

1 THE INQUIRY RESUMED ON TUESDAY, 6TH OCTOBER 2026 AS
2 FOLLOWS:

5 CHAIRMAN: Mr. Rafferty, good morning.

10:00

6 MR. RAFFERTY: Good morning, Sir. Sir, the evidence
7 continues this morning from the various forensic
8 experts who've been instructed on behalf of the
9 Inquiry. This morning, first you'll hear from
10 Mr. Kevin Kershaw. If Mr. Kershaw could take an
11 affirmation please.

10:01

13 MR. KEVIN KERSHAW, HAVING AFFIRMED, WAS QUESTIONED BY
14 MR. RAFFERTY AS FOLLOWS:

16 CHAIRMAN: Thank you, and good morning, Mr. Kershaw.

17 THE WITNESS: Good morning, Sir.

18 1 Q. MR. RAFFERTY: Mr. Kershaw, to make clear for everyone,
19 your expertise is in the areas of fingerprints, isn't
20 that correct?

10:02

21 A. That's correct.

22 2 Q. What I'll do first is take a walk through something of
23 your professional background; is it correct that you
24 have over 40 years of experience in the area of the
25 examination and reporting of fingerprint and associated
26 evidence?

10:02

27 A. That's correct.

28 3 Q. Has that largely been gathered through your work and
29 alongside the Greater Manchester Police, GMP?

1 A. Yes, predominantly through the Greater Manchester
2 Police.

3 4 Q. And was it also with the Metropolitan Police Service?
4 A. For a period of secondment during the time we had
5 bombers in Manchester, that's correct. 10:02

6 5 Q. Is it correct that in the 1990s, as a consequence of a
7 bombing in Manchester City Centre, you were seconded to
8 the Metropolitan Police Terrorist Fingerprint
9 Department at New Scotland Yard?

10 A. Yes, on a kind of rolling programme with a number of 10:02
11 other experts we would attend New Scotland Yard
12 Terrorist Section a week on, a week off, over, well
13 over 12 months.

14 6 Q. Between 2002 and 2012, were you the head of forensic
15 identification services at GMP? 10:03

16 A. Yes, I was head of forensic identification services
17 which included fingerprints, footwear, DNA, forensic
18 intelligence and laboratory services.

19 7 Q. And have you been appointed as the Chair of the ACPO,
20 the Association of Chief Police Officers, National 10:03
21 Fingerprint Training Group?

22 A. Yeah, I chaired the National Training Group for a
23 period of time where we brought together the two
24 national fingerprint programmes, one that was at New
25 Scotland Yard and one was at the Training Centre at 10:03
26 Hartley Hall in Durham, to create a truly national
27 training course for all practitioners.

28 8 Q. And moving to the present day and since 2012, have you
29 worked as an independent consultant both in the United

1 kingdom and overseas in relation to fingerprint
2 examination and analysis?

3 A. Not just fingerprint analysis and comparison but also
4 to develop fingerprint services in areas that have
5 suffered conflict overseas. So, I've developed 10:04
6 services, new services in other countries on behalf of
7 the UK Government.

8 9 Q. What I'd like to do now, Mr. Kershaw, is ask you some
9 questions from a general background or from a general
10 perspective about fingerprints and the discipline of 10:04
11 their analysis. You say in the first report that was
12 provided to the Inquiry that it has long been
13 recognised that it's possible to identify someone from
14 the fingerprints that they can leave behind on surfaces
15 which have been touched. That is because no two 10:04
16 people, not even identical twins, have ever been found
17 to have identical fingerprints?

18 A. That's correct, that's since 1901 in the UK.

19 10 Q. Can you explain to us in simple terms what a
20 fingerprint is? 10:04

21 A. A fingerprint is a -- there are a number of terms for
22 fingerprints, the first one is the one we're familiar
23 with when someone's brought into custody where ink has
24 been applied originally to the hands and the fingers
25 and placed on to a form. We've moved forward now in 10:05
26 terms of a fingerprint record, now we use what's called
27 live scan electronic transfer, the fingerprints from
28 the hands on to a platen which records the fingerprint
29 images. There's also what we call a crime scene mark.

1 A crime scene mark can be a latent fingerprint, an
2 invisible fingerprint whereby we use a developing agent
3 or light sources to visualise a fingerprint. So, there
4 are various methods and various types of fingerprints
5 you can find at a crime scene. But if we're talking 10:05
6 about fingerprints we're talking about ink sets that
7 support criminal records and crime scene marks that
8 were discovered or found at crime scenes which are then
9 developed, or if they appear to be fingerprints that
10 are already visible, taken and then used to compare 10:06
11 against databases.

12 11 Q. Although this may be obvious to some, Mr. Kershaw,
13 you've referred to fingerprints from individuals and
14 from crime scenes, but, in your experience, how can the
15 examination or the assessment of fingerprints 10:06
16 contribute to forensic investigations or then to police
17 investigations after a crime has been committed?

18 A. Well, fingerprints have been one of the primary methods
19 to support investigations for many years now.
20 Certainly since 1984, when we had the Police and 10:06
21 Criminal Evidence Act they became more relevant to
22 investigations whereby it was expected a police force
23 to keep sound evidence rather than just an admission of
24 guilt. So, fingerprints have now been utilised for
25 identifying persons at crime scenes, also eliminating 10:06
26 people from crime scenes and, obviously, in tragic
27 circumstances, natural disasters and other events such
28 as the one we're dealing with, identifying victims of
29 mass fatalities.

1 12 Q. So, a moment ago you said that fingerprint analysis is
2 something that some awareness has been had since the
3 early 1900s and then you've identified a date in 1984,
4 was that a significant change in relation to the study
5 of fingerprints? 10:07

6 A. It certainly was. I mean, if you consider that back
7 prior to 1984 fingerprints were used predominantly for
8 more serious crimes and also burglaries, but obviously
9 when we were in a situation whereby police had to find
10 sound evidence it was the first port of call. I 10:07
11 experienced it, certainly, from 1984 onwards, there was
12 a massive increase in demand for fingerprints to be
13 used as evidence in court. And, of course, the
14 resourcing within fingerprint departments escalated,
15 you know, you're talking about probably some bureaus 10:07
16 twofold to support the requirements of investigations
17 because it's really investigative tool and supported
18 the needs of modern police force under the new, I would
19 say conditions which the Police and Criminal Evidence
20 Act brought in 1984. 10:08

21 13 Q. So, from 1984 there is an increase or a heightened
22 importance in terms of fingerprint analysis to the
23 investigation after criminal incidents. In your
24 experience was that heightened importance or the
25 awareness of that as a technique or an aspect of an 10:08
26 investigation something which was known to the
27 perpetrators of crimes?

28 A. Yeah. I mean, if you consider early times you'd get
29 people who previously would have admitted a crime now

1 being found guilty on fingerprint evidence. They were
2 more likely to be more careful if they continued to
3 offend. So, most certainly there was a greater
4 awareness of the power of this forensic evidence in
5 criminal activity.

10:09

6 14 Q. To be clear, was that the position long before the late
7 1990s?

8 A. Well, I'm sure there's always been savvy criminals, but
9 you hear stories of offenders wearing socks doing
10 burglaries and so on and so forth. But, certainly,
11 there was more greater awareness of forensic evidence
12 after this time.

10:09

13 15 Q. Now, you've referred to fingerprints being taken
14 directly from individuals, so those might be suspects
15 or people of interest to police, is that correct?

10:09

16 A. Yeah.

17 16 Q. The other area from which fingerprints may be obtained
18 could be the scene of a crime or from, for example,
19 house searches, is that correct?

20 A. Yeah.

10:09

21 17 Q. In relation to the first instance, so these are
22 fingerprints taken from individuals, can you tell us,
23 is it just one type of fingerprint that would be taken
24 or are there different types of fingerprints?

25 A. It depends upon the circumstances. I mean, if you have
26 got somebody who's been arrested, say, for shoplifting,
27 a standard set of fingerprints would be taken, that's
28 both the right and left hand, plain impressions,
29 possibly palms, back in the day some police forces

10:10

1 didn't take, as a matter of course palm prints, and
2 then you'd have the rolled fingers of each digit put on
3 that form, and that would be a standard set of prints.
4

5 There was a second set of prints, one whereby someone 10:10
6 had been arrested for burglary, they would take a
7 fingerprint card with the same set of prints and the
8 reason for that, they would set up -- then fingerprints
9 would be classified back in the day before technology,
10 and they would be classified individually which allowed 10:10
11 somebody to search a single finger through a collection
12 rather than a full set. I don't want to go into the
13 complexities of this today but that was a second set.
14

15 The third set of fingerprints would be ones when a 10:10
16 terrorist has been arrested and whereby all areas of
17 ridge detail would be taken, and that would include all
18 the palms, all the fingers, including the tips, the
19 sides of the palms and also what we call the phalanges
20 from the tip of the finger and they -- there's a 10:11
21 technique for capturing that detail as well, so we'd
22 have a more complete set of fingerprints for that
23 purpose.

24 18 Q. In relation to the third type of fingerprint you've
25 referred to, is that what you in your report describe 10:11
26 as a TACT fingerprint?

27 A. That is correct, there are terrorist and
28 counterterrorist fingerprint sets which would be
29 routinely taken when someone is arrested or suspected

1 for a terrorist offence.

2 19 Q. We'll touch upon this later on this morning. In your
3 experience were TACT fingerprints taken in the 1990s by
4 forensic agencies or by police?

5 A. Most certainly, yeah. I mean my own police force, when 10:11
6 I worked on terrorist cases we would -- we were
7 actually trained to take these sets. We would support
8 an officer taking them and advise them so they got as
9 much detail as possible. But, certainly, TACT prints
10 would be taken when somebody was suspected or arrested 10:12
11 for a terrorist offence.

12 20 Q. In relation to fingerprints taken or recovered from the
13 scene of a crime or from, for example, a house search,
14 can you, in practical terms, give us your view of the
15 considerations that an investigator would have, or 10:12
16 should have, in mind in terms of trying to find
17 somewhere that could be recovered or from which a
18 forensic opportunity could be taken?

19 A. Okay. So, we've got a particular location where there
20 has been some criminal activity, it wouldn't actually 10:12
21 be the investigator who'd make that call, it would be
22 crime scene examiner. Crime scene examiners get trained
23 for a number of years, they're aware of all the
24 development techniques that can be applied at a crime
25 scene. So, let's just work through them scenarios. 10:13
26

27 Firstly, there's most obvious one, a latent
28 fingerprint; a mark that's been left, for instance, in
29 blood, grease, oil, et cetera. It's an obvious

1 fingerprint and it can be easily recognised and the
2 officer, the crime scene officer would potentially take
3 a photograph of that with a label to identify where it
4 had come from.

5
10:13
6 Then you are then looking at what we call latent
7 fingerprints, sweat marks on surfaces that are capable
8 of retaining a sweat mark impression. These are
9 invisible. Now, as time's gone on, we've developed
10 techniques that are non-destructive using various types 10:13
11 of light sources whereby a crime scene examiner can go
12 around an area -- say, for instance, I touched this
13 screen here, this potentially latent fingerprints on
14 that surface, there's potentially latent fingerprints
15 on that surface, I could shine my torch, see the 10:13
16 fingerprints, fluoresce with the light source, and then
17 I could either take a photographic image of that or
18 then make a judgment call in terms of whether to powder
19 it with range of powder to make it more visible to the
20 naked eye. 10:14

21
22 And then, of course, there's a third method which would
23 be on surfaces that you can't see a fingerprint. For
24 instance, on items such as wood or indeed on these
25 papers that I've got here. We could then make a 10:14
26 judgment call whether to recover that item, a porous
27 item, and submit it to a chemical enhancement
28 laboratory whereby a range of chemicals could be used
29 to develop the latent fingerprint, make it more visible

1 and there are a range of chemicals that we could use.
2 The most two popular chemicals are on paper, something
3 called ninhydrin which, you dip the paper into the
4 ninhydrin and a finger mark would develop. Or the
5 other one is Super Glue, cyanoacrylate, whereby you 10:15
6 would take something like glass, you'd place that or
7 metal, a non-porous item like plastic and you could
8 place that in a cabinet, fume it with Super Glue fumes
9 and white fingerprint would be developed. So, them
10 really are the three types of fingerprint you could 10:15
11 encounter at a crime scene and how you would actually
12 manage that in terms of how you would develop a
13 fingerprint.

14 21 Q. If I understand your evidence then, is it correct to
15 say that the prospect of the potential fingerprint 10:15
16 opportunity, the strength, if I can put it like that,
17 of the prospect of a positive, something that could be
18 checked ultimately --

19 A. Yeah.

20 22 Q. -- did that depend on, for example, the surface upon 10:15
21 which a fingerprint had been left?

22 A. Yeah, I think it's useful for me to say to the Inquiry
23 that there are a range of reasons why fingerprints can
24 be found. First, the donor, they've got to be
25 sweating, you know. You've got to be having sweat on 10:16
26 the some of your ridges to leave an impression. And
27 then, of course, you're then considering a range of
28 issues such as the climatic conditions at the time. In
29 other words, if you put a mark on a mirror in a

1 bathroom that's steaming up, or a kitchen, it's less
2 likely to be retained. If there is heavy deposits of
3 contamination on surface, it's less likely to leave an
4 impression, in fact you may actually remove some of the
5 contaminants to leave a fingerprint rather than place 10:16
6 one on the surface. So, there's a whole range of
7 reasons why a fingerprint can be found and why a
8 fingerprint can't be left on a surface. And there are
9 occasions where a considerable amount of contamination
10 can reduce the likelihood of it. 10:16

11
12 Also, the fact that if somebody's forensically aware,
13 the less likely to leave a fingerprint, they may wear
14 gloves or they may handle an item more carefully, you
15 know. So, there's a whole range of reasons why we find 10:17
16 a fingerprint in some situations and why we don't in
17 others.

18 23 Q. So, one consideration might be, for example, the type
19 of surface that the fingerprint could be left upon.
20 Are two other considerations as follows, first of all, 10:17
21 the size of the sample that has been left, can the size
22 vary depending on, for example, the level of pressure
23 that has been exerted by the person who owned the
24 fingerprint?

25 A. I've been amazed on occasions. I mean, I've actually 10:17
26 found fingerprints on something as small as an
27 electrical wire and sufficient detail being left,
28 because it potentially was optimum conditions when that
29 item was touched. Well, then again there are many

1 other situations where you've got a large item where
2 you've not found fingerprints. So, it's an amount of
3 pressure being applied. Your fingerprints are elastic
4 and distortion can also reduce the likelihood of a good
5 fingerprint being found. So, for instance, if I'm 10:18
6 lifting something light up, like this pair of glasses
7 here, I'm more likely to leave a fingerprint, a good
8 one, that's in a controlled condition than if I was
9 picking up this table here and applying a lot of
10 pressure. Applying a lot of pressure can seriously 10:18
11 distort a fingerprint.

12
13 So, there are a significant number of things you need
14 to consider when you're looking for fingerprints. But,
15 certainly, one is delicately holding something. 10:18
16 Another one is holding a heavy item. And then you've
17 got optimum situations where you've a controlled
18 condition, the environment is clean, the environment
19 has no condensation and then you're in a situation
20 where the person's sufficiently sweating to leave a 10:18
21 good print. So, there's a whole range of scenarios you
22 could encounter when you are examining a crime scene
23 and from excellent conditions to very, very difficult
24 ones.

25 24 Q. Can the prospect of obtaining fingerprints from a scene 10:19
26 be impacted by, as you said earlier on, referring to
27 environmental conditions, or climatic conditions, so
28 things such as fire exposure, water exposure or simply
29 exposure to elements?

1 A. Massively. Massive.

2 25 Q. Is there a challenge for investigators in terms of
3 discriminating between multiple fingerprints left on
4 the same area or close by to one another?

5 A. There is and there isn't. Obviously, first when you go 10:19
6 to a scene each scene is unique in itself. It doesn't
7 matter whether I'm examining this room here today or I
8 go into another room, there'll be potential challenges
9 in whatever area. And with the experience of the crime
10 scene examiner they will evaluate what are the best 10:19
11 techniques. It may be we use light sources first to do
12 a non-destructive examination of a scene. And it also
13 depends upon the type of scene that you're dealing
14 with, whether it's internal or whether it's external.
15 Certainly, externally you can't control the conditions 10:20
16 as easily than you can in an internal condition.

17

18 You know, I could talk all day about the varied
19 conditions that could be applied but, it depends upon
20 the circumstances most certainly. Whether you find 10:20
21 multiple impressions or not, that, again, depends upon
22 (a) when the mark was left, because the finger marks in
23 here, no matter how clean we keep a surface there may
24 be residual fingerprints that have been left for a
25 period of time, far exceeding the time when the offence 10:20
26 occurred or the incident occurred. And then you've got
27 the more -- you know, if you've got this room today I
28 would imagine there will be considerably more finger
29 marks left on items indiscriminately whist we're all in

1 here than when the cleaner has been round tonight, you
2 know. So, there are a whole range of reasons why
3 fingerprints are left. The climatic for one. The
4 amount of interference, the amount of footfall. We can
5 talk all day about why fingerprints are left and how 10:21
6 many are left there.

7 26 Q. I'd like to ask you a question now about the testing of
8 items recovered from a scene for fingerprints. The
9 Inquiry heard some evidence yesterday from Dr. Avenell
10 about the difficulty that investigators can be faced 10:21
11 with when it comes to having an item which is recovered
12 and then the decision which has to be made as to which
13 test to carry out, whether, for example, a test should
14 be made for fingerprints or whether or not a test
15 should be made for DNA analysis. Can I ask you to 10:21
16 speak about that from the perspective of fingerprint
17 assessment and particularly with the timeframe that
18 we're concerned with, the late 1990s?

19 A. Well, them days -- if we're going back to the '90s,
20 certainly most definitely fingerprints were the primary 10:22
21 forensic tool. However, DNA, you know, this incredible
22 technique had been developing and building earlier in
23 the '90s. And most certainly, by '98 I think
24 investigators and the forensic community were actually
25 being -- had more confidence in DNA in terms of its 10:22
26 reliability and usability in investigations. And, to
27 be fair, it was really the early days. I mean, I took
28 over responsibility for both fingerprints and DNA
29 probably about 2000, 2001 and it was at that, probably

1 post-2000s that we realised we had an incredible
2 forensic tool. And it was at that time where we then
3 started to have a dilemma in terms of -- so, if you're
4 asking me the question around the time of the Omagh
5 incident I would say that it was still earlyish doors 10:23
6 for DNA. However, people were getting switched on to
7 the fact where we did have that dilemma, do we search
8 for DNA, do we search for fingerprints? Now, yes,
9 we're better rehearsed in that, in the current time and
10 yes, we've now got better techniques. For instance, I 10:23
11 mentioned earlier that non-destructive light sources
12 would be used now. If we had a situation where it was
13 a very serious crime I would say that the crime scene
14 examiner, where both incredible intelligence tools,
15 fingerprints and DNA, they would have a discussion on 10:23
16 what would be the best method forward.

17
18 Going back to the late '90s, I don't know where we were
19 although I do know in some of the reports there is
20 reference to trying discriminate in terms of which 10:23
21 technique should be used for any future exhibits, DNA
22 versus fingerprints. But it certainly was fingerprints
23 was the primary investigative tool forensically, but
24 the new kids on the block were definitely DNA and that
25 has shown its worth going forward. But we would still 10:24
26 have that challenge now; fingerprints versus DNA. I
27 understand there's been research done on extracting
28 small amount of DNA out of a fingerprint, a sweat mark,
29 but how far that is taken in reality when it comes to

1 making a call which would be best, you've got -- you've
2 still got the element, do we destroy a fingerprint for
3 the sake of capturing, collecting the DNA and vice
4 versa.

5 27 Q. So, to summarise; in 1998, fingerprints were the 10:24
6 primary tool when compared to DNA in your experience
7 but the papers that you have received do indicate that
8 there was an awareness --

9 A. Yes.

10 28 Q. -- as between the two techniques that there could be at 10:24
11 least a potential for one examination to impact the
12 potential outcome of the other examination, is that
13 right?

14 A. That is correct, yes.

15 29 Q. What is your understanding, certainly in terms of the 10:25
16 period that we're concerned with, so, the late 1990s,
17 of what constituted a good fingerprint or a fingerprint
18 with sufficient detail?

19 A. Okay. Well, I mean my views haven't changed, we did
20 have a period where we moved from what's called the 16 10:25
21 point standard to a non-numeric, but the principle is
22 still the same. As long as a fingerprint is found, and
23 I'm talking about at practitioner level here, I'm
24 talking about the ability to make a comparison and make
25 a good decision. You would be looking at sufficient 10:25
26 features or ridge characteristics of sufficient quality
27 to be confident that you could compare them against a
28 set of fingerprints under review, whether suspect or
29 otherwise, or elimination set or otherwise. So, first

1 and foremost, you'd have to find sufficient ridge
2 detail. Now, that's the first thing. But, of course,
3 when we're talking about a chance mark found at a crime
4 scene it then has got to be put in the context of the
5 overall investigation and what does that fingerprint 10:26
6 tell us? For instance, if this fingerprint was found
7 on a cup and it was mark in blood at a crime scene and
8 that blood matched that of the victim or the suspect,
9 that would be significant. However, if that
10 fingerprint was found, a latent fingerprint in a bar 10:26
11 where many people had been and it had no blood on it,
12 it might not be as significant as the glass marked with
13 blood on.

14
15 So, there's two ways of looking at fingerprints; one in 10:26
16 terms of purely practitioner level, has it got enough
17 detail for me to make a confident comparison and come
18 to a confident conclusion, and at the same time does it
19 actually -- does it actually tell us anything? Does it
20 advance the investigation? And that's where you would 10:27
21 be consulting with the investigator in terms of your
22 primary exhibit. So, if there was a number of exhibits
23 recovered from a crime scene, they'd have to be
24 contextualised by the investigator and the crime scene
25 examiner in terms of what does that fingerprint tell 10:27
26 us?

27
28 So, that's really giving you both sides of it,
29 practitioner level and investigatively.

1 30 Q. So, you've referred to two phrases I'm going to ask you
2 about, one is ridge characteristics and then another
3 term that you used 16 point. So was, there a minimum
4 number of characteristics that had to be obtained in a
5 fingerprint to have, potentially, a forensic outcome or 10:27
6 some value?

7 A. Yeah. At one time each police force had their own what
8 we call standard, you know some may have had what's
9 called a 16 point standard, some may have a 20, some
10 have a 10. And I think it was probably 1957 a decision 10:27
11 was made at the Home Office and chief officers to go to
12 a standard to be accepted to all courts. In that case
13 we moved to a 16 point standard. Further down the line
14 - I was actually involved in this - a number of senior
15 practitioners nationally were asked to get together and 10:28
16 look at why did we have a magic number of 16 when, in
17 fact, we were quite confident in terms of having a
18 fingerprint under comparison with eight to ten ridge
19 characteristics. Now, I worked in a small group of
20 about eight of us and we came to the conclusion that it 10:28
21 wasn't necessary to use numbers. We moved to what was
22 called a non-numeric standard whereby -- this was
23 probably after 1998, early 2000s. But, it meant that
24 as long as there was sufficient detail of sufficient
25 quality, so it's quantitative, quality and taking a 10:28
26 holistic approach. In other words, if them features
27 were in such a configuration that in themselves they
28 were unique, we could be confident to give that
29 information to investigator and confident we made an

1 identification.

2 31 Q. Can I put it like this, a fingerprint that had 16 ridge
3 characteristics in 1998 was what we considered one to
4 have sufficient detail, is that correct?

5 A. Sufficient detail. 10:29

6 32 Q. But then, after that period of time --

7 A. Can I just in come in there. There was also an another
8 scenario whereby if you had two fingerprints from the
9 same scene, potentially the same exhibit, that
10 displayed 10 ridge characteristics that what we called 10:29
11 the 10 and 10. And as long as there was at least eight
12 in each one that was different than the second mark,
13 that could also -- that was admissible in court as
14 well. So, we had the 16 point standard and the 10 in
15 10 scenario whereby the court would be satisfied that 10:29
16 an identification had been made.

17 33 Q. You've referenced the court could be satisfied, is that
18 what might describe as an evidential sample?

19 A. That was an evidential sample.

20 34 Q. And could fingerprints, in your experience, that fell 10:30
21 below the 16 point standard or below the 10 in 10
22 standard, could they be used for other purposes if not
23 evidential purposes?

24 A. Certainly. If we had a fingerprint under review and we
25 were satisfied there were eight clear ridge 10:30
26 characteristics in agreement, we would be satisfied and
27 it was agreed with our own police force, that we could
28 advise officers that although we were satisfied an
29 identification had been made, there was insufficient in

1 that fingerprint under comparison to provide an
2 evidential statement.

3 35 Q. When a fingerprint was obtained as a result of the
4 examination that would be carried out, Mr. Kershaw, is
5 it correct to say that the value of that fingerprint is 10:30
6 determined by reference to an investigator's ability to
7 compare it to another fingerprint, so something that
8 might be, for example, stored on a database?

9 A. I'm sorry can you go again. You said investigator
10 comparing it, it wouldn't be an investigator, it would 10:31
11 be a fingerprint expert.

12 36 Q. A fingerprint expert. Well, the question is in terms
13 of determining whether or not a comparison could take
14 place once a fingerprint was obtained from an
15 individual or from a scene, is taken whenever a 10:31
16 comparison is attempted with another fingerprint, is
17 that correct?

18 A. Yeah.

19 37 Q. So, in 1998 what archive or what facility or capacity
20 did fingerprint experts have to go off and carry out 10:31
21 those comparison exercises?

22 A. Well, if we go back to 1993 which was when the first
23 what we call AFIS, which is automatic fingerprint
24 recognition systems were introduced in the UK albeit on
25 a gentle scale building up to probably 2000 where the 10:32
26 majority of police forces had them, you had a number of
27 what are called local AFIS tools, automatic fingerprint
28 searching. In addition to that, would you have a
29 manual fingerprints collection. Now, each force would

1 have their own section of the national collection. So,
2 Manchester would have their own collection of about a
3 million sets of fingerprints. The same in west
4 Yorkshire, Lancashire, et cetera. But, when we took
5 fingerprints in custody we would take a second set and 10:32
6 New Scotland Yard would hold the National Archive. So,
7 for every set of prints we had in Manchester, there was
8 a duplicate set that populated in the national
9 database. But at local levels we had all the sets of
10 fingerprints who'd been arrested on offences, 10:32
11 indictable offences where we would take fingerprints,
12 they were held in our local collection. That was
13 replicated around the UK.

14
15 In addition to that, I mentioned earlier about what we 10:33
16 called singles, these were when people committed
17 burglary or anything akin to burglary or more serious
18 crime whereby we take a second set of fingerprints, and
19 basically them sets of fingerprints would be cut up,
20 because it would be on a cardboard sheet, and basically 10:33
21 a right hand and left hand would be filed in cabinets
22 and they would be classified individually, each
23 fingerprint. So, you had all the right thumbs,
24 forefingers, mid-fingers, ring and little fingers in
25 one draw and, similarly, with the left hand. And each 10:33
26 one of them fingerprints would be individual actually
27 classified, determined by the type of pattern that was
28 found on that fingerprint so that we could search
29 single fingerprints which were predominantly the ones

1 that we found at crime scenes such as burglaries and
2 murders. So, that was a second database -- that's a
3 third. You've got the automated systems that started
4 developing after 1993; then you've got the manual
5 collection that we held at each Fingerprint Bureau at 10:34
6 local level; the manual one that was held in New
7 Scotland Yard; and then you've got your singles index
8 that used for burglary and all types, but then there
9 was another collection and these were what we called
10 "active files." These were the sets of fingerprints of 10:34
11 people known in local districts of Manchester where we
12 had intelligence or information that they were
13 offending. It may be that they were offending in terms
14 of burglary, it may be they were offending in terms of
15 theft of motor vehicles which was a big thing back in 10:34
16 the day. But, nonetheless, they were filed in
17 classification order when we got intelligence that
18 someone was active. We also got information when a
19 person was an active offender had been released from
20 prison and we were informed in our local area that a 10:34
21 certain person was now out and about and he was
22 predominantly committing burglaries or theft of motor
23 vehicles offences, so that person would be put in your
24 active. So, when you got a job in on fingerprints
25 where a fingerprint had been recovered from either a 10:35
26 burglary or a theft of a motor vehicle, the first place
27 you would be looking is in your active files because
28 they had known people in your area that we know are
29 actively offending. And back in them days, offenders

1 actually offended in their own area. It's only further
2 down the line where people become more mobile. But it
3 was a very effective method of making, you know, making
4 identifications other than ones that were suspects
5 given we were just doing a comparison

10:35

6 38 Q. Mr. Kershaw, is it your expectation that each force
7 kept their own archive of active files as you call them?

8 A. Most -- well, it was common practice. Certainly, I
9 work closely with all the Metropolitan Police forces,
10 like New Scotland Yard, West Yorkshire and West
11 Midlands, we were the big four, if you will, in and
12 around all the regional bases. Each police force had
13 active files at a local level for burglary, but if
14 we're looking at high level crime, like people who had
15 been offenders, rapists and murderers, organised crime
16 group members, we had what was called a major crime
17 desk, we had a dedicated team and they had an active
18 file of all serious offenders and, again, that would be
19 our first port of call if we had a murder, if we had a
20 violent offence, such as rape. Or if we had something
21 that suggested it was an organised crime group. We
22 actually lived and breathed intelligence. This wasn't
23 a case of people sat in a laboratory and waiting for
24 someone to give us a name to compare, we were actually
25 part of the investigative team.

10:36

10:36

10:36

10:37

26
27 I'll give you simple for instance here. If I was
28 working at a local level and I was given a name,
29 Kevin Kershaw is believed to have committed a burglary

1 in a particular area of Manchester, I would check that
2 suspect out against the crime scene marks that we'd
3 found. But not only that, I would then go on that
4 person's criminal record, I would check his associates,
5 and I would also check to see if he had a sibling who 10:37
6 could potentially have been involved in that crime as
7 well. And more often than not, you were probably --
8 probably three out of ten times you would be giving the
9 investigator a new name. So, that's how we operated in
10 terms of the active files and so forth. 10:37

11 39 Q. Thank you, Mr. Kershaw. I'd like now to turn to the
12 review that you carried out of papers relating to the
13 investigation after the Omagh bombing?

14 A. Mm-hmm.

15 40 Q. It is correct to say that you were carrying out a 10:38
16 review of those papers rather than to the effect of
17 carrying out your own investigation, isn't that
18 correct?

19 A. Yes.

20 41 Q. At the start of your report you referred to the 10:38
21 significant challenge that the investigation of the
22 bombing could have faced; can I ask are you speaking
23 generally or specifically in relation to the process of
24 obtaining or studying fingerprints?

25 A. I mean I've dealt with kind of high level incidents in 10:38
26 the past and I can appreciate this was an absolutely
27 unique incident. It was, obviously, the level of loss
28 of life and people injured, but also the amount of
29 damage done, not only at the time of the bomb blast but

1 then as the emergency services came in and they were
2 foaming everything down, the taking care of the injured
3 and the deceased, et cetera, over a massive area. This
4 would have been an incredibly challenging incident to
5 deal with.

10:39

6 42 Q. Can I ask you, what is your understanding of the
7 relationship that existed between the RUC Fingerprint
8 Bureau and those within FSANI who were tasked with
9 fingerprint analysis?

10 A. Well, in general terms - I mean, I don't know the
11 people personally, but going off how we operated in the
12 police service, they weren't actually connected. From
13 my understanding, it doesn't appear they were connected
14 as similar with myself. The Fingerprint Unit would be
15 a police entity in its own right, governed by the
16 police, whereas you'd call upon the services of the
17 forensic side of things separate to the kind of
18 operational side of forensics which was fingerprints
19 and crime scene.

10:39

10:39

20 43 Q. You have identified what you describe as an area of
21 good practice in relation to the work that was carried
22 out in relation to the fingerprints after the bombing
23 and that's in relation to the training of those
24 carrying out that work, is that correct? But also in
25 relation to the fact they were checking instances of
26 comparison of fingerprints?

10:40

10:40

27 A. Oh, yeah, yeah. I mean, there's no doubt whatsoever
28 that the office, the fingerprint experts who dealt with
29 this incident, they were highly qualified to the

1 correct standard and the methods that they employed, in
2 particular, second checking the comparisons after the
3 first officer had completed and come to a decision has
4 always been seen as good practice.

5 44 Q. So, do you consider that the potential value of 10:40
6 fingerprint examinations was known to the staff working
7 within FSANI and within Fingerprint Bureau at that
8 time?

9 A. Sorry?

10 45 Q. Do you consider that from the papers that you have 10:41
11 received that the potential value of fingerprints was
12 known to staff who were working at that time?

13 A. Oh, yeah. I mean, yeah, it is significant,
14 fingerprint, it does have the value and certainly they
15 knew that was an important element of the 10:41
16 investigation.

17 46 Q. On the issue of strategy, you comment in the report
18 that you have not received any indication that there
19 was a formal forensic strategy in relation to
20 fingerprints but you say that that was not surprising 10:41
21 for the time?

22 A. No, no. As I say, from 1984 onwards, forensics started
23 to develop. And further down the line, as there was
24 the demand to increase the number of crime scene
25 examiners, as there was a demand to increase the 10:41
26 numbers of fingerprint practitioners, et cetera, lab
27 technicians to service this growing demand from the
28 various forensic products, it was decided that we
29 needed somebody to start managing these and coordinate

1 crime scene and all the different technicians,
2 fingerprints, footwear, et cetera. Then it was at that
3 point where we started to create what are called
4 scientific support managers, crime scene managers,
5 people who could liaise with the investigators, the 10:42
6 SIOs, to come forward with a common plan. That didn't
7 really happen till a while after the Omagh bombing.

8 47 Q. From the initial aftermath of the bombing, Mr. Kershaw,
9 you go on to say that there is the development of a
10 formal strategy which includes the input of others from 10:42
11 outside the RUC or the FSANI team. And you refer to
12 the input of Mr. Barclay and then Dr. Davidson?

13 A. Yeah.

14 48 Q. And you say at paragraph 5.4 of the Report 2A, that:
15
16 "By December 2001, considerable work had already been
17 completed in terms of reviewing the initial forensic
18 response to the Omagh bombing and agreeing a strategy
19 aimed at maximising forensic opportunities going
20 forward." 10:43
21

22 Is that correct?

23 A. That is correct, yeah.

24 49 Q. And you appear to make that comment with approval as to
25 how matters were being addressed at that time? 10:43
26

26 A. Sorry?

27 50 Q. You appear to make that comment with approval of how
28 matters were being addressed at that time?

29 A. Yeah, yeah, I mean, they're kind of getting their act

1 together and, obviously, looking at that area, for me I
2 was quite interested in that, and that was the right
3 approach.

4 51 Q. In relation to the evidence which was obtained from the 10:43
5 scene of the Omagh bombing, you have referred to the
6 report of a Mr. Dinsmore, which was completed in 2001
7 and that's at paragraph 5.8 of your report,
8 Mr. Kershaw.

9 A. Yeah.

10 52 Q. Is it your understanding that items related directly to 10:44
11 the initial scene, so this include vehicle parts and
12 debris typically collected from such an incident, were
13 the subject of examination for fingerprints?

14 A. Yeah.

15 53 Q. And is it your understanding that none of those items 10:44
16 revealed any usable fingerprints?

17 A. That's correct, yeah.

18 54 Q. And you go on to say that other items, not from the
19 scene, were the subject of examination for
20 fingerprints, is that correct? 10:44

21 A. That's correct.

22 55 Q. And you refer in your report to two telephone boxes
23 along with coins, a scanning receiver, Maxon, an
24 envelope and a card, is that correct?

25 A. That's correct. 10:44

26 56 Q. Which produced, so far as you're aware, 77 finger or
27 palm prints, is that correct?

28 A. That's correct, yeah.

29 57 Q. So, from that point of 77 finger or palm prints which

1 were then recovered, what is your understanding of the
2 process that then occurred in relation to attempts to
3 compare those with other fingerprints?
4 A. well, the ones that were comparable -- so, we're now
5 looking at the recovery of a number of fingerprints and 10:45
6 if I refer back to what I mentioned earlier about the
7 kind of threshold, the practitioner then considered all
8 these fingerprints, considered whether they had
9 sufficient ridge detail of sufficient quality and then
10 at that point they made a call in terms of what would 10:45
11 go forward for searching, what would be stopped
12 immediately because it had no value in terms of what
13 was found within the images. And then, from that
14 point, a number of them fingerprints were then compared
15 or they were searched on an AFIS technology. 10:46
16 58 Q. So, of the 77 recovered prints you refer to 22 of those
17 being considered to contain insufficient ridge detail
18 for the purpose of comparison either against suspects'
19 fingerprints or searching against databases, is that
20 correct? 10:46
21 A. That's correct.
22 59 Q. And of the remaining 55, your understanding is that
23 searches were made of what's described as automatic
24 fingerprint recognition computer system?
25 A. That's correct, yeah. 10:46
26 60 Q. And of that 55, was it a smaller number that were then
27 in factor retained by the AFR system?
28 A. A small number were retained on the system, that is
29 correct, yeah.

1 61 Q. So, what is your understanding of really how that
2 outcome was arrived at? 55 were able to be checked but
3 then it appears a smaller number were then capable of
4 actual checking?

5 A. Yeah. Basically, you can use an AFIS system to search 10:47
6 outstanding fingerprints and these were all outstanding
7 because they were compared against suspects. At that
8 point, they would make a call on what are the best ones
9 to retain on the system. In other words, some may have
10 been fragmented fingerprints that just about reached 10:47
11 the threshold but how likely would they be in terms of
12 getting a hit on an AFIS system? Without seeing these
13 marks and making any kind of evaluation itself, I can
14 surmise that that was a judgment call, these are the
15 best quality with sufficient detail that were confident 10:47
16 that were potential for a hit on the system. The
17 others were probably on the periphery where let's give
18 it a go and see how we go from there. And hence, only
19 holding a certain number of them fingerprints on the
20 system. 10:47

21 62 Q. And you say, Mr. Kershaw, that of those 55, it appears
22 that 16 searches were completed against the AFR
23 database and of those, 11 were retained of the database
24 for future checks, is that correct?

25 A. That is correct. 10:48

26 63 Q. What you're surmising is that those lower numbers from
27 initial 55 is as a result of those being the only ones
28 which had sufficient detail to carry out a proper
29 check?

1 A. I'm making that assumption without actually going into
2 the detail and having the detail available to me, yeah.

3 64 Q. You also said in your report that a total of 67
4 suspects or so-called nominals were checked against the
5 55 finger and palm prints for the incident? 10:48

6 A. Yeah.

7 65 Q. You make a comment about the context of the process
8 that would follow from that comparison exercise?

9 A. Yeah, I think it's really important for the Inquiry to
10 understand this. I mean 60-odd finger marks doesn't 10:48
11 sound a lot in terms of, you know, this is what the
12 team did at the time. If I told you, I have sat down
13 with a fragmentary fingerprint from a major crime
14 scene, I've checked it against one individual, I might
15 be sat at my desk with a magnifying glass for days. 10:49
16 Simply because if the fragmented fingerprint -- it
17 might be the set of fingerprints and not the best
18 quality, I will have to -- the analogy I'll give you is
19 that, let's say try and find a small village in the
20 middle of England on a whole map of the world. You've 10:49
21 got one -- you've got a number of unique features that
22 are unique to that point of interest and then you're
23 scanning the whole of the world to find it. It can
24 take an inordinate -- I mean, there's no way that I
25 could give a timescale but, it could -- just one of 10:49
26 them marks could take -- don't forget you've got ten
27 fingers, you might not have sufficient detail to
28 understand to appreciate whether it's a fingerprint,
29 whether it's a piece of palm, whether it's tip of a

1 finger, whether it's the side of a palm, whether it's a
2 phalange there, you are going to be looking at every
3 bit of detail, turning that fingerprint around, around
4 and around, and going through each area, it could take
5 you two or three days, just on one set of fingerprints 10:50
6 alone. And that's not sensationalising it, that is
7 fact. I mean, if you're talking about 67 people and
8 multiple marks, you could be talking weeks, months, if
9 not years to complete that task. I used to put out
10 instructions to investigators when I was Head of 10:50
11 Bureau, on no account was an investigator, at a whim,
12 on the basis of a gut feeling, give our team, our
13 murder team a suspect unless they're pretty confident,
14 because that one suspect at a major crime might tie an
15 expert up for the next six weeks just checking the 10:51
16 outstanding marks from the murder scene. And that's
17 how big a job it can be. It really is. You've got to
18 manage these situations.

19
20 So, we were talking 60-odd sets of prints, talking 10:51
21 60-odd sets, I know we didn't have all the palms, it's
22 a massive undertaking for any person. So, I think
23 that's important if we're looking at it in a complete
24 context here. It's not just a few numbers, this ties
25 someone up for days and days, if not weeks. 10:51

26 66 Q. So, what might appear to those who are not experts in
27 this particular discipline to be a significant period
28 of time could in fact quite capably and reasonably be
29 explained simply because of the task that is unfolding,

1 in your experience, it simply does take that time to do
2 it properly?

3 A. You cannot be rushed. I mean, you cannot be rushed
4 with that, it has to be done away from the
5 investigation, the practitioner getting on with this 10:51
6 without any undue influence. And, of course, really
7 away from normal duties. You can't be doing a job like
8 this on a serious crime when you're actually doing
9 other general duties at the same time.

10 67 Q. You said at paragraph 5.17 that: 10:52

11
12 "It should be noted that at the time, 12 suspects
13 checked did not have palm prints on their record so the
14 Fingerprint Bureau was, therefore, unable to check any
15 crime scene mark containing palm detail in respect of 10:52
16 them. A breakdown of those suspects/nominals without
17 palm prints and 30 others for whom no fingerprint
18 records were available is included within the Inquiry's
19 document database."

20 10:52
21 So, did it occur to you that in relation to some people
22 at least a particular type of fingerprint had been
23 taken going back to what you said earlier about there
24 being at least three types of fingerprints that could
25 be taken? 10:52

26 A. Well, I think the fact that there was no fingerprints
27 for people is a good starting point. I mean, if you
28 had a basic custody set of fingerprints and no palms,
29 at least you've got something to start with. But,

yeah, it is an area where you can't ignore the fact that there was no fingerprints for some people. And in fact there was no fingers and palm prints for some of the suspects that were given at the time.

68 Q. So, the position as you understand it to be, or
certainly when you were completing the report, a number
of individuals there were no fingerprint records for?

A. Yeah.

69 Q. And there were others that perhaps there were only, and
this is my word, partial fingerprints for and that may 10:53
have been fingertips but not palm prints?

A. Some of them will have had just the rolled sets of fingerprints and no palms. There are a few that have got fingerprints and palm prints but there are a number that have got just fingerprints. But then there are a number that have got no fingerprints or palm prints at all. This is before we even start to discuss TACT prints because, they're, of course, a different type of print that would predominantly -- well, would be specifically used for the purposes of those arrested for terrorist activity.

70 Q. You say at paragraph 5.55, Mr. Kershaw, that:

"To date no individuals have been linked by fingerprint evidence to the Omagh bombing."

A. That's correct.

71 Q. And that's your understanding of the papers that you
have received?

1 A. That's the understanding of the documentation I have
2 had access to.

3 72 Q. You also say, I don't have a paragraph number for this,
4 but it's at the bottom of page 46 of your report, and
5 the final paragraph on that page: 10:54
6

7 "It is clear that the RUC/PSNI have utilised all
8 available fingerprint technologies available at the
9 time to secure an identification and against IDENT1
10 once available." 10:55
11

12 A. Yeah.

13 73 Q. And you go on to say:
14

15 "In addition, since that time all these fingerprints 10:55
16 have been continually searched and researched against
17 IDENT1 ensuring that as the fingerprints of new
18 offenders are acquired, these are checked against all
19 the outstanding impressions from this incident."
20 10:55

21 A. That is correct, but there's also another part in that
22 paragraph that I'm saying that AFIS isn't 100%
23 accurate. And I think that's an important point as
24 well.

25 74 Q. Can you tell us about the limitations, then, of the 10:55
26 AFIS?

27 A. Yeah. AFIS -- we see these things on TV where you see
28 a fingerprint for a smudge from a crime scene, it's put
29 on this database and within seconds it's made an

1 identification. what you don't realise is that,
2 basically, an AFIS system is an algorithm that searches
3 disruptions, it doesn't search ridge characteristics in
4 terms of how a fingerprint expert would see it. For
5 instance, if I have a fingerprint on this piece of 10:56
6 paper and I developed it, as you can see where the
7 fingerprint is, it goes over some text. When you scan
8 that fingerprint and if that background is retained,
9 the AFIS system will encode the text as well. We had a
10 very, very kind of amusing period when we started to 10:56
11 learn about AFIS back in the day, back in the late
12 '90s, if you had a fingerprint that was found on a bank
13 note and you took a photograph of it and it just so
14 happened in the background was somebody's face or the
15 word "pound," the AFIS would actually interpret the 10:56
16 text, the background as features. Therefore, we had to
17 learn how to use the technology. And over time people
18 have got better. And I've had experience of my own
19 force on this one and I said, 'I want at least six
20 different people to look at the same fingerprint, put 10:57
21 it onto the system, encode it onto the system, and see
22 what your results are.' And if I told you that three
23 may make an identification, a hit on that same mark,
24 very, very competent fingerprint practitioners but
25 again, it depends how you understand how AFIS sees a 10:57
26 fingerprint. And that is where the skill, a new skill
27 had to be developed.

28
29 So, when I say it's not 100%, you could have three

1 different practitioners put the same mark on an AFIS
2 system and get a different result. And that's the
3 thing that I need to flag, it's important, that AFIS is
4 just a tool. It's learning how to use that tool that's
5 the important thing. And it is a slightly different 10:58
6 skill than fingerprint comparison, manual fingerprint
7 comparison work.

8 75 Q. In the section of your report that I have just quoted
9 to you about fingerprints being searched and researched
10 over the years, is it correct and your understanding 10:58
11 that in 2006 a comparison of a fingerprint had been
12 achieved when that had not earlier been the case as a
13 result of further checks and essentially as against an
14 updated archive or updated database?

15 A. Yeah. 10:58

16 76 Q. Your understanding is in relation to that person it was
17 an individual -- well, it was fingerprint recovered
18 from one of the telephone boxes, isn't that correct?

19 A. That is correct, yeah.

20 77 Q. And fingerprint that was achieved or that it was 10:58
21 positively compared with, was an individual who was not
22 considered by police to be a potential suspect?

23 A. No, no. I think it would be useful for the Inquiry to
24 understand the reason why that happened. You may all
25 be aware of these kind of significant cases that we 10:59
26 hear about every so often whereby we've got a hit on
27 the DNA database of an offender from 30 years ago,
28 whether it's a rape or a murder, et cetera, the same
29 kind of principles apply on the fingerprint database.

1 If we've got significant crime and it's been searched
2 with a negative result, what's happened with the
3 PSNI/RUC in this is that when they've got that search
4 tool, they've got significant fingerprints from a
5 particular incident, in this case, Omagh, once it's 10:59
6 been searched with a negative result we've got what's
7 called serious crimes cache, then fingerprints or crime
8 scene marks from them incidents are held on the
9 database and are daily searched against new sets of
10 prints that come in. And this is exactly what's 10:59
11 happened. So, it's been quite effective in eliminating
12 one of these marks from the Inquiry on that basis.

13 78 Q. Thank you, Mr. Kershaw. The final topic I want to ask
14 you questions about is, at the time at which you wrote
15 your report and then provided an addendum note to the 11:00
16 Inquiry in respect of matters that it appears you have
17 not seen evidence of or that you cannot now say
18 occurred, and there are two or three of these, the
19 first is that, you comment in your report on the
20 importance of creating what you refer to as a hub? 11:00

21 A. Yeah.

22 79 Q. Can you describe what that is?

23 A. Yeah. I mean, I've kind of given you an understanding
24 of what a hub potentially could be, when I referred to
25 the major incident team at my own police force at 11:00
26 Greater Manchester and, indeed, at other Metropolitan
27 Police forces. A hub is where you have a common type
28 of crime, after a short period of time you realise that
29 there's potential here in actually working on these

1 particular -- the same type of cases in a very focused
2 way. So, for instance, we had like a major crime team
3 at Manchester and that was dealt with any major crime
4 whether it was armed robberies, murders, organised
5 crime groups, et cetera, and we'd have the names of all 11:01
6 prominent organised crime group members there available
7 to us. And that's one example.

8
9 Another example was back in the '90s cheque fraud was
10 massive in the UK. You'd have people stealing cheque 11:01
11 books over Greater Manchester and beyond. And it
12 became very, very obvious very, very quickly that just
13 to give -- if, for instance, in Greater Manchester one
14 area you had a burglary and then a cheque was used
15 fraudulently in a shop in that area, you could deal 11:01
16 with it individually. However, the power of bringing
17 all them like offences together was significant.
18 Within a short space of time we set up a cheque fraud
19 section, we actually had an idea of who the major
20 active offenders were in that area and we would have 11:02
21 active file. We also would examine the cheques and it
22 was quite clear, in very short space of time, because
23 of the way people spelt pound, P-O-U-N-D, we could find
24 common links in terms of who was writing these cheques.
25 This is before we even looked at a fingerprint. 11:02
26

27 So, it's basically having the same type of offence
28 dealt with by a specialist team whereby all the
29 information relating to them offences, them same type

1 offences can be shared and utilised within that hub.
2 And this is how the hub was created.

3
4 we similar with Post Office fraud, Post Office giro's as
5 well. So, we had major incidents, we had cheque fraud 11:03
6 and then, of course, we had the terrorism side of
7 things as well. And that's where you can really,
8 really appreciate the benefits you can get of
9 intelligence coming from many sources into one hub
10 whereby you can create an active file of offenders of 11:03
11 people you know are actually either associated with or
12 committing terrorist offences. So, that's the idea of
13 a hub.

14
15 A hub is about getting all the like type cases so you 11:03
16 can identify linkages. Now, whether that's linkages on
17 a fingerprint, but you can do linkages by the way, for
18 instance, what types of materials are used for each
19 type of bomb that's been found. I mean, let's face it,
20 if we're looking at Northern Ireland, which I 11:03
21 understand there was a very rich vein of incidents
22 where a bomb may have been put somewhere but it didn't
23 go off. That is incredible forensic intelligence. Can
24 you imagine being at a scene where the bomb hasn't gone
25 off, you've diffused it, you've then got so many 11:04
26 forensic leads there, fingerprints, DNA, a whole host
27 of opportunities. And that is the beauty of setting a
28 hub up.
29

1 I understand from engagement with the head of the
2 Fingerprint Bureau, that they didn't have a hub in
3 Northern Ireland and to me that is, as a head of a
4 similar sized metropolitan, albeit not a national
5 police, but of a similar size, not to have a hub 11:04
6 dealing with them types of offences is quite surprising
7 to me. But the benefits are incredible. The ability
8 to link MO, concealment and that's before you even get
9 to the forensic side of things.

10 80 Q. Was the concept of organisation by hub something which 11:05
11 was occurring in other forces in 1998?

12 A. Oh, yeah. I mean I was introduced to it in 1979 when I
13 started my service, so that's 47 years ago. And a good
14 nearly 20 years before we had that, it was the norm,
15 you know. If you had -- you had a hub for murders at 11:05
16 the time in Manchester but then, as I mentioned further
17 down the line, as it was obvious that we were getting a
18 lot of cheque fraud, a lot of Post Office fraud we set
19 up hubs for them and the benefits just were phenomenal.

20 81 Q. The second of three topics that I'm asking you about 11:05
21 then is the evidence that you've received that goes
22 towards the engagement of those working with
23 fingerprints in Northern Ireland and the Metropolitan
24 Police Service, or as you refer to it in your report,
25 SO13. What was the extent of the material that you 11:05
26 received which identified that there had, in fact, been
27 any engagement between the respective forces?

28 A. Yeah, I mean, as you can all appreciate, I'm working
29 off an electronic database and I access that and I do

1 searches. So, obviously, when I'm searching for
2 material on fingerprints, I'll do a word search and put
3 fingerprints up, and then when I'm looking further down
4 the line for more information relating to how this case
5 and other cases were managed, I was looking for any 11:06
6 reference to S013, terrorism, New Scotland Yard. The
7 only reference I could find to any support or
8 interventions from the New Scotland Yard was the bomb
9 squad who attended the actual scene from New Scotland
10 Yard. Other than that, I have not seen any other 11:06
11 information, whatsoever, relating to any support or
12 interventions by New Scotland Yard Metropolitan Police
13 in the Omagh Bombing, or any other event linked to the
14 Omagh bombing.

15 82 Q. If it is correct that there was no engagement between 11:07
16 or with the MPS or New Scotland Yard at the time, what
17 contribution could that force have made to the forensic
18 investigation, specifically in relation to
19 fingerprints?

20 A. Well, I just want to take you back to my report. At 11:07
21 some stage when the lead expert, fingerprint expert
22 from RUC/PSNI, she actually referenced the fact that
23 she was -- the pressures in terms of resourcing and
24 conflicting kind of commitments that she had, obviously
25 made the whole task difficult. If you consider that 11:07
26 the RUC Fingerprint Bureau only had 36 staff and
27 compare that with Greater Manchester at the time, there
28 was about 60 staff at Greater Manchester. When we had
29 bombings in Manchester we already had our own hub.

1 However, New Scotland Yard SO13 took over bomb nothing
2 Manchester. The bombing in Manchester had no
3 fatalities but a considerable amount of damage. But
4 nonetheless, I would say in the scheme of things, where
5 there's been significant loss of life I would have
6 thought, I would assume that New Scotland Yard SO13
7 would have been involved.

11:08

8
9 So, if we're looking at it in terms of the
10 practicalities and what it does for you, you've got a
11 situation where they've got 36 staff at the RUC.
12 You've got one individual leading on this who comments
13 in the report that she was under the cosh. And I think
14 the actual reviews that took place made reference to
15 the fact that she didn't do a bad job considering all
16 the other commitments she had.

11:08

11:08

17
18 If you look at myself who was seconded to New Scotland
19 Yard, where we've got a resource of 60 already, we
20 ended up -- New Scotland Yard took over the Manchester
21 bombing, took all the fingerprints --

11:08

22 CHAIRMAN: Mr. Kershaw, can I just ask you to think
23 about the precise question that Mr. Rafferty is asking,
24 because this might be quite important.

25 THE WITNESS: All right.

11:09

26 CHAIRMAN: I appreciate what you have to say about your
27 own experience in Manchester and we can do a
28 comparison, if that's helpful. But just at the moment,
29 what he was wanting to know about was what contribution

1 the Metropolitan Police or New Scotland Yard could have
2 made to the effort of the RUC, and can you help us with
3 that?

4 THE WITNESS: That's what I was coming to, Sir. Yeah.
5 So, in terms of what we're looking at here is that the 11:09
6 contribution would be additional resources to ensure
7 that you can get the work done quickly. You've got
8 access then to a significant database of active
9 suspects of New Scotland Yard, I believe there's many
10 thousands at New Scotland Yard. So, you're not just -- 11:09
11 from what I understand, the fingerprint expert was
12 given names by the investigators rather than being able
13 to work through an active file of known IRA or
14 terrorist suspects. So, then are the benefits of
15 having that support from New Scotland Yard. So, it's 11:10
16 resources and access to other databases, and, of
17 course, significant experience as well in dealing with
18 these particular cases.

19 83 Q. MR. RAFFERTY: So, is it fair to summarise it as
20 there's a resource in terms of assisting the 11:10
21 investigation potentially from a time perspective, but
22 theoretically are you suggesting that there was a
23 database or there remains a database of information
24 which is untapped?

25 A. I can't say, because I've not had any reference to any 11:10
26 interventions or any engagement with New Scotland Yard.
27 I did have some reference to a number of police forces
28 where they sent the outstanding crime scene marks to
29 and from that recollection that was Garda, that was

1 Scottish Fingerprint Bureau and Leicestershire
2 Fingerprint Bureau as well. But there's no reference
3 to finger marks being sent to any other metropolitan or
4 national fingerprint bureaus.

5 84 Q. And, in fairness, you're not saying that didn't occur? 11:11
6 A. No.

7 85 Q. You're simply saying you haven't received the evidence
8 of that?
9 A. As I say, I can only work off word searches on the
10 system and that's all I've come up with today. 11:11

11 86 Q. The last question I have, or the last point within this
12 topic, Mr. Kershaw, and we've touched earlier on about
13 how there were some suspects who there were not palm
14 prints -- yes, there were no palm prints of their
15 record held by the Fingerprint Bureau at the time of 11:11
16 the investigation and in relation to a number of 30
17 people in respect of whom no fingerprints were held.

18 A. Mm-hmm.

19 87 Q. Is it correct to say that, and we can see the numbers
20 within the report that you referred to and that you 11:11
21 were aware of when you provided the report, is it
22 correct to say that you have received some further
23 information --

24 A. Yes.

25 88 Q. -- from the PSNI in respect of it holding the 11:12
26 fingerprints of four individuals --

27 A. That is correct.

28 89 Q. -- who formed part of the original number that you
29 reported on?

1 A. Yeah.

2 90 Q. And that, in fact, PSNI do hold the fingerprints for
3 those individuals, that they have been checked, and
4 that no positive matches have been arrived at?

5 A. That is correct, yeah. 11:12

6 MR. RAFFERTY: Thank you, Mr. Kershaw. Those are all
7 the questions that I have for you.

8

9 Sir, I have taken slightly longer than anticipated.
10 I'm conscious that we've been going now for almost an 11:12
11 hour and 15 minutes.

12 CHAIRMAN: Yes.

13 MR. RAFFERTY: Both Fox Law team and the PSNI team have
14 been permitted the opportunity to ask questions of
15 Mr. Kershaw should they wish to do so. I'm just 11:12
16 checking, Sir, if I may, whether...

17 CHAIRMAN: There are one or two things I'd quite like
18 to ask about myself, if that's acceptable,
19 Mr. Rafferty, and then perhaps we should think about
20 maybe breaking at that stage. 11:13

21 MR. RAFFERTY: Of course, Sir. Ms. Harrison has just
22 indicated that she would be prepared to sit on for
23 another 10 or 15 minutes if that's agreeable to you,
24 Sir.

25 CHAIRMAN: Yes. 11:13

26

27

28

29 MR. KEVIN KERSHAW WAS QUESTIONED BY THE CHAIRMAN, AS

1 FOLLOWS:

2
3 91 Q. CHAIRMAN: I'd like just to be clear about a couple of
4 things, if I may, Mr. Kershaw. And it might help to go
5 back to paragraph 5.11 of your report.

11:13

6 A. Sorry?

7 92 Q. It might help to go back to paragraph 5.11 of your
8 report.

9 A. Yeah.

10 93 Q. We can see there, that from the total recovered prints
11 there were 55 which had sufficient detail to permit a
12 comparison to be undertaken?

11:13

13 A. Mm-hmm.

14 94 Q. So, that tells us what we've got by way of recovered
15 prints?

11:14

16 A. Yes.

17 95 Q. And then, of course, what you want to do is undertake a
18 comparison between recovered prints and suspects'
19 prints?

20 A. Yeah.

11:14

21 96 Q. If we go down to paragraph 5.13, we can see that there
22 were a total of 67 suspects, so-called nominals and the
23 report tells us that they were ultimately checked
24 against the 55 recovered usable prints?

25 A. Yeah.

11:14

26 97 Q. Then, if we go further down to paragraph 5.17, we find,
27 first of all, the issue about the absence of some palm
28 prints?

29 A. Yeah.

1 98 Q. But perhaps more importantly and more confusingly from
2 my perspective, we find that for 30 of the suspects
3 there were no fingerprint records at all.
4 A. Mm-hmm.
5 99 Q. So, what I'm not terribly clear about is how you could 11:15
6 undertake a comparison between any of those suspects
7 and the recovered prints?
8 A. No. In some cases, if they've not actually had
9 either -- I mean, one of the issues we've got is some
10 of haven't got palms, some haven't got fingers, some 11:15
11 haven't got any at all.
12 100 Q. You've got a list of names.
13 A. What happened was, they did a further review and
14 apparently were running two separate suspect lists, so
15 they merged the two and then ultimately came up with 11:15
16 the final fingers that were probably down to the 40
17 with no palms, et cetera.
18 101 Q. But instead of being provided, as you might in many
19 circumstances be, with a set of fingerprints from a
20 suspect to compare with recovered lifts, what you've 11:16
21 got here is a list of names and no fingerprints?
22 A. Yeah.
23 102 Q. So, you can't conduct any comparison?
24 A. No, you can't. You can't. And the issue, Sir, is that
25 understanding what measures have taken place since to 11:16
26 try and collect them. As has just been mentioned,
27 we've now had an update where four more have now been
28 found. So, there are measures that have gone forward
29 try and collect them fingerprints for comparison.

1 103 Q. The other thing I was wondering about was, I recollect
2 from my own time in practice that initially
3 fingerprints were taken from suspects in the police
4 station using a roller ink form on to paper?
5 A. Yeah. 11:16
6 104 Q. But then there came a time when that changed to
7 electronic system?
8 A. Yeah.
9 105 Q. All the suspect had to do was put their hand on a
10 screen and the fingerprint would be recorded. 11:17
11 A. Yeah.
12 106 Q. Could you help me with when that was introduced?
13 A. I would say shortly after we got the AFIS technology in
14 1993, started to roll out and then we have a situation
15 probably -- we probably had it in the late '90s, in the 11:17
16 late '90s. We had something called Operation Lantern
17 where a lot of police forces, in addition to having
18 what's called a live scan system in their charge
19 office, they would have a remote method of taking
20 fingerprints, and I would say heading towards 2000. 11:17
21 But certainly around this time, in addition to the AFIS
22 technology there was companies who were already
23 capturing -- indeed when we got AFIS technology in the
24 UK in the early '90s, a live scan was available and we
25 started to roll that out probably within two years of 11:18
26 getting the AFIS systems.
27 107 Q. And the last thing I wanted to ask you about was the
28 terrorist and counterterrorist fingerprint set that you
29 explained to us?

1 A. Yeah.

2 108 Q. Is that something that could be captured using the
3 electronic system or was it only captured using --

4 A. No, Sir, we would be taking -- it's considerable
5 lengthy process, as you can imagine. And if we were to 11:18
6 put the slide up it shows how the types -- the
7 significantly more ridge detail you find you
8 actually --

9 109 Q. So, you don't --

10 A. You couldn't do it, so you'd have to use a traditional 11:18
11 ink and plate. But what you would do, that could then
12 be scanned on to an AFIS system and captured as a set
13 of prints. Like you would do with a set of palm prints
14 now.

15 110 Q. To give us a sense of what's involved with this 11:18
16 terrorist and counterterrorist fingerprint set, how
17 long would it take an officer to obtain a TACT set from
18 a suspect?

19 A. Let's do a quick comparator. To take a normal charge
20 set of prints it could probably take 10 minutes, you 11:19
21 know, as long as there's a reason -- to take a TACT set
22 of prints you're talking a minimum of an hour.

23 111 Q. And would you have to be specifically trained to be
24 able to do that?

25 A. And you would not -- I would say, in the majority of 11:19
26 cases -- firstly, the team at new Scotland road did
27 roadshows around the country getting terrorist police
28 officers trained in how do it but it was -- they would
29 advise each of the regional areas to have a fingerprint

1 expert to quality assure the sets of prints as they
2 produced them. Further down the line, there's a lot of
3 fingerprint experts that have been trained in these
4 techniques as well. I mean, I train officers all
5 around the world in TACT prints, because, of course,
6 some of the places you go to, there's a lot of
7 terrorism. But it does take a good hour to take a set
8 of terrorist prints.

11:19

9 112 Q. And the answer then is the officer would have to be
10 trained in how do that?

11:20

11 A. Yeah, yeah, generally speaking. You couldn't just do a
12 set, there are certain techniques and certain
13 additional pieces of equipment you need do it.

14 CHAIRMAN: Okay, thank you very much. Mr. Rafferty,
15 where does that take us?

11:20

16 MR. RAFFERTY: I wonder, it may be useful just to get
17 an indication from the Fox Law team first of all. It's
18 Mr. Southey, I believe. Sorry, Mr. McGowan, I'm just
19 wondering how he plans to make use of the time.

20 MR. MCGOWAN: I think I should be less than five
21 minutes.

11:20

22 CHAIRMAN: Let's just take the break at this stage
23 then.

24 MR. RAFFERTY: Thank you. Sir, if you wish to take 15
25 minutes then.

11:20

26 CHAIRMAN: We'll sit around 25 to.

27 MR. RAFFERTY: 25 to please.

28 THE INQUIRY ADJOURNED BRIEFLY.

29 THE INQUIRY RESUMED AS FOLLOWS:

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CHAIRMAN: Mr. Rafferty.

MR. RAFFERTY: Thank you, Sir. Can I now invite Mr. McGowan on behalf of Fox Law team to ask his questions.

11:38

CHAIRMAN: Mr. McGowan.

MR. KEVIN KERSHAW WAS QUESTIONED BY MR. MCGOWAN AS
FOLLOWS:

11:38

113 Q. MR. MCGOWAN: Mr. Kershaw, I just have three questions for you, the first relates to your report at paragraph 5.46, which is INQ 048905.

A. 5.4?

114 Q. 5.46. It's INQ 048905, page 45.

11:38

A. Yes.

115 Q. Start with 5.46?

A. I've got it there, yeah.

116 Q. And what you say is:

11:38

"It is understood that a number of requests were made to other fingerprint bureau for searches of outstanding fingerprints against their own local databases and these included the Scottish Fingerprint Service, the Garda Síochána Fingerprint Bureau and Leicestershire Police Fingerprint Bureau."

11:38

And my question is: Is it your understanding that all fingerprints of interest have been checked against the

1 An Garda Síochána database, or only some fingerprints,
2 or are you not clear?

3 A. I think if you read the full report, in terms of where
4 we are, I haven't got to the bottom of that completely
5 on the basis that when I went through -- as you can 11:39
6 imagine, the Relativity database you're doing word
7 searches, et cetera, to try and get to the bottom of
8 things. We're in this position where there is, I
9 think, one letter from, I think the Garda, that says
10 they'd searched all the marks. It doesn't actually say 11:39
11 what them marks were. I think if you go through my
12 report it does actually say further down that although
13 they were sent to them, (a) because there's no schedule
14 with the letters that I've seen, I've just seen the
15 covering letter, I'm assuming that them are the 28 11:39
16 outstanding marks. I can only assume that, and that's
17 something that probably we could do with nailing down
18 at some stage and get all of them original documents.

19 117 Q. Yes. And if I go forward to paragraph 5.56, which is
20 at page 49? 11:40

21 A. Hang on, I'll get there, yes.

22 118 Q. And it's similar question, but specifically in relation
23 to fingerprints from evidence in relation to the
24 Coupatan timers, and an AIB order form.

25 A. Yeah. 11:40

26 119 Q. And what you've said at 5.56 is, and I'm speaking from
27 the middle of the first red paragraph, what you've said
28 is:
29 "However, it has not been possible to discern a clear

1 path through the administrative chain of custody,
2 continuity of evidence, analytical and comparative
3 processes to which the fingerprints were subjected and
4 all of which it is necessary for confidence in any
5 results attributed to them."

11:41

6
7 I suppose, I'm just asking you to confirm, or I'm just
8 checking with you that really the position is the same,
9 in terms of the fingerprint evidence in relation to the
10 Coupatan timer you're not able to say whether it has
11 been checked against An Garda Síochána database?

11:41

12 A. No, I do actually say -- I'm having to make an
13 assumption on that as well but, certainly, I'm not
14 saying categorically that was the case, it's basically,
15 with what I've had to work with and what I've found
16 because, as you can appreciate, there's many thousands
17 of documents and within each document there may be
18 40 pages, and I'm having to go through lots of
19 documents and bundles but, ultimately, I'm being quite
20 clear on this one, it's a case of, I'm making that
21 assumption but it needs some clarity -- I think we do
22 actually require clarification from somewhere. It may
23 be turning to the PSNI Fingerprint Bureau, they may
24 have retained the original documents that I've been
25 unable to find on the Relativity system, if that's
26 helpful.

11:41

11:41

11:42

27 120 Q. Yes. And can I check, is it the same in respect of the
28 comparison of the fingerprints in relation to the
29 Coupatan timers and the PSNI checks; you're not clear

1 on whether or not PSNI have undertaken all comparisons
2 between that and their suspect lists?

3 A. I think, from the reports that I've had, it appears
4 that they have done that, it wasn't the PSNI that I was
5 concerned with, it was the other forces. I mean, as 11:42
6 I've said in my report, I know that the prints, some
7 prints were sent to Leicestershire, Garda and Scotland,
8 I'm not aware of -- they may have sent them to every
9 police force in the UK, but I can't find any -- I can't
10 surmise on that one. But I can say the PSNI have 11:43
11 actually completed all the searches exhaustively, both
12 manually and on the AFR system, albeit with a number of
13 suspects' fingerprints missing at this time and some of
14 the palm prints missing at this time as well.

15 121 Q. Okay. Can I just double-check, the 55 figure that 11:43
16 you'd spoken about in your evidence this morning, does
17 that include the fingerprints?

18 A. Sorry?

19 122 Q. The 55 number, the 55 figure for fingerprints that you
20 were speaking about this morning, does that include the 11:43
21 fingerprints in relation to the Coupatan timers or is
22 that separate?

23 A. Do you know what, I'd have to confirm that, because the
24 Coupatan situation came in later. I can't recall when
25 I was given the information from the head of the 11:43
26 Fingerprint Bureau whether Coupatan was included in
27 that count, and I don't think it is, I think that might
28 be separate. But that's something that we could,
29 again, try and get some clarification from PSNI on.

1 123 Q. My final question is, this morning you talked about --
2 if I can just... You talked about organised crime
3 groups and I think the words you used were, we actually
4 lived and breathed intelligence, and it wasn't a case
5 of people sitting around in a laboratory waiting for 11:44
6 someone to give you a name to compare.
7 A. Yeah.
8 124 Q. And I'm interested in that concept of living and
9 breathing intelligence.
10 A. Yeah. 11:44
11 125 Q. Is my understanding correct that it's not only in that
12 type of organised crime situation, it's not only that
13 the fingerprint experts would have been given
14 fingerprints to check based on intelligence, but it's
15 also that your fingerprint experts' investigations 11:44
16 would have produced intelligence that could have
17 assisted the investigation?
18 A. Exactly, exactly. The culture in the fingerprint
19 profession, most certainly in my own, and other police
20 forces, was that - and I think I gave an example 11:44
21 earlier that if I was given a suspect of Kevin Kershaw
22 and I checked and it wasn't him, immediately I would
23 look for information in terms of his associates, any
24 other siblings. And, you know what, you could actually
25 give -- we used to call suspect identifications cheap 11:45
26 identifications, not because it wasn't the same skill
27 but an officer had given us that information and we
28 just checked it and verified it. Where we took our
29 greatest pride was when we could use our active files,

1 use our own intelligence sources on a local level or
2 regional level, to come up with a name that they didn't
3 have. It was actually a very, very well --
4 fingerprints then was a very, very well used
5 intelligence tool, and it still is. It still is used 11:45
6 as an intelligence tool, alongside DNA now. We take
7 great pride in the profession to giving a lead to an
8 investigator, rather than what we call a cheap ID,
9 which is they just give us -- they make a request,
10 check that name and I think you know where I'm coming 11:46
11 from, we actually lived and breathed intelligence, most
12 certainly --

13 126 Q. Yes, that's fine.
14 A. -- in the profession.

15 MR. MCGOWAN: Thank you very much, Mr. Kershaw, those 11:46
16 are my questions. Thank you, Sir.

17 MR. RAFFERTY: Sir, Mr. Henry KC has permission to ask
18 questions on behalf of PSNI. Thank you.

19

20 MR. KEVIN KERSHAW WAS QUESTIONED BY MR. HENRY AS 11:46
21 FOLLOWS:
22

23 127 Q. MR. HENRY: Good morning, Mr. Kershaw. Thank you very
24 much for your evidence so far this morning. As I think
25 you've heard already, my name is Mr. Henry, I appear on 11:46
26 behalf of the PSNI. The first thing I would like to
27 ask you about are what you've referred to as the TACT
28 prints, so those are the more detailed fingerprints and
29 palm prints. I am using the right phrase, aren't I?

1 A. Yeah, TACT prints, they are commonly known as that.

2 128 Q. His Lordship asked you earlier on about the amount of
3 time it would take, approximately, in order to record a
4 full TACT print from someone who is in police custody,
5 and I think your evidence was in and around an hour or 11:47
6 an hour minimum, is that correct?

7 A. Yeah, yeah, it could take longer than an hour
8 sometimes.

9 129 Q. And you also said that it would require specialist
10 training for the police officers in the custody suite 11:47
11 to be able to take those prints?

12 A. Yeah. I don't think a normal custody staff member
13 would be able to take them. They would be trained
14 because they've got a lot of experience in doing
15 general fingerprints, but certainly -- yeah. 11:47

16 130 Q. And on looking at paragraph 5.5 of your report, and
17 referring to the red ink that was added in the second
18 iteration, as a general guide mark you indicate that
19 the difference between a standard print and a TACT
20 print is roughly 20% more detail? 11:47

21 A. I'm being very conservative on that one. I mean, it
22 could be as much as a 50% increase in the amount of
23 ridge detail that would be revealed. I'm just
24 wondering whether it's worth just bringing up the
25 illustration for everyone to see. It is in the 11:48
26 documents but you can see, quite clearly, that we're
27 not just capturing the rolled, we're getting the tips
28 of the fingers. Have we got a mouse so that we can
29 make it a little bigger. If you look at the images

1 we've got here, these are actually TACT. You can
2 see -- if you look at the bottom image there, where the
3 fingerprints, we refer to them in training as the
4 Mickey Mouse ears, yeah? So, if you've got the 10
5 rolled impressions on the top of that second set, the 11:48
6 tips of the fingers, firstly you've got the tips of the
7 fingers to the right and the left but then if you look
8 directly below where you've got what we all the flat or
9 plain impressions, you can see, quite clearly, that
10 each of the tips of the fingers are quite elongated. 11:48
11 And if you compare that with the images of standard set
12 you can always see on the standard set there's quite a
13 lot of detail lost because of the rolling just straight
14 across the brass plate. Whereas, when we're doing TACT
15 print we use the fingers, you enter with the finger 11:49
16 directly at the tip and then you roll them round. And
17 then when you do the flat impressions, you don't just
18 slap them down, you start at the tips and you get a
19 considerable amount more friction ridge detail. So,
20 that's why I say, I've said a minimum but I would say 11:49
21 you could have up to 50% more, but I've kept it at a
22 minimum just to be conservative in that regard.

23 131 Q. well, that's very helpful Mr. Kershaw, and thank you
24 for that. I'm really using you as a vehicle, if you
25 don't mind, to accept on behalf of the PSNI that 11:49
26 there's an inescapable logic that the TACT prints would
27 be preferable to a standard set of prints if you're
28 trying to achieve a match between a scene print and a
29 suspect print?

1 A. We were actually looking at a different type of
2 incident, we're not talking about murder or chance. I
3 mean, the reason why we do this is because the
4 significant number of marks, finger marks or palm marks
5 recovered from a terrorist incident is when the 11:50
6 handling, very delicately small amounts of material
7 and, you know, carefully and trying to avoid leaving a
8 fingerprint. And that is the reason why we do that.
9 Also, when we're taking the sides of the palm, that's
10 called writer's edge, you know yourself when you're 11:50
11 steading to write a document you always slap that
12 down, but guess what? When we take a normal set of
13 palm prints we just slap them down there and we ignore
14 the sides. Experience of cheque fraud, experience of
15 document fraud, you always get what's called writer's 11:51
16 edge, right or left hand, depending on which hand's
17 doing the steadying.
18
19 But, I think if we go back to the image and we look at
20 what we call the phalange area, the area below the tip 11:51
21 of the finger, you can see by what we recover through a
22 TACT set of prints significantly more ridge detail.
23 And, again, when you're carefully holding things you
24 don't necessarily use your fingers, it's the middle and
25 distal rather than the distal. The middle joint you'll 11:51
26 use to handle things, that is why a TACT set would be
27 taken.
28 132 Q. Okay. Well, thank you again, Mr. Kershaw. A very
29 clear explanation.

1
2 I'm going to move on to different topic now if I may,
3 away from the TACT prints and on to the issue of S013.
4 You were asked in relation to that what the benefit or
5 what the contribution potentially would be of engaging 11:52
6 S013's assistance in relation to the Omagh
7 investigation insofar as fingerprint work was
8 concerned. You identified three points but the first
9 that you referred to was resources. I think we can
10 probably deal with that relatively easily. 11:52
11
12 You have made the point that the fingerprint team in
13 the RUC at that time, in comparison to your team, was
14 relatively small.
15 A. Yeah. 11:52
16 133 Q. So, the RUC team in total had 36 individuals, your team
17 in Manchester, I think you said had 60?
18 A. 60, about 60 yeah, at that time.
19 134 Q. And if you combine that with your evidence earlier on
20 this morning about the amount of care and attention 11:52
21 that is required to do manual comparison?
22 A. Yeah.
23 135 Q. So, that is the fingerprint expert looking at the scene
24 print and comparing it to a suspect print, that can
25 take hours, potentially days, and whenever you stack up 11:53
26 lots of exhibits with lots of suspects to be checked
27 that can take weeks, months, at one stage you even
28 suggested it might take as long as a year.
29 A. Mm-hmm.

1 136 Q. So, I think the point you were making is if the RUC had
2 more resource, that that exercise could have been
3 completed in a shorter period of time?
4 A. Yeah.
5 137 Q. And SO13 could have, potentially, lent that resource to 11:53
6 the RUC if the RUC had questioned it?
7 A. Yeah.
8 138 Q. Okay. What I don't understand you to be saying is that
9 the outcome of the testing would have been different in
10 the sense that -- well, let me come at this a different 11:53
11 way. You've already indicated that the work of the
12 fingerprint expert who was looking at this on behalf of
13 the RUC, you considered her work to be of a good
14 standard?
15 A. Yeah, under the circumstances. 11:54
16 139 Q. Working under difficult circumstances?
17 A. I think when you're balancing the specialist nature of
18 terrorist work and also, you know, having to be
19 available for other duties, your outcomes are going to
20 be better, you're going to be more focused and less 11:54
21 likely to make errors as well, you know. If you are
22 completely focused on a particular area of specialism
23 like terrorist work, it's important you're kept away
24 from general types of work. The inference in the
25 report was that she had conflicting priorities. 11:54
26 140 Q. Well, that was just what I was going to ask you about.
27 I'm not sure that I'm going to be able to assist you
28 and would hope that you might be able to assist us,
29 Mr. Kershaw. It's an inference that you're drawing

1 that the fingerprint expert or experts who were working
2 on the Omagh prints were also doing other duties as
3 well at the same time?

4 A. It seems to -- that seems to be the inference from
5 reading the reports and that's all I can say. Without 11:55
6 actually speaking to the individuals concerned and
7 saying, 'was your day made up of it. Was it
8 supervision? Did you have other duties? Did you have
9 court duties?' All I know is that when you've got a
10 hub all other work, whether it's volume, crime or other 11:55
11 duties go by the wayside, you are completely focused on
12 them tasks. And it does take a significant difference
13 in terms of what you can get through. And, certainly,
14 the fewer distractions you get, the more effective and
15 efficient you can be in doing your job. 11:55

16 141 Q. And, again, that makes perfect sense, Mr. Kershaw. I'm
17 just going to come back to one of the things that you
18 said just a moment ago, if I may, and that's in
19 relation to specialising in terrorist fingerprint work.
20 You're not suggesting that a terrorist fingerprint is 11:56
21 different to another criminal's fingerprint or another
22 member of society's fingerprint?

23 A. No, no.

24 142 Q. And you correct me if I'm wrong, but my understanding
25 of your evidence is, it's a combination of different 11:56
26 disciplines coming into play such as intelligence which
27 might assist with the fingerprint work as well?

28 A. Yeah.

29 143 Q. I see. I'm grateful for the --

1 A. It's management of intelligence, but also in terms of
2 actually doing that task, that individual is put under
3 so much more pressure. If that individual today was
4 doing, for instance, a comparison of burglary or a
5 theft of motor vehicle, yes, there is contextual bias 11:56
6 in that, there most certainly is. But, you've got to
7 ensure that that person is put really in a bubble so
8 they're not influenced by anything else, because they
9 know that the stakes are very high if they get it
10 wrong. And I think that is one of the other massive 11:57
11 benefits of a hub approach. I mean, I used to have an
12 instruction; if ever an SIO came giving you any kind of
13 pressure to get something done, just give him my phone
14 number because you've got -- you really have to protect
15 these people. I think the people who have been 11:57
16 involved here, they had a significant task on here and,
17 you know, they've got through it without the benefit of
18 a hub. And that's what I'm trying to say.

19 144 Q. Now, I'm just going to ask you a little bit more about
20 this intelligence issue if I may, please, Mr. Kershaw, 11:57
21 and, again, I would like you to correct me if at any
22 stage I suggest anything to you which is wrong?

23 A. Okay.

24 145 Q. I don't understand -- well, I understand, first of all,
25 that your evidence is that you could produce 11:58
26 intelligence through your fingerprint work to the
27 investigative team or to your police force, perhaps by
28 way of identifying commonality in ridge detail which
29 fell below the evidential standard?

1 A. Yeah, yeah.

2 146 Q. But you're not suggesting that you would be working
3 with intelligence in the same way, for instance, as a
4 Special Branch Officer in the Met would have been or a
5 Special Branch Officer in the RUC would have been in 11:58
6 the 1990s?

7 A. Well, yeah, in the 1990s we worked with intelligence
8 services. I mean, when I was working at New Scotland
9 Yard I was acting on behalf of Greater Manchester
10 Police, I was involved in the request made or the 11:58
11 information received from Special Branch from whatever
12 source, whether that was a CHIS, you know, a covert
13 human intelligence source or whatever, they'd give you
14 a name to check out on that particular incident. So,
15 yes, there was a certain amount of, how would you say, 11:59
16 liaison between many agencies.

17

18 Also, when you're checking, you're not just checking
19 the actual suspect but eliminating, which is an
20 important area, collecting elimination prints who 11:59
21 potentially could have had access to that particular
22 exhibit after it had been examined by the crime scene
23 or whoever had recovered it. That's also important
24 because we've got a number of outstanding fingerprints
25 from this incident. I haven't had access or I'm aware 11:59
26 of how much elimination work has been done on these
27 outstanding fingerprints as well. So, that, again, is
28 intelligence. Any information coming in can assist.
29 And it really works very well. You could start working

1 on a case where there's 50 outstanding but after being
2 with that case a while and asking the right question,
3 'who else could have had access to this?' So you can
4 then actually reduce the number of outstanding marks
5 that could potentially the offender by the process of 12:00
6 elimination. Again, unfortunately I haven't got that
7 information at this stage as well. I've looked through
8 it but I can't find it all. And I think these are the
9 kind of questions that we've got two or three here that
10 are up in the air that perhaps further down the line we 12:00
11 can get some resolution to.

12 147 Q. Again, that's very helpful, Mr. Kershaw, thank you. We
13 might be talking at slightly cross-purposes. I wonder
14 if you would assist me with the following: You're not
15 saying that would you have been produced with raw or 12:00
16 sanitised intelligence and you analyse it as an
17 intelligence analyst?

18 A. Sorry, what did you say? I can't quite hear you now.

19 148 Q. You're quite already. That's my fault, Sir. I don't
20 understand you to be suggesting that you were 12:01
21 analysing -- bearing in mind that you were bringing
22 your fingerprint expertise to the table, you weren't
23 analysing raw intelligence and deciding what should or
24 shouldn't happen. An intelligence officer or an
25 investigating officer would give you some information 12:01
26 based on intelligence that they had received and then
27 would you undertake some fingerprint work in relation
28 to it?

29 A. Yeah, most certainly. But it's two-way street because

1 occasionally, like I said before, when I'm giving
2 intelligence I was never trained from day one in an
3 environment I've worked in in the Greater Manchester
4 Police just to check a named suspect, I was trained
5 to -- this is two-way street and it's amazing how 12:01
6 that -- the difference that makes to investigations.
7 You then are kind of given the opportunity to use your
8 skill and knowledge in that particular area, whether
9 you're on major crime or whether you're on a volume
10 crime team, to then do your own research and then give 12:02
11 that information back to the investigator.
12
13 So, it is a two-way street. Intelligence isn't about
14 being given or instructed to check a name.
15 Intelligence is a two-way street when you've got a 12:02
16 forensic product like fingerprints. You would be
17 enabled, encouraged to do your own research and provide
18 that back to the investigator. Like I say, it's
19 probably 20/30% of the time that you came up with a new
20 name that the investigator wouldn't have. So, does 12:02
21 that answer your question?
22 149 Q. It does, thank you very much.
23 A. Great.
24 150 Q. Remaining with the theme of S013, I'm going to ask you
25 about something slightly different if I may now. 12:02
26 A. Mm-hmm.
27 151 Q. Moving away from this intelligence question and the
28 time or resource question, but to an issue about the
29 database and the amount of potential fingerprints that

1 were available to search.

2 A. Yeah.

3 152 Q. In your report, one of the queries that you've raised
4 is whether or not the Omagh prints were searched
5 against S013's cache of terrorist suspect fingerprints? 12:03

6 A. Yeah.

7 153 Q. And I'm going to ask for your assistance with this, if
8 I may: we know that the RUC sent all of their
9 terrorist fingerprints to S013 or to New Scotland Yard?

10 A. Okay. 12:03

11 154 Q. You may not have been aware of this, just through the
12 nature of your work, but there was a high degree of
13 cooperation between the Met generally and the RUC in
14 relation to terrorism work, as you might well
15 understand the reasons for. Now, what we don't know at 12:04
16 the moment, and I'm hoping you might be able to help
17 with this, if you can, if the RUC were sending their
18 prints to the terrorism team in London do you know if
19 the terrorism team in London were sending their prints
20 back to the RUC? 12:04

21 A. Well, the first thing is, that's the first occasion
22 when I've had any information from PSNI. I've had two
23 reports from the PSNI Head of Bureau, there's never
24 been any mention at all with any kind of cooperation
25 with New Scotland Yard S013 until this point. So, in 12:04
26 answering your question, first is I wasn't aware of
27 that relationship. So, obviously, I'm answering the
28 second question, I haven't got a clue about the second
29 answer, at the moment, but I'd be really interested to

1 understand what happened that two-way relationship now.
2 Because that is all new to me, and I've been on this
3 for over a year and then are the kind of questions that
4 I'd be kind of hopefully getting some answers to that.
5 So, thank you very much for that today. 12:05

6 155 Q. well, hopefully between us, either between the Inquiry
7 machinery or PSNI or your own good offices that we
8 could make that inquiry of New Scotland Yard and see?
9 A. I mean, whose responsibility would it be to make that
10 enquiry? Are you going to do that or whoever because 12:05
11 that would be useful information to what extent they've
12 actually worked on them outstanding marks, because
13 there's nothing at all in the system to that effect
14 here.

15 156 Q. Okay. 12:05
16 A. To my knowledge.

17 157 Q. I think between us we'll have a discussion with the
18 Inquiry Legal Team afterwards and figure out.

19 A. That would be great, that would be fantastic.

20 158 Q. Now, the next thing I'd like to ask you about, if I 12:05
21 may, Sir, is the electronic or automated checking of
22 fingerprints, and I think the system, the general term
23 for the system was AFR or AFS?

24 A. There's basically three, there's AFR which is a general
25 one, it could actually refer to one that a number of 12:06
26 police forces took on in the early '90s. Then you've
27 got NAFIS, which was the first generation national
28 system, and then you've got IDENT1 which is today's
29 system. But also, at local level, some people bought

1 America products, and I think the one that the RUC had
2 at the time was either, it might have been Print Track,
3 it might have been. It's rudimentary system. It works
4 but it's nothing like the AFIS systems in terms of
5 quality of images and its ability to search algorithms. 12:06

6 159 Q. We heard Mr. Rafferty ask you earlier on about a print
7 relating to the telephone box which was identified,
8 using that automated service in 2006, were you aware
9 of -- and I'm going to refer to it as a hit to provide
10 it with a label for convenience sake, if I may. Were 12:07
11 you aware of another hit in 2001 in relation to --

12 A. Another individual.

13 160 Q. -- an auctioneer sales, or sorry, an auction car sales
14 receipt and a hit coming up from the automated checks
15 on that occasion as well? 12:07

16 A. Mm-hmm.

17 161 Q. Okay. So, those are demonstrable examples of Omagh
18 prints showing the value of that automated system?

19 A. I totally agree with you, that's great that it's
20 working. My only observation on that is that it's one 12:07
21 of them ones from experience in doing my own research
22 when we introduced these systems that it's important
23 that them searches are refreshed, retain the original
24 by all means, and let the system as new ones do the,
25 comparisons, but you should relaunch on a regular 12:07
26 basis. And use a different operator because it's
27 surprise what a different operator can do when they
28 encode it, as I mentioned earlier today.

29 162 Q. I think once you get a hit the gold standard would be

1 then to do a manual comparison?

2 A. It would have to be. It would be signed off on the
3 screen, another expert would check that hit before it
4 would be released to the investigative team. But,
5 yeah, that's a gold standard. 12:08

6 163 Q. I think one of the things that you've helpfully
7 described in your report is that once we get through
8 the different generations of the automated systems and
9 we arrive at IDENT1, it effectively refreshes every day
10 when new prints that come onto the system? 12:08

11 A. Uh-huh.

12 164 Q. And that's on a UK wide basis?

13 A. That's UK wide basis. They've all come together now,
14 fortunately, we've got one system now for all. Very
15 simply to what we've got for the DNA database now. 12:08

16 165 Q. And those Omagh prints sit on --

17 A. I understand from the reports from the Head of Bureau,
18 Leslie Lennox that they sit on the system. As I said
19 earlier, as an advisory note I would say, keep them on,
20 relaunch them. You can be surprised at what you can 12:09
21 get and you do get a different person inputting, you
22 might get a different result. That's the kind of
23 advisory note I'd give from my experience of working
24 and doing research into this.

25 166 Q. Well, that's very welcome, Sir, if I may say. So, I'm 12:09
26 going to ask you one further question about this
27 automated issue and it's once we get as far as IDENT1,
28 so I know the IDENT1 system is still in place and has
29 been updated several times with different iterations

1 and technological updates since the years have gone
2 along.

3 A. Yeah.

4 167 Q. Does it include New Scotland Yard's fingerprints?
5 A. Yeah, almost definitely, yeah. 12:09

6 168 Q. So, if the fingerprints from the terrorist suspects who
7 may only have been arrested in London or elsewhere in
8 England were on the New Scotland Yard hard copy prints,
9 they would have been at some stage updated onto the
10 IDENT1 system? 12:10

11 A. Yeah.

12 169 Q. So, whilst there might potentially have been a deficit
13 at the time, say in the late '90s or early noughties,
14 once we get to the IDENT system, any Omagh prints which
15 exist on IDENT can be checked against suspects who were 12:10
16 only arrested in England, Wales and Scotland?

17 A. Correct, they will all be on that. They should all be
18 on now. You should have complete -- what I said
19 earlier is that there will be what we call a serious
20 crime cache particularly, there could be a block of 12:10
21 outstanding fingerprints from crime scenes from
22 terrorist activity that will be sitting on the system
23 and checked against the database on a regular basis, as
24 new sets of prints come in.

25 170 Q. And we know that the two hits that have come from the 12:10
26 Omagh prints on the automated system --

27 A. Have a consequence, yes.

28 171 Q. -- were the ones we've talked about already, I'm going
29 to suggest to you there haven't been anything further

1 since?

2 A. Not to my knowledge. I'm learning new things every day

3 on this, I really am.

4 172 Q. Now, Mr. Kershaw, I'm almost finished if you would just

5 bear with me for another moment or two. I'm going to 12:11

6 move on to different topic, and it's the issue of

7 requests for other forces, other police forces. One

8 thing that we've got an impression of during the course

9 of last couple of days from yourself and your

10 colleagues giving evidence is that you were presented 12:11

11 with a large amount of documents, helpfully from the

12 Inquiry Team, not necessarily the case files as they

13 might have been referred to in old-fashioned terms,

14 but, one would like to think a lot of the material from

15 those case files and you were trying to make sense of 12:11

16 them?

17 A. Yeah.

18 173 Q. And you, and I think some of your colleagues have said

19 that was particularly at 25 years or 30 years remove

20 possibly not the easiest exercise? 12:12

21 A. It's been a bit of a challenge.

22 174 Q. So I bear that in mind whenever I ask these questions,

23 Sir. It's already clear from what you've said so far

24 that you have seen evidence of the RUC or the PSNI,

25 depending on what year it was, asking other police 12:12

26 forces to check scene prints?

27 A. Yeah.

28 175 Q. Okay. My question is: Have you seen evidence of the

29 RUC or PSNI asking for fingerprints for specific

1 individuals, so a set of suspect prints?

2 A. No, no. I mean, as other people have been involved in
3 this process will tell you, I could do a word search on
4 fingerprints, I could click on a file, a bundle and out
5 drops 100 documents. And then you spend two days going 12:13
6 through them to find -- so, you know, I think you need
7 to appreciate that perhaps that information is there
8 but it's a case of if I had -- if I was in PSNI
9 tomorrow I'd probably be able to get to the stuff
10 straight away, because we've got a standard document. 12:13
11 But to go on a system and spend your life doing that, I
12 think, I could have got on a rowing boat and rowed over
13 there quicker to the PSNI and had a look at them before
14 now. And that's the way it's been. It's been a bit
15 frustrating. I'm quite sure that the documents are 12:13
16 there, and I'm quite sure, you know, if we get an
17 opportunity it would be good to actually see all these
18 things. What works has been done? What outstanding
19 marks have been sent to other forces? What sets of
20 prints have been requested from other police forces, et 12:13
21 cetera. Lots of these things would be useful, I'm sure
22 you'd agree.

23 176 Q. I think you have the sympathy of everyone in this room,
24 Mr. Kershaw, in trying to navigate through the large
25 volume of documentation. And you're not to interpret 12:14
26 this as a criticism in any shape or form, but we have
27 identified, just from some of the fingerprint materials
28 that were buried down within an exhibit to your report,
29 that there's reference to police requesting and

1 obtaining sets of prints for at least two individuals
2 from An Garda Síochána, so the police in the Republic
3 of Ireland. Just for your reference, it's INQ 034013
4 and page 106. We can give that to you in slower time
5 as well. But my impression of your evidence is that 12:14
6 you're not surprised by that, you just hadn't been
7 able --

8 A. Yeah, it's been a really challenging job. I mean,
9 don't get me wrong, there's some incredible documents,
10 and it's great to have them, people have been very 12:15
11 obliging, but trying to drill down and get to specific
12 documents has been a bit of a challenge. But I'm sure
13 some of the ones, some of the information that I
14 haven't got possibly will be in there. But, like I
15 say, there's nothing better than just going over and 12:15
16 having a look at what you've got and then we can tick a
17 few boxes sometimes. But in the main it's worked very
18 well. You know, we've made a good fist of it thus far.

19 177 Q. I'm just going to turn now in conclusion then to,
20 again, use you as a vehicle, if I may, to try and 12:15
21 assist the Inquiry, Mr. Kershaw. You were asked a
22 question in relation to live scan and when it was
23 introduced, and you gave a helpful answer, 1990s
24 potentially, but into the noughties. We took
25 instructions during the break from the PSNI about that 12:15
26 and they have said to us that their live scan system
27 was introduced in 2005?

28 A. Right.

29 178 Q. That wouldn't take you by surprise in terms of general

1 timescales?

2 A. No, no.

3 179 Q. Okay.

4 A. And that would be probably linked to the national
5 system, whereas when a number of, I think there's 12:16
6 probably about 30-something forces were early adopters
7 of the technology in 1993 to 1995 and the obvious bolt
8 on at that time was let's go electronic. And I think
9 they started rolling out in custody around 1995
10 onwards, live scan units, because I remember having to 12:16
11 put a bid in for a few pounds to get these things
12 installed in custody. But, yeah, I can't say, you
13 know, that 2005 is incorrect, I think it's probably
14 about right.

15 180 Q. And the final point, again just using you as a vehicle 12:16
16 to try and assist the Inquiry, you were asked a
17 question by the Chair about if there were 67 nominals
18 for people's prints checked, how do you reconcile that
19 with the reference to 30 individuals on a suspect list,
20 in respect of whom there were no prints at all. Now, 12:17
21 during your research you came across two separate lists
22 of suspects?

23 A. Yeah, further down.

24 181 Q. I'm going to suggest to you, one was dated 19th August
25 and it had 57 names on it? 12:17

26 A. Yeah.

27 182 Q. Does that sound roughly familiar?

28 A. Do you know what, it's a little while, so I'd have to
29 refresh myself with my statement, like we did in the

1 old days. Yeah, I'll go off your figure at this
2 moment, but, yeah, 57 I think it was.

3 183 Q. Okay. I'm going to call that the earlier list.
4 A. Yeah.

5 184 Q. And then there's a subsequent list dated 31st August, 12:17
6 the same year, 2001, and it contains 31 names. And so
7 that is a total of 88 names?
8 A. Right.

9 185 Q. But there's a commonality, as well, between those lists
10 and it may well be, and we'll try our best to assist 12:18
11 the Chairman in relation to this, but it may well be
12 that the reason there were 67 sets of prints checked
13 was because when you add those two lists together there
14 were 30 or so who did not have any prints at all on the
15 system? 12:18
16 A. Right.

17 186 Q. Okay.
18 A. Yeah.

19 MR. HENRY: As I say, Mr. Kershaw, I'm just using you
20 as a vehicle to try and assist the Inquiry in relation 12:18
21 to that. But you'll be relieved to hear I've no
22 further questions for you at this time.

23 THE WITNESS: Fine, thank you very much for that.
24

25 MR. KEVIN KERSHAW WAS QUESTIONED BY MR. GREANEY AS 12:18
26 FOLLOWS:
27

28 187 Q. MR. GREANEY: Sir, before Mr. Kershaw is released can I
29 make plain that we need to get to the bottom of an

1 issue before this session of the forensic scientists'
2 evidence is concluded. And I say that for this reason.
3 It is apparent from Report 2A that Mr. Kershaw has
4 attached importance to the question of whether there
5 was liaison between the fingerprint experts at PSNI and 12:19
6 the fingerprint experts at New Scotland Yard in
7 relation to the Omagh fingerprints, have I correctly
8 understood?

9 A. That's correct Sir.

10 188 Q. And in that context there was an exchange between my 12:19
11 learned Friend Mr. Henry and the witness just a short
12 time ago, in fact at 12:03 which started in this way:

13
14 "You may not have been aware of this, just through the
15 nature of your work, but there was a high degree of
16 cooperation between the Met generally and the RUC in
17 relation to terrorism work, as you might well
18 understand the reasons for."

19
20 which appears to have been a general proposition about 12:19
21 liaison, not about fingerprints specifically but about
22 terrorism issues generally. Sir, I hope you're able to
23 follow this on the transcript. As I indicated I'm at
24 12:03:52, page 68, line 12.

25
26 The question then continued:
27

28 "Now, what we don't know at the moment, and I'm hoping
29 you might be able to help with this, if you can, if the

1 RUC were sending their prints to the terrorism team in
2 London do you know if the terrorism team in London were
3 sending their prints back to the RUC?"
4

5 which appeared to suggest that the RUC had been sending 12:20
6 their prints to New Scotland Yard in London.
7

8 And, certainly, as I understood the answer that the
9 witness gave, he understood the question as suggesting
10 that there had been liaison in relation to Omagh. 12:20
11 Could I check, is that the way in which you understood
12 the question?

13 A. No, I mean, I wasn't aware either, I think my answer
14 was basically, I wasn't aware whether there had been
15 liaison either direction because I've got no 12:21
16 reference -- there's no reference in the documents that
17 I've had.

18 189 Q. I'm going to ask you to pause, because I think what you
19 were saying was that this was the first that you had
20 heard of it? 12:21

21 A. That's the first I've actually officially heard that
22 there was some kind of liaison with New Scotland Yard
23 at this point.

24 190 Q. And it was the first that you had heard, in
25 circumstances in which you had seen no document that 12:21
26 tended to indicate that such liaison had taken place?

27 A. Correct, Sir.

28 MR. GREANEY: So, what I'm going to suggest is that
29 really before two o'clock, it would be important for us

1 to have any document that PSNI had in mind when they
2 posed those questions. And, in particular, if there is
3 a document that indicates that over the relevant time
4 after 15th August 1998 there was liaison between the
5 RUC and New Scotland Yard in relation to fingerprints 12:21
6 and, in particular, if the RUC were sending
7 fingerprints to the terrorism team in London in
8 connection with Omagh that we should see that document
9 so that we can explore it with the witnesses before
10 they leave us. 12:22

11 CHAIRMAN: well, the proposition which was put at line
12 68, line 9:

13
14 "We know that the RUC sent all of their terrorist
15 fingerprints to SO13 or to New Scotland Yard." 12:22

16
17 MR. GREANEY: I think, Sir, you're looking at a
18 slightly different numbering from the numbering that
19 I'm looking at. I've been doing my best to pull from
20 my memory the way in which the questions were framed, 12:22
21 having regard to the part of the transcript that I have
22 been able to print off. I'm simply concerned that the
23 witness has now gained the impression that the liaison
24 of which he was uncertain was in fact in place and that
25 others present within this room and beyond may also 12:22
26 have gained that impression when that impression may or
27 may not be correct. And if there is a document or
28 documents that resolve the issue one way or the other,
29 it is a shame from the witness's point of view that

1 that document has not been made available to him, and I
2 can see his agreement in his reaction. But if there is
3 no such documentation available then the impression
4 that has been created may need to be dispelled.
5 CHAIRMAN: It's really a question of what lies behind 12:23
6 Mr. Henry's proposition.
7 MR. GREANEY: It is, Sir, yes.
8 CHAIRMAN: So, would you like me to adjourn in order
9 that that issue can be explored?
10 MR. GREANEY: No, Sir. I'm in your hands. I've lost 12:23
11 track of how long we've been running now, I'll just
12 check. No, Sir, I think the better use of the time is
13 that we invite the witness to leave the witness box for
14 the time being, that he is not released from his oath
15 at the moment but remains within the building, so that 12:23
16 either he or Prof. Gallop can address this issue once
17 we know whether documents are or are not available.
18 But in the meantime, in the final 35 minutes, I will
19 invite Mr. Rafferty to continue with the witness that
20 he was proposing to call next, so long as you are 12:24
21 content with that.
22 CHAIRMAN: Yes.
23 MR. GREANEY: So, I'm going to ask you to leave the
24 witness box for the time being. You may wish to remain
25 in the hearing room. 12:24
26 CHAIRMAN: Thank you very much for your evidence so
27 far, Mr. Kershaw.
28 THE WITNESS: Thank you very much, Sir.
29 MR. RAFFERTY: Sir, thank you. If I may now call

1 Dr. Sarah Jacob. Dr. Jacob, can you come forward
2 please.

3

4 DR. SARAH JACOB, HAVING BEEN SWORN, WAS QUESTIONED BