

# Killusion

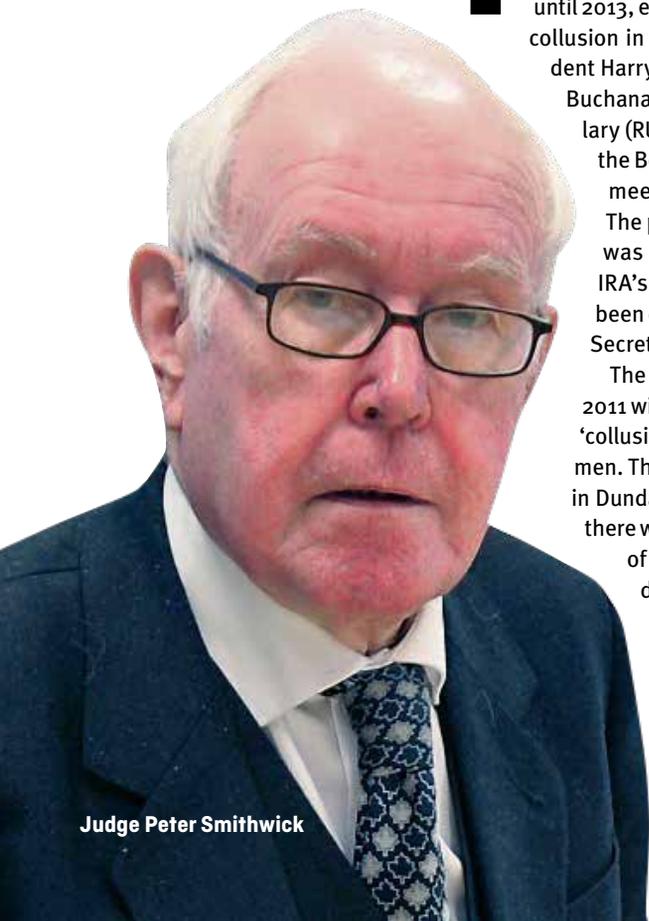
*Full-time for 'Fulton' whose changing and inaccurate evidence sparked the Smithwick Tribunal and whose wide-ranging role is beginning to emerge in other Tribunals*

by Deirdre Young



Kevin Fulton/Peter Keeley

**The Smithwick Tribunal was instigated to pressurise the British Government, tribally, to hold a full public inquiry into the death of Pat Finucane. It was determined to find Garda collusion in the murder north of the border of two RUC officers just after they had met gardaí in Dundalk, but at the last minute evidence from the PSNI stopped it finding Special Branch officer Owen Corrigan to be the colluder, which he certainly anyway wasn't. The Tribunal threw up incidental allegations about the murder of a Louth farmer, Tom Oliver, and the role of double agent, Stakeknife – now being separately investigated – in that murder, and then made an abstract, ungrounded finding of "collusion", which lazy observers have ubiquitously accepted.**



Judge Peter Smithwick

**T**HE SMITHWICK TRIBUNAL was set up in 2005, by the Irish Government on the advice of Michael McDowell, then Minister for Justice, and sat in public in Blackhall Place from 2011 until 2013, examining the possibility of Garda collusion in the deaths of Chief Superintendent Harry Breen and Superintendent Bob Buchanan, of the Royal Ulster Constabulary (RUC) who were murdered North of the Border in March 1989, after a brief meeting in Dundalk Garda Station. The purpose of the RUC officers' visit was to discuss a move against the IRA's Tom 'Slab' Murphy, which had been ordered by then Northern Ireland Secretary of State, Tom King.

The Smithwick Tribunal ended up in 2011 with a strange, abstract, finding of 'collusion' in the murders of the two RUC men. Though it found "no smoking gun" in Dundalk, the Tribunal weakly decided there was indeed less specific evidence of "collusion by gardaí" in the murders. Dutifully, Enda Kenny described these findings as "shocking" and a public and media jaded in affairs Northern determined rather vaguely to remember that Smithwick was about a search for evidence of collusion which it had

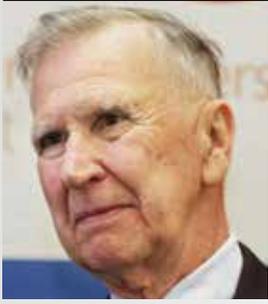
somehow found. What is extraordinary is that Smithwick provided no name for the 'colluder', though it clearly for a long time thought it was Owen Corrigan – even though it wasn't. One of the reasons for this is that there may in fact have been no Garda colluder, a big embarrassment for those who felt a tribunal needed to be instigated and, worse, for those who conducted the inquiry without ever drawing attention to the inaccuracy of the premise that led to it but who saved face by continuingly, through the eight years of its existence, pretending there was one, albeit with less and less specificity.

Smithwick was swayed into its collusion abstraction by the PSNI (which succeeded the RUC) giving untestable, very-late evidence to the Tribunal privately naming a fourth garda who was more plausible than Owen Corrigan as the colluder.

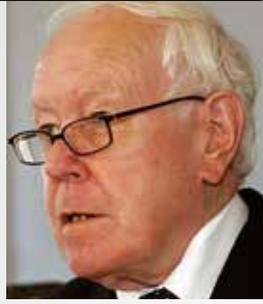
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The Tribunal threw up incidental allegations about the murder of a Louth farmer, Tom Oliver, and the role of double agent, Stakeknife – now being separately investigated – in that murder

## THE TRIBUNALS



**Judge Peter Cory**  
Headed the Cory Collusion Inquiry in 2002



**Judge Peter Smithwick**  
Headed the Smithwick Tribunal from 2005 - 2013

## THE VICTIMS



**Chief Superintendent Harry Breen (RUC)**  
Shot dead in an ambush by the Provisional IRA, 20th March 1989



**Superintendent Bob Buchanan (RUC)**  
Shot dead in an ambush by the Provisional IRA, 20th March 1989



**Tom Oliver**  
An Irish farmer, abducted and murdered by the Provisional IRA in July 1991

## KEY WITNESSES AND FIGURES, IN SMITHWICK TRIBUNAL



**Owen Corrigan**  
Garda Special Branch in Dundalk until 1985



**Patrick 'Mooch' Blair**  
Senior Provisional IRA member



**Kevin Fulton/Peter Keeley**  
Recruited from the Irish Rangers in 1979 to infiltrate the South Down Provisional IRA



**Freddie Scappaticci**  
Former IRA leader alleged to have been a British agent



**Deputy Chief Constable Drew Harris (PSNI)**  
Gave evidence to the Smithwick Tribunal

### **SMITHWICK TRIBUNAL** Fulton: the man whose evidence led to a falsely perceived need for the Tribunal

**S** MITHWICK ALWAYS focused on Corrigan as the colluder because the Cory Inquiry, which prompted the Smithwick Tribunal, unduly relied on the 2003 evidence of a dissembling double agent known as 'Kevin Fulton' - now challenged by a source who spoke to *Village* - that Corrigan gave deadly information to the IRA about the RUC men. In its report the Smithwick Tribunal stated [at 15.1.2]: "This statement was a key factor in Judge Cory's decision to recommend the establishment of this Tribunal, and Kevin Fulton was therefore an important witness before this Tribunal".

In any event Fulton actually seems to have later changed his story (when giving evidence to Smithwick in 2011) to say that Corrigan gave information to the IRA only about a 37-year-old Cooley farmer, informant Tom Oliver, who An Phoblacht then accused of passing on information to Garda Special Branch. Oliver was kidnapped, allegedly interrogated by

Scappaticci and subsequently murdered. The changed story was that Corrigan gave information about Oliver, not about the doomed RUC men; but even the changed story was expressly and ignominiously disavowed by Smithwick, under pressure in a recent High Court case, to the extent it implied that Corrigan's information led to Oliver's death.

In other words everything related to Fulton collapsed, despite Smithwick's paeon to him.

Kevin Fulton had begun to engage with the Smithwick Tribunal in 2006. In its opening statement in 2011, the Tribunal made it clear that "Mr Fulton has elaborated on and expanded the statement he provided to Judge Cory".

