garda Ombudsman can be triggered as a result of certain serious events, such as a death in Garda custody, or by a complaint on behalf of a member of the public or by the Garda Commissioner. As the Tribunal understands it, serious events require an investigation whereas referrals by a member of the public, or by the Garda Commissioner, can result in an investigation at the discretion of the Ombudsman. What is of interest, however, to the Tribunal is the further power contained in Section 88 of the Bill. The Garda Ombudsman Commission may require information, documents or things to be produced. A person can be legally required to attend before the Ombudsman Commission. Such a Garda is obliged to answer, fully and truthfully, any question put and to sign a declaration in that regard. Where a refusal occurs then the Ombudsman Commission may apply to the Circuit Court. If satisfied that the appropriate conditions were applied, the Circuit Court may make an Order requiring cooperation. If there is a further failure a summary fine or term of imprisonment may be imposed.
- 13.112. It is to be noted that this gives no power to officers to require an account from a member of An Garda Síochána of his or her duties. It is cumbersome and time-consuming. It adds to the length and complexity of an already long and legalistic process. It is an attempt to gain access to the truth where other avenues have failed. It is an additional tier of administration beyond those contained already in the Garda Discipline Regulations.
- 13.113. The Tribunal does not wish to make any comment as to whether any

particular piece of legislation is appropriate or inappropriate. The Tribunal simply notes the proposal in question and how it fits in to an already complex and cumbersome administration.

- 13.114. The Tribunal is of the view that every member of An Garda Síochána should be immediately obliged to account for any action taken by him or her as a member of An Garda Síochána or while on a designated duty. Within the context of the powers vested in An Garda Síochána and the need for a disciplined force, any member who does not comply should be suspended. It should be a specific breach of discipline to fail to account in that regard and one which, in the Tribunal's view, merits dismissal.
- 13.115. The Tribunal has already noted the lengthy investigation which took place into the New South Wales Police under the chairmanship of Mr. Justice Woods. This investigation involved considerable obstruction being placed in the way of that Tribunal through concerted lying that resulted from officers gathering together and deciding on an appropriate line of deceit. This Tribunal believes that in several instances it has met with the same problems. At paragraph 4.9 of his report Mr. Justice Woods reported as follows:

The disciplinary system through its dependence on the proof of specific charges in a legalistic, adversarial context, and its punitive nature, has also: usually guaranteed the spirited defence of any charges that might be brought; encouraged the code of silence, and the practice of cover-up noted earlier in this report; discouraged honesty and a willingness to admit mistakes; and been productive of delay and enormous disruption to the careers of the officers involved. Within this environment of a formal and legalistic system, in which the emphasis is on attribution of blame and a punitive outcome it is not surprising that in the past: internal investigations have been affected by bias, leaks of information and collaboration, and by an approach that is very much less thorough and convincing than conventional law enforcement; internal informants have been harassed and discouraged; and investigations have often given the appearance of being conducted with the objective of writing them off as unsustainable as soon as decency permits.⁹²⁶

- 13.116. What is vital is to bring back the concept of truth both to internal and external relations within An Garda Síochána. Where questioning takes place for the purpose of a managerial inquiry, any subject, and any witnesses, should be reminded that any failure to answer, or to answer truthfully, can be reported as a breach of discipline and for consideration

⁹²⁶ Royal Commission into the New South Wales Police Final Report, Volume 2: Commissioner The Honourable Justice J.R.T. Woods: May 1997, page 309, paragraphs 4.9, 4.10.

in relation to the dismissal power. The Tribunal echoes the words of Mr. Justice Woods by regarding this as an important consideration for the exercise of that power.⁹²⁷

- 13.117. Fundamentally, the Tribunal's recommendation is that all members of An Garda Síochána must be obliged to account truthfully for their duties. A failure to answer, or to answer truthfully, should be regarded as a major breach of discipline inviting dismissal. This is not to trespass on the rights of a person suspected of a crime. The Tribunal notes that in the case of *Re. National Irish Bank Limited and the Companies Act 1990*⁹²⁸ the Supreme Court indicated that involuntary statements were inadmissible in criminal proceedings. Whether a statement had resulted from torture, oppression or a duty to account subject to dismissal, does not involve any distinction in principle as noted by the Supreme Court. Where an answer given, or not given, may involve the creation of evidence that can be used in a criminal trial, it is inadmissible where compelled. The issue in that case was Section 18 of the Companies Act 1990, which provided that an answer by a person to a question put to him in exercise of a power conferred by the Act to require an answer to a companies inspector, might be used in evidence against him. Barrington J. indicated, after an analysis of the authorities:

Accordingly, the better interpretation of Section 18 in the light of the Constitution is that it does not authorise the admission of forced or involuntary confessions against an accused person in a criminal trial, and it can be stated, as a general principle, that a confession, to be admissible in a criminal trial, must be voluntary. Whether, however, a confession is voluntary or not must in every case in which the matter is disputed be a question to be decided, in the first instance, by the trial judge.⁹²⁹

- 13.118. Members of An Garda Síochána should be immediately obliged to account for their actions as members of the force and while on any tour of duty. If the result of that obligation is the admission of a criminal offence then the Constitution, according to the NIB case, prohibits its subsequent use in a criminal trial. Any such admission can, however, and should, be used to restore discipline to An Garda Síochána.
- 13.119. As also noted by Mr. Justice Woods, the current system of discipline within An Garda Síochána can take years in completion. The Tribunal recommends that An Garda Síochána should move away from the application of a system involving what are, in effect, internal criminal trials, to one where managers have online responsibility in dealing with

⁹²⁷ Woods 4.54, 4.55.

⁹²⁸ [1999] 1 ILRM 321.

⁹²⁹ [1999] 1 ILRM 321 at 359-360.

the work of their subordinates. That does not seem possible where people are at loggerheads over years in relation to the implementation and disposal of specific charges within an over complex and multi-tiered system.

7. The Effect of Dismissal

- 13.120. Finally, on this issue, the Tribunal notes that early dismissal can lead to the loss of pension. In the majority of instances, this is an unnecessary and unfair consequence. A member of An Garda Síochána may work for years, legitimately building up credits on his or her pension fund, and then require to be dismissed by reason of a single, or a series, of evil actions. It is conceivable that a person who has been commended, even for bravery, might fall to the degree that requires their dismissal. It does not seem logical that the consequence of a short period of bad service should result in the removal of the benefits legitimately gained, perhaps through years of hard work and application.

8. Recruitment and Promotion

- 13.121. The Tribunal notes the unimpressive performance by members of An Garda Síochána of Superintendent and Chief Superintendent rank during the relevant period in Co. Donegal. All of these men were recruited from ranks serving both in Donegal and in other parts of the country. The Tribunal cannot come to the conclusion that the Donegal division is a 'statistical blip'. Whereas Donegal may not have been a representative sample as to serving members of An Garda Síochána of Superintendent rank and above, it is also equally possible that it may have been. The Tribunal has been impressed by much of the evidence that has been garnered, through the assistance of the Garda Commissioner, from specialist units, including Ballistics, the Carty investigation team, and several of the senior officers from outside Donegal who could not but impress in terms of their intelligence and energy. Equally, the Tribunal has been given a most impressive demonstration of the PULSE computer system and it is obvious that enormous energy and thought is being put into the development of this system.
- 13.122. Systems, however, cannot substitute for personnel. The Tribunal is unable to make a recommendation as to how promotions should be looked at in the future. The Tribunal is able to say, however, that the system of promotion, in its experience, too often produces people who do not bring to the task the requisite level of enthusiasm, commitment and ability. This

is a matter which the Department of Justice, Equality and Law Reform should look at in consultation with the Garda Commissioner. Beyond noting a serious situation, the Tribunal can make no specific recommendation as to reform.

- 13.123. When it comes to the issue of recruitment, the Tribunal notes that An Garda Síochána has not yet made any effort to recruit from religious or ethnic minorities. It may be that the conditions of entry make membership of An Garda Síochána a less than attractive career to some minority groups. This is a matter that can be looked at by the Department of Justice, Equality and Law Reform in consultation with the Garda Commissioner. Now, it may reasonably be thought, is the time to make provision for the future of our increasingly multi-ethnic society.⁹³⁰ However, the Tribunal is unable to make any specific recommendation in the light of the evidence and the Terms of Reference.
- 13.124. This matter came to the attention of the Tribunal in the context of the attitude, so often mentioned in this report, of ‘don’t hang your own’. If a sector of society providing one of the most important functions of a democratic society is monolithic in its makeup then that attitude is reinforced. Beyond that, the Tribunal cannot comment.
- 13.125. The Tribunal notes the documents which have been furnished in reports entitled ‘Review of Recruitment Methods in An Garda Síochána’ and ‘Report of the Garda Promotions Review Group’. It is a matter for the Department of Justice, Equality and Law Reform and the Garda Commissioner as to whether these reports provide sufficient answers. The Tribunal merely notes this situation and can make no specific or general recommendation.

9. Tenure

- 13.126. In the course of his statement made in the context of the Tribunal, dated the 16th of June 2003, Mr. Sean Ginty, formerly Chief Superintendent of the Donegal division, stated the following:

Another area, which I believe to be significant from a management point of view, was the frequent turnover of personnel, especially those in key positions, e.g. Inspector, Superintendents and Chief Superintendents. The average period of tenure was very short. Such changing of key personnel is detrimental to stability and it weakens authority. This was

⁹³⁰ These are governed by the Garda Síochána (Admissions and Appointments) Regulations 1988, SI No. 164 of 1988 and the Garda Síochána (Admissions and Appointments) (Amendment) Regulations 2001, SI No. 498 of 2001.

addressed to some extent during my tenure in Donegal. A number of Sergeants were promoted to Inspector and Inspectors promoted to Superintendent rank and a Superintendent promoted to Chief Superintendent. These newly promoted officers were retained at their new rank in the division. The following is an example of the turnover. From 1986 to date there were ten different border Superintendents and eight different district officers and six different Detective Inspectors based at Letterkenny. Buncrana district had sixteen different Superintendents in charge of that district over the same period. During the period 1965 to date, nineteen Chief Superintendents have served as divisional officer in Donegal and within that same period Chief Superintendent Denis Fitzpatrick and myself served a total of thirteen years as divisional officer between us.⁹³¹

- 13.127. It is obvious that anyone coming into a responsible job needs time to familiarise themselves with their new position, and with the personnel at their disposal. This takes time. An unfortunate feature of the situation in Donegal was the manner in which senior officers came and went at rapid intervals. This was a particularly acute problem in Buncrana. For those intent on promotion, it may be that a vacancy occurring at Inspector, Superintendent or Chief Superintendent rank might be seen as a short-term step on the ladder. It is a good thing, not a bad thing, to seek promotion in order to advance one's skills for the benefit of an organisation. However, anyone being drawn into service at a high level within An Garda Síochána should be given a posting only on condition that they are prepared to give that minimum period of service in any particular position that would be of benefit to their colleagues and the organisation as a whole. The parameters for this are matters to be considered by the Department of Justice, Equality and Law Reform in consultation with the Garda Commissioner.

⁹³¹ Tribunal Documents, page 4842.

CHAPTER 14 SUMMARY

Introduction

- 14.01. This chapter gives a very brief summary of the Tribunal's findings in respect of the main events on which evidence was called. It is important to state that what follows is merely a summary. It gives a series of snapshots of the evidence which hopefully will enable the reader to gain an overview of the issues dealt with by the Tribunal, together with its conclusions thereon. However this summary should not be seen as a substitute for reading the detailed analysis of the evidence and the full conclusions which appear in the main body of the report. The rank of a Garda officer, as in the report, is referred to as it was at any relevant time; unless the context requires consistency in order to avoid confusion.
- 14.02. While the Terms of Reference mandate the Tribunal to enquire into whether any members of An Garda Síochána were involved in the planting of hoax explosives, these enquiries, of necessity, extended the Tribunal's work into a consideration of all of the background to the discovery of the hoax explosive finds and the circumstances in which the finds came to be made. In turn, this led to a consideration of the way in which the information leading to these finds was communicated to the Gardaí. It transpired that the information was communicated to them by an informer, or an alleged informer, and it accordingly became necessary for the Tribunal to enquire into the authenticity of this informer. This person was Adrienne McGlinchey.
- 14.03. One of the central issues which the Tribunal had to determine was whether Adrienne McGlinchey was ever a Garda informer. A significant number of Gardaí, including Superintendent Lennon and Detective Garda McMahon, maintained that she had been a Garda informer for a considerable period of time. Ms. McGlinchey denied this at all times before the Tribunal. Accordingly, it was necessary for the Tribunal to embark upon a lengthy analysis of her relationship to the Gardaí for a considerable period prior to the time when the alleged finds were made in 1993 and 1994. It is for this reason that the summary must begin with the consideration of Adrienne McGlinchey's conduct in Letterkenny in the years 1987 to 1991.

Adrienne McGlinchey in Letterkenny

- 14.04. Having heard extensive evidence in private session, the Tribunal is satisfied that in the period 1987 to 1991, Adrienne McGlinchey gave a significant quantity of apparent information first to Detective Garda Bobby Mullally and thereafter to Detective Gardaí Hugh Smith and Matt Tolan. The Tribunal accepts that Adrienne

McGlinchey did furnish to these Gardaí the information about which they gave evidence. It is further satisfied that in forwarding the information to Crime & Security Branch, the Gardaí concerned believed that it was genuine information. Unfortunately, this was not the case.

- 14.05.** The Tribunal is satisfied that during this period Adrienne McGlinchey engaged in conduct designed to further the portrayal of herself as an informer. An example of this conduct was her frequent visits to the Rahan area of Letterkenny. Adrienne McGlinchey had friends who lived in that area. There were also known Republicans living in a house there. Consequently, the area was kept under observation by the Gardaí. The Tribunal is satisfied that while Ms. McGlinchey's visits were primarily for the innocent purpose of visiting her friends, she was aware that by having her car seen by the Gardaí in this area, this helped her supposed status as an associate of the 'Provisional IRA' and indirectly, her status as an informer.
- 14.06.** The Tribunal is also satisfied that she mentioned the names of well-known 'Republicans' to various Gardaí, so as to give the impression that she was well connected.
- 14.07.** Adrienne McGlinchey gave evidence that she was not involved with the 'Provisional IRA' in any way. The Tribunal is prepared to draw the inference that the vast bulk of any information which she passed was based on small snippets of gossip or information which Adrienne McGlinchey may have overheard. To this, she added considerable fabricated material in order to portray herself as a 'Provisional IRA' informer. In this regard, the Tribunal is satisfied that Adrienne McGlinchey set out on a deliberate course to tell lies and produce fabricated documents with a view to inducing her Garda handlers to believe that she was a 'Provisional IRA' informer. The Tribunal does not know what possible motivation she may have had, beyond mischief, for engaging in such conduct.
- 14.08.** In summary therefore, the Tribunal is satisfied that what Adrienne McGlinchey was doing was getting whispers from the people in Rahan, or their satellites, which enabled her to put together these highly imaginative stories. She was, at the same time, preparing her own brew of 'information' which had no basis in reality at all.
- 14.09.** The Tribunal finds that whatever motive Adrienne McGlinchey may have had for doing what she did, she became thought of as a marginal fringe fellow traveller of the 'Republican Movement' based at Rahan in Letterkenny. The Tribunal finds that she did this for no reason associated with republicanism, but only for the excitement and the attention which it generated.

- 14.10. Unfortunately no review was carried out of the value of Adrienne McGlinchey as an informer. If there had been such a review, she would have been found out for the fraud that she was. Instead, she went to Buncrana where her mischievous activities brought her to the attention of different Gardaí, some of whom would come to use her for the fulfilment of a very different agenda.

