Patrick Finucane Inquiry

final words were, 'Teresa, it's the "Orangies"!' When she rushed out onto the landing, she saw her husband lying dead. 'He was completely covered in blood. I actually saw a pin-hole in the side of his head and blood coming out through his nose and mouth. Blood was all over the wall.'

Nelson had provided the killers with the vital intelligence that had enabled the 'hit' to go ahead. He had found Slane's address, checked it in the electoral register, got hold of a photograph and made out a 'P' card on him. 'Brian Nelson may not have pulled the trigger,' Teresa told me, 'but to me he was as guilty of my husband's murder as the actual murderers themselves.' But in the case of Gerard Slane, Nelson had done his job. He had warned one of 'Geoff's' successors on two occasions that Slane was being targeted, initially ten days before the attack took place and then the day before the attack itself.

For whatever reason, the intelligence from Nelson was not acted upon. Teresa had no warning visit from the RUC and no attempt was made to thwart the attack. 'My husband might have been here today were it not for the RUC,' she says bitterly. But there's no evidence that the RUC ever knew about it. So what happened to the information? Did it get beyond the FRU? Was it sanitized somewhere up the chain? Did it ever get to the TCG? Was a decision taken to let the killers go ahead? Or was the information simply not precise enough?

Those who came to know Nelson said he had a passionate hatred for the IRA and a 'psychopathic tendency'. This may have inclined him to act on his own as well as with the encouragement of the FRU. 'Geoff' claims Nelson did much of the intelligence work himself and had to do so to maintain his own credibility with the UFF. 'He constantly asked me for information, to check out a car number plate or an address. As a rule I used to say to him, "It's better that you collect this information yourself because you have to be seen to be doing this job. You can't just disappear and come back with it in a day or two."' 'Geoff' was aware that people would get suspicious and his agent's life was on the line every day. But did 'Geoff' personally ever supply him with information? 'No, not directly. But if he said, "Is that so-and-so's registration?" I would say to him, "You don't have that wrong."' If that was the case, I asked, and the car owner was killed, weren't he and the FRU complicit in murder? 'Geoff' was matter-of-fact. 'Well, it's a fine line you walk,' he said. I pointed out that in the end Nelson went to gaol for conspiracies to murder. 'Yes,' he replied, 'at our request.' Encouraged by him and his colleagues? 'Yes.' And by the FRU? 'Yes.' And by British intelligence? 'Yes.' 'Geoff' was astonishingly candid:

I'm ashamed of it. He strayed outside the law at our behest. We instructed him to carry on his job of targeting these people. There were certain risks but it was loosely seen by my hierarchy that if he carried out an action and then reported it, it would negate his guilt. In other words he was doing his job under our direction and once he'd informed us of what he had done, it would not be illegal. Brian believed, not that he was bullet proof, but that he had protection from us and that what he was doing, he was doing at our request and therefore he had immunity. And he didn't.

Nelson's role as a FRU agent came to light in the wake of the UFF's killing of a Catholic from Rathfriland, County Down, called Loughlin Maginn (28) on 25 August 1989. Maginn had never been charged or convicted of any terrorist offence. The UFF insisted he was an IRA intelligence officer, and what is more, said they could prove it. The UDA subsequently produced copies of confidential security force material containing information on suspected terrorists. Details of Maginn were included. The classified details were thought to have come from a UDR base in County Down. To republicans and nationalists it was evidence of what they had always maintained, that the loyalist 'death squads' were the puppets of British intelligence.

On 14 September 1989, in response to the huge outcry that followed the killing of Maginn and revelation of the classified intelligence material, Sir John Hermon's successor as RUC Chief Constable, Sir Hugh Annesley, appointed the Deputy Chief Constable of Cambridgeshire, John Stevens, to investigate the theft and leaking of the security force intelligence documents. Eleven years later, when Mr Stevens became Sir John Stevens, Commissioner of the Metropolitan Police, the now widened investigation was still going on as Sir John and his team of detectives continued to piece together the elaborate jigsaw of alleged collusion between the FRU and the loyalist paramilitaries.

In his initial inquiry, Stevens made numerous arrests as a result of which members of the old UDA/UFF leadership were gaoled, leaving the way open for Johnny 'Mad Dog' Adair and his associates to take over the UFF's 'C' Company on the Shankill Road. Four months into the inquiry, as the trail led the Stevens team ever closer to Nelson, whose fingerprints were on many of the intelligence documents, a mysterious fire broke out on 10 January 1990 at the office of the Northern Ireland Police Authority in Carrickfergus where the team was based. The fire broke out on the very day that Nelson was due to be arrested. That same day he fled to England to escape arrest. The events seemed to be too coincidental to be an accident. When the team discovered the blaze, they found that the fire alarms were

the streets of Northern Ireland. Policing and justice powers have been devolved to the power-sharing Northern Ireland Executive. There is no suggestion that lawyers in Northern Ireland today are intimidated by the authorities or provided with inadequate protection by the State.

112. There are, nevertheless, some broad themes that may still have relevance to the world of intelligence-gathering. I have not concluded that the running of agents within terrorist groups is an illegitimate or unnecessary activity. On the contrary, it is clear that the proper use of such agents goes to the very heart of tackling terrorism. The principal lesson to be learned from my Report, however, is that agent-running must be carried out within a rigorous framework. The system itself must be so structured as to ensure adequate oversight and accountability. Structures to ensure accountability are essential in cases where one organisation passes its intelligence to another organisation which then becomes responsible for its exploitation.

113. It is essential that the involvement of agents in serious criminal offences can always be reviewed and investigated and that allegations of collusion with terrorist groups are rigorously pursued. Perhaps the most obvious and significant lesson of all, however, is that it should not take over 23 years to properly examine, unravel and publish a full account of collusion in the murder of a solicitor that took place in the United Kingdom.

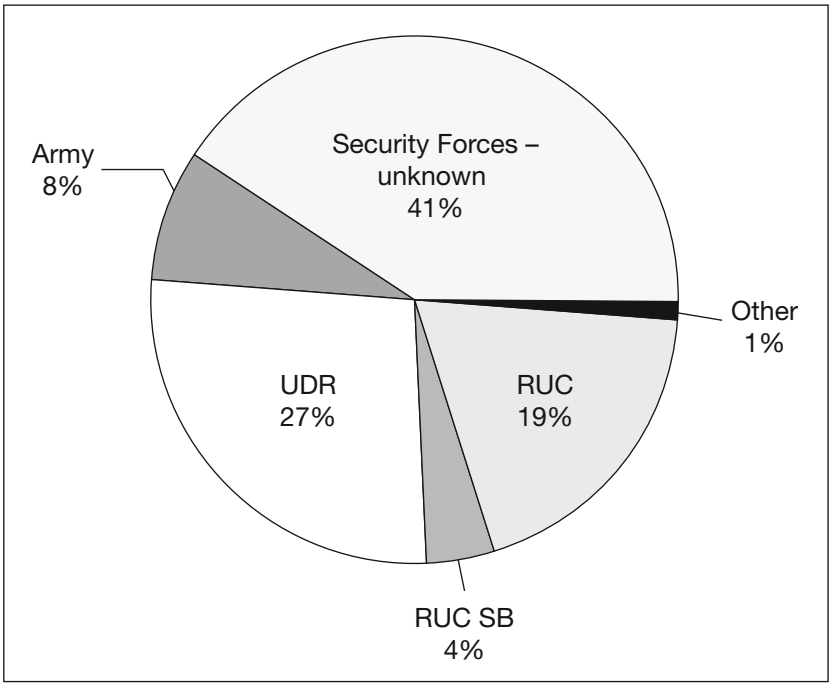
Overall assessment

114. In establishing this Review, the Government accepted that there had been collusion in the murder of Patrick Finucane, and indeed apologised for this. In analysing what is meant by collusion, I preferred to adopt the narrower definition used by Lord MacLean in the Billy Wright Inquiry Report, rather than the one adopted by Justice Cory in his Collusion Inquiry Report. Nevertheless, even by reference to that narrower definition, it is clear for the reasons I outline in this Report that the threshold for a finding of collusion is met in this case.

115. Overall, I am left in significant doubt as to whether Patrick Finucane would have been murdered by the UDA in February 1989 had it not been for the different strands of involvement by elements of the State. The significance is not so much, as Sir John Stevens concluded in 2003, that the murder could have been prevented, though I entirely concur with this finding. The real importance, in my view, is that a series of positive actions by employees of the State actively furthered and facilitated his murder and that, in the aftermath of the murder, there was a relentless attempt to defeat the ends of justice.

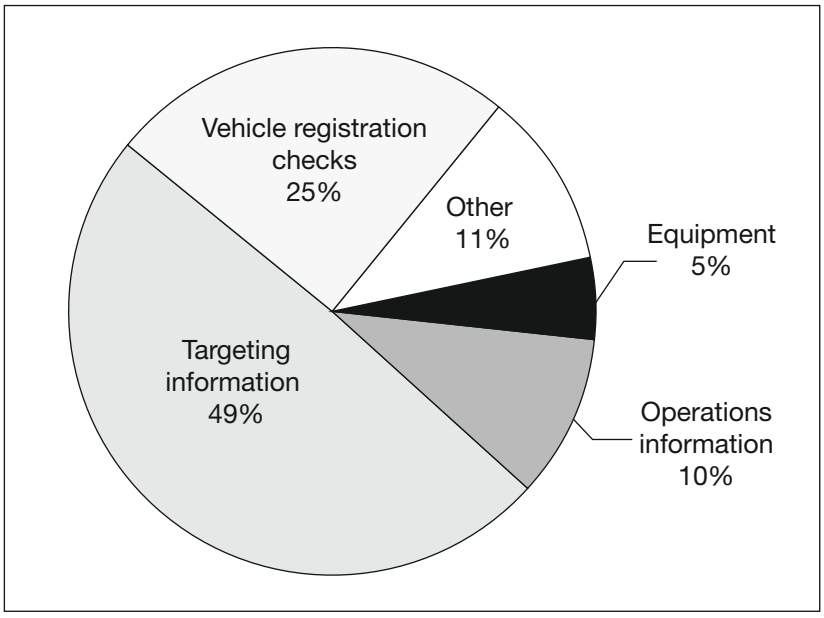
116. My Review of the evidence relating to Patrick Finucane's case has left me in no doubt that agents of the State were involved in carrying out serious violations of human rights up to and including murder. However, despite the different strands of involvement by elements of the State, I am satisfied that they were not linked to an over-arching State conspiracy to murder Patrick Finucane. Nevertheless, each of the facets of the collusion that were manifest in his case – the passage

Figure 10: Origin of security force leaks, 1987–89



11.21 The most common form of leak from members of the security forces to loyalist paramilitaries was targeting information on republican terrorists. This often consisted of security force documents or information communicated verbally providing details about an individual suspected of being a member of PIRA. As shown in Figure 11, nearly half of all recorded leaks referred to targeting information. I have included vehicle registration checks as a separate category of information being passed to loyalist paramilitaries, though in practice many of these vehicle details would have been supplied and used for targeting purposes.

