

## Race and Class Draft Article

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### ‘See No Evil’ Collusion in Northern Ireland

*Abstract:* The publication of the official report into the 1994 Loughinisland massacre, when loyalist gunmen shot dead six people in a small, rural bar, provides an opportunity to examine the nature of institutionalised collusion, the state practices it involved and the sectarianized social order which made it possible during the conflict in Northern Ireland. Building on an earlier analysis of the colonial and counterinsurgency roots of collusion (*Race and Class*, 57:2) this article provides a commentary on the findings of the Loughinisland report and explores two issues. The first concerns new evidence (directly contradicting earlier official inquiries) of state collusion in the importation of arms used by loyalists to escalate their campaign of assassination in this period. Second, the extent to which collusive practices facilitated the actions of loyalist paramilitaries and confounded the investigation of the mass killings at Loughinisland as elsewhere. In terms of both (it will be argued) there is a need to place an understanding of collusion in the wider context of a social order shaped by long-term sectarianized social divisions and violence, embedded in localised power structures, that framed the very institutions and agencies of the state, not least the police and other state forces.

*Keywords:* collusion, Northern Ireland, policing, sectarianism, Loughinisland massacre, Heights Bar, Glennane Gang, Maguire report, Troubles.

#### Introduction

In June this year the Police Ombudsman for Northern Ireland (Dr Michael Maguire) published a report into the shooting dead of six people in the Height’s Bar, Loughinisland, Co. Down in 1994; one of the worst atrocities of the three decades of conflict in the North of Ireland.<sup>i</sup> At the time the killings drew widespread national and international attention and condemnation. It

appeared to be yet another nakedly sectarian attack carried out solely by loyalist paramilitaries. Certainly loyalists were responsible, but only latterly did allegations gather pace that collusion between members of state security forces and loyalist paramilitaries had played a crucial part in the massacre. In a devastating, watershed report, overturning the whitewash of an earlier wholly discredited investigation, Dr Maguire declared he has ‘no hesitation in unambiguously determining that collusion is a significant feature of the Loughinisland murders’.<sup>ii</sup> Collusion on the part of the police force, the Royal Ulster Constabulary (RUC), was here understood in both an active sense (‘to conspire, connive or collaborate’) and in the failure to act (by ‘turning a blind eye’ or ‘pretended ignorance’ of what should ‘morally, legally or officially’ be opposed).<sup>iii</sup> It included ‘wilful acts’ to protect informers, ‘catastrophic’ investigative failures and ‘the destruction of records’.<sup>iv</sup> Pivotal, insisted Dr Maguire, was the role of a “‘hear no evil, see no evil, speak no evil” approach to the use of informants’ by RUC Special Branch; something also evident in the actions of British military intelligence units.<sup>v</sup> There have been many reports into conflict-related killings in Northern Ireland, but few as important and ‘likely to challenge previous official narratives of the nature of the conflict’ as that into the attack at Loughinisland.<sup>vi</sup> It therefore offers an opportunity to consider more broadly the nature of institutionalised collusion, the state practices it involved and the sectarianized social order which made it possible.

### **The Loughinisland Massacre**

Just after 10pm on 18 June 1994 two masked, armed gunmen belonging to the loyalist paramilitary group the Ulster Volunteer Force (UVF) entered the Heights Bar, known locally as O’Toole’s.<sup>vii</sup> The tiny, rural pub was packed with locals, their eyes glued to the television watching what proved to be the Republic of Ireland’s historic win over Italy in the opening game of the football world cup at the Giant’s Stadium in New Jersey. Given its location the gunmen could be assured most, if not all, of those inside would be Catholics. The attackers opened fire, one with an automatic rifle, shooting dead six men and seriously injuring five others, leaving behind a scene of utter carnage. ‘There were bodies piled on top of each other’, one eyewitness recounted, ‘It was like a dream; a nightmare’.<sup>viii</sup> Those killed, mostly middle-aged family men (the youngest, father-of-two Adrian Rogan was 34, the eldest Barney Green was 87)

were all from in and around Loughinisland, a village that had seen little enough of the 'Troubles'.<sup>ix</sup> None had any political or paramilitary connections. The Loughinisland massacre was one of a wave of loyalist bar attacks and mass killings that rose, paradoxically, as the IRA move toward a ceasefire declared just two months later, and Northern Ireland embarked upon the peace process that would ultimately see an end to 30 years of conflict.<sup>x</sup> For the first time in decades the year leading up to the Loughinisland attack had seen loyalists kill more people than anyone else, including the IRA.<sup>xi</sup> In no small part that was because loyalists had been substantially re-armed in the late 1980s, where the story behind collusion in the Loughinisland killings begins.

### **Arming Loyalism**

The automatic rifle used to such lethal effect at Loughinisland was part of a large illegal shipment smuggled into the North by loyalists from South Africa in late 1987.<sup>xii</sup> There have been long term, hotly disputed allegations of collusion and the involvement of British military intelligence in bringing in this massive weapons haul, linked primarily to the activities of Brian Nelson.<sup>xiii</sup> In 1987 Nelson was Chief of Intelligence throughout the North for the loyalist paramilitary group the Ulster Defence Association (UDA), responsible for collating and disseminating intelligence used in launching loyalist attacks.<sup>xiv</sup> He was also, at one and the same time, a British army agent run by the Force Research Unit (FRU), the covert British military unit responsible for agent handling in the North. Indeed Nelson had only recently been re-recruited by the FRU specifically to take up this lead role within the UDA.<sup>xv</sup> During this period at least 85% of all intelligence used by loyalists in their violent campaign originated from state files and Nelson acted as an important conduit for such state intelligence and targeting information.<sup>xvi</sup> In 1985, with the full knowledge and support of his army handlers, Nelson had travelled to South Africa at the behest of the head of the UDA to arrange an arms shipment via a contact (originally from Northern Ireland) working for the Apartheid regime's state weapons company Armscor.<sup>xvii</sup> While this failed to transpire, because of a lack of loyalist funds, the links developed by Nelson would be the same as those that facilitated the 1987 shipment.