Adrienne McGlinchey and Yvonne Devine move to Buncrana – the Early Days

- 14.11. Adrienne McGlinchey and her friend Yvonne Devine were arrested in Letterkenny under Section 30 of the Offences Against the State Act 1939, on the 8th of July 1991. They were suspected of having had something to do with a large bomb, known as the 'Wachopes bomb', which had been discovered by Gardaí that morning. During her detention at Letterkenny Garda Station, Adrienne McGlinchey was interviewed by Detective Gardaí Noel McMahon and Danny Kelly. She was released without charge. Some short time later she went with Yvonne Devine on a camping holiday to Buncrana.
- 14.12. Not long after their arrival in Buncrana, Adrienne McGlinchey came into contact again with Detective Garda Noel McMahon. She started to pass 'information on subversive matters' to Detective Gardaí Kelly and McMahon. She maintained that she only did this at the behest of Detective Garda Noel McMahon, because he had blackmailed her that if she did not do so, he would have her prosecuted in relation to unauthorised cheques which she had written on a family company account. Over the next four months, she passed a large amount of 'information' on subversive matters to these Gardaí. This information was forwarded to Crime & Security Branch in Garda Headquarters by means of C.77 reports. Thirteen such reports were submitted in the period July of 1991 to November of 1991.
- 14.13. Adrienne McGlinchey maintained that while she may have given this information to Detective Gardaí McMahon and Kelly, she did this entirely at the behest of Detective Garda McMahon. The Tribunal rejects this assertion. The Tribunal is satisfied that her actions during this period were free and voluntary: just as they had been prior to that time in Letterkenny. This was merely an extension of her previous conduct.
- 14.14. However, over the following months and years, her conduct began to change dramatically. She ceased to provide significant information. The C.77s all but dried up from Detective Gardaí McMahon and Kelly, with only two such reports from them in 1992 and 1993. Instead, Adrienne McGlinchey began to engage in bizarre behaviour, which seemed designed to draw Garda attention to her. She was found at various times in possession of the following: a bag of .22 bullets; an angle grinder; stolen walkie-talkies; tripods; steel items, which to the

uninitiated could resemble mortars or parts of rockets; electrical items, such as the component parts of a television; shotgun cartridges; telephone wire; stolen vehicle number plates and drawings.

- 14.15. She also engaged in an activity which became known in evidence as her ‘ducking and diving’ activity. This involved Adrienne McGlinchey and Yvonne Devine waiting until a Garda car would approach, then darting out within sight of the headlights of the vehicle and running off down a side street or laneway. Mr. Francis Crawford, a resident of The Crescent in Buncrana, where Ms. McGlinchey and Ms. Devine resided, described this almost nightly ritual whereby the Gardaí would give chase to the two young ladies, as being like something out of the television show from the 1970s called ‘Hawaii 5-O’. He could not understand why the Gardaí continually followed the young ladies in the manner that they did.
- 14.16. It is fair to say that this bizarre behaviour on the part of Ms. McGlinchey, caused some in the Detective Branch in Buncrana to question whether she was really a ‘Provisional IRA’ operative. The Tribunal is satisfied however that when these detectives tried to bring their doubts to the attention of Chief Superintendent Ginty, he ignored their concerns.
- 14.17. On the 9th of June 1993, Detective Superintendent Denis Fitzpatrick wrote what was termed in evidence the ‘lay-off’ letter. This was a letter addressed to Chief Superintendent Ginty, advising that as Ms. McGlinchey appeared to be somewhat reckless concerning her safety, he suggested that the Gardaí would lay off using her as an informer for a period of six months. Instead of adopting this advice, Chief Superintendent Ginty had a discussion with Detective Inspector Kevin Lennon, who informed him that Ms. McGlinchey had been a good informer in the past and would come good again and should be persevered with as an informer. Chief Superintendent Ginty accepted this advice and appointed him as supervisor of Noel McMahon who had for some time been the sole handler of Ms. McGlinchey.
- 14.18. The appointment of Detective Inspector Lennon as the supervisor of Noel McMahon in relation to his handling of Adrienne McGlinchey operated in conjunction with a policy, known as the “hands off” policy, as regards Ms. McGlinchey. The “hands off” policy provided that only those Gardaí who were specifically deputed to handle Ms. McGlinchey, being Detective Inspector Lennon and Detective Garda McMahon, were to have any dealings with her. Whatever the intended ambit of this policy, it came to have a wider application, whereby it was perceived that “hands off” meant “don’t prosecute” Ms. McGlinchey, if she was found committing criminal offences. Certainly there is uncontroverted

evidence that, from her sixteen arrests, there were no prosecutions. In some of the cases, a prosecution certainly could have been mounted. The fact that there was never any prosecution seemed to reinforce the idea among the Gardaí in Buncrana that Adrienne McGlinchey had some form of special immunity from prosecution through a decision of their superiors.

- 14.19. The Tribunal is satisfied that if any of the Gardaí in senior management in Letterkenny had analysed the situation in relation to Ms. McGlinchey, particularly in the light of her behaviour since arriving in Buncrana in 1991, they would have come to the conclusion that she was not a genuine 'Provisional IRA' operative or informer.
- 14.20. Detective Garda Noel McMahon was well aware of all these activities on the part of Ms. McGlinchey. The Tribunal finds that he must have known that her activity was completely atypical for a 'Provisional IRA' operative, or an informer. The Tribunal is also satisfied that Detective Inspector Kevin Lennon, who had been a uniform Inspector in Buncrana from March of 1992 until January of 1993, was also aware of this conduct. The Tribunal is satisfied that he also must have reached the same conclusion as to her true status.

The Gun Incident

- 14.21. There is one incident which occurred during the autumn, or early winter, of 1992, which is particularly significant. One evening, Inspector Lennon and Detective Garda Noel McMahon entered the Day Room in Buncrana Garda Station. A number of members of Uniform Branch were already in the room. The Tribunal is satisfied that a difference of opinion arose between some uniform members and Detective Garda McMahon as to which of them would get the credit for the discovery of a steel item found in the possession of Adrienne McGlinchey. Garda Seamus Gordon expressed the view that, as the item had been found on Ms. McGlinchey by a member of Uniform Branch, one of their members should be the person to take the item to Dublin for ballistic examination. Detective Garda McMahon disagreed. To emphasise his stance, he drew his official firearm and pointed it at the head of the speaker, Garda Seamus Gordon. The Tribunal is satisfied that the trigger was 'cocked' by Detective Garda McMahon a number of times. Inspector Lennon, on seeing what had happened, directed Detective Garda McMahon to re-holster his weapon. The two of them then left the Day Room.
- 14.22. Superintendent Lennon claimed to have dealt with this serious breach of discipline by issuing a reprimand under Regulation 7 of the Garda Regulations. He did not inform the divisional officer, or anyone else, of the incident. Nor did he enter the reprimand into Detective Garda McMahon's record. In short, nothing was ever done about this incident.

- 14.23. A useful indicator of the weight to be given to Superintendent Lennon's evidence is to be found in the fact that when asked in 2002 about this incident in the hearing into the application for a certificate of miscarriage of justice, brought by Mr. Frank Shortt in the Court of Criminal Appeal, Superintendent Lennon denied any involvement in the incident. The Tribunal has found that Superintendent Lennon exhibited a complete lack of candour on this incident. It rejected his evidence in this regard.
- 14.24. The Tribunal is satisfied that some suspicious object was recovered from Adrienne McGlinchey. It was taken by Detective Garda McMahan from the Day Room, with the full connivance of Inspector Lennon. The simultaneous arrival of Inspector Lennon and Detective Garda McMahan in the Day Room was not an accident. They were tipped off by somebody, possibly Adrienne McGlinchey or a Garda, though the identity of this person is unknown. Their arrival at the Garda station was in the context of protecting their operative.
- 14.25. This extremely nasty incident was inspired by a desire to ensure that communications with Headquarters concerning Adrienne McGlinchey should be confined to Detective Garda McMahan and Inspector Lennon. On the part of Inspector Lennon, there was a desire to keep matters quiet. The abuse of a colleague in this fashion, and the misuse of a lethal weapon, called for a serious response. None was forthcoming. The inference arises that at this time Inspector Lennon and Detective Garda McMahan were joint conspirators in the enterprise of using Adrienne McGlinchey as a tool to promote their interests.
- 14.26. The Tribunal is satisfied that to Inspector Lennon and Detective Garda McMahan, Adrienne McGlinchey represented an almost unique opportunity to engage in a series of acts designed to further their careers. The Tribunal is also satisfied that Adrienne McGlinchey was a willing participant in the deception which followed over the eleven months during which significant 'finds' were made.