The expanded statement was given to Corrigan's lawyers in November 2011. For the first time they saw the central allegation made by Fulton which sensationally implicated Freddie Scappaticci, 'Stakeknife'. It did not concern the murders of the two RUC Officers but instead

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A public and media jaded in affairs Northern determined rather vaguely to remember that Smithwick was about a search for evidence of collusion which it had somehow found. In fact it had not

implicated Sergeant Owen Corrigan in giving information which would lead to the death of an alleged IRA informer, Tom Oliver.

The first reason not to believe Fulton is that a book about him makes no mention of any of this. Admittedly Fulton now distances himself from the graphic book called 'Unsung Hero' about his



**Fintan Callans Roadhouse: exposed so an unlikely locus for a surreptitious meeting between a Special Branch man and a PIRA leader**

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life but this is chiefly understandable as an expedient in the face of the, at least nine, PSNI Investigations arising from it, and the many civil actions in the pipeline. He has already had to pay compensation to the family of Eoin Morley, a Newry man shot dead in 1990, after failing even to enter an appearance in the Belfast High Court to proceedings by his mother.

Nevertheless it is undeniably notable that at no stage in the book does Fulton mention a garda in Dundalk station passing information to the IRA, though it was scarcely something he’d be expected to omit. Nor is there any other evidence – of any sort - that he passed information about Corrigan or other Dundalk gardaí, to his handlers.

Bizarrely Smithwick warmly endorsed Fulton, a man who had made a lifetime “career” of deception, as a highly credible witness, in his final report, even in effect if he completely and absolutely disavowed him in the subsequent legal action. Surprisingly, Smithwick was to say of Fulton: “He sat only metres from me and I observed him throughout. He was a very impressive and credible witness and I have formed the view that his evidence was truthful”.

However, clearly there is a shadow over the statement from Fulton which inspired Cory’s call for what became the Smithwick Tribunal. If this is so it rewrites the history of both inquiries.

Fulton’s similar role in other high-profile investigations will emerge in the coming months.

But what exactly was the core allegations that convinced Cory and then hung Smithwick out to dry?

This is the Fulton Statement as published originally in the Cory Report in 2003:

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

**On one occasion in the late 1980s, I was with my senior IRA Commander, Joseph Patrick Blair and another individual in my car. I knew the other individual to be [Owen] Corrigan, a**

**member of Special Branch of the Gardai. I was introduced by Blair to Corrigan. I knew that Corrigan, who was stationed in Dundalk, was passing information to the Provisional IRA.**

**I was in Dundalk on the day of the ambush of Superintendent Buchanan and Chief Superintendent Breen. I am aware that, after the ambush took place, Joseph Patrick Blair was told by a member of PIRA that Sergeant Corrigan had telephoned the Provisional IRA to tell them that officers Breen and Buchanan were at Dundalk Station.**

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

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

- Kevin Fulton.

Judge Cory redacted parts of his report so – extraordinarily - it’s not possible to know whether any parts of this particular statement were withheld. Corrigan’s legal team was only given access to the unredacted report on 17 May 2011 according to an affidavit drawn up by the Tribunal solicitor in 2014. This gave notice to Corrigan’s legal team that Fulton’s statement would be an issue, as it turns out a crucial and determining issue, for the Tribunal. However, the core allegation of collusion i.e. precisely what exact information passed from Corrigan to a PIRA member was not in the Cory statement. Nor was the Smithwick version of the statement released until November 2011. The statement as published, in what the Tribunal says is the unredacted version of Cory, contains one description of an event – an alleged meeting in a car between a Special Branch man and a member of PIRA. However, Corrigan emphatically denies this ever happened - as did Patrick Blair, the PIRA man who he allegedly met. As this is the kind of meeting policemen have regularly organised for information gathering purposes the paragraph itself is meaningless without knowing the content of the conversation. The rest of the statement is a hearsay allegation, that

Owen Corrigan was a man known as “our friend” who passed information to PIRA. Fulton on cross-examination substantially resiled from even this and actually changed his evidence under cross-examination.

However Fulton’s one piece of direct evidence, which he accepted was at the core of his allegations of collusion was an alleged meeting between PIRA South Down ASU Commander Patrick ‘Mooch’ Blair and former Special Branch Sergeant Owen Corrigan outside Fintan’s Céili House, – a busy roadhouse on the main road, open to public view. Mooch Blair couldn’t drive at this point which is how Fulton, as his driver, can put himself in the car. But for the first time (insofar as can be ascertained) in March 2011, after interacting with campaigners, politicians and security forces about his knowledge of PIRA since 1999, Fulton “revealed” the contents of the conversation between Blair and Corrigan. He alleged that Corrigan told Blair that a Cooley Farmer, Tom Oliver, was giving information to the Garda about PIRA weapons and their movements. After the meeting with Corrigan, Blair was then alleged to have threatened to murder Oliver. Fulton then alleged that soon after the meeting Tom Oliver was picked up at his home by a PIRA team, and handed over to Freddie Scappaticci for interrogation. Oliver was subsequently murdered, it is believed, in the Cooley Mountains. Fulton said the date of the alleged meeting between Blair and Corrigan was sometime in early 1991 though he couldn’t be pinned down to a precise day. He was certain however that weeks after the date of this alleged meeting in July 1991 Tom Oliver was interrogated and shot dead. His body was found with a number of bullets in the back of the head in Belleeks, Co Armagh.

But the date of the alleged meeting outside the Céili House, in the crucial Fulton statement, changed from late 1989 in Cory to 1991 in Smithwick. This is a curious jump considering a senior Judge like Peter Cory would have been punctilious about the accuracy of his reporting of statements. Fulton’s statement changed between Cory and Smithwick. Though Fulton had been interacting with the Tribunal since 2006, Judge Smithwick in December 2011 gave personal assurances to Corrigan’s legal representatives that the Fulton statement hadn’t changed beyond minor corrections.

While cross-examining a witness in 2011 Fulton’s lawyer revealed that Fulton would say that he was at a meeting in Blair’s house on the 20th March when he and Blair were told by PIRA member who came into the house after the shootings that the Garda had given info re Breen and Buchanan. Senior counsel for Owen Corrigan, Jim O’Callaghan, then says that this is a change of evidence and the first he has heard of this meeting, occasioning the following exchange:

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In the end all that Fulton alleged is that Corrigan told Blair that a Cooley Farmer, Tom Oliver, was giving information to the Garda about PIRA weapons and their movements

**O'Callaghan: Why did you mislead Judge Cory?  
Fulton: I would not have purposely misled Judge Cory.**

Even a benign interpretation suggests Fulton misled Cory.

**FULTON TALKS TO CAMPAIGNERS IN 1999**

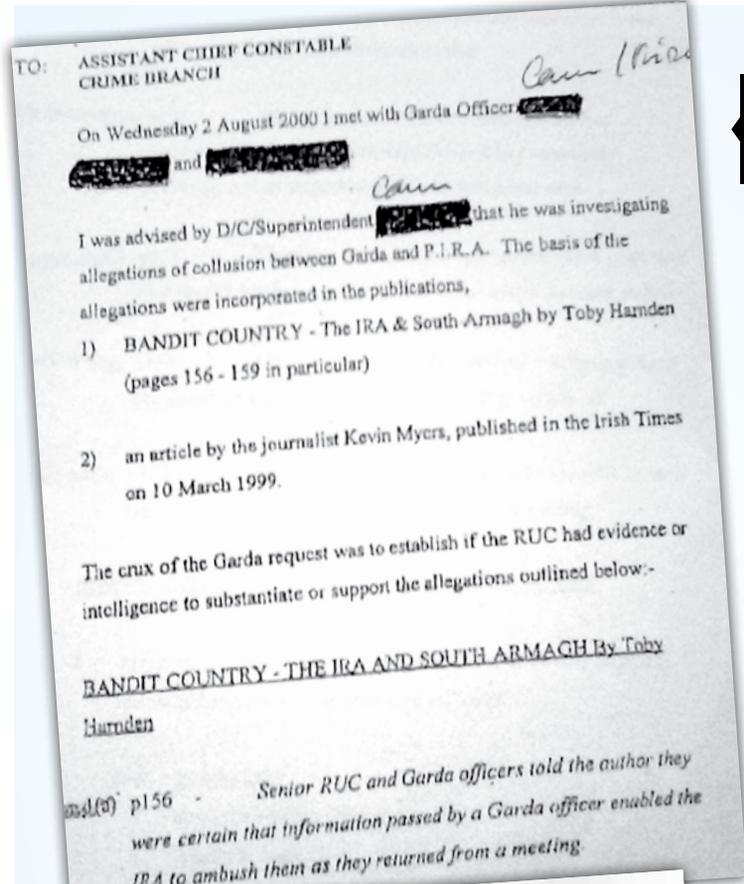
In late 1999 Fulton began interacting with campaigners along the border after being introduced, he said, by the Northern Editor of a British newspaper who he described as a Registered Special Branch informant. He gave information to them about his activities in Newry and Dundalk.

**CORY IN DUNDALK**

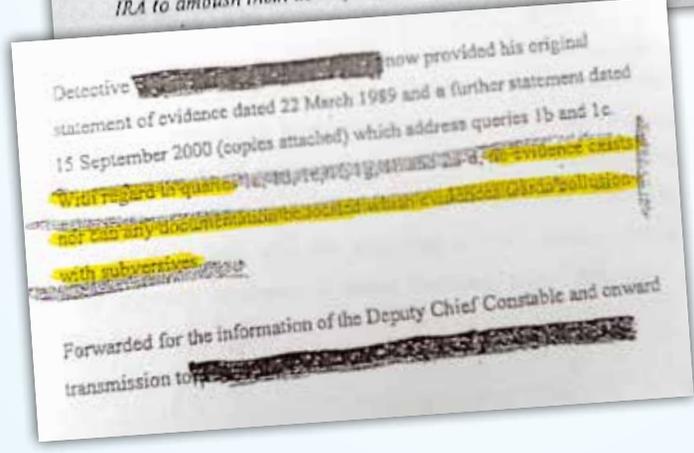
Reliable sources describe what happened. At a meeting in Dundalk in 2003 Cory is said to have remarked to campaigners looking for an investigation into the Breen and Buchanan murders, that while he believed there were questions to answer he had no direct evidence to argue for a Tribunal of Inquiry. According to sources the "Fulton statement" was written up for Fulton including a direct allegation against Corrigan, he signed it and subsequently appeared before Cory just weeks before Cory's final report. This normally reliable source is adamant that what became seen as Fulton's central allegation – the passing of information from Corrigan to Mooch Blair about Oliver, was not made and that, in fact, the allegation was rather that Corrigan had tipped off Blair about Breen and Buchanan's arrival at Dundalk station.

Village's sources, however, are adamant that the initial statement as given to Cory concerned Corrigan giving information to IRA member Patrick 'Mooch' Blair about the arrival of Breen and Buchanan at Dundalk Garda station. Village's sources insists that the statement described how Detective Sergeant Corrigan came out of Dundalk Station and said to 'Mooch' Blair – who was supposedly sitting in a car with Fulton – "they're here", after Breen and Buchanan had entered Dundalk.

Crucially, by the time Fulton reached Smithwick the alleged collusion had morphed into



**Under-researched pieces by Myers and Harndon caused havoc in the RUC**



**Crucially the legible redaction reads "With regard to queries...no evidence exists nor can any documentation be located which evidences Garda collusion with subversives"**

allegations about Corrigan's passing 'Mooch' Blair information about Tom Oliver. Not having access to the original Cory documents it has not been possible to verify – and Patrick Blair and Corrigan utterly deny – the allegations.

The Tribunal unsurprisingly declared that the murder of Tom Oliver was not part of its remit, but then accepted evidence that Corrigan had given information that set him up for murder. This was an unusual approach and of course Corrigan took legal action by way of Judicial Review. Following discussions between the parties, on 25 May 2016, the Tribunal confirmed, in a statement read to the High Court, that, whatever evidence it had heard, its final report had made no finding that the killing of Oliver was as a result of information the ex-garda provided to the Provisional IRA.

The action was then struck out by the High Court on the following terms:

"While the Tribunal accepted the evidence of Kevin Fulton there was no finding in the

Tribunal's report that the killing of Mr Oliver was as a result of the information provided by Mr Corrigan to the IRA".

The Smithwick Inquiry ended with an enigmatic conclusion: a collusion – which this article has shown was not satisfactorily proven, with no named colluder. It is important that it is registered by anyone concerned with the truth that Smithwick had to close down the judicial review – it risked exposing the mess, the confusion and the contradictions that lie at the heart of its final report.

The problem with Smithwick is that it was bedevilled by its dependence on the UK 'Security Services' which determined how little intelligence the Tribunal Team would receive, and it was badly chaired. The Tribunal was instigated largely as a sop to Unionists to maximise pressure on the British Government to carry out inquiries into the likes of Pat Finucane's murder and Bloody Sunday. The exercise was tainted in its conception and in its application.

## SMITHWICK TRIBUNAL Enter Freddie Scappaticci

**I**n 2006 Smithwick received an application from Freddie Scappaticci for legal representation though this was turned down. By May 2011, however, the Tribunal informed Scappaticci's solicitor that as he now "appeared to be a person whose reputation was at risk, i.e. a person against whom allegations may be made", he would be allowed limited representation and information. In a decision made on 6th June 2011 Smithwick allowed his lawyers limited access to Tribunal statements as they applied to him. After a further application heard in July 2011, that legal right was extended to limited legal representation at the Tribunal on specified occasions on matters that concerned him. Scappaticci's lawyers were alerted to at least some of the contents of Fulton's statement before it was distributed to other parties: Corrigan's lawyers did not receive the final Fulton statement with its extraordinary allegations involving Tom Oliver, until November 2011 five months after it was received and just two weeks before the evidence of former PIRA man, Moch Patrick Blair, a crucial witness.

Operation Kenova is an investigation into the executions of suspected informants by the Army agent Stakeknife. It notes that 'many are concerned at the involvement of this alleged State agent in kidnap, torture and murder by the Provisional IRA during 'the troubles' and believe they were preventable'. It will also "look at whether there is evidence of criminal offences having been committed by members of the British Army, the Security Services or other government personnel". The overriding priority of the investigation is to discover the circumstances of how and why people died, to establish the truth regarding those offences covered within the Terms of Reference. According to Eamon Mallie: "A question screaming out for an answer is how the Army and MI5 explain and justify the alleged role of Stakeknife – an agent in that part of the IRA that interrogated and tortured other suspected agents, steps often leading to execution. Under what rules of intelligence gathering or agent handling was that possible? Were other agents sacrificed in those places where Stakeknife was at play?"

From an Italian immigrant family and originally from the Markets area of Belfast builder Freddie Scappaticci was fined for riotous assembly in 1970 after being caught up in "the Troubles" and, one year later, was interned without trial with, among others, Gerry Adams. He became deputy head of the IRA's internal security, its so-called nutting squad. In 1978 he was apparently beaten by a fellow high-ranking member of the Provisional IRA, prompting him to offer his services to the British security services; he eventually came under the control of the British army's shadowy FRU "force research unit". Sir John Wilsey, at one time the most senior army officer

in Northern Ireland, was secretly recorded in 2012 by a military intelligence whistleblower claiming to be a television news researcher.

Wilsey described Stakeknife as "our most important secret", "a golden egg"... "We were terribly cagey about Fred". Scappaticci was named in the press as Stakeknife - Britain's top agent inside the IRA in 2003 and soon resurfaced at a press conference in Belfast, denying that he had ever worked for Army intelligence or been involved in terrorism. However, shortly afterwards he fled Belfast.

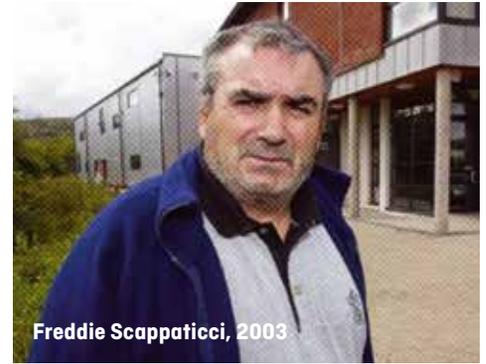
In his book *Killing Rage* former IRA man Eamon Collins, himself killed by the IRA, characterised Scappaticci as "small and barrel-chested with classic Mediterranean looks – olive-skinned with tight black curly hair". He described him as a cold-hearted killer and conveyed graphic details of his viciousness. Scap is now in his late 60s and living in hiding under security-service protection. The media is not allowed to report anything that could suggest where he is living or to show images of what he now looks like.

His activities as agent 'Stakenife' are now the subject of a major investigation in Northern Ireland involving over 50 officers, Operation Kenova.

The Northern Ireland Director of Public Prosecutions, Barra McGrory, announced in 2015 that he had asked the chief constable of the PSNI, George Hamilton, to investigate allegations that Scappaticci was involved in at least 24 murders. It is speculated that he could be responsible for up to 40, some of his victims allegedly sacrificed to protect his identity. McGrory also asked Hamilton to investigate the British security-service controllers who handled him. Operation Kenova is headed by Chief Constable Jon Boutcher of Bedfordshire Constabulary has already begun to talk to victims' families. It is not yet clear if the investigation will extend to the murder of Tom Oliver, and examine the allegations of Fulton made to the Smithwick Tribunal in Dublin that Scappaticci was involved in the kidnap and interrogation of Oliver who was subsequently murdered in Louth before his body was dumped in South Armagh in July 1991. Scappaticci was an important, though unseen presence, at the Tribunal - his interests represented by his lawyers, paid by the Irish taxpayer.

Scappaticci sought legal representation to counter claims by Fulton that he was involved in the Tom Oliver abduction and murder.

At one stage Scappaticci's senior counsel put it to Fulton: "You see, what I am suggesting to you Mr Fulton is that you are desperate for attention...and naming Mr Scappaticci is an attempt to get the Spotlight back on you? ..... And I suggest [to]you that you evidence that he was involved in any matter concerning you or Tom Oliver, or indeed in 1994, is a fabrication



for that reason".

Scappaticci enjoyed increasing levels of representation at the Tribunal and unsuccessfully pursued a Judicial Review of Smithwick's decision to allow Fulton to give evidence behind a screen. His barrister described him as an attention-seeker who lied about Scappaticci. Fulton, of course, denied this. Credible sources maintain that he spoke to Tribunal personnel privately for three days in Dublin and some sources say he denied having anything to do with the Tom Oliver murder. but the Tribunal has denied that Scappaticci engaged with them.

If he did give evidence the legal teams were not informed. The Tribunal was so confused that such anomalies were the least of its problems.

Scappaticci's final handler, an Army Intelligence Major and one of the most important Army intelligence Officers based in Northern Ireland, gave evidence to the Tribunal in April 2012 that, contrary to Fulton's claims, Scappaticci had never given any information about Owen Corrigan colluding with PIRA nor was there any evidence, whatever, to that effect.

Fulton's specific and momentous allegation was that in 2001 Corrigan met Patrick 'Moch' Blair, a senior IRA member, in the car-park of Fintan's Céilí House near Dundalk, and told Blair that Oliver was passing information about the IRA to the Garda Síochána. Blair is then alleged to have threatened to murder Tom Oliver, who was indeed killed soon afterwards. Fulton had become Blair's driver,

Fulton was a professionally trained dissembler and kept his handlers in MI5 and Army intelligence supplied with information for well over a decade.

The arrival in 2012 of the (now) Deputy Head of the PSNI Drew Harris with his evidence not only served to exonerate Corrigan but also to overshadow Fulton's allegations against Scappaticci.

Certainly the Smithwick Tribunal made no useful findings but almost certainly there was no reason for the Smithwick Tribunal in the first place.

Justice and Truth demand that the truth of why Tom Oliver was killed, and the role of one of the most brutal double agents, Stakeknife in it, are ascertained. **L**