Figure 11: Type of security force leaks, 1987–89



Reaction of the FRU to Nelson's involvement in the murder

7.133 I believe that Nelson's involvement in the murder should have been a source of grave concern for his handlers and senior officers in the FRU. The CF dated 11 May 1988, however, suggested that, far from being critical of Nelson's actions, his handlers in fact sought to reassure him about his involvement in the shooting by the UDA. The CF included the following comment from the handler:

> *"6137 telephoned this office four times between 0041 – 0127 hrs on 11 May 88 feeling depressed as he thought that his targeting had led to the wrong person being shot dead. He was referring to the shooting of Terence McDaid earlier that evening instead of Declan McDaid. 6137 thought that the victim was an innocent Catholic and needed reassurance. Handler expected source to be depressed at the meeting but once 6137 had discovered that Terence was traced as PIRA he was quite content."* [Emphasis added] [105]

7.134 The clear inference from this comment is that Nelson's handlers reassured him by telling him that Terence McDaid was "*traced as PIRA*". The CF included no reference to the FRU expressing any warning, admonishment or alarm in respect of Nelson's involvement in the murder of Terence McDaid. This is despite the fact that Nelson had admitted to his handlers having a direct role in the identification of Terence McDaid's address and the fact that he was reporting this fact to the FRU only *after* the murder. The CFs also again clearly underlined the fact that Nelson was in favour of attacks against 'legitimate' targets and upset only by the prospect of 'innocent Catholics' being killed.

Allegations that a FRU handler gave McDaid's address to Nelson

7.135 I note that allegations have been made that a FRU handler supplied Nelson with the Newington Street address prior to the murder of Terence McDaid. These allegations have been made as a result of three separate disclosures by Nelson:

- Nelson apparently told his solicitor that his handler had provided him with the Newington Street address. This was later communicated by the solicitor to an official in the Crown Solicitor's Office, who in turn made a statement to the Stevens II Investigation.
- Nelson told John Ware whilst he was in prison awaiting trial that his handler had provided him with the address.
- Nelson made comments regarding the actions of his handler in an 'off the record' conversation to Stevens II officers on 28 June 1993. In response to a Stevens team officer stating his belief that the FRU handler had provided McDaid's address, Nelson said, "*You are nearly there, but not quite*." Nelson went on to say that his handler "*was involved, but you'll never get a statement from me about it*".[106]

[105] CF 11 May 1988, *Welfare*, Item 4
[106] Stevens II Investigation, note of 'off the record' conversation with Nelson, 28 June 1993 [see Volume II, pp. 74–75]

> *passed him in the street and entered … Waterville St. [L/20] was happy with this report and it confirmed that Slane lived at the house."*[115]

7.152 L/20 went on to recount how the attack itself had involved a five-man team, with two gunmen hammering down Slane's front door. On 6 October Nelson drafted the UFF statement for *Ulster* magazine claiming responsibility for the murder of Gerard Slane. The statement also included a threat to the INLA and incorporated security force photographs of Gerard Slane and his brother.[116]

The information passed by the FRU to the RUC

7.153 The Slane case provides the most serious example of the FRU failing to pass on important intelligence to the RUC SB prior to a UDA attack taking place. Nelson provided his handlers with important intelligence with regard to the targeting of Slane on two occasions: 12 September and 21 September 1988.

7.154 The MISR produced on 13 September 1988 did alert the RUC SB to the fact that the UDA were targeting Gerard Slane. The MISR stated that:

> *"West Belfast Bde UDA are targeting [T/14] in order to carry out an attack in retaliation for the murder of William Quee. Witnesses have identified [T/23], [T/43] and Gerard Slane as being involved in the murder. These people are now being targeted."*[117]

7.155 Despite this threat intelligence, the RUC appear to have taken no action to warn Gerard Slane or otherwise seek to frustrate the UDA's attack. It should be noted that the MISR itself did not, however, record that the UDA had obtained Gerard Slane's address.

7.156 The more serious omission, however, was in respect of the failure to pass on the intelligence provided by Nelson to his handlers on 21 September 1988. The MISR sent as a result of this debrief was dated 23 September and consequently almost certainly reached the RUC SB after Slane had been murdered. The MISR itself was remarkably vague and non-specific, merely recording that:

> *"West Belfast UDA are interested in all IPLO members in Belfast. They want three attacks to be carried out on IPLO members before the end of October which will be claimed collectively by the UFF."*[118]

7.157 This MISR failed to record the fact that Slane had been singled out as a target; that Nelson had confirmed his address using the Electoral Roll; or that the UDA intended to carry out a 'recce' of Slane's home. As I note in Chapter 8, it is difficult to rule out the possibility that the FRU may have communicated more detail on Nelson's reporting orally to the RUC Source Unit. This MISR had, however, been diluted to such an extent that it is reasonable to infer that the FRU may

[115] CF 30 September 1988, Item 14
[116] CF 11 October 1988
[117] MISR 13 September 1988
[118] MISR 23 September 1988

7.167 It is apparent from the documentary record that, from at least June 1987, the RUC SB ran an operation designed to supposedly 'discredit' James Pratt Craig by feeding information to the UDA about his links to PIRA. The operation was a complex one and involved various (unwitting) channels being used to relay information to the UDA. A Security Service note dated 9 November 1988 noted that the information being provided was "*chiefly aimed at confirming UDA suspicions of the activities of UDA members who were in touch with PIRA*".[127]

7.168 The CF dated 11 June 1987 recorded Nelson's reporting on information being fed by the RUC SB to the UDA regarding James Pratt Craig's links with PIRA. Nelson reported on a conversation with a member of the UDA as follows:

> *"… [the member of the UDA] went on to say that the source in SPECIAL BRANCH had confirmed that JAMES PRATT CRAIG was living with [a member of PIRA]."*[128]

7.169 This intelligence reporting was subsequently discussed between the OC of East Det FRU and the Head of Special Branch for the Belfast Region. The OC's comment on the CF included the following observation:

> *"The above information was discussed personally with HSB BELFAST ... He is aware of the information being passed to [the UDA] which is part of a complex operation to discredit PRATT CRAIG. He was grateful for the above information and requested that anything further passed by 6137 on this subject be passed to him directly."*[129]

The role of Brian Nelson

7.170 Nelson subsequently became closely involved with the UDA's attempts to 'prove' that James Pratt Craig was providing information to PIRA. On 8 July 1987 L/28 asked Nelson to build a file on Craig to 'prove' he was an informer. Craig continued to be the subject of UDA discussions throughout the rest of 1987 and into 1988.

7.171 Nelson claimed in his 'journal' account that at one point, as a result of information provided to him by his FRU handler, he told 'Tucker' Lyttle that he knew Craig was providing information to PIRA.[130] On 22 December 1987, a UDA Brigadier was killed by PIRA in a car bomb attack, which served further to increase the UDA's suspicions about Craig.

7.172 Nelson became most heavily involved in the conspiracy to entrap and murder Craig in the summer of 1988. He proposed a series of bizarre means of entrapment, including the use of facial disguises to aid close-quarter surveillance and electronically bugging a bungalow apparently used by Craig.[131] Nelson also became involved in the production of a document about the possibility of someone in the UDA providing information to PIRA. When it had been produced,

[127] Security Service note, 9 November 1988
[128] CF 11 June 1987
[129] Ibid.
[130] Nelson's 'journal', p. 94
[131] CFs 30 June 1988 and 6 July 1988

4. FRUs extensive and detailed records prove the passage of threat warnings in an accurate and timely manner to the RUC. It is unlilkely thee Chief Constable except in an handful of cases is unable to prove that any further action was taken except in a mere handful of cases.

5. **Questions**

a. Were ~~no~~ individuals warned? If they were, where is the evidence?

b. Apart from Gerry ADAMS, were no operations mounted to protect lives that were under threat from PPMs, regardless of whether they were PIRA, INLA or ordinary Catholics?

c. Were the RUC operating a policy of selective action dependant upon an individuals record?

d. If an operation was ~~monitored~~ mounted, where is the evidence?

e. Failure to mantain records of actions taken in this sensitive area is indictive of gross ineffeceincy or a deliberate attempt to conceal the nature and extent of operations mounted by the RUC. Could the RUC weather an investigation into the possible negligence of his Special Branch to take the appropriate action to save lives? Probably not.

FRU

6. The continuing existence of FRU, an Army intelligence gathering unit whose personnel cannot be suborned by the RUC pressure, and which works to national and not regional masters, will always be a contentious issue. The Chief Constable has publically accepted before the GOC, that FRU is a valuable unit in the fight against terrorism, yet he now wishes to see it removed, or put under the direct control of the RUC SB. This is perhaps not surprising in the circumstances but is this wise and in the overall interests of HMGs fight against terrorism? Are we prepared to allow soldiers to be commanded by policemen in this extremely sensitive and difficult area? In short is this not an example where divided responsibilities is in the national interest.

TELEGRAM - 'ARMY SOURCE 6137 (NELSON) 11 JULY 1988

AAAA [redacted]

FM the Service's Northern Ireland agent running section
TO Head Office, London
BT

[redacted]

ARMY SOURCE 6137

[redacted]

1. WE [redacted] SAW 6137 ON 27 JUNE 1988. OUR LETTER DATED 11 JULY 1988 TO [redacted] AND OUR LETTER DATED 11 JULY 1988 TO [redacted] CONTAIN GENERAL WRITE-UPS AND INTELLIGENCE GAINED.