The finds begin – Strabane, 11th of September 1993

- 14.27. What the Tribunal was enquiring into in this 'find' were the circumstances in which Ms. McGlinchey carried a box containing bullets and cartridges across the border into Strabane. There is no doubt whatever that she did so. The issue is whether she did so as a courier for the 'Provisional IRA', but broke ranks with them and informed Detective Garda McMahan beforehand, or in the alternative that she did this at the request of Detective Garda McMahan.
- 14.28. The Tribunal has heard the evidence of Detective Garda McMahan in relation to this incident. He says that he learned of the forthcoming event from Ms. McGlinchey by telephone and, as he was required to do, he passed on this

information to his superior, Detective Inspector Lennon, who then set about informing his superior officers. He informed Chief Superintendent Ginty, Detective Superintendent Fitzpatrick and, at Chief Superintendent Ginty's suggestion, he informed the appropriate officers in the RUC. The incident went ahead, the box of cartridges and bullets was carried across to Strabane. It was left at a place called the Waterwall where it was found by an RUC patrol. The Tribunal has no doubt that Detective Inspector Lennon was seen to be entitled to, and received, kudos for excellent police work which thwarted terrorist activities. Superintendent Lennon and Detective Garda McMahon have given evidence over a number of days to the Tribunal dealing with their involvement in this incident. The Tribunal is satisfied that their evidence is so contradictory and unbelievable that it comprises a tissue of lies. Details of their evidence are to be found in the body of the report. Having considered their evidence, the Tribunal has concluded that they were responsible for orchestrating this event and directed Ms. McGlinchey to perform this task. The object of this whole event was, the Tribunal is satisfied, to provide Detective Inspector Lennon with an opportunity to claim credit for good police work.

- 14.29.** Given that this event involved the Security Forces in Northern Ireland, the Tribunal was particularly concerned to examine the role of the senior officers in this event and to enquire into why they failed to appropriately examine the full circumstances of the event. If they had done so, it would have emerged that the whole event was a sham. The Tribunal was concerned that officers, other than Detective Inspector Lennon and Detective Garda McMahon, were involved in this transaction, at least to the extent of ignoring obvious irregularities.
- 14.30.** The Border Superintendent, Denis Fitzpatrick, was aware of this operation after it occurred. He should have taken action. He was required to follow up the activities of Detective Inspector Lennon, Detective Garda McMahon and Adrienne McGlinchey. This did not happen. He was gravely at fault in not analysing this situation.
- 14.31.** For Chief Superintendent Ginty to simply allow this operation to happen was yet another occasion where he did not apply himself to his task of managing the Donegal division. Both the Chief Superintendent and the Border Superintendent were at fault. Had they investigated the matter, the Tribunal is satisfied that, as reasonable people, they would have come to the same conclusion as the Tribunal. The Tribunal is not satisfied to conclude that both officers shared the corruption of Detective Inspector Lennon and Detective Garda McMahon; it prefers the lesser fault of negligence as a conclusion.

- 14.32. The Tribunal accepts the evidence of Chief Superintendent Denis Fitzpatrick that Detective Inspector Lennon told him that the delivery had to be allowed to occur in order to boost Adrienne McGlinchey's credibility within the 'Provisional IRA'. This explanation is blatantly ridiculous. The fault in this regard lies with Superintendent Lennon. The failure to investigate this ludicrous excuse lies with Detective Superintendent Fitzpatrick.
- 14.33. Taken in conjunction with other events which occurred at around the same time, the Tribunal is satisfied that a situation was being engineered whereby Adrienne McGlinchey was being made to look like something that she was not: a terrorist, or someone with close and intimate relations within the 'Provisional IRA' and thus trusted for criminal operations. The entire story told by Detective Garda McMahon and by Superintendent Lennon was a cover-up. A huge amount of Tribunal time was wasted in attempting to get to the bottom of the lies told by them.
- 14.34. It is worth noting that notwithstanding that Adrienne McGlinchey was a supposed informer being handled by Detective Garda McMahon and supervised by Detective Inspector Lennon, no report on this incident was sent up by them, or by any of the other senior ranking officers who had knowledge of the operation, to Crime & Security Branch at Garda Headquarters. Thus, the intelligence section of the Gardaí was kept in ignorance of the activities of one of its informers in the Donegal division. The RUC knew more than Garda Headquarters.

The find at Ardchicken, 19th of November 1993

- 14.35. This find involved the discovery by Gardaí of a large cache of, apparently, homemade explosive at a derelict house outside Donegal town. The account of the incident given to the Tribunal by Detective Garda McMahon and Superintendent Lennon is that information was received by Detective Garda McMahon from Ms. McGlinchey detailing the location of the homemade explosive. Detective Garda McMahon says that he passed on this information to Detective Inspector Lennon, as he was required to do. That night, all three of them, Ms. McGlinchey, Detective Inspector Lennon and Detective Garda McMahon travelled to the derelict house outside Donegal town and observed the material in the house. Having observed it, they left. Later, Detective Inspector Lennon informed Superintendent Duffy, the district officer for the area, of the find. He set up an operation, which had the appearances of a routine Garda sweep of the area, during which the find was made. It was necessary to do it in this way in order to disguise the fact that the find had been made as a result of "intelligence received from an informant".

- 14.36. A conflicting account was given by Ms. McGlinchey to the Carty inquiry and to the Tribunal. She said that far from being a subversive explosive dump, it had been assembled and put in the house by her with the help of some of her friends and also on the instructions of Detective Garda McMahon and, in fact, Detective Garda McMahon had assisted in choosing the location of the find and assembling the material. She recounted how she, along with Detective Garda McMahon, brought Detective Inspector Lennon down to see the material in the belief that he, Detective Inspector Lennon, did not know about it, but in doing so, she became aware of the fact that he did.
- 14.37. The Tribunal has at all times been aware of the fact that Ms. McGlinchey's word is not to be trusted and it carried out its enquiries into the circumstances of this 'find' independently of her account. In the course of the inquiry, disturbing matters came to light. It was found that what was believed to have been homemade explosive manufactured from ground fertiliser was not in fact an explosive. It was an animal feed that is commonly called urea. Notwithstanding this fact, a report was forwarded from Ballyshannon to Garda Headquarters describing the material as "indeed explosive" and claiming that this information had become available as a result of a test carried out by an ordnance officer in Finner Camp. The Tribunal investigation revealed that no such report had been issued from Finner Camp and no such test had been carried out. It is possible that some type of informal test may have been done on the material, but no formal report ever issued to the Gardaí which would enable them to so report to Crime & Security. If a formal test had been done, it would not have resulted in a finding that the material was an explosive.
- 14.38. Next, it transpired that Superintendent Duffy, the district officer for the area, gave a curious direction to his men, namely that the Detective Branch were not to be involved in the making of the discovery of the find. This was to be done by the Uniform Branch. The stated reason for this was to provide encouragement to the Uniform Branch. However, given that the Detective Branch are specialists in the investigation of crime scenes the decision to exclude them from the initial discovery seems strange. The Tribunal rejects Superintendent Duffy's explanation. The giving of this order, the exclusion of Detective Branch raised suspicions with the Tribunal that it was given to avoid the possibility of it being revealed that the find was a sham. However, the Tribunal prefers the conclusion of unsatisfactory management.
- 14.39. Having made the discovery, the scenes of crime officer made what could best be described as an unsatisfactory attempt at forensic examination. This was due, to a great extent, to a policy adopted by Chief Superintendent Ginty of the Donegal

division of removing discovered material out of commission immediately rather than adopt the approved police policy directed towards the discovery of the perpetrator of the crime. Chief Superintendent Ginty gave as his explanation for this policy a number of factors including the lack of resources which deprived him of the opportunity to mount surveillance over the find and the need to take material out of harm's way as soon as possible in order to save lives.

14.40. Of major concern to the Tribunal, was the taking out of commission of this material without any realistic attempt being made to identify the people responsible. This gave rise to the suspicion that apart from Superintendent Lennon and Detective Garda McMahon, other officers were involved in this bogus find. Chief Superintendent Ginty has told the Tribunal that he authorised the policy of immediately removing the material out of commission because he believed that forensic examination would not yield results. This policy was an abandonment of proper policing practice. Steps should have been taken to investigate the find. If they had been, it would have been found that the incident was a sham.

14.41. Insofar as Superintendent Lennon and Detective Garda McMahon are concerned, their participation in this event was examined by the Tribunal and as a result, the Tribunal is satisfied that their conduct on this occasion cannot be regarded as consistent with what would normally be expected of Garda officers. They cannot have regarded Ms. McGlinchey as a genuine informer. If they did, they would not have exposed her to the risk of driving her from Buncrana to Donegal town to visit the site of the find. Such conduct is inappropriate when dealing with an informer. They would not have gone back to the site at night, given the danger of booby traps and ambush. They would not have left the find unguarded and available for removal by a subversive group once they had seen it. They would not have permitted the informer to walk into the premises in company with members of An Garda Síochána because of the risk of being seen by the subversive who would have guarded the dump. Given these curious factors, one then turns to the accounts given by these two officers. The Tribunal is satisfied that these accounts contain significant contradictions which render them so unbelievable that it is not prepared to accept them as a description of a bona fide examination of the dump.

14.42. The Tribunal is satisfied that Detective Inspector Lennon and Detective Garda McMahon could not have believed that the information which they say they got from Ms. McGlinchey was genuine and that what they were learning was the location of a genuine arms find. The Tribunal is not prepared to accept that this find was assembled by Ms. McGlinchey and her friends, because of the quantity

of material found. This would require that it was transported and manipulated into position by a disciplined group. However, it does accept that Ms. McGlinchey played her part in assembling the find. The Tribunal is satisfied that Detective Inspector Lennon and Detective Garda McMahon knew, when they visited the site on the night before the 'find', that it was not a subversive find and that it was a sham. It is not possible to report on who assembled it, but the Tribunal is satisfied that this information was available to Detective Inspector Lennon and Detective Garda McMahon.

- 14.43.** With regard to the senior officers' part in this incident, this is dealt with in the body of the report. In summary, the policy of taking finds out of commission at the expense of full investigation is an abandonment of proper police practice. It is said to have been necessary because:
- (i) The lack of resources made it impossible to mount surveillance on the find;
 - (ii) Surveillance would not have succeeded as subversives would become aware of the surveillance;
 - (iii) Full forensic examination would not have succeeded in establishing the identity of the persons involved ;
 - (iv) The safety of life and property made the destruction of the explosives a priority.
- 14.44.** It was further said that notwithstanding the foregoing, the option of surveillance was open to any district officer who opted for it and that this was an operational decision to be made in every instance. However, it was never used.
- 14.45.** The Tribunal is unable to accept that it should be open to an officer to decide to abandon internationally accepted policing practices. If resources made this necessary, then the Tribunal believes that Garda Headquarters should have been so advised and required to confront the options. The public had a right to know, within the confines of security, that this was happening because of the far-reaching implications which it had on the fight against terrorism.
- 14.46.** The Tribunal has considered the possibility of Superintendent Duffy being a party to this hoax perpetrated by Detective Inspector Lennon and Detective Garda McMahon. It does not find that he was. His actions were an extension of the unsatisfactory practice adopted at the time. The Tribunal is satisfied that the easier option was to gather up the material and destroy it rather than confront those responsible. It was a safer, less energetic option. It was the one negligently favoured by him.

- 14.47. The Tribunal is satisfied that if a proper investigation had been carried out into this 'find', a number of unusual features in relation to it would have been brought to the attention of the Gardaí at Chief Superintendent, or perhaps Headquarters, level. These features had already set alarm bells ringing in some local personnel within the Detective Branch. They would have put the Gardaí on further investigation as to the genuineness of the find. As there was no proper investigation of this find, however, such further investigation did not take place. The responsibility for carrying out the initial investigation and preparing an investigation file rested with the district officer, ex-Superintendent Michael Duffy.
- 14.48. Detective Superintendent Denis Fitzpatrick was also made aware of the circumstances surrounding this find. He had been contacted by Superintendent Michael Duffy. He stated that he was happy with the find and felt that it showed that the new regime which was in place for the handling of Adrienne McGlinchey was beginning to bear fruit. It appears that he did not question the matter any further. He should have, as that was his job. The Tribunal is of the view that the proper execution of his duties required Detective Superintendent Fitzpatrick to ensure that proper police procedures were adopted in relation to this find.
- 14.49. Again, no report was sent up to Crime & Security Branch concerning this find, and in particular, they were not told that the find had been made as a result of information supplied by the alleged Garda informer, Adrienne McGlinchey. Crime & Security Branch were only made aware of the find by means of receiving a copy of the telex which gave the 'official' version of the events, which was that the find had been made as a result of a routine Garda search of vacant houses in the area. Thus, for a second time, Crime & Security Branch were kept in the dark.

Rockets

- 14.50. Detective Garda McMahon told the Tribunal that Ms. McGlinchey, on one occasion, produced two "steel objects" for him. She said that she was transporting them from one location to another for the 'Provisional IRA' but that she could allow Detective Garda McMahon have them for two hours. Those objects, which looked like small rockets, were given to Detective Inspector Lennon. He says that he brought them to Detective Superintendent Fitzpatrick who had one examined by the RUC. They were unable to identify it for any useful purpose in the context of terrorism. That one was never returned to Ms. McGlinchey. It ended up in a drawer, or on a shelf, in Letterkenny. The other one was retained by Detective Garda McMahon: he simply threw it into his garage. The Tribunal has no doubt whatever that if Detective Inspector Lennon or Detective Garda McMahon believed that Ms. McGlinchey was a genuine informer, who was transporting these items on behalf of the 'Provisional IRA', and

that she needed them back to complete her delivery, it is not conceivable that they would simply have retained them for no good reason: depriving her of them and requiring her to account for their loss to the 'Provisional IRA'. This would have been tantamount to signing her death warrant if she was a genuine informer.

Bridgend Operation, 11th of January 1994

14.51. This was not a 'find' in the sense that subversive paraphernalia was discovered. What was involved was the transportation of homemade explosive from Buncrana to Bridgend by Ms. McGlinchey.

14.52. It is proposed to set out the account of the incident as given by Detective Garda McMahon and Superintendent Lennon. However, since this account changed and altered during the course of the evidence, it is necessary that this summary should be read as subordinate to the main report. Detective Garda McMahon said that he was told by Ms. McGlinchey that she was tasked by the 'Provisional IRA' to bring a quantity of homemade explosives from Buncrana to Derry via a border crossing at Bridgend. He passed on this information to Detective Inspector Lennon, as he was required to do. Detective Inspector Lennon immediately contacted Chief Superintendent Ginty and was directed by him to:

(i) *Notify the RUC; and to*

(ii) *Mount a 'frustration operation'. What is meant by a 'frustration operation' was that a plan should be put in place to prevent the material going through to Northern Ireland.*

14.53. Accordingly, a plan was devised which required that Ms. McGlinchey would travel to Bridgend as planned. The Gardaí were to have erected a roadblock near the border. Ms. McGlinchey, on seeing the roadblock, would jettison the homemade explosive which she was carrying, and she could then explain to the 'Provisional IRA' that she had no alternative but to do so in view of the roadblock. In this way, the homemade explosives would be prevented from going through into Northern Ireland.

14.54. The Tribunal was told that Ms. McGlinchey would not agree to this plan unless she was granted immunity from prosecution and that this was conveyed to Detective Inspector Lennon who arranged with Detective Superintendent Fitzpatrick that immunity would be granted. How this fact was conveyed to Ms. McGlinchey is not known. However, the delivery of homemade explosives went ahead. The roadblock was put in place. Ms. McGlinchey dumped the homemade explosive at the roundabout at Bridgend and the matter was reported as a

successful police operation. Detective Inspector Lennon had told the Chief Superintendent, the Detective Superintendent and the officers of the RUC. It is reasonable to believe that he received congratulations for his good work from these parties.

14.55. The Tribunal examined the detail of the event. It was confirmed by Superintendent Lennon that he knew:

(i) The time at which the delivery was to be made;

*(ii) The vehicle to be used, i.e. a red taxi, the owner of which he knew;
and*

(iii) The route to be taken.

14.56. In these circumstances, the Tribunal has no doubt that if the objective of the Gardaí was to prevent the delivery of the homemade explosive to Derry, then rational police methods dictated that the materials be confiscated. They were available in the flat in which Ms. McGlinchey was residing in Buncrana. However, no surveillance was put on the flat. No effort was made to contact the taxi owner which was to be used. No roadblock was set up on the road out of Buncrana. A guarantee of immunity was given to Ms. McGlinchey, which was a condition imposed by her for allowing the matter to go ahead, notwithstanding the fact that the whole event could have been prevented by refusing the granting of immunity.