Despite this, in his 2012 report on the 1989 killing of human rights lawyer Pat Finucane, Desmond de Silva QC concluded the arms shipment was a

‘separate operation with which Nelson and the FRU had no involvement’.<sup>xviii</sup> Indeed, despite his key intelligence role within the UDA de Silva accepted Nelson’s contention he (and by implication, his handlers) did not know the origin of the imported arms until several months later. De Silva also reserved special praise for the efforts made by the security forces in arms seizures of loyalist weapons, including those of a portion of the 1987 shipment made in January and February 1988.<sup>xix</sup> For de Silva the RUC record of seizing weapons was clear evidence to refute as ‘untenable’ arguments that loyalist ‘terrorists’ were ‘simply State-sponsored forces’. Despite finding ample evidence of collusion elsewhere, the picture drawn here was that British intelligence and state forces had neither helped, nor being aware of, this massive shipment of arms beforehand, and did all it could to seize the weapons and stop their use in loyalist attacks afterward.

The findings of the Loughinisland report stand in stark contrast to such conclusions, painting a very different portrait of the foreknowledge of state agencies and the role of state agents and informers. Michael Maguire states categorically the ‘origins’ of the 1987 arms shipment lay in Nelson’s 1985 visit to South Africa, organised ‘with security force oversight’ by a ‘senior member of the UDA who provided information for the RUC’s Special Branch’.<sup>xx</sup> Throughout the next two years the RUC had a wealth of intelligence of a ‘conspiracy’ of various loyalist paramilitary groups, including the UDA, organising to acquire weapons from South Africa.<sup>xxi</sup> Alongside the UDA this involved leading figures in the Ulster Volunteer Force (UVF) and the recently formed mass-based paramilitary group Ulster Resistance (UR). Contra de Silva’s conclusions state agencies were therefore ‘aware of the plans of the UVF, UDA and Ulster Resistance to import a significant consignment of weaponry’.<sup>xxii</sup> Among those centrally involved was a senior loyalist RUC informant.<sup>xxiii</sup> Leading UDA figures, many who worked closely with Brian Nelson, directed plans throughout. A bank robbery which funded the arms deal was ‘carried out by and on behalf of the UDA’ in the months after Nelson became Chief of intelligence for the organisation.<sup>xxiv</sup> Alongside their ‘command and control’ of loyalist paramilitary groups and their part in ‘murder [and] conspiracy to murder’, Dr Maguire concluded, state ‘informants [were] involved in the procurement and distribution of the weapons, including individuals at the most senior levels of the organisation(s) responsible for the importation’.<sup>xxv</sup> RUC

Special Branch was aware months prior to the arms smuggling that proceeds from the robbery were to be used 'to finance a large arms deal exploiting a South African connection' and were 'monitoring' the situation alongside 'the Security Service'. Even if the official line was taken at face value, it surely beggars belief that at no point did any of the intelligence agencies at least ask Nelson, Head of UDA Intelligence, to try and find out what was going on?

### **Arms Seizures and Police 'Failures'**

Within weeks of the arms shipment around a third had been captured by the RUC. As noted, for de Silva this is proof positive that loyalists were not simply acting as 'state-sponsored forces'. Again, the picture that emerges from the Loughinisland report reveals a darker story. Certainly on 8 January 1988 a specialist unit of the RUC stopped three cars at a road checkpoint near the large RUC/Army base just outside Portadown, Co. Armagh. Two were found to be heavily laden with weapons and all three drivers, led by the UDA commander in North Belfast, were arrested and subsequently jailed.<sup>xxvi</sup> This was an intelligence-led operation run by the Tactical Co-ordinating Group (TCG) for the area. The TCG brought together senior members of RUC Special Branch and British intelligence and specialist units (including the SAS) to conduct covert operations. At that time TCG (South) was led by Ian Phoenix, a senior figure in RUC Special Branch long experienced in organising and running its counterinsurgency efforts.<sup>xxvii</sup> A former member of the British parachute regiment, his military background made Phoenix peculiarly well-placed to co-ordinate police and military counterinsurgency operations.<sup>xxviii</sup> He also became a keen advocate of a 'more aggressive' counterinsurgency campaign and the deployment of the SAS in actions against the IRA.<sup>xxix</sup> When the SAS killed eight IRA Volunteers in the Loughgall ambush in 1987 Phoenix led the RUC support operations. Shortly after, in late 1987, he took up his TCG role co-ordinating covert operations throughout Armagh and Tyrone.<sup>xxx</sup> For Phoenix this was also home ground, born and raised in a small village in east Tyrone a few miles away from both Loughgall and where the weapons haul was captured.<sup>xxxi</sup> The precise actions of TCG in the search for weapons are shrouded in some mystery as the relevant records are lost, likely destroyed.<sup>xxxii</sup>

What we do know is that a substantial surveillance operation had been in place for some time. Both E4A (a counterinsurgency unit of the RUC) and the