2. SINCE MAY 1987 FRU HAVE CLEARLY MANAGED TO ESTABLISH CONTROL OVER THE CASE AND THERE NO LONGER APPEARS TO BE ANY PRESSING NEED FOR US TO VOLUNTEER TO TAKE OVER RUNNING THE CASE (SEE THE ARGUMENT IN PARA 3 OF OUR 780 OF 15 JAN 85). INDEED TO THE CONTRARY WE BELIEVE 6137'S NARROW WEST BELFAST PERSPECTIVE OFFERS FAR LESS POTENTIAL INTELLIGENCE RETURN FOR OUR INVESTMENT OF TIME AND ENERGY THAN [redacted]. IN ADDITION FRU ADMITTED THAT 6137 WAS NOT COMPLETELY FRANK AND HONEST SINCE HE TAKES HIS UDA INTELLIGENCE ROLE SERIOUSLY, DOES NOT NECESSARILY PASS FRU ALL DETAILS OF QUOTE JUSTIFIABLE UNQUOTE ACTIONS, AND TO AN EXTENT HE MAY ATTEMPT TO USE HIS AGENT ROLE TO GAIN INTELLIGENCE FROM FRU. THIS CONFIRMS DHSB'S COMMENTS THAT 6137 HAS SOMETIMES BEEN CAUGHT OUT BY RUC INFORMATION BASED ON [redacted] WHICH CONTRADICTS HIS OWN.

3. IT IS ALSO WORTH NOTING THAT THE CURRENT CO OF E DET FRU WAS FORMERLY ATTACHED TO [redacted] (AT [redacted], AS ANTI-TERRORIST TRADECRAFT INSTRUCTOR) AND IS IN CONSEQUENCE VERY FAVOURABLY DISPOSED. WE BELIEVE THAT OUR INTEREST IN THIS CASE WILL BE BEST SERVED BY MAINTAINING A LIAISON WITH HIM, SO THAT WE CAN PUT [redacted] BRIEFS TO 6137 AS AND WHEN REQUIRED.

[redacted]

T AT
SENT AT 1358Z BY the Service's Northern Ireland agent running section
RECD SAME TIME BY [redacted]

[redacted]

TELEGRAM 'ARMY SOURCE 6137(NELSON) 21 MAY 1987

[redacted]

FM The Service's Northern Ireland agent section
TO Head Office, London
BT

[redacted]

IN [redacted] FOR [redacted] FROM [redacted]
ARMY SOURCE 6137

1. YOU SHOULD BE AWARE OF DEVELOPMENTS IN THIS CASE SINCE [redacted] OF 11 MAY 1987. 6137 IS NOW ESTABLISHED IN UDA HEADQUARTERS, [redacted] WHICH DESCRIBED HIM AS INTELLIGENT AND EFFECTIVE. SO IT SEEMS FOR WE [redacted] LEARNT YESTERDAY THAT HIS PROJECT FOR THE ASSASSINATION OF GERRY ADAMS WHICH WE HAD PREVIOUSLY UNDERSTOOD WAS IN ITS EARLY PLANNING WAS IN FACT TO BE IMPLEMENTED THAT DAY. MOREOVER 6137 HIMSELF WAS TO BE INVOLVED BY ACTING AS A TRIGGER TO THE HIT TEAM OF A MOTOR-CYCLIST AND PILLION RIDER WHO WERE TO BOMB ADAMS' CAR. IN ORDER TO FRUSTRATE THE OPERATION THE ARMY HAD ARRANGED WITH THE RUC THAT SECURITY FORCES ACTIVITY IN THE AREA BE STEPPED UP SO THAT THE OPERATION WOULD HAVE TO BE ABORTED - THIS WAS SUCCESSFULLY DONE.

2. FOR THE IMMEDIATE FUTURE AND MUCH TO OUR RELIEF 6137 IS TEMPORARILY OUT OF PLAY AS HE RETURNS TODAY TO WEST GERMANY TO TIE UP HIS AFFAIRS AND WILL NOT RETURN FOR SOME DAYS.

3. WE HAVE DISCUSSED THIS EXTENSIVELY WITH [redacted] WHO SHARES OUR VIEW THAT THE OPERATION THREATENS TO GET OUT OF CONTROL. AT THE VERY LEAST IF 6137 IS TO BE TASKED BY THE UDA WITH A RANGE OF PROJECTS AGAINST HIGH PROFILE REPUBLICAN TARGETS AND IS EXPECTED TO TAKE AN ACTIVE PART IN THEIR EXECUTION HE WILL

/INEVITABLY

The Service's Northern Ireland agent section

INEVITABLY BE BLOWN VERY QUICKLY FOR PRECIOUS LITTLE INTELLIGENCE DIVIDEND AND CONSIDERABLE EXPENDITURE OF TIME AND MONEY BY THE ARMY. AT THE WORST, IF THE ATTEMPT ON ADAMS IS TO BE REPEATED PARTICULARLY BEFORE THE GENERAL ELECTION AND 6137'S INVOLVEMENT IN [redacted] PLUS HIS LINKS WITH THE ARMY WERE TO GET INTO THE PUBLIC DOMAIN IN SOME WAY (WHETHER IMMEDIATELY OR IN THE FUTURE) THEN BRITISH INTELLIGENCE AND HMG COULD FACE ACCUSATIONS OF HAVING CONSPIRED IN THE MURDER OF A PROSPECTIVE MP WITH ALL THE ATTENDANT ADVERSE CONSEQUENCES. THERE WILL ALWAYS BE THE MRS 6137 FACTOR: SHE IS CONSCIOUS TO HIS WORK FOR THE ARMY AND IF ANYTHING HAPPENS TO HIM THERE IS NO REASON TO THINK SHE WOULD NOT TALK IF SHE THOUGHT IT WAS PROFITABLE TO DO SO.

4. IN SHORT WE ARE PERTURBED THAT THE FRU HAVE PAID INSUFFICIENT REGARD TO THE WIDER IMPLICATIONS OF THIS OPERATION. INDEED IT IS POSSIBLE THAT THEY HAVE THEMSELVES BEEN PUSHING 6137 TO IMPLEMENT THE ADAMS' PLAN SPEEDILY AS A WAY OF RE-INFORCING HIS STANDING WITH THE UDA. [redacted] HAS EXPRESSED OUR JOINT RESERVATIONS IN STRONG TERMS TO ACOS G2 AND CO FRU WHO HAVE ACCEPTED THEM. ACOS G2 HAS GIVEN A SPECIFIC INSTRUCTION THAT THE ATTEMPT ON ADAMS MUST NOT SUCCEED. DCI IS ALSO IN THE PICTURE AND WE ARE CONFIDENT THAT THE SITUATION IS FOR THE MOMENT CONTAINED. [redacted] HAS SUGGESTED THAT IT WOULD BE BEST IF 6137 SHOULD FIND AN EXCUSE TO PROLONG HIS WEST GERMAN TRIP UNTIL AFTER 11 JUNE 1987 AT LEAST.

5. THIS EPISODE SEEMS TO RE-INFORCE THE VALUE OF GIVING CO FRU AN F3 PRESENTATION WHICH WILL HOPEFULLY ENCOURAGE THE FRU TO TAKE A LONGER TERM VIEW OF THIS CASE. GRATEFUL IF YOU WOULD SUGGEST

/ALTERNATIVE

Figure 12: Intelligence received linking UDA members to a selection of attacks

Murder of Terence McDaid (10 May 1988)			
UDA suspect	**Agency receiving intelligence**	**Date intelligence received[4]**	**Source of intelligence**
L/22	FRU	11 May 1988[5]	Brian Nelson
	RUC	11 May 1988[6]	
L/28	FRU	11 May 1988[7]	Brian Nelson
	RUC	11 May 1988[8]	
L/20	RUC only	1 June 1988[9]	William Stobie
L/33	RUC only	1 June 1988[10]	William Stobie

Murder of Gerard Slane (23 September 1988)			
UDA suspect	**Agency receiving intelligence**	**Date intelligence received**	**Source of intelligence**
L/28	FRU only	12 September 1988[11] (pre-attack)	Brian Nelson
L/20	FRU	21 September 1988[12] (pre-attack)	Brian Nelson
	RUC	3 October 1988[13]	
Thomas 'Tucker' Lyttle	FRU only	12 September 1988[14] (pre-attack)	Brian Nelson
L/25	RUC only	23 September 1988[15]	RUC intelligence

[4] In some cases there are multiple source reports linking an individual to the attack – these tables list only the date of the first such report for illustrative purposes
[5] Contact Form (CF) 11 May 1988
[6] Military Intelligence Source Report (MISR) 11 May 1988
[7] CF 11 May 1988
[8] MISR 11 May 1988
[9] RUC SB50, 1 June 1988 [see Volume II, p. 76]
[10] Ibid.
[11] CF 12 September 1988
[12] CF 21 September 1988
[13] MISR 3 October 1988
[14] CF 12 September 1988
[15] RUC SB50, 23 September 1988 [see Volume II, p. 78]

Murder of Gerard Slane (cont.)			
L/33	RUC only	23 September 1988[16]	RUC Intelligence
L/30	RUC only	23 September 1988[17]	RUC Intelligence

Attempted murder of T/16 (20 September 1988)			
UDA suspect	**Agency receiving intelligence**	**Date intelligence received**	**Source of intelligence**
L/22	FRU	19 April 1988[18] (pre-attack)	Brian Nelson
	RUC	19 April 1988[19] (pre-attack)	
L/20	RUC	Unknown, but by 13 February 1989[20]	Unknown
L/33	RUC	Unknown, but by 13 February 1989[21]	Unknown

Attempted murder of Patrick Monaghan (9 November 1988)			
UDA suspect	**Agency receiving intelligence**	**Date intelligence received**	**Source of intelligence**
L/28	FRU only	26 October 1988[22] (pre-attack)	Brian Nelson
L/20	FRU	26 October 1988[23] (pre-attack)	Brian Nelson
	RUC	21 November 1988[24]	
L/30	FRU	26 October 1988[25]	Brian Nelson
	RUC	21 November 1988[26]	

[16] Ibid.
[17] Ibid.
[18] CF 19 April 1988
[19] MISR 19 April 1988
[20] Document M28, 13 February 1989 from D/Supt Simpson. I have not been able to establish when the CID received this intelligence or from what source, though it may have been SB intelligence reporting [see Volume II, p. 104].
[21] Ibid.
[22] CF 26 October 1988
[23] Ibid.
[24] MISR 21 November 1988
[25] CF 26 October 1988
[26] MISR 21 November 1988

Attempted murder of Patrick Monaghan (cont.)			
L/25	FRU only	7 November 1988[27] (pre-attack)	Brian Nelson
Kenneth Barrett	FRU	17 November 1988[28]	Brian Nelson
	RUC	21 November 1988[29]	
L/33	FRU	17 November 1988[30]	Brian Nelson
	RUC	21 November 1988[31]	

Attempted murder of James Peter Morgan (14 November 1988)[32]			
UDA suspect	**Agency receiving intelligence**	**Date intelligence received**	**Source of intelligence**
L/22	FRU only	26 October 1988[33] (pre-attack)	Brian Nelson
L/28	FRU only	26 October 1988[34] (pre-attack)	Brian Nelson
L/20	FRU only	26 October 1988[35] (pre-attack)	Brian Nelson
L/25	FRU	26 November 1988[36]	Brian Nelson
	RUC	1 December 1988[37]	
L/30	FRU only	26 October 1988[38]	Brian Nelson

17.14 Before considering the responsibilities of the RUC, it is important to note that in the Morgan case the FRU failed to pass on to the RUC important intelligence linking UDA suspects to the attack.

The passage of information from the SB to the CID

17.15 There are no records to suggest that any of the intelligence received from the FRU was passed by the RUC SB to the RUC Criminal Investigation Department

[27] CF 7 November 1988
[28] CF 17 November 1988
[29] MISR 21 November 1988
[30] CF 17 November 1988
[31] MISR 21 November 1988
[32] The FRU MISR dated 8 February also linked L/05 to this attack, but he was not subsequently arrested in connection with it
[33] CF 26 October 1988
[34] Ibid.
[35] Ibid.
[36] CF 26 November 1988
[37] MISR 1 December 1988
[38] CF 26 October 1988

Form S.B. 50

ROYAL ULSTER CONSTABULARY
ASSISTANT CHIEF CONSTABLES OFFICE
27 SEP 1988
Ref No .....
SPECIAL BRANCH, BELFAST

[redacted]

Date of Information 23 9 1988 Typed on 27 9 1988

[redacted] COMMENT BY ORIGINATOR

COMMENT OF SUBMITTING OFFICER (where applicable)

[redacted]

PART II

TEXT OF REPORT

LIMITED DISSEMINATION

UDA ACTIVITY [redacted] (UDA NDD)

[redacted] (UDA)

L/33 [redacted] and L/25 [redacted] were in Chief Street on foot at approximately 12.30am on 23 9 1988. They were carrying pocket phone type radios and appeared to be testing same.

They were joined by three [redacted] male persons, one of whom was carrying a sledge hammer. All five persons went into a house in the middle of Chief Street around the [redacted] L/30 [redacted] lives there. At approximately 7.00am on 23 9 1988 L/33 and a [redacted] male left Chief Street on foot going towards the Woodvale Road.

Grosvenor Road murder squad D/C/Insepctor [redacted] CID informed.

[redacted]

Not/Continued on attached sheet(s) Nos.

PART III

ACTION TAKEN BY HEADQUARTERS

ROYAL ULSTER CONSTABULARY
HEADQUARTERS
28 SEP 1988
[redacted]

Team Briefs

SECRET

4

16

Form S.B.50

ROYAL ULSTER CONSTABULARY
ASST. CHIEF CONSTABLES OFFICE
- 7 OCT 1988
Ref. No. .....
SPECIAL BRANCH
BELFAST

[redacted]

[redacted]

[redacted]

[redacted]

Date of Information 6.10.1988 Typed on 7.10.1988 [redacted]

[redacted]OMMENT BY ORIGINATOR

[redacted]e)

COMMENT OF SUBMITTING OFFICER (where applicable)

[redacted]

PART II

TEXT OF REPORT

LIMITED DISSEMINATION

U.D.A. ACTIVITY

[redacted] (UDA NOD).

copy att.

1. Reference SB.50 dated 23.10.1988 L/33 [redacted] left Chief Street at 7.00am walking towards the Woodvale Road with a [redacted] male who has now been identified as L/25 [redacted] (UDA)

2. L/25 [redacted] attended the [redacted] Hospital on Monday [redacted] and had five stitches inserted to a wound on his left hand.

Note: [redacted] Grosvenor Road CID informed.

Comment: CID Pro forma completed.

Not/Continued on attached sheet(s) Nos.

PART III

ACTION TAKEN BY HEADQUARTERS

ROYAL ULSTER CONSTABULARY
HEADQUARTERS
-8 OCT 1988
[redacted]

[redacted]

(CID). However, the documentary evidence does suggest that at least some of the RUC SB intelligence relating to UDA suspects was passed to the CID.

17.16 The intelligence linking L/30, L/33 and L/25 to the Slane murder was recorded on two SB50 documents. Both documents record that the information was provided to the Grosvenor Road CID team investigating the murder of Gerard Slane.[39] Similarly, the SB50 recording Stobie's intelligence linking four suspects to the McDaid murder included the note that the CID had been informed. Although I note later in this Report that such annotations cannot necessarily be relied upon, it is certain that the intelligence was provided to the CID in the McDaid case because a note of the information is included in the CID file on murders committed during 1988.[40]

The exploitation of the intelligence to arrest UDA suspects

17.17 Figure 13 outlines the arrest records of UDA suspects linked to Patrick Finucane's murder during the period after Brian Nelson returned to Belfast. There is clearly a marked disparity between the extensive intelligence received by the RUC linking the UDA terrorists to attacks prior to February 1989 and the custody records of those individuals.

Figure 13: Arrests of UDA Suspects, May 1987 to February 1989[41]

Suspect	Date of arrest	Reason for arrest
L/22	9 November 1987	s12(1)(b) Prevention of Terrorism Act (PTA) 1984
Kenneth Barrett	22 September 1987 16 February 1988	s12 PTA 1984 (UDR Palace Barracks theft) s12 PTA 1984 (hijacking/ attempted murder at Mater Hospital on 3 February 1988)
L/25	Not arrested between April 1988 and February 1989 NB convicted on 2 June 1987 for burglary – released from prison in April 1988	N/A
L/28	Not arrested during this period	N/A
L/20	Not arrested during this period	N/A
'Tucker' Lyttle	Not arrested during this period	N/A
L/33	16 February 1988	s12(1) PTA 1984
L/30	21 June 1988	s12(1) PTA 1984

[39] See RUC SB50s [see Volume II, pp. 78–80]
[40] CID file, '1988 murders', Terence McDaid
[41] Based on custody records received by the Review from the PSNI

7. [redacted]

8. MURDER OF PAT FINNUCANE, SOLICITOR

The intelligence for this job came from the police but source could not elaborate any further as to whom. Intelligence given was that FINNUCANE was laundering money for PIRA and that he was an officer in PIRA. He met with Gerry ADAMS and T/13

FINNUCANE had also been seen in the company of other suspect PIRA members, one of whom was a builder who owned CD Construction Co and was shot by the UVF in the [redacted] Road area, [redacted]. Apparently a brother of this person did a prison sentence of 15 years for attempted murder. This intelligence was good enough to get the go-ahead to carry out the hit. It took 6 weeks to plan as FINNUCANE was hard to tie down to his home address. On the evening of the job entry was gained by 2 masked UDA members by claiming they were PIRA and wanted the keys to his car. His wife opened the door. The 2 persons got in and smashed the inside door open. FINNUCANE's wife was shot in the leg to stop her attacking the gunmen. FINNUCANE told the gunmen "You are not the IRA, you are here to get me."

The 2 gunmen were:-

L/14 , [redacted] Belfast

Ken BARRETT

The driver on the hit was UK to source but came from the Rathcoole area.

9. [redacted]

Paragraph 9 to 12 redacted - not relevant

REPORT OF INTELLIGENCE RECEIVED BY RUC SB DATED 16 FEBRUARY 1989

[redacted]

ROYAL ULSTER CONSTABULARY
ASSISTANT CHIEF CONSTABLES OFFICE
-2 MAR 1989
Ref No .....
SPECIAL BRANCH, BELFAST

[redacted]

Date of Information 16 2 89 Typed on 2 3 89

PART I **COMMENT BY ORIGINATOR**

[redacted]

COMMENT OF SUBMITTING OFFICER (where applicable)

[redacted]

PART II NO DOWNWARD DISSEMINATION **TEXT OF REPORT**

UFF ACTIVITY

A [redacted] meeting was held in the [redacted] Club', [redacted] on 15 2 89.

[redacted] Brian NELSON, [redacted]

The main topic of discussion [redacted] was the recent shooting of Pat FINNUCANE. L/28 [redacted] team was responsible and that FINNUCANE was an Intelligence officer for 3rd Batt PIRA and laundered money for PIRA through FINNUCANE's firm of Solicitors. Another [redacted] was an update of 'Operation Snowball".

[redacted] is unaware as to the details of any up-date with regard to 'Operation Snowball'.

[redacted] 'Operation Snowball' is an operation mounted by the UFF Brigades to contain the threat of PIRA/IPLO operations directed against them.

[redacted]

Not/Continued on attached sheet(s) Nos.

NO DOWNWARD DISSEMINATION

PART III **ACTION TAKEN BY HEADQUARTERS**

ROYAL ULSTER CONSTABULARY
HEADQUARTERS
3 MAR 1989
S.B. 15/16/59
SPECIAL BRANCH RECORDS DEPARTMENT

[redacted]

[redacted] ROYAL ULSTER CONSTABULARY
[redacted] CHIEF CONSTABLE'S OFFICE
21 APR 1989
Ref No .....
SPECIAL BRANCH BELFAST

[redacted]

[redacted]

[redacted]

Date of Information 16 2 1989 Typed on 13 4 1989

PART I **COMMENT BY ORIGINATOR**

[redacted]

COMMENT OF SUBMITTING OFFICER (where applicable)

[redacted]

PART II **TEXT OF REPORT**

NO DOWNWARD DISSEMINATION

UDA ACTIVITY

The following members of PIRA are currently being targetted by UDA:

1. Brian GILLAN [redacted] (PIRA)
2. T/30 [redacted] (PIRA/PSF)
3. T/17 [redacted] (PIRA)
4. T/11 [redacted] (PIRA)
5. Seamus FINNUCANE [redacted] (PIRA)

GILLAN is top priority. [redacted] (INLA/IRA) dec'd.