14.57. The Tribunal has no doubt whatever that this whole event was orchestrated so as to enable Detective Inspector Lennon to again demonstrate his 'ability' to the Chief Superintendent, the Detective Superintendent and the officers of the RUC. In fact, Ms. McGlinchey took the taxi out to the roundabout and dumped two holdall bags of homemade explosive on the side of the road. These were successfully collected, brought back to Burnfoot Garda Station and the entire operation was deemed a complete success.

14.58. Superintendent Lennon and Detective Garda McMahon, when called upon to account for their role in this incident before the Tribunal, gave such contradictory and bizarre accounts that the Tribunal has no doubt that they were responsible for setting up the whole incident.

14.59. Again the position of other officers involved in this event has caused the Tribunal deep concern. Both Detective Superintendent Fitzpatrick and Superintendent John P. O'Connor were negligent in their approach to this matter. They failed to ask ordinary and obvious questions. They failed to act as rational members of a police force. They did not question the operation to any extent. Had they done

so, they would have discovered that there was no real way in which Adrienne McGlinchey could have been informed of the so-called ‘promise of immunity’ which was allegedly given by Detective Superintendent Fitzpatrick in respect of that operation. He has denied ever giving such a promise. It was practically impossible for a promise of immunity to have been passed to her by telephone.

- 14.60. Superintendent O’Connor was also negligent in failing to have any proper investigation of this find. The material was merely gathered up and brought back to the station, and later disposed of by the Army EOD officer. While a file was prepared by Sergeant Michael Brennan, this proceeded on the incorrect basis that the Gardaí had been brought to the scene as a result of a report of a sighting of youths acting suspiciously in the area. This was no more than a cover story intended to bring the Gardaí to the materials that had been dumped. A correct report was not forwarded by Superintendent O’Connor to the divisional office in Letterkenny.
- 14.61. Detective Superintendent Fitzpatrick, Chief Superintendent Ginty and Superintendent O’Connor were all aware of this operation. Yet, none of them ensured that a proper report was sent up to Crime & Security Branch as to the true nature of this operation. Crime & Security Branch only received a copy of the telexes which proceeded on the basis of the ‘official’ version, which was to the effect that the find had been made as a result of a report of a sighting of youths acting suspiciously in the area. Thus, there was no attempt to bring Crime & Security into the picture in relation to this allegedly successful, and highly important, ‘frustration operation’ which had been mounted by the Gardaí.
- 14.62. A burning issue which has concerned the Tribunal is as to the motivation for such an extraordinary and elaborate performance by Detective Garda McMahon and Detective Inspector Lennon. An inference could arise, on the evidence as accepted by the Tribunal, that Superintendent John P. O’Connor and Chief Superintendent Denis Fitzpatrick were involved in corruption. The Tribunal prefers not to draw that inference. The latter two officers were negligent to an extraordinary degree in allowing this charade to be played out in front of them and not apparently recognising it as such.

Search of The Crescent, 14th of March 1994

- 14.63. This was one incident which came to the attention of the Gardaí from a source other than Ms. McGlinchey.
- 14.64. Ms. McGlinchey and Ms. Yvonne Devine occupied a flat at The Crescent, Buncrana on the 14th of March 1994. At around midday on that date, the tenant in the flat below them telephoned the landlord to complain that a leak had

occurred in Ms. McGlinchey's flat which was percolating down into her flat. The landlord came to the house and entered Ms. McGlinchey's flat. There he found a quantity of homemade explosive and what are described as 'steel objects'. These, to the uninformed, were similar to perhaps rockets or rocket launchers. The discoveries were made in Ms. McGlinchey's bedroom and in the bathroom. The landlord called to the downstairs flat where he found Garda Rattigan off duty. Accompanied by Garda Rattigan, he returned to Ms. McGlinchey's flat and there handed over matters to Garda Rattigan and left. Garda Rattigan left the flat and did not return. He telephoned Detective Garda McMahon.

- 14.65.** The next formal event occurred at approximately 19.00 hours that evening when Detective Sergeant Des Walsh came on duty. He says that Superintendent O'Connor issued him with a warrant to search Ms. McGlinchey's flat, which he did accompanied by Detective Garda McMahon. There he found homemade explosive in the bathroom but no 'steel objects'. The homemade explosive was collected in the bathroom. Obviously, the site had been interfered with between the time it was discovered by the landlord and Sergeant Walsh's inspection. Detective Garda McMahon had collected Ms. McGlinchey from work as soon as Garda Rattigan had telephoned him and he later brought her to the flat. He arrested her under the Offences Against the State Act, 1939 and took her in custody to Burnfoot Garda Station for questioning. She was visited in Burnfoot Garda Station that night by Detective Inspector Lennon, and again the following day.
- 14.66.** Both Superintendent Lennon and Detective Garda McMahon have been repeatedly questioned by the Carty inquiry and by the Tribunal investigators prior to giving evidence at the Tribunal. They have stood over the events of that day, and Ms. McGlinchey's detention and questioning the following day, as being a normal investigation carried out in accordance with proper Garda practices. However, at a late stage when giving evidence in the Tribunal, first Detective Garda McMahon and, later, Superintendent Lennon informed the Tribunal that her arrest and detention and questioning was a charade which they embarked upon in order to protect Ms. McGlinchey's identity as a Garda informer. One of the issues, therefore, that arose from this incident is whether this was in fact a charade and if it was, whether it was embarked upon for the purpose of protecting Ms. McGlinchey's identity as an informer or, alternatively, in an attempt to hide Detective Inspector Lennon's and Detective Garda McMahon's activities.
- 14.67.** The Tribunal identified numerous unsatisfactory matters during the course of its hearings. These are fully set out in the report. The following are no more than

samples of what the Tribunal heard:

- When Detective Garda Rattigan was shown the homemade explosives and steel objects in Ms. McGlinchey's flat, instead of reporting the matter to the Sergeant in charge at Buncrana Garda Station, which is situated approximately one hundred metres away, he bypassed the station and went to a public phone opposite the station to call Detective Garda McMahon, who was then off duty. Having done so, he went away, left the scene unpreserved and never reported his involvement in or knowledge of the matter to any officer.
- When Detective Garda McMahon learnt of the events from Garda Rattigan, he went to Ms. McGlinchey's place of work, collected her and, instead of arresting her or dealing with her in the manner that might be appropriate, he brought her to his own home where he kept her until approximately 19.00 hours when he was due to go on duty. He then brought her to the flat and went through the charade of arresting her.
- The Tribunal is in no doubt that the examination of the flat was delayed until 19.00 hours to allow matters in the flat to be arranged so as to hide evidence that might incriminate Superintendent Lennon and Detective Garda McMahon.
- Detective Sergeant Des Walsh has said that he was directed to carry out the search by Superintendent O'Connor and that he gave him a warrant to do so. Superintendent O'Connor denies giving him one. The Tribunal is satisfied that no such warrant ever existed. It has never been seen and Superintendent O'Connor has no note in his journal of having issued one. While Superintendent O'Connor's work schedule for the day did allow him time to return from Letterkenny, where he was attending a conference, to Buncrana to issue the warrant, the Tribunal is satisfied that normally he would not have done so given that he was required to travel to Dublin that evening. Normally, he would have directed the Sergeant to whom he intended to issue the warrant to come to him. There are further strange elements in Sergeant Walsh's evidence. He was given no idea, he says, what he was to investigate or search for (drugs, violent crime, domestic problems etc.) nor did he know how he was to gain access to the flat since he did not have a key to it. He was asked to recount the names of the party who attended at this search; he could only remember Detective Garda McMahon and Garda Sarsfield, who is dead.
- The Tribunal accepts the evidence of Garda Breslin that when he came on duty, Detective Inspector Lennon was in Buncrana Garda Station, a fact

which Superintendent Lennon denies, and it accepts the evidence that Detective Inspector Lennon directed him to duties away from the station while the search was in progress. Given that Detective Inspector Lennon was in fact in the station, contrary to what he has told the Tribunal, it is clear that he was involved in this hoax search, and later Ms. McGlinchey's arrest and interrogation.