British army were involved in tracking leading loyalists as they met to organise the distribution of the arms shipment. The RUC had those involved in moving the weapons under close surveillance and seem to have had a good idea the cache of imported weapons were being stored in and around the small Co. Armagh village of Tandragee.<sup>xxxiii</sup> Indeed, on the morning of their arrest, the three drivers were followed to Tandragee, where they were met and escorted to the weapons hide. At that point, however, the RUC surveillance appears to have been ‘temporarily unsighted’. Only afterwards did the E4A unit pick up again the now weapons laden cars. The exact location of the weapons dump apparently therefore remained a mystery. However, it was in any case clear the weapons had been stored close by. Special Branch intelligence also indicated the arms seized were only a portion of the total. Despite this, not until four days later did the CID detectives investigating find out the weapons had been kept at a farm between Tandragee and the nearby village of Markethill; home to another of the loyalists under surveillance. Even then, although CID carried out searches in the area one notable location was left untouched. It was a farm with a particularly dark and violent place in the story of collusion belonging to local man James Mitchell.

### **Mitchells Farm and the ‘Glennane Gang’**

While CID detectives said they would have ‘torn apart’ Mitchell’s farm had they been aware of its past, that history could not have been entirely unknown to those involved in the world of intelligence and counterinsurgency.<sup>xxxiv</sup> Mitchell had been convicted for ‘keeping a major UVF arms dump’ on his farm before.<sup>xxxv</sup> Indeed so central had Mitchell been in the violent sectarian campaign of the notorious loyalist ‘Glennane Gang’, it would be named after his farm. For a period of over five years in the mid-1970’s, in the heart of what became known as the ‘murder triangle’, Mitchell’s farmhouse ‘served as a kind of engine room for murder and mayhem in mid-Ulster’.<sup>xxxvi</sup> The Glennane Gang were responsible for some of the most infamous and costly loyalist killings. These included the Miami Showband Massacre in 1975 and the Dublin-Monaghan bombings in 1974 in which 33 people were killed; the greatest loss of life on a single day throughout the conflict.<sup>xxxvii</sup> ‘It is likely’, stated the 2003 Barron Report into the Dublin-Monaghan bombings, ‘that the farm of James Mitchell played a significant part in the preparation of the attacks’.<sup>xxxviii</sup> It was

here the bombings were planned, the bombs used stored and where several of the bombers left to carry out the atrocity.

The Glennane Gang has also become a byword for collusion. Mitchell himself was a former RUC Reserve Officer. Indeed, even after his arrest on arms charges he continued to serve in that role for almost a year before resigning. Several others were either serving or former members of the RUC and the Ulster Defence Regiment (UDR), a locally recruited regiment of the British Army with an appalling record of collusion with loyalists.<sup>xxxix</sup> To all intents and purposes the illegal UVF paramilitary unit operating in this area at that time was all but indistinguishable from the security forces. It was at Mitchell's farm 'this group of loyalists, UDR men and RUC officers met, drilled and conspired in the 1970s on a regular basis'.<sup>xi</sup> Foreshadowing the attack in Loughinisland years later this involved organising mass killings in bars in neighbouring nationalist towns and villages.<sup>xii</sup> British state military and political officials were also aware of these activities. By early 1976 they knew the farm had been used as a 'staging post' for the Dublin-Monaghan bombings and placed it under surveillance'.<sup>xlii</sup>

Yet this did not stop the Glennane Gang's ferocious campaign targeting and killing Catholics in their homes; the 'killers were still free to strike'. Nor did it end attacks on bars. The bombing of the Step Inn, Keady in August 1976 is a case in point and presents a chilling comparison to the pattern of events so many years later. Having received warning of a planned explosion Mitchell's farm had been placed under surveillance, but with 'gaping holes during the hours of darkness' when the surveillance was withdrawn.<sup>xliii</sup> Mitchell had already been warned the farm was being watched; by a UDR captain who supplied the explosives for the attack. Despite knowing the farm had been under suspicion the bombers (including several members of the security forces) carried out the attack within hours of the surveillance being lifted, apparently unconcerned they would be stopped or arrested. The massive car bomb placed outside the Step Inn killed two people and seriously injured 22 others. Although RUC Special Branch had considerable evidence, both before and after the bombing, of who planned and carried out the attack this information was withheld from CID investigators and no search was made of Mitchell's farm. In 2006 Justice Barron concluded even though state authorities in the North knew Mitchell's farm had been a 'centre for illegal

activities' since the start of 1976 'and probably for some time before that... those activities were allowed to continue for another two years'.<sup>xliv</sup> While senior security forces officers permitted a 'climate to develop in which loyalist subversives could believe they could attack with impunity'.

In all the Glennane Gang has been implicated in almost 90 killings of Catholics and nationalists in this period.<sup>xlv</sup> Its activities were only brought to a halt in 1978 after one of its members, John Weir, was arrested for murder and confessed, naming others involved. At the time Weir was also a serving member of the local RUC Special Patrol Group, a counterinsurgency unit he later said "saw itself as being at war with the IRA and regarded loyalist paramilitaries as allies".<sup>xlvi</sup> The arrest and conviction of James Mitchell for harbouring weapons and explosives followed soon after. Although, strikingly, he only received a one year suspended sentence, a derisory decision mirrored by those for others in the gang who were also members of the security forces.<sup>xlvii</sup> In one judgement Lord Chief Justice Lowry (the most senior legal figure in the North) argued, perversely, that as police officers, charged with the duty to maintain justice, even if guilty of serious, violent crime, any sentence 'would be imposed on a different and lower scale from that appropriate to terrorists'. Collusion, it has been suggested, was not something from which the legal process was wholly immune.