Reference Murder of Pat FINNUCANE

[redacted] (PSF/PIRA) was (Rec) [redacted] (PIRA/PSF)

Recent UDA intelligence indicated that the above person met with Gerry ADAMS and T/13 last week in the [redacted] Hotel, [redacted] and discussed PIRA politics, finance and future policy. [redacted] (UI)

[redacted] (WDA) [redacted] (UFF/WDA) dec'd

* Pat FINNUCANE was shot by a joint team from A & B Coy, WDA. L/28 was the operations officer and L/20 and Ken BARRATT were also involved. [redacted] BARRATT may have been one of the gunmen.

[redacted] L/28 is now OO of WDA Brigade Ops Team and has many more operations lined up for the immediate future, exact details at present unknown [redacted].

Comment:
/TC E3B informed 16 2 1989.

Not/Continued on attached sheet(s) Nos.

NO DOWNWARD DISSEMINATION

PART III **ACTION TAKEN BY HEADQUARTERS**

ROYAL ULSTER CONSTABULARY
HEADQUARTERS
22 APR 1989
S.B. 15/17/13
SPECIAL BRANCH RECORDS DEPARTMENT

[redacted]

[redacted]

E1766-31-7

CF31.189.225

[redacted]

TARGETING - T/05

14. 6137 also met L/03 (27) at UDA HQ SHANKILL on SAT 28 JAN 89. L/03 spoke to 'TUCKER' LYTTLE then to 6137. L/03 arranged with 6137 to meet him at 6137's house at 1300 hrs on SUN 29 JAN 89. 6137 was to give L/03 a lift to [redacted], SOUTH of NEWCASTLE. 6137 managed to get £10 petrol money from LYTTLE via L/03 .

15. L/03 was nowhere to be seen at 1300 hrs on SUN 29 JAN 89 and 6137 finally tracked him down at 1400 hrs at the [redacted] CLUB (28). L/03 had been out drinking all night. L/03 instructed 6137 to go to L/23 's (29) house where they picked up L/23 . En route L/03 explained to 6137 and L/23 that whilst in RUC CASTLEREAGH recently L/03 had been told some information. The RUC had commented on how easy it was to carry out an attack on T/05 (30) as he parks his mobile snack van at [redacted].

16. They did not see a snack van at [redacted] but on the way back they saw a mobile snack van at 'SEVEN ARCHES' car park at DUNDRUM. They stopped and L/03 bought a drink of coke. L/03 told 6137 and L/23 that one of the two men in the snack van was almost certainly T/05 . The registration number of the snack van was [redacted]. 6137 returned to BELFAST and dropped off L/03 and L/23 at their respective homes. 6137 is to give the registration number to L/24 for checks to be carried out.

[redacted]

[redacted]

> *that if he were charged in relation to the murder of Finucane, he would 'blow this whole thing wide open'. There was more to this than people thought, he said, and he knew exactly what had happened."* [2]

20.6 Harkin also recorded that Lyttle told him that:

> *" … within hours of Hogg's speech in the Commons on 17 January, he, Lyttle, met with his Special Branch handler … Lyttle later claimed that his handler discussed Hogg's comments with him and said, 'Why don't you whack Finucane?' Brian Nelson was then summoned to Lyttle's home in Sydney Street West and told to prepare an intelligence file on the lawyer."* [3]

20.7 'Stakeknife' included the claim that Lyttle had told Harkin that all the UDA members involved in the killing, including Nelson, L/20 and Barrett, had attended a celebration party in Lyttle's house.[4]

20.8 It is difficult to assess the accuracy of the account provided to Greg Harkin. Lyttle certainly appears to have been tipped off in relation to developments regarding the arrest of UDA members so his claim to have known in advance that both he and Nelson would be arrested is plausible. There is, however, no corroboration for the claim that UDA members attended a celebration party in Lyttle's house. The context in which Lyttle spoke to Greg Harkin must also be considered: in early 1990 Lyttle certainly had an agenda in seeking to exploit the issue of 'leaks'. Given that Lyttle appears to have consistently denied being an RUC agent, it also seems highly unlikely that he would have referred to an SB officer as his 'handler' (as opposed to his 'contact').

20.9 For those reasons, I am inclined to prefer Lyttle's accounts provided to the BBC journalist John Ware in 1993 and 1994. By this stage, Lyttle no longer appears to have been involved in the UDA. John Ware has submitted to my Review the contemporaneous notes he made of interviews with Lyttle on 24 December 1993 and 20–22 June 1994.

20.10 John Ware summarised his discussions with Lyttle in a 1998 article in the *New Statesman*. The article included the following passage in relation to the murder of Patrick Finucane:

> *"Lyttle … confirmed that the original idea to murder Patrick Finucane came from two RUC detectives. While a prominent UDA gunman was being held in Castlereagh, an officer entered the interrogation room and said to his colleague: 'Have you put it to him yet?' They then suggested that the UDA shoot Finucane. Lyttle said that he was so astonished at this suggestion that he informed a regular contact in the RUC Special Branch: 'I told him: 'What the hell is going on in Castlereagh? Why is Finucane being pushed?' The officer said that it would be 'a bad blow for the Provos [the IRA] to have Finucane removed.' Did that amount to approval that he should be shot? 'Put it this way,' said Lyttle, 'He didn't discourage the idea that he should be shot'."* [5]

[2] Greg Harkin and Martin Ingram, *Stakeknife,* O'Brien Press, 2004, p. 203
[3] Ibid., p. 196
[4] Ibid., p. 204
[5] John Ware, 'Time to come clean over the army's role in the "Dirty War"', *New Statesman*, 24 April 1998

FRU/NELSON TELEPHONE CONTACT FORM DATED 13th FEBRUARY 1989

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Page No 1 of Pages

33 70/284 206

TELEPHONE CONTACT FORM

FROM EAST DET FRU REF 6137 DATE 13 FEB 89

GENERAL

SOURCE 6137 NAME USED BRIAN

PHONE NUMBER NK LOC NK

HANDLER [redacted] NAME USED [redacted]

PHONE NUMBER [redacted] LOC EAST DET FRU

DTG CALL STARTED 1020 hrs FINISHED 1021 hrs DURATION 1 min

INITIATED BY SOURCE WHY TO PASS INFORMATION

TEXT

E1766-33 - 1

TCF 13.2.89.

H: Hello

s: It's BRIAN

H: Hi

S: I've got the car, [redacted] its blue CITROEN, light blue.

H: Did you sell your car?

S: No, I would have lost £1,000 on it. I part exchanged it. £4,100.

H: What CITROEN is it?

S: BX 19D

H: I see!

S: It's not a flash car.

H: Hope not

S: It was ours, this morning.

H: Was it?

S: Yes

H: OK thanks.

S: See you tomorrow

H: OK bye

S: BYE

a. Vengeful Check: [redacted]

SECRET
(When Completed)

1 of 2

8

E176-33-2

SECRET

TCF 13.2.89. 207

b. Comment: 6137 is refering to the shooting of PAT FINNUCANE at 1932 hrs on SUN 12 FEB 89. Two men, one armed with a handgun, kicked down the door of [redacted] DR and shot FINNUCANE dead. GERALDINE FINNUCNE also received injuries. A car had been hijacked form [redacted] CRUMLIN RD.

c. OC's Comment: Passed to Source Unit before it was claimed on DOWNTOWN RADIO.

END OF TEXT

E1766-34-4

SECRET

CF 14.2.89

ADDITIONAL INFORMATION - 6137 CF DATED 14 FEB 89

WELFARE

1. [redacted]

SECURITY

2. [redacted]

CASE DEVELOPMENT

3. It is hoped to steer 6137 in a different direction to that which he is heading. Hopefully 6137 will be able to become more active within the team of operators headed by **L/28** . Currently 6137 seems to be left out of major operations only finding out about them after the event. 6137 was unaware of the targeting of PAT FINNUCANE and [redacted] **L/28** wanted it kept this way. It would appear that 6137 is not strong enough to force himself into the scene and tends to let himself be pushed around. 6137 is reluctant to become too closely involved in anything that might complicate life for himself or his family.

4. It is recommended that OC EAST DET FRU should have a boss meet with 6137 and suggest options to him from a higher level.

5. 6137 telephoned this office on MON 12 FEB 89 at 1020 hrs claiming that the shooting of PAT FINNUCANE was carried out by the UFF. Handler realised from the meeting with 6137 that he was not told who had committed the murder until after telephoning handler. Up until that point he only assumed, although rightly, that it was the UFF. 6137 has been told that he should only report facts and not what he thinks are the facts.

END OF TEXT

[redacted]

TARGETING - PAT FINNUCANE

9. 6137 was leaving his house at 1430 hrs when he met **L/28** and KEN BARRETT (22) approaching, **L/28** asked 6137 for the photograph of PAT McGEOWN (23) leaving court after the charges against him were dropped. **L/28** added that McGEOWN was with PAT FINNUCANE (24) in the photograph. 6137 said he would go to the Int Cell and collect it. **L/28** told 6137 that he would be at the [redacted] COMMUNITY CENTRE (25). 6137 collected the photograph which had appeared in the parody of APRN and took it to **L/28** .

a. Source Comment: At this stage I had been led to believe that **L/28** was interested in PAT McGEOWN.

[redacted]

TARGETING ?

11. At 1200 hrs on THU 09 FEB 89 6137 went to UDA HQ SHANKILL. [redacted] **L/28** and **L/22** ' (30) were upstairs. 6137 was in their company when **L/22** commented to **L/28** , "You know the one we were watching?" At this stage 6137 left their company giving the impression he did not want to hear. He must have successfully given this impression as he did not hear anymore of the conversation!

a. Handler Comment: What is more important is that there was no offer for 6137 to remain part of the conversation.

[redacted]

MURDER OF PAT FINNUCANE

13. During the evening of SUN 12 FEB 89 6137 was listening to the RUC radio network on the scanner and he heard that there had been a fatal shooting at [redacted]. 6137 checked the BELFAST STREET DIRECTORY and noted that PAT FINNUCANE lived at that address. 6137 attempted to telephone **L/28** but he was not at home. 6137 telephoned **L/41** (32) and told him what had happened.

14. At 1020 hrs on MON 13 FEB 89 6137 telephoned handler and reported that the UDA/UFF had carried out the murder.

a. Handler Comment: 6137 had not been told that the UDA/UFF were responsible and he had made the assumption because **L/28** had asked for the photograph of PAT McGEOWN with PAT FINNUCANE. 6137 was made aware of his faltering.

b. Comment: At 1932 hrs on SUN 12 FEB 89 two men, one armed with a handgun entered [redacted] by kicking down the door. They shot PAT FINNUCANE, fatally wounding him. The UFF admitted responsibility during the late morning of MON 13 FEB 89.

15. 6137 visited **L/28** at home at 1030 hrs no MON 13 FEB 89. 6137 ASKED **L/28** if the UFF had carried out the attack on FINNUCANE. **L/28** denied this. 6137 commented that it was a good operation and that FINNUCANE was part of the hierarchy of PIRA. **L/28** asked 6137 if he had any evidence of this. 6137 said that it was difficult to get that sort of evidence. **L/28** then admitted that the UFF had carried out the murder but warned 6137 to keep it to himself.

16. **L/28** told 6137 that he was not told about the operation because he did not need to know. The operation was a simple one with no complications. **L/28** admitted having obtained a photgraph of FINNUCANE,

by devious means, from 6137. 6137 said that he had heard about the murder on the scanner and had also heard that the FINNUCANE family had refused permission for the RUC to use the telephone in the house.

17. **L/28** said that they had spent weeks planning the operation and it had been **L/20** who had suggested they attack FINNUCANE. This came about when 'TUCKER' LYTTLE told them they could not target [redacted] **T/21** (33).

a. Handler Comment: 6137 CF dated 26 NOV 88 reported that the targeting of **T/21** should cease.

18. **L/28** asked 6137 if it had been he who said that FINNUCANE had been the man to attack and to forget GERRY ADAMS (34). 6137 said that he had not made this comment. **L/28** said that he would be annoyed if the UFF were not allowed to claim the attack. He added that 'TUCKER' LYTTLE had known nothing about the operation. **L/28** explained that he had been in [redacted] CLUB (35) at the time ofthe attack and LYTTLE arrived as soon as he heard about the shooting. LYTTLE was very nervous and chomped his way througha glass of ice cubes that **L/28** had had for himself.

19. 6137 left **L/28** house and went to UDA HQ SHANKILL. **L/42** (36) was present. He commented that there would be some reprisals for the murder of FINNUCANE. 6137 told **L/42** not to worry as he was not high enough up the ladder to be attacked. LYTTLE was at UDA HQ GAWN ST (37). **L/20** **L/05** (38), **L/33** (39) and KEVIN BARRETT came in together. As did **L/25** (40) and **L/22** . They were all joined by **L/28** in the back room. **L/43** (41), who had just been released from a short prison sentence, also came into the HQ. **L/28** asked **L/43** to drive **L/33** to WOODVALE which he did.

20. LYTTLE telephone **L/28** and **L/28** asked 6137 to give himself, **L/22** and **L/20** a lift to UDA HQ GAWN ST. 6137 obliged. At 1200 hrs he dropped them off close to UDA HQ GAWN ST. Approximately two minutes later they came out and went for a walk along UPPER NEWTOWNARDS RD returning to the HQ after a few minutes. Finally **L/22** returned to 6137's vehicle and asked for a lift to UDA HQ SHANKILL. **L/22** said that **L/28** and **L/20** would obtain a lift from LYTTLE.

a. Source Comment: I think those with **L/28** were involved in the attack.

b. Handler Comment: It is highly likely that those involved with **L/28** at UDA HQ SHANKILL during the morning of MON 13 FEB 89 were directly involved in the attack on FINNUCANE. It would appear that the visit to LYTTLE at UDA HQ GAWN ST was for the preparation of the UFF statement issued later during that morning.

[redacted]

NELSON 'P CARD' - PATRICK McGEOWN

P.I.R.A.

McGeown Patrick E7

[redacted] ~~IN JAIL~~

D.O.B. Not Known. 03/09/56

Active

listed As P.I.R.A. Command OP's Officer

Name at Address [redacted] '88'

4/88

CAR REG No [redacted] BROWN ASTRA.

Held for A/Town MURDERS - Released 11/88

Possible subject is in hiding 12/88



Patrick McGEOWN
035956

40

SECRET

70

E1766-47-4

ADDITIONAL INFORMATION

[redacted]

SECURITY

6137 continues to use his own car for targeting purposes although he does not use it as much as he used to. He has been warned on numerous occasions but ignores handlers advice. Even more worrying is 6137's habit of giving known UDA members lifts. This will eventually lead to 6137 being known to PIRA as a UDA member.

5. As detailed in this report, BRIAN GILLEN was seen outside UDA HQ GAWN ST with three other men. 6137 has previously been warned about the likelihood of an attack on the HQ by PIRA. It was explained to 6137 that he only had to be sighted going into the HQ twice or with a known UDA member for him to become a target. It is still beyond handler's belief that top UDA members continue to frequent the HQ on a daily basis when they know they are targets.

MOTIVATION

6. 6137 strives to see a professional organisation in the UDA and up to the present time has not been rewarded. Recent arrests have relieved the UDA of its main racketeers but the criminal element still exists. 6137 wants to see the UDA carry out professional operations against targets. 6137 is also motivated by finance, without which he would probably return to GERMANY.

ACCESS/CASE DEVELOPMENT

7. As the Intelligence Officer for the UDA 6137 generally receives most intelligence material and has access to the UDA computer for WEST BELFAST BDE UDA. 6137 has recently been tasking other BDE's to target and report back which has been working. 6137 lacks access to the operations and the team members. He has been tasked to get close to **L/28** and become a team member in all but name. As reported at this meeting, 6137 and **L/28** had a conversation about acquiring arms from [redacted]. 6137 offered his services and **L/28** knows that if he askes 6137 he will accept the task. It remains to be seen whether the UDA have the necessary cash to buy a quantity of arms.

8. 6137 has always maintained that he is a close friend of **L/28** and that

Paragraph 1 to 3 redacted - not relevant

25

71

L/28 trusts 6137. Handler believes this to an extent but there are still operational matters which **L/28** does not discuss with 6137. One example which springs to mind was the shooting of PAT FINUCANE which 6137 knew nothing about, even though he supplied a photograph.

[redacted]

E176-47-5

END OF TEXT

CF 7.4.89

paragraph 9 redacted - not relevant

leading to people being attacked; the FRU had known since at least June 1988 that he was willing to conceal information from his handlers relating to 'justifiable' conspiracies; and the RUC SB were not generally exploiting his intelligence to prevent attacks.

21.215 The very nature of Nelson's re-recruitment from Germany and his subsequent handling leads me to the conclusion that by 1989 Nelson was, to all intents and purposes, a direct State employee. The FRU must, therefore, bear a degree of responsibility for whatever targeting activity Nelson carried out in his dual role as a UDA Intelligence Officer and a FRU agent during this period, whether or not in a specific case he shared with his handlers the full state of his knowledge. As A/05 himself put it at Nelson's trial:

> *"… whatever [Nelson] may or may not have done throughout his time with the UDA since 1987, he would not have done it had we in FRU not reinstated him in the UDA in the first place."*[105]

[105] Trial transcript, *R v Brian Nelson*, 29 January 1992, A/05 evidence in mitigation

[redacted]

19 [redacted] DEC 88

[redacted]

[redacted]

[redacted]

[redacted]: SNIPPETS

1. I SAW [redacted] ON [redacted] DECEMBER 1988 WHEN HE REPORTED ON [redacted] DATED 19.12.88). THE FOLLOWING WERE ALSO DISCUSSED:

[redacted]

[redacted]

3. [redacted] WAS TO HAVE HELD A MEETING OF THE MILITARY COMMANDERS ON [redacted] DECEMBER TO DISCUSS PLANS TO KILL THE THREE SOLICITORS WHO HAVE REPRESENTED REPUBLICANS AT RECENT HEARINGS. THESE WERE PADDY MCGRORY, OLIVER KELLY AND THE 'SHOOT TO KILL' SOLICITOR IN ARMAGH. [redacted]

[redacted]

PAGE TWO [redacted]

[redacted]

[redacted]

[redacted]

TELEX TELEX TELEX TELEX TELEX TELEX TELEX TEL

[redacted]

PAGE TWO NIIR [redacted]

[redacted]

NIIR [redacted]

FROM [redacted] BELFAST

ORIGIN OF [redacted] TEXT: [redacted]

TITLE: THREAT TO SOLICITORS

[redacted]

1. THE UFF PLANS FOR SHOOTING LAWYER PAT FINUCANE MIGHT HAVE BEEN FRAMED BEFORE CHRISTMAS. IT IS THOUGHT THAT [redacted] CONSIDERED RAISING THE POSSIBILITY OF KILLING THE THREE SOLICITORS, WHO HAD REPRESENTED REPUBLICANS AT RECENT HEARINGS, AT A MEETING OF UDA MILITARY COMMANDERS IN DECEMBER. THE THREE SOLICITORS CONCERNED WOULD HAVE BEEN PADDY MCGRORY, OLIVER KELLY AND PAT FINUCANE.

[redacted] COMMENT

A. ALTHOUGH [redacted] DID HOLD A MEETING AT SOME TIME BETWEEN 15-21 DECEMBER (POSSIBLY ON THE 16TH) [redacted] CANNOT CONFIRM THAT THE MATTER WAS IN FACT RAISED.

[redacted] COMMENT

A. IT IS NOT CLEAR WHETHER [redacted] INTENTION AT THE MEETING WOULD.....

[redacted]

[redacted]

NOTE FOR FILE

[redacted]

The murder by the UFF of Pat Finucane on 12 February has touched on some raw nerves. Much has been made of Douglas Hogg's recent remarks in the House about the partiality of certain Northern Irish lawyers.

2. Some people have tried to lay the responsibility for Mr Finucane's death on Mr Hogg because of this. While perhaps not a wise comment to have made, it would be unfair to place all the blame on him.

3. There have been a number of emotive cases in the courts over the past year, which have aroused strong feelings amongst loyalists. These are the hearings connected with:

i) the shooting of three PIRA activists in Gibraltar in March 1988;

ii) the murder of Corporals Howes and Wood in March 1988;

iii) the so-called "shoot to kill" deaths in Armagh from 1982.

Paddy McGrory of course spoke for the bereaved families in the Gibraltar hearings but it was Pat Finucane who had been associated with the other two cases.

4. McGrory came in for criticism in the October 1988 issue of the UDA's "Ulster" magazine, where he was clearly identified as being of the same stuff as those killed by the SAS - and it was implied he deserved the same fate. Finucane was pictured in the spoof UDA production "An Phobcraft" (December 1988) and was styled "IRA solicitor Pat O'Cocaine". The article parodied the case of Patrick McGEOWN, whom Finucane successfully defended over charges relating to the killing of the Corporals.

5. Perhaps more seriously, [redacted] UDA military matters in December 1988 [redacted] a number of schemes being considered by the UDA/UFF, most of which were improbable. Amongst these however was a proposal "to kill the three solicitors who had represented republicans at recent hearings. These were Paddy McGrory, Oliver Kelly and the "shoot to kill" solicitor in Armagh". The latter is a clear reference to Finucane. In the weeks prior to this there had been a high level of targeting going on in North Belfast (although primarily associated with the UVF).

[redacted]

/...

PATRICK JOSEPH FINNUCANE

(Relatives with PIRA Connections)

FATHER : Patrick, [redacted]	(House used early 1980's for PIRA meetings).
MOTHER : Kathleen, " "	(Attended 'H' Block demos in London).
BROTHERS :	
John James, [redacted]. DECEASED.	On record since December 1971 as a member of PIRA. Died as a result of an accident whilst travelling in a stolen car. Subject had a paramilitary style funeral.
Seamus Gerard, [redacted]	PIRA connections since 1972. 7.9.77, sentenced to 14 yrs for possession with intent. 5.6.86, released. Currently highly active.
Martin A. [redacted]	PIRA connections since early 1977. Currently a member of the Anti-Extradition Committee and speaking on behalf of brother Dermot.
Dermot, [redacted]	Traced PIRA since early 1978. Whilst serving an 18 year sentence re 'possession' he took part in a mass breakout from Maze Prison on Septembe 25th 1983. 23.11.87, recaptured in Co Longford. Extradition proceddings in process.
SISTER : [redacted],	October 1987, assoc. Sinn Fein member in South.

SECRET

Name Patrick Joseph FINUCANE BA

Address [redacted] Dungloe Crescent
Lenadoon

d.o.b. 21.3.1949

Personal history

Subject originates from a staunchly Republican family of which two brothers namely Seamus and Dermot have served periods of imprisonment due to terrorist offences. He is a partner in the firm MADDEN & FINNUCANE, Solicitors, [redacted], Belfast, and is a member of the Association of Socialist Lawyers being also elected to the Executive Committee of NICRA in September 1980.

FINNUCANE also became joint treasurer for the 'Smash H-Block Committee' during 1980 and regularly visited the hunger-strikers ie Bobby SANDS etc, giving legal advice and whilst doing so associating closely with Gerry ADAMS, PSF.

In 1984 he was reported as being on a two week tour of the USA, sponsored by NORAID and the National Lawyers Guild speaking against the supergrass system under the auspices of "Concerned Community Organisations".

On his return his activities have continued in the same vein. During May/June 1985 he was a speaker at the International Conference of Jurists for Ireland in Paris and since then FINUCANE has continued to support the Republican cause using his expertise in an advisory capacity and associating closely with PIRA/PSF personnel.

E1766-39-7 134

Paragraph 2 to 11 redacted - not relevant

cf 9.3.89.

[redacted]

PIRA 'SHOOT ON SIGHT' POLICY ON UDA/UVF MEMBERS

12. L/27 told 6137, L/28 , [redacted] L/63 (19), L/64 (20), L/22 , L/05 and L/62 (21) that the RUC had told 'TUCKER' LYTTLE that the attacks on PAT FINNUCANE (22) and GERARD SLANE (23) had been the best hits the UDA had had in a long time. The RUC also said that PIRA were so incensed by these successes that they had men on SHANKILL RD ready to shoot on sight members of the UDA/UVF. The RUC named 'TUCKER' LYTTLE, L/28 , L/65 (24), L/66 (25) and L/10 (26) as PIRA's main targets.

13. 6137 was asked to give L/28 a lift to the [redacted] CLUB (27) but en route they saw L/20 on SHANKILL RD and L/28 was dropped off. On the way, 6137 had asked L/28 what he thought about PIRA's shot on sight policy. L/28 did not appear to be worried and said that he still intended to go to the UDA HQ SHANKILL.

[redacted]

Paragraph 2 to 17 redacted - not relevant

321

[redacted]

UDA RELEASED FROM CASTLEREAGH

18. At 1300 hrs **L/22** , **L/43** and **L/05** came into HQ SHANKILL. All appeared pleased to be out of RUC CASTLEREAGH. **L/22** stated that they had been closely questioned, albeit in a friendly fashion, concerning the murder of PAT FINUCANE (24). **L/22** said the RUC congratulated them on a fine job, but said it should not have been done in such a fashion, ie in front of FINUCANE's wife and children.

E1774/124/8

CF 29.11.89

alleged move to allow the killers access and egress to the scene. I cannot recall addressing the matter specifically during my investigation but I was certainly never aware of any roadblock being mentioned. Also on the night of the murder as well as the police officers that attended the scene the log shows two Army personnel spending over an hour inside. This was normal practice at the scene of a shooting for the Army to send experts to evaluate the use of the firearms for intelligence and recording purposes. The information they gleaned was in turn passed onto Army Bomb Disposal officers so they were constantly up to date with new devices etc in their dangerous work.

I have also been asked by the Stevens Investigation team to describe my relationship, as an SIO, with the RUC Special Branch. It must be stressed that Special Branch controlled this relationship and that CID officers of whatever rank were unable to force their hand in any way. Briefly the role of Special Branch was the countering of terrorist activity and to this end they collected all intelligence and handled a large number of informants. As the SIO on this clearly terrorist related murder investigation I was never given a briefing by Special Branch or ever passed any relevant files. The strategic direction of the Finucane murder investigation was therefore planned in the absence of any input from SB in relation to the victim, possible suspects or motives for the shooting. In particular I was never informed that Patrick Finucane had a SB file; never made aware of the existence of William Stobie and his knowledge around the movements of the murder weapons; never made aware of the existence of Brian Nelson who also passed information to the Army with regard to Finucane. All or any of the above even in the most guarded of terms would have made an enormous difference to the direction of the Finucane investigation and its eventual outcome.

My direct relationship with SB at the time was with Detective

Superintendent R/20 , whom I had served with on many occasions and in different capacities during my police career. We had a good working relationship and cooperated on many CID/SB issues. However I was always aware that he was restricted by his superiors in what he could disclose to me.

All aspects of CID criminal investigation were however subject to SB sanction. This was in order to protect any operation that SB might have had in relation to addresses or subjects. This would impact on an enquiry, including a murder, when an address needed searching or someone needed arresting. All intelligence was checked through the SB Source Unit and the CID regulated by their decision on any matter. In this regard there was no appeal and SB would never tell you why an address could not be searched or a suspect arrested. In the past I had personal experience of SB entering a serious crime scene before my being allowed to enter and conduct my search for evidential material and I was not told the reason for the SB involvement. In relation to our 'working relationship' with SB I would go as far as to say that any attempt by me or my colleagues to overturn a decision by SB would result in a negative response.

The informal CID/SB arrangement with Detective Superintendent [redacted] R/20 and others was most obvious in their attempts to recruit further informants. Previously they had been arresting potential informants and during questioning approached them with the possibility of becoming a source. This had however been held by the High Court to be unlawful and resulted in a legal challenge and financial penalties. From then on CID officers would be approached by SB to arrest potential informants on the grounds of unlawful membership etc and whilst in the Holding Centre we would assist SB to have discreet access to them. This was arranged because of the working relationship that CID had with SB. Even this method of recruiting potential informants was subject of legal challenge and Judge Bennett looked at the issue and produced a

up the subject of the murder of Patrick Finucane.[64] Given the prominence of the murder, this, he stated, seemed an odd instruction.

23.106 DS Brown noted that on 10 October the subject of Patrick Finucane's murder arose just once – when he asked Barrett whether L/05 had been involved. Barrett apparently replied, "*No way Jonty [DS Brown] … He hasn't got the balls for it.*"[65]

23.107 I have analysed the transcript of the recorded conversation of 10 October 1991. The transcript contains the following exchange:

> *"McIlwrath: I was surprised to hear that he [L/05] wasn't involved in Finucane because I thought he was one of the trigger men?*
>
> *Barrett: No.*
>
> *…*
>
> *[DS Brown]: Has he got no balls or what?*
>
> *Barrett: I think he's got balls for talking about it, you know.*
>
> *[DS Brown]: Aye*
>
> *Barrett: But that's about as far as it goes. He's not a trigger man.*
>
> *R/06: See those … see those two IDs on the police you give us last week.*
>
> *Barrett: Mmm hm.*
>
> *R/06: Those two policemen, can you update that any further?"*[66]

23.108 This does not perfectly reflect DS Brown's recollection, but his account was written more than a decade after the event. Significantly, after the mention of Patrick Finucane, R/06 appears to have interjected with a question on an unrelated issue. This could lend credence to DS Brown's suggestion that the SB did not wish Mr Finucane's murder to be raised on 10 October 1991, although, as is evident from the transcript, the subject of the murder was in fact briefly discussed.

The subsequent dispute between DS Brown and the RUC SB

23.109 DS Brown's subsequent account of his dealings with the SB included allegations of personal threats being made against him and claims that the SB used Barrett as a way of removing him from his position. R/06's contemporaneous notes in turn accused DS Brown of having inappropriate dealings with Barrett, though these allegations cannot be substantiated.

23.110 DS Brown declined to pursue his allegations when questioned by the Stevens III Investigation and at this remove in time it is difficult to find sufficient substantiation to resolve these conflicting statements.

[64] Johnston Brown, *Into the Dark*, 2005, pp. 194 and 196
[65] Ibid., p. 198
[66] Transcript of audio tape, 10 October 1991

[redacted]

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Ref. AO91/623

PRIME MINISTER

1

NELSON

The Attorney General has copied to you his minute of 11 March, addressed to the Secretary of State for Defence, in which he outlines the case against Nelson, his likely defence and the public interest representations that have been made to him.

2. It is for the prosecuting authorities, in this case the DPP(NI) subject to the Attorney General's power of direction, to decide whether to proceed against Nelson; it is, however, for Ministers to examine, and represent to the Attorney General, the public interest considerations. You will no doubt want to see in the first instance how Mr. King and Mr. Brooke respond to the Attorney General, and possibly then call them together, with the Attorney General, for a discussion. Meanwhile, you may like to have an assessment of the damage to our intelligence interests which would accrue from proceeding against Nelson on murder charges.

3. It seems inevitable, as the Attorney General's minute concedes, that the personnel, records and activities of the Army intelligence unit which ran Nelson would be exposed in court. There can be no guarantee that these proceedings would be held in camera. This unit, though it can be criticised for the way this case was run, has conducted and is conducting other highly successful agent operations which have saved lives. Moreover, the unit, which has a new commanding officer, has a particularly important role to play at the present time in seeking intelligence on the border, where its resources can be deployed with armed support in a way that the RUC cannot. As you are

aware, the GOC is particularly concerned about the dearth of intelligence in this area and the risk that this presents to British troops. The Intelligence Co-ordinator, recognising its potential, has in fact recommended reinforcement of the unit. Given the nature of the charges and the implication that would be drawn from the Army's involvement with Nelson, it seems virtually certain that the unit concerned (the only one of its kind) would suffer a severe setback and might even have to be disbanded.

4. The damage to intelligence from a murder trial would extend more widely. Nelson believes that he has been betrayed by the authorities and even that he has been set up by the RUC in pursuance of a feud with the Army. There is little doubt that in his defence he will seek to call other witnesses and to illicit from them and from Army witnesses information about intelligence work across the board in Northern Ireland. Both the DCI in Northern Ireland and the Director General of the Security Service consider that the damage to intelligence work in the Province from Nelson's trial would be very grave indeed. The recruitment and running of agents by all the organisations concerned, on which progress against PIRA so largely depends would be very seriously hampered. In addition, Republican supporters will undoubtedly use the prosecution of Nelson on murder charges, while an Army agent, as further evidence of a "shoot to kill" policy.

5. On top of all this, there must be doubt as to whether the evidence stemming from the Stevens Inquiry, on which the prosecution would be based, would be admissible and therefore some doubt as to whether the case would succeed, given the very murky nature of the world in which Nelson operated and the role that he played. These, however, are basically issues for the legal authorities.

6. This is a very difficult case, because the consideraions are by no means all one way. The potential charges against Nelson are as serious as they could be, and there are grave political risks in not prosecuting him, and perhaps particularly so in the atmosphere created by the Birmingham Six case [redacted] The best way of persuading the Attorney not to authorise prosecution, if that is what you and your colleagues decide to try to do, may be to lead him to the conclusion that, while the damage a prosecution would do to the intelligence effort is certain, the prospects of a successful prosecution are much less so.

RER.B.

ROBIN BUTLER

15 March 1991

PRIME MINISTER

NELSON

You have a meeting tomorrow morning with the Attorney, the Solicitor, the Northern Ireland Secretary, the Defence Secretary, and the Home Secretary and Sir Robin Butler to consider the case of Brian Nelson. It is an exceptionally difficult one.

Nelson was a leading member of the Protestant extremist organisation, the UDA, and their Chief Intelligence Officer. He was arrested during the Stevens Inquiry into the alleged passing of information by members of the Security Forces to extremists, to help them commit murder. As a result of the evidence laid against Nelson, the Director of Public Prosecutions in Northern Ireland has to decide whether to prosecute him for murder and other serious charges.

The sub-plot is that Nelson is an extremely valuable Army agent. Although he had past criminal convictions, the Army brought him back from Germany in 1987 and infiltrated him into the UDA so that he could report on their plans and activities, with the purpose of saving the lives of those targeted by the UDA. This he appears to have done with considerable success. The Stevens Inquiry team failed to consult either the Army or the RUC when they arrested Nelson.

The decision whether or not to prosecute is one for the DPP(NI) alone. But in such a case he consults the Attorney on any public interest considerations: and the Attorney consults you and other Ministerial colleagues. Hence tomorrow's meeting.

The DPP(NI) has reached the preliminary conclusion that there <u>are</u> sufficient grounds to warrent prosecution on two murder charges and four charges of conspiracy to commit murder. Against this:

- it is far from certain a prosecution would succeed.

- it would certainly lead to disclosure of sensitive material.

- it would also result in the public exposure of the procedures, techniques and personnel of the Army agent-running unit in Northern Ireland, which plays a crucial role in the fight against terrorism.

- Nelson himself would argue, and his Army handlers support this, that he has saved a large number of lives by his activities (he is said to have provided over 700 threat warnings against 217 individuals).

The dilemma faced can be summed up thus. There will be grave damage to public confidence in the administration of justice in Northern Ireland if it becomes clear that a charge of murder has been withdrawn on public interest grounds. Equally, grave damage will be done to the capability of the security forces and to our intelligence-gathering activity if the prosecution is mounted.

Several of your colleagues have put in their views in writing. The Defence Secretary argues strongly indeed ferociously that prosecution would be against the public interest. He believes that real and serious damage would be done to the fight against terrorism. The Northern Ireland Secretary also opines that the public interest in defeating terrorism and in the preservation of life from terrorist action has to be of first importance. He points out that the difference in terms of public confidence between prosecution and a decision not to prosecute is uncertain, while the damage to the intelligence effort against terrorism of a decision to prosecute is certain and very heavy indeed. The Cabinet Secretary reports the view of the Security Service that the damage to intelligence work from a decision to prosecute would be very grave indeed.

You will reach your own judgement. I would only add that this is a very murky world we are dealing with. People are

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N O T E F O R T H E R E C O R D

ONLY COPY

N E L S O N

The Prime Minister held a meeting this evening to go over with the Attorney General the public interest arguments which the Attorney should bear in mind in coming to a decision on whether to bring a prosecution against Nelson. Present were the Home Secretary, the Secretaries of State for Defence and Northern Ireland, the Attorney General and the Solicitor General and Sir Robin Butler and Sir Percy Cradock. The meeting had before them the Attorney General's minute of 25 April to the Secretary of State for Defence and minutes in response to that from the Secretary of State for Defence, the Secretary of State for Northern Ireland and the Foreign Secretary.

The Secretary of State for Northern Ireland said the merits and demerits of Nelson as an agent were not the real issues. These were the threats to the gathering of intelligence and the threats to witnesses from the process of law which would result from a prosecution.

Intelligence was provided by a number of agencies but was heavily dependent upon human sources. He was particularly concerned that such sources would be directly threatened as a result of a prosecution:

i. In the course of his evidence Nelson might reveal identities.

[redacted]

iii. Agent running techniques could be exposed.

iv. Methods of surveillance, interception and eavesdropping could be inadvertently revealed in replies by witnesses.

v. The working methods of the RUC and security service could be revealed as their methods were similar to those used by the Army whose work was principally under scrutiny.

vi. Although Nelson was a Loyalist, information of interest to PIRA could be revealed as similar methods were used against both groups of terrorists.

vii. The Loyalists would gain an appreciation of just how much the Security Services knew about their activities.

The Secretary of State for Northern Ireland continued that the existence of the post of Director for Coordination of Intelligence (DCI) was known but more would emerge about his duties. Further revelations about Security Service operations could lead to the targeting of Security Service officers. There could be kidnap attempts in an effort to extract information. There was a danger that NIO officials could be incorrectly identified as Security Service officials.

The existence of the DCI and his name was known to PIRA but PIRA did not know that he was [redacted]

Although security services in other countries did not deal with the army, disclosures in this case could damage confidence of those agencies and the degree of cooperation with them. The view of the DCI, and senior officers in the RUC and Army, was that their efforts against terrorism would be set back severely

and that lives would be lost as a result.

The Secretary of State for Northern Ireland then turned to the difficulties arising from the trial process. The physical security of witnesses would be at risk. Many of them were residents of Northern Ireland and could not be withdrawn from the Province. Even if they were, dangers to their families would remain. The Secretary of State for Northern ireland thought there was no real prospect of evidence being given in camera. This had been refused ten years ago. Nor did he think techniques for disguising witnesses would work.

He expressed doubts about the effectiveness of protecting vital information by seeking public interest immunity. Many of the witnesses would be inexperienced and unable to judge what it was appropriate to say.

The Secretary of State for Northern Ireland concluded that the public interest arguments pointed strongly in the direction of not seeking a prosecution.

The Secretary of State for Defence said that much of the work of the Army was simply holding the ring by guarding and patrolling. The most effective positive weapon in the fight against terrorism was intelligence. He thought the odds against a prosecution being carried through to a conclusion were high but if a trial were aborted part of the way through the Government would suffer the worst of both worlds.

He also foresaw the danger that the pressures of the trial would give rise to inter-agency friction. The problems of lack of coordination, which the post of DCI had been established to overcome, could re-emerge.

The Secretary of State for Defence also concluded that the public interest was very much against a prosecution.

The Home Secretary said the Security Service was not directly involved but its Director had expressed concern about a

prosecution. He wondered what scope there was for circumscribing certain pieces of information which would cause most damage to intelligence gathering. Having heard the arguments put forward by the Secretary of State for Northern Ireland, he felt a new factor was the extent to which a prosecution would endanger the lives of Northern Ireland residents working in the intelligence system.

He too doubted whether the trial would ever be completed. He asked whether the Attorney General thought about how far the trial would get before the intelligence agencies submitted a claim for public interest immunity.

The Prime Minister asked the Secretary of State for Northern ireland about the impact of the decision one way or the other on the current talks in Northern Ireland. The Secretary of State for Northern Ireland said that there would be complications whatever the decision but he did not believe they would be decisive nor should the existence of the talks influence the decision.

The Attorney General explained that he himself was the arbiter of whether a claim for public interest immunity could be made. Each claim would have to be looked at on its merits. He conceded that in the last resort it might be necessary to pull the prosecution if there were evidence which the Government could not submit. Nevertheless, in stating that there was a realistic prospect of a conviction he had taken account of the possibility that the trial might have to be aborted. The Attorney asked the Prime Minister for his views.

The Prime Minister said he was very torn. His instinct was that where a charge could be brought with a reasonable prospect of success, it should be brought. But he felt that some of the considerations put forward by the Northern Ireland Secretary were impressive and were a considerable advance on what had been heard before.