- Inspector McMorrow was acting district officer in Superintendent O'Connor's absence on the 14th of March. He learnt of the arrest of Ms. McGlinchey and of the find in the flat. He prepared a report for Garda Headquarters. The items which are set out in this report, as the items recovered, bear no resemblance to the items which the Tribunal has been told by the investigating Gardaí were discovered in the flat. The Tribunal is satisfied that Inspector McMorrow reported factually and in accordance with the items that he was told were found and recovered. No one has been identified as having removed the items from the flat. However, somebody did, between the time that Garda Rattigan reported the find, midday, and the time Sergeant Walsh carried out his search at 19.00 hours. Given that Detective Garda McMahan kept Ms. McGlinchey in his house all afternoon, and only brought her to the flat and arrested her at 19.00 hours, and given that Superintendent Lennon denies being at the station that evening and given that Garda Forkan says that he saw Detective Inspector Lennon at the flat during the evening, which evidence the Tribunal accepts, the Tribunal is driven to the conclusion that Detective Inspector Lennon and Detective Garda McMahan conspired to hide the contents of the flat and only allow relatively innocuous items to be found. They then conducted a charade arrest and interrogation of Ms. McGlinchey which led to her release without charge. All of this was done to hide their activities and not, as they say, to hide her identity as an informer.

- 14.68.** The Tribunal is satisfied that Garda Rattigan behaved disgracefully by bypassing the other Gardaí and Sergeants on duty and communicating only with Detective Garda McMahan. The Tribunal believes that he was aware of Detective Garda McMahan's dealings with McGlinchey and hoped to protect him through misguided feelings of loyalty. Superintendent Lennon lied to the Tribunal when he said that he informed Superintendent O'Connor of the find while they were attending a conference on the afternoon of the 14th of March. He did not. Superintendent O'Connor had no knowledge of this find before he left for Dublin that evening. He did not go to Buncrana and he did not issue a warrant to Sergeant Walsh.

- 14.69. Inspector McMorrow acted properly at all times throughout this transaction. The Tribunal notes the monthly confidential report issued from Buncrana and signed by Superintendent O'Connor for the relevant period. This report refers to the fact that the search was carried out on foot of a "warrant issued under the Offences Against the State Act". The Tribunal is satisfied that there was no such warrant but it concludes that Superintendent O'Connor assumed that there was when he signed this report and that it had been issued by some other Superintendent while he was away on leave. While it does not attribute any improper motive for his having made a mistake in this report, it recognises it as yet another example of the slipshod manner in which reporting duties were performed. His failure to ask any question about the warrant and his failure to seek a full report on this highly significant event constitute extraordinary negligence.
- 14.70. The Tribunal is satisfied that the shortcomings disclosed in the system in Buncrana, which existed through bad management, were availed of by Detective Inspector Lennon and Detective Garda McMahon to further their own improper ends. The fact that they succeeded is as a result of their knowing the system, cunning and being able to act from a position of authority.
- 14.71. The Tribunal stresses that the foregoing is but a brief summary of the salient features which emerged from the investigation into the search of Ms. McGlinchey's flat on the 14th of March and the subsequent detention. The matter is fully reported on in the body of the report.
- 14.72. The Tribunal notes that again no investigation file was prepared. Insofar as some statements were received by ex-Sergeant Des Walsh, he admitted to destroying them years later because he thought that the file was 'going nowhere'. There was no forensic examination of the sample which had been sent up to Garda Headquarters. Yet again, Crime & Security Branch were not given a full report from those handling Ms. McGlinchey, nor from anyone else who had knowledge of the event.

Oatfield and Covehill, 4th/13th of June 1994

- 14.73. The Tribunal has spent a considerable time examining these events and it has failed to identify any find on the 13th of June 1994. It is satisfied that having considered Oatfield on the 4th of June 1994, elements emerge from these facts which might give rise to the belief that there may have been a second find on the 13th of June. In fact, there was not.
- 14.74. The following is a summary of what transpired on or about the 4th of June.
- 14.75. The Tribunal is satisfied that Ms. McGlinchey transported ground fertiliser by bus in two holdall bags from the house that she was occupying in Ballyliffen to

Letterkenny. She dropped them on the side of the road in Donegal with the intention of collecting them later on. These bags were discovered by a pedestrian who reported their presence to the Gardaí, and two members of the Guards collected them and brought them back to Letterkenny Garda Station. The Tribunal is satisfied that this initial find was of small bags contained in “two large black holdall bags”. Specifically, the Tribunal is satisfied that in that initial find there was no find of “cardboard boxes”. However, in a telex sent from Letterkenny Garda Station to the Assistant Commissioner, Crime & Security there is a report made of a find of fertiliser contained in both holdall bags and cardboard boxes. When the find was seen later in Letterkenny Garda Station, it did comprise both holdall bags but there were no cardboard boxes. No specific find was made on the 13th of June and the Tribunal believes that the “cardboard box” element of the find was introduced on that date in circumstances summarised in the next paragraph.

- 14.76. An explanation of how these cardboard boxes came to be collected was given to the Tribunal by Ms. McGlinchey. She says that on the 9th of June 1994, she was approached by two detectives who asked her if she had any more “of that crushed fertiliser”: presumably, they had associated her with the original find of two holdall bags. She said that she had and delivered over to them two cardboard boxes containing bags of crushed fertiliser. The two detectives involved deny that this event took place. The Tribunal is not in a position to make a determination on whether it did or not in view of the unreliability of Ms. McGlinchey’s evidence but it suggests that it does provide an explanation for the second find. It does not, however, provide an explanation for how the Garda, whoever he was, reporting on the first find was able to preempt the discovery of the second find when he was composing his telex on the 5th of June 1994.
- 14.77. Detective Inspector Lennon sent a handwritten note to the senior Sergeant in Letterkenny Garda Station asking him not to go near Ms. McGlinchey or the property in Letterkenny. The excuse given was that: “it appears she is having some problems with the Provos at present over the last two finds”. He can give no satisfactory explanation for where and when this second find was made. The Tribunal is satisfied that Superintendent Lennon had a significant involvement in this matter but further than that it is not able to go. It is not in a position to explain why on the 13th of June 1994 a further telex was sent to Crime & Security informing them of a find of explosives in “cardboard boxes”.
- 14.78. The materials which were recovered in these finds, were treated in an appalling manner by the Gardaí at Letterkenny Garda Station. No effort was made to carry out any worthwhile forensic examination of the materials. The bags and

cardboard boxes were simply left lying around the gymnasium in Letterkenny Garda Station for a number of years. The material was not entered into the Property Book. No investigation file was ever prepared. Indeed, the only documentary evidence concerning these finds are the somewhat contradictory telexes which were sent up to Garda Headquarters. This conduct on the part of the Gardaí shows a complete disinterest on their part in relation to the proper investigation of finds of alleged subversive material. However, since the Tribunal is unable to satisfy itself of the details of these events, it would be improper to identify the individuals to be held responsible. It considers the offence another example of negligence in the performance of duties by the personnel in Letterkenny Garda Station.

14.79. Full details of this find are set out in the body of the report.

Rosstown, 18th of July 1994

14.80. There are two different caches of homemade explosives involved in this find: one in a derelict house and the other in a farmer's shed, both in the Rosstown area. This is to the south west of Donegal town. This is another occasion on which it is said by Superintendent Lennon and Detective Garda McMahon that the information of Ms. McGlinchey enabled them to make these finds. For her part, Ms. McGlinchey says that she, Detective Inspector Lennon and Detective Garda McMahon actually placed the finds in position. The Tribunal repeats that the only value of this account is that it identifies an area into which the Tribunal must enquire. The Tribunal has heard the evidence of Detective Garda McMahon and Superintendent Lennon and the Tribunal is satisfied that the accounts given by these two officers are so contradictory and unbelievable that the Tribunal is forced to the conclusion that they are a tissue of lies. From all of the evidence, it is also forced to the conclusion that these two officers had a significant involvement in preparing and placing these two caches of explosives.

14.81. The Tribunal wishes to emphasise that it is satisfied that Ms. McGlinchey's evidence could not, on its own, form the basis of a positive finding adverse to either Superintendent Lennon, Detective Garda McMahon, Garda management or any other Garda. The Tribunal has been much guided by circumstantial evidence on all of the matters detailed in the report.

14.82. The account given by Detective Garda McMahon is that on the evening of the 18th of July 1994, Ms. McGlinchey informed him of a cache of homemade explosives in the Rosstown area. Immediately on learning of this, he said that he contacted Detective Inspector Lennon and, at once, the three set off for Rosstown. On the way down, Detective Garda McMahon says that Ms.

McGlinchey gave them further information about the use which the 'Provisional IRA' had intended for the homemade explosives. She said that they proposed to load the material into a caravan and to tow it to a border checkpoint and explode it once the tow vehicle for the caravan had hydraulically detached the caravan and driven away. He said that she even identified the caravan on the side of the road on the way down to Rossnowlagh. The account of both officers was that they visited the two locations where the explosives were stored with Ms. McGlinchey, and later Detective Inspector Lennon informed Superintendent Duffy of the find and he later on took them out of commission.

- 14.83.** This account, however, was totally contradicted by the fact that some time prior to this date, Detective Inspector Lennon had sent two reports to the Chief Superintendent in Letterkenny. These reports would indicate that Detective Inspector Lennon knew of this find long in advance of the 18th of July. These therefore contradict the suggestion that Ms. McGlinchey only imparted the information to Detective Garda McMahon that night.
- 14.84.** The account that was given to the Tribunal by Detective Garda McMahon was one that he has consistently given whenever he has been questioned about this find. He gave it to the Carty inquiry, to the Tribunal investigators, and he also gave it in evidence to the Tribunal over a number of days. He returned to the witness stand one day to say that he had been unwell, tired and confused the previous afternoon and that he had made a mistake. He amended his evidence so as to dovetail with the report which had been sent in by Detective Inspector Lennon. This was done, the Tribunal is satisfied, in an effort to iron out the contradiction between them.
- 14.85.** The Tribunal is prepared to accept that Detective Garda McMahon spent long hours in the witness stand, that he had been unwell and that he was under strain in giving his evidence. But, it can visualise no circumstances in which a fundamental alteration to his evidence should have been necessary and concludes that this alteration was made only for the purpose of fitting in with the account given by Superintendent Lennon. It rejects the revised evidence as false.
- 14.86.** It is common case that Superintendent Lennon, Detective Garda McMahon and Ms. McGlinchey went to Rossnowlagh the evening previous to the find. Ms. McGlinchey says that they went there to put the homemade explosives in position. Superintendent Lennon and Detective Garda McMahon deny this. They say that they went there in order to identify the location of the find.
- 14.87.** The Tribunal repeats the criticisms which it made in connection with bringing an informer to the location of a find in circumstances such as this but it adds an additional criticism on this occasion. It is common case that on the way back from

Rosstown, the group stopped in Donegal town for the purpose of buying refreshments. To the Tribunal, it is inconceivable that any Garda would treat an informer in this way. It is obviously calculated to expose them to the danger of identification and the Tribunal is satisfied that they cannot have regarded Ms. McGlinchey as a genuine informer to treat her in this way.

- 14.88.** It is ironic that this was the find for which a Minister of State for Northern Ireland saw fit to compliment the Minister for Justice on the good work done by the Gardaí. The Tribunal has heard Superintendent Duffy's evidence on this matter and considers it unreliable. His failure to use his position to make enquiries about this find, which was his job, constituted very serious neglect.
- 14.89.** In actual fact, very little work was done by the Gardaí in relation to these finds. No statements were taken from any of the Gardaí on the search parties, nor from the owners of the property. This was all the more surprising because the owner of one of the properties actually approached the Gardaí and indicated that he had intended using the particular shed in the coming days for the storage of his hay. This should have alerted the Gardaí to the fact that it was a highly unlikely location for the 'Provisional IRA' to choose as a hide for their materials.
- 14.90.** There was no forensic examination of the materials found. The materials were simply gathered up and brought back to the station. They were subsequently spread on the gardens belonging to Superintendent Duffy and another officer and also on some wasteland. There was no investigation file prepared in relation to this incident.
- 14.91.** Yet again, Crime & Security Branch were not appraised of the true situation. They had received reports prior to the making of the finds from Detective Inspector Lennon. The Tribunal is satisfied that Detective Inspector Lennon was merely 'preparing the ground' for the subsequent discoveries which he was orchestrating at that time. However, once the finds were made, no debriefing report, C.77 report or report of any nature was sent up to Crime & Security Branch. This was a failing not only on the part of Superintendent Lennon and Detective Garda McMahon but also on the part of Detective Superintendent Fitzpatrick, who became aware of the find upon his return to the division later that month. He should have ensured that a proper and full debriefing report was sent up to Crime & Security Branch. They were entitled to be informed that this find had been made as a result of information supplied by a Garda informer. They were also entitled to know the names which had been subsequently supplied by the informer as to the persons who were responsible for placing the materials at the locations. Crime & Security Branch were never given this relevant information.

- 14.92. Chief Superintendent Fitzpatrick, on becoming aware of a major find of homemade explosives, failed to manage the Donegal division by checking on the perpetrators, their motivation and their future plans. In failing to follow up on the paperwork that should have been seen to by Superintendent Duffy, he fell down on the role of supervision. In apparently accepting yet another 'Adrienne McGlinchey story' as a fact, he failed to use the enquiring mind that is the hallmark of good police work. This was negligence.

Afterword

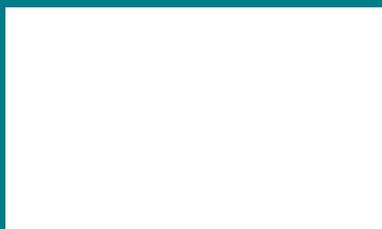
- 14.93. The Tribunal is satisfied that this entire set of circumstances followed an evolutionary path. It started with a mischievous young woman, Adrienne McGlinchey, who was anxious to portray herself to the Gardaí as a useful informer on subversive matters. Why she set out on such a course, one does not know.
- 14.94. After a time in Buncrana, it should have been apparent to those looking closely at the situation that this young lady was not associated with any subversive organisation. Her actions were so atypical of those of a genuine subversive operative, that it must have been plain to those Gardaí closest to her that she could not possibly be a genuine informer. Instead of terminating the informer/handler relationship, Detective Garda McMahon and Detective Inspector Lennon saw an opportunity to harness this most unusual person for their own ends.
- 14.95. When exactly the manipulation of Ms. McGlinchey by these two Gardaí began is difficult to pinpoint. The Tribunal is of the opinion that it developed gradually over time, probably in a subtle manner. The Tribunal is however satisfied that by the time the finds began in earnest in September of 1993, Detective Garda McMahon and Detective Inspector Lennon had long since ceased to believe that Adrienne McGlinchey was an informer. By that time, they were intent on using her for their own ends. In the following eleven months Detective Inspector Lennon and Detective Garda McMahon set about orchestrating these finds. They were able to do so because Ms. McGlinchey was a completely willing participant in their activities. The Tribunal is satisfied that she enjoyed the attention and the excitement which their joint operations provided.
- 14.96. The scheme of deception could not have succeeded but for the negligent manner in which the Donegal division was being managed at the time. If even one event had been properly looked at by senior management, this hoax would have been uncovered. If Ms. McGlinchey had even been prosecuted in respect of one of the criminal offences that she committed from 1991 to 1994, she would have been

stopped in her tracks. Detective Inspector Lennon and Detective Garda McMahon could operate in the confidence that their ‘successes’ would not be investigated. By keeping Crime & Security Branch in the dark, they further ensured that there would be no external analysis of the intelligence supposedly emanating from their informer.

- 14.97. The Tribunal has considered whether the wilful blindness on the part of senior management in Donegal division amounted to complicity in the overall scheme. However, on a careful consideration of the evidence presented, the Tribunal is of the opinion that it can only go so far as to make a finding of gross negligence, short of actual complicity, on the part of senior management in the division.

Could It Ever Happen Again?

- 14.98. The answer to that question is: If there is a lack of proper management at senior level, corruption at middle level and a lack of review throughout the force, then it is certainly possible that in similar circumstances similar corruption could arise. There is unlikely to be another Adrienne McGlinchey, but it is certain that as corruption in the form of deceit, the abuse of investigations through inventions against suspected criminals and bribery have arisen in other police forces, they will also occur within the Garda Síochána. What has been so serious about this inquiry has been the neglect of the fundamental duty of police management to ask questions and get answers. This is shocking. Whether An Garda Síochána has rectified the management deficiencies which enabled the corruption to flourish in this instance is not a matter upon which this Tribunal can give an opinion. It can merely report on facts and make recommendations.



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