Among those also named by Weir was Robin 'The Jackal' Jackson, said to have had a leading role in the Miami Showband massacre and one of the bombers believed to have set off from Mitchell's farm to carry out the attacks in Dublin and Monaghan.<sup>xlviii</sup> A former member of the UDR Jackson is believed to have been responsible for many other loyalist killings and atrocities committed in the Mid-Ulster area over decades. Indeed, alleged to be responsible for more deaths than virtually anyone else involved in the conflict. Despite this, he spent remarkably little time in jail. Justice Barron concluded Jackson was 'reliably said to have relationships with British Intelligence and/or RUC Special Branch'.<sup>xlix</sup> In other words, Robin Jackson was either a police informer or British army agent, perhaps both. It has been claimed he had very close links to British military intelligence, as allegedly did several other members of the Glennane Gang.<sup>1</sup> In 1988, at the time the UVF collaborated with Ulster Resistance and the UDA to import weapons into the North and



store them in the Armagh countryside, Robin Jackson was the UVF's Mid-Ulster commander.

### **Turning a Blind Eye**

Despite this violent history, when the RUC knew a large cache of weapons had been hidden in the Tandragee-Markethill area in 1988 it seems no-one thought to search James Mitchell's farm. This despite the fact one of the senior RUC officers 'on the ground' during the 'loss of surveillance at a crucial time' and the search for the weapons had been involved in questioning Mitchell in the 1970s. Yet at no point did he propose searching Mitchell's farm. Something for which (a clearly incredulous) Michael Maguire concluded there is 'no logical explanation'.<sup>li</sup> Indeed, despite Mitchell's record of involvement with the Glennane Gang, his earlier conviction, alleged involvement in storing UVF weapons in the early 1980s and that 'within a week' of the Mahon Road arrests the RUC knew he attended a meeting with several other leading loyalists 'to discuss the arms seizure', the police never even questioned Mitchell about the 1987 imported arms.<sup>lii</sup> Michael Maguire is in little doubt Mitchell's farm was where the arms were kept.<sup>liii</sup> Later intelligence indicated as much. It also suggested within hours of the 8 January arrests Mitchell had been tipped off by a member of the RUC that his farm might be searched and the remaining stock of weapons was moved soon after.<sup>liv</sup> The same source indicated a portion of the weapons from Mitchell's farm, including the type of automatic weapon used at Loughinisland, found its way into the hands of Robin Jackson. Contrary to other accounts, a further police seizure of some imported weapons in Belfast a month later was not the result of on-going searches or intelligence passed on by Special Branch.<sup>lv</sup> In sum, Special Branch withholding of intelligence and the failure to consider searching Mitchell's farm 'permitted the prompt undetected removal of the remaining weapons' and so allowed their later use in dozens of killings, including those at Loughinisland.<sup>lvi</sup> Given the 'gravity of the conspiracy', the decision not to investigate leading loyalists implicated in the importation of the weapons, several of them informants, was 'indefensible'. The imported arms would subsequently be used in at least 70 loyalist killings, likely more.<sup>lvii</sup>

These events should not be viewed in isolation. Rather they are indicative of a wider pattern of 'see no evil collusion'. While on the one hand

the leaking of state intelligence to loyalists was taking place on an industrial scale, paradoxically, Special Branch (the 'force within a force') withheld intelligence from criminal inquiries in order to 'protect' their agents and informers.<sup>lviii</sup> The latter (often marked on files) was known as 'No Downward Dissemination' (NDD), or 'slow waltz' in Special Branch parlance.<sup>lix</sup> This was a matter of policy, one of the wholesale changes introduced in the North in the early 1980s by a later Head of MI5, as the primacy of counterinsurgency subverted other aspects of policing.<sup>lx</sup> These measures centralised intelligence and ensured Special Branch was given over-riding control of the handling of agents and informers. In the drive to recruit and protect paramilitary informants criminal investigations were fundamentally manipulated, undermined or prevented. Senior police, military and political figures were aware this meant those working on behalf of the state were often involved in serious crime, up to and including murder. Yet no rules were introduced to prevent that happening. This was not a failure of policy but its point.<sup>lxi</sup> It was the space in which a culture of collusion could flourish.

That same pattern was all too evident in the lead up to and aftermath of the attack at Loughinisland itself, as 'the desire to protect informants' impacted on 'policing activity' and 'undermined the police investigation'.<sup>lxii</sup> These events should not therefore be understood as the result of individual police failings or prejudice, whatever role both may have played. An 'intelligence mind-set' rather than 'intelligence failures' deferred or stopped criminal investigation and 'at worst' demonstrated a 'disregard for the suffering of the families involved at the hands of loyalist paramilitary gangs'.<sup>lxiii</sup> This was rooted in the orientation of military and police counterinsurgency thinking, the institutional character of the bodies involved, and the social milieu in which both were operating. While state public rhetoric argued it adopted an even-handed approach to the prevention of 'terrorism', the overwhelming focus of its concern was the IRA and Irish republicanism. So, evidence of an increasingly active UVF unit operating in the Co. Down area in which Loughinisland is found, was all but ignored by the local RUC, whose attention remained 'almost entirely' fixed on the IRA.<sup>lxiv</sup> As a direct result the nationalist community faced a 'heightened risk' of attack.<sup>lxv</sup> Republicanism was the enemy, loyalism, at the very least, far less so.

Worse, both the RUC and the UDR in the area had been ‘compromised’ through either ‘direct involvement with loyalist paramilitaries, associations or sympathies’.<sup>lxvi</sup> This reflects a symbiotic relationship between local state forces and loyalism. At least three members of the UVF unit involved in the Loughinisland massacre were members of the UDR. Another, identified years earlier as an ‘active loyalist terrorist’ and the ‘main organised and planner’ of attacks, was a former member of the UDR. When still a member he had provided UDR files and photo montages to loyalists and suspected of involvement in earlier attacks. Even after this came to light (in an echo of the treatment of James Mitchell over a decade earlier) he continued to serve in the UDR for several months and ‘to attend RUC/UDR briefings’ before resigning.<sup>lxvii</sup> Such things were not unknown to the RUC or its senior officers. Several local UVF members were identified as having ‘connections to the security forces’ on the eve of the Loughinisland attack.<sup>lxviii</sup> This included having ‘close family members’ working within the RUC. In that context it is perhaps little surprise these ‘corrupt’ relations led to a ‘leak’ by a police officer of the imminent arrest of members of the South Down UVF in the wake of the Loughinisland killings. Or that (following an ‘inexcusable’ decision) the leak was never even investigated.<sup>lxix</sup> Alongside the desire to protect informers, including some of those suspected of being directly involved at Loughinisland who continued to be employed by Special Branch afterwards, this was a social milieu that made collusion an endemic feature of policing.

### **The Tight Gag of Place<sup>lxx</sup>**

Again, such circumstances should not therefore be viewed in isolation. Institutionalised collusion was the result of a confluence of forces. In part, it was the product of the long term character of state counterinsurgency thought and practice, driven less by a doctrine of ‘minimum force’ than of ‘necessity’.<sup>lxxi</sup> It was also the means by which an intelligence-led attritional strategy was realised, generating a grey zone of official deniability around the criminal, murderous actions of state agents and informers.<sup>lxxii</sup> However, none of this can be divorced from the wider social structure, power relations and political order that gave it shape. Into that mix should therefore be added the long term sectarianized character of state and society in the North; not least in the countryside.

Most analyses of sectarian division and segregation (and its relationship to conflict and violence) have focussed on the major cities of Belfast and Derry.<sup>lxxiii</sup> However, such divisions, deeply rooted in a history of colonial conquest, appropriation and settlement, have always been just as stark and real in many rural areas of the North, if often less visible to those unfamiliar with the signs, signals and local social knowledge of the sectarian habitus.<sup>lxxiv</sup> Nor were they simply the product of thirty years of conflict. A complex of segregated social and kinship networks, and the everyday negotiation of interactions and distance between religiously-defined communities of 'neighbours' and 'strangers' was a feature of life in the pre-conflict rural North.<sup>lxxv</sup> These separate worlds found institutional expression in the pivotal communal role of various churches, social institutions like the Orange Order and the Gaelic Athletic Association and local political loyalties fostered to cut across divisions of status and class. Nor have such divisions disappeared. Despite important changes, for many, a contemporary landscape of spatial, social and institutional separation in rural areas is a 'continuing legacy of the troubles.'<sup>lxxvi</sup>

During the conflict, of course, such divisions were all the more acute and relations tense. A study of two villages (one overwhelmingly Catholic the other Protestant) in Co. Armagh in the 1990s demonstrated the everyday lack of contact and avoidance of people from the other community, the tendency to 'stick to your own' and how this had been accentuated by the 'devastating impact' of the conflict.<sup>lxxvii</sup> Indeed these villages were in the very area close to James Mitchell's farm where the Glennane Gang operated, as of course did the IRA. Republican attacks, most notably the massacre of 10 Protestant men at Kingsmill in 1976, also 'fuelled sectarian fear' and insecurity within the unionist community and a sense of 'physical and psychological exposure'. An all-consuming sense of decline, the collapse of community infrastructure and the destruction of social institutions (not least with republican attacks on Orange Halls) permeated the life of the Protestant village by the 1990s. However true, in other border areas there was a widely held perception republican violence was directed at removing the Protestant community from the local countryside.<sup>lxxviii</sup> Given its make-up, the deaths of members of the UDR and RUC in these and other areas were often experienced as community losses by unionists. And certainly there were many state security victims of republican

violence, as well as civilians. In total just over 300 members of the RUC were killed as well as 200 UDR soldiers and a further 61 former members of both.<sup>lxxxix</sup> Virtually all were killed by republican armed groups.

This was the context within which a 'doomsday' mind-set could catch fire in the wake of the signing in 1985 of Anglo-Irish Agreement which, for many unionist, represented an existential betrayal. However partial, parallel attempts to 'professionalise' the RUC also generated tensions in relations between the police and unionist communities, often for the first time.<sup>lxxx</sup> A growing sense of sides being chosen fed directly into the rise of Ulster Resistance as a mass-based 'sort of clean-living paramilitary group' that might be 'deemed respectable and attracted loyalists from the middle classes.'<sup>lxxx</sup> Indeed, the social make-up of loyalist paramilitaries in rural areas (where Ulster Resistance found most of its support) often differed from that of their urban counterparts. The UVF in the small towns and villages of the countryside did not draw its members from working class communities as was primarily (sometimes exclusively) the case in larger towns and cities. Rather, they often came from the very same milieu of 'respectable' rural social groups and classes (and family networks) as were the members of the RUC and UDR.

The potential melding together of the social order of sectarianism and the structure of locally recruited state security forces in rural areas could foster (what has been termed by veteran Tyrone-based political activist Bernadette McAliskey) 'breakfast table' collusion.<sup>lxxxii</sup> Given many loyalists and members of the RUC and UDR were 'drawn from the same population, the same communities, the same families', she contends, RUC officers and UDR soldiers 'sit around the table with their brothers in the UDA and UVF. Collusion is born around that breakfast table. You have collusion before you get your toast eaten'. While Michael Maguire is at pains to point out members of the same family may have very different views and cannot simply be found guilty by association, at the very least such close familial links between security forces and paramilitaries were likely to 'lead to suspicion in the eyes of others'.<sup>lxxxiii</sup>

Certainly these socially embedded networks of family and community, of separation and division, could be mobilised in the organisation and conduct of campaigns of violence. This was as true of the family trees that branched through and bound together the IRA in border areas like East Tyrone and South Armagh as it did of the UVF in those self-same places. However, such

communally and kinship-based networks were also defined by the broader organisation of social and political power and their relationship to the institutions of the northern state. After partition (indeed even before) these social divisions were replicated and reflected in the political order. For unionists it meant localised communal social networks were often interwoven and embedded in the structures of unionist hegemony and the apparatus of surveillance, control and coercion it put into place. This was most obviously so in terms of the coercive arm of the state; the police force. From the foundation of the state, the RUC was overwhelmingly drawn from the unionist community.<sup>lxxxiv</sup> Alongside, the Ulster Special Constabulary (USC), or 'B' Specials, acted as a substantial reserve force and state militia.<sup>lxxxv</sup> Mobilised in times of political crisis the 'B men', working in their own localities, utilised local knowledge, combined with the (regularly employed) draconian powers conferred on the state by the Special Powers Act, as the primary means to enforce rule.<sup>lxxxvi</sup>

Essentially crafted as a counterinsurgency force and seeing their role as 'protecting the state and the unionist community against nationalist subversion' they were deployed to 'keep the Catholic community under close scrutiny'.<sup>lxxxvii</sup> Nationalist antagonism toward the B Specials was borne out of 'harassment and humiliation' experienced at their hands, accentuated by 'the fact [they] often knew their tormentors by name...as neighbours [who were] armed, uniformed, paid and entrusted with special powers'. In contrast to a nostalgia-infused and ideologically potent vision of the pre-conflict Northern Irish countryside as a place of peace and tranquillity, this was rather a long term condition of 'imposed normality'.<sup>lxxxviii</sup> A situation more akin to that of other colonial police forces, for many of whom the RUC and USC became a model; something often celebrated by the RUC themselves.<sup>lxxxix</sup> Indeed there is considerable continuity here with the development of the 'global brand' of the RUC as a model for 'post-conflict' policing in, for example, Iraq.<sup>xc</sup>

Discredited and disbanded after the outbreak of the conflict in 1970, the 'B men' were immediately replaced by the UDR, as a regiment within the British Army, which soon developed its own litany of abuse, illegality and collusion.<sup>xc</sup> Locally recruited like its predecessor, the UDR operated much like a militia in its own locality. Deploying local knowledge in a divided society was central to its function. Indeed initially many of its members (in some areas all

its local commanders) were former B Specials.<sup>xcii</sup> Extensive, chronic collusion between the UDR and loyalist paramilitaries was both soon evident and long known. A report by the moderate nationalist SDLP in the early 1980s noted not only the UDR had 'by far the worst record for serious sectarian crimes' of any British military force but was 'known to have been seriously infiltrated' by loyalist groups.<sup>xciii</sup> As a result, far from being upholders of 'law and order' it was seen 'more as a menace' by nationalists.

As the case of the Glennane Gang amply illustrates, many former and serving UDR members certainly found their way into the ranks of the loyalist paramilitary groups. They were far from unique. Nor was the extensive involvement of UDR members in loyalist paramilitary organisations any secret to the authorities from the earliest years of the conflict onwards.<sup>xciv</sup> Indeed the UDR has been likened to both a pseudo-gang and an eighteenth century yeomanry part of whose function was to control 'the worst excesses of loyalist sectarianism by placing loyalists in uniform under the command of English officers and contain unrest by tactics of intimidation and harassment'.<sup>xcv</sup> In other words, the UDR provided an official, locally-based conduit for grassroots loyalism and, through two decades, 'operated a system of low-level state terror that was tolerated by the authorities because it fitted the overall goals of the security apparatus'. As well as direct involvement in bombings and killings, in the late 1980s and early 1990s members of the UDR were central in the wholesale leaking of intelligence files and photos of suspected republicans to loyalist groups.<sup>xcvi</sup> 'Lost' or 'stolen' UDR weapons had a tendency to turn up in loyalist hands. At that point the ranks of the 'respectable' paramilitary Ulster Clubs and Ulster Resistance included many UDR men. And, of course, both former and serving UDR members were centrally involved in efforts to import an arsenal capable of re-arming loyalism as, beset by a 'doomsday mind-set' in an onslaught against the 'pan-nationalist front', it prepared to launch a new wave of killings, such as those at Loughinisland.<sup>xcvii</sup>

### **Truth and Loughinisland**

In his report the police ombudsman records a catalogue of catastrophic ways in which the police investigation into the Loughinisland massacre was fundamentally undermined.<sup>xcviii</sup> Key was the failure to arrest or question several men (suspected of involvement within hours of the attack) until weeks,

months, sometimes even years later.<sup>xcix</sup> The former member of the UDR previously reported as a key planner and organiser of the UVF in South Down was identified as a suspect within a day of the massacre taking place. Yet he was not arrested for questioning until over two months later, something for which Dr Maguire could find no rationale.<sup>c</sup> Within days of the attack the getaway car was found abandoned close to this loyalist's home and that of another key suspect. While other houses in the area were 'visited', inexplicably, theirs were not; evidence of 'a reluctance by police to conduct enquiries in the areas of the suspects' addresses'.<sup>ci</sup> And so it goes on. Such delays ensured any opportunities to bring to justice the culprits responsible for the Loughinisland attack were lost. Up to the present, no-one has ever been charged or convicted for direct involvement in the Loughinisland killings. Their connections to the security forces likely afforded protection to some. Likewise for those among the killers who were police informers. Despite their supposed role in aiding the police in preventing such violence, senior loyalist 'sources' were not pressed to find out what they could about the killings, apparently in case they implicated themselves in wrong-doing.<sup>cii</sup> Nor did suspected involvement in the gunning down of six innocent men seemingly bar someone from working on behalf of the state afterward. One 'legitimate suspect' continued to act as an RUC informer for many years to come.

Yet the profound insights into state security practices to emerge from the case of Loughinisland do not end there. Time and again the capacity to conduct a full inquiry into what happened was hampered, if not fundamentally undermined by police records having been destroyed and the unwillingness of former members of the RUC, as state servants, to co-operate with the investigation.<sup>ciii</sup> This too was a pattern evident in earlier efforts to get to the truth about the way in which the police and military had run a counterinsurgency campaign centred on the use of agents and informers.<sup>civ</sup> All of which was only compounded by the utter failure of an earlier Ombudsman to do little other than copper-fasten the cover-up of collusion. This formed part of a wider struggle over how to deal with the past and to get to the truth about official wrong-doing.<sup>cv</sup> In that battle, only months before the publication of the Loughinisland report, the current Secretary of State for Northern Ireland Theresa Villiers tied her colours firmly to the mast. In a speech on the 'way forward for the legacy of the past in Northern Ireland' Villiers noted state



forces ‘sometimes fell drastically short’ of expected standards but denounced what she called the ‘pernicious counter-narrative’ that sought to ‘place the state at the heart of nearly every atrocity... through allegations of collusion [and the] misuse of agents and informers’.<sup>cv</sup> Every accusation of state wrongdoing, she argued, ‘is treated as fact, however unsubstantiated’. Indeed, worryingly, she suggested those highlighting state crime and abuse could give ‘spurious legitimacy to the terrorist violence of the present’. This prompted a number of NGOs to condemn this potentially dangerous ‘demonization of human rights defenders’ and victims’ families.<sup>cvii</sup> Praising the ‘dedication, professionalism and courage’ of the police and armed forces, concluded Villiers, ‘remember this... it wasn’t the RUC or the Army who... pulled the triggers at Loughinisland or Greysteel’.

When a literal (‘nothing happened’) version of official denial of state crime fails, argued Stan Cohen, ‘the strategy may switch to legalistic reinterpretations or political justifications’.<sup>cviii</sup> Often the result is ‘interpretive denial’ where the ‘raw facts... are not denied [but] given a different meaning from what seems apparent to others’.<sup>cx</sup> The raw facts of collusion in the Loughinisland massacre are now out in the open. Among those who pulled the triggers in O’Toole’s bar and shot dead six men were former and serving members of the British Army and current RUC informers, using guns imported by other agents and informers. Police colluded with those who pulled the trigger to ensure they would not go to jail, and the guns had been protected from discovery when held by some of the most notorious killers in the history of the conflict. ‘When the police turn a “blind eye” to criminality for the “greater good”, Michael Maguire argued, ‘it can lead to a corruption of the criminal justice process’.<sup>cx</sup> The Loughinisland families still await an apology from Theresa Villiers and the government.

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<sup>ii</sup> Maguire, *Loughinisland*, p.7.

<sup>iii</sup> Maguire, *Loughinisland*, p.6. This definition is taken from the report of the Smithwick inquiry, set up the Southern Irish Government, into the IRA killing of two senior RUC officers in 1989. See P. Smithwick, Report of

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the Tribunal of Inquiry into suggestions that members of An Garda Síochána or other employees of the state colluded in the fatal shootings of RUC Chief Superintendent Harry Breen and RUC Superintendent Robert Buchanan on 20th March 1989 (Dublin, Stationery Office, 2013), available at: <[http://opac.oireachtas.ie/AWData/Library3/smithwickFinal03122013\\_171046.pdf](http://opac.oireachtas.ie/AWData/Library3/smithwickFinal03122013_171046.pdf)>.

<sup>iv</sup> Maguire, *Loughinisland*, p.146.

<sup>v</sup> Maguire, *Loughinisland*. See also M. McGovern, 'Informers, agents and the liberal ideology of collusion in Northern Ireland', *Critical Studies on Terrorism* (2016), DOI: 10.1080/17539153.2016.1175274

<sup>vi</sup> I. Cobain, 'loyalist informers smuggled weapons used in dozens of Troubles murders', *The Guardian*, 9 June 2016, available at: <https://www.theguardian.com/uk-news/2016/jun/09/loyalist-informers-smuggled-weapons-used-in-dozens-troubles-murders-report-loughinisland>.

<sup>vii</sup> Relatives for Justice, *Loughinisland Massacre: Collusion and Cover-up* (Belfast, RFJ, 2014). See also I. Cobain, 'Northern Ireland loyalist shootings: one night of carnage, 18 years of silence', *The Guardian*, 15 October, 2012, available at: <https://www.theguardian.com/uk/2012/oct/15/northern-ireland-loyalist-shootings-loughinisland>; D. McKitterick, S. Kelters, B Feeney & C. Thornton, *Lost Lives: The Stories of the Men, Women and Children who died as a Result of the Northern Ireland Troubles* (Edinburgh, Mainstream Publishing, 1999), pp.1366-1368.

<sup>viii</sup> Aidan O'Toole, quoted in Cobain, *Loyalist Shootings*.

<sup>ix</sup> The other victims were 54-year old Dan McGregor, father-of-three Malcolm Jenkinson, 35-year old Patsy O'Hare and 39-year old Eamon Byrne, father of four, the youngest of whom was just three months old.

<sup>x</sup> The conflict was brought to an end with the signing of the Good Friday Agreement in April 1998.

<sup>xi</sup> McKitterick et al. *Lost Lives*, p.1476. See also J.A. Sluka, "'For God and Ulster": The culture of terror and loyalist death squads in Northern Ireland', in J.A. Sluka (Ed), *Death Squad: The Anthropology of State Terror* (Philadelphia PA, University of Pennsylvania Press, 2000), pp.127-157.

<sup>xii</sup> Maguire, *Loughinisland*, p.2.

<sup>xiii</sup> BBC, 'The dirty war', Panorama, 1992, first aired June 8; British Irish Rights Watch, *Deadly Intelligence: State Involvement in Loyalist Murder in Northern Ireland* (London, BIRW, 1999); Relatives for Justice, *Collusion* (Belfast, RFJ, 2002).

<sup>xiv</sup> B. Rolston, 'Pro-state paramilitaries, truth and transition in Northern Ireland', *Human Rights Quarterly* 28, 3 (2006): pp.652-675.

<sup>xv</sup> D. de Silva, *The Report of the Patrick Finucane Review, Volumes I and II* (London, HMSO, 2012), pp.107-116, available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/246867/0802.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/246867/0802.pdf).

<sup>xvi</sup> De Silva, *Finucane*, pp.252-260.

<sup>xvii</sup> The head of the UDA at this time was John McMichael, killed by the IRA in December 1987. Nelson's South African contact was Richard Wright, uncle of Alan Wright, head of the Ulster Clubs, a mass-based network of loyalist gun clubs set up in the wake of the signing of the Anglo-Irish Agreement in 1985. See J. Cusack & H. McDonald, *UVF* (Dublin, Poolbeg Press, 2000), p.221; P. Taylor, *Loyalists* (London, Bloomsbury, 2000), p.188.

<sup>xviii</sup> De Silva, *Finucane*, p.107.

<sup>xix</sup> De Silva, *Finucane*, pp.96-97.

<sup>xx</sup> Maguire, *Loughinisland*, p.27.

<sup>xxi</sup> Maguire, *Loughinisland*, p.34.

<sup>xxii</sup> Maguire, *Loughinisland*, p.134.

<sup>xxiii</sup> Maguire, *Loughinisland*, p.37.

<sup>xxiv</sup> Maguire, *Loughinisland*, p.35.

<sup>xxv</sup> Maguire, *Loughinisland*, p.8, p.134.

<sup>xxvi</sup> Taylor, *Loyalists*, 192. The senior UDA figure was Davy Payne, a former British army paratrooper and notorious loyalist killer involved in some of the most horrendous and savage sectarian killings of Catholics during the conflict, often torturing his victims before their death.

<sup>xxvii</sup> J. Holland & S. Phoenix, *Phoenix: Policing the Shadows* (London, Hodder & Stoughton, 1996).

<sup>xxviii</sup> When young, Phoenix had served in an SAS-led covert unit in Borneo. This often lionised secret cross-border counterinsurgency campaign dovetailed with US and British destabilisation efforts in Indonesia that would ultimately collaborate with the Indonesian military in the massacre of some half a million people. See Holland & Phoenix, *Phoenix*, p.30. See also J. Newsinger, *The Blood Never Dried: A People's History of the British Empire* (London, Bookmarks Publications, 2010), p.212-213.

<sup>xxix</sup> Holland & Phoenix, *Phoenix*, p.192.

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- <sup>xxx</sup> Holland & Phoenix, *Phoenix*, p.218.
- <sup>xxxii</sup> In 1994 Ian Phoenix was one of the 25 senior police, military and intelligence figures, many intimately involved in running covert operations in the North, killed in the Chinook helicopter crash on the Mull of Kintyre.
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- <sup>xxxiv</sup> Maguire, *Loughinisland*, pp.41-47.
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- <sup>lv</sup> Maguire, *Loughinisland*, p.55, p.59. See Holland & Phoenix, *Phoenix*, p.237.
- <sup>lvi</sup> Maguire, *Loughinisland*, p.62.
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- <sup>c</sup> Maguire, *Loughinisland*, p.121.
- <sup>cici</sup> Maguire, *Loughinisland*, p.112. Most key suspects were only arrested after a holdall containing the clothing used by the killers, and nearby the automatic rifle were found, see Maguire, *Loughinisland*, p.121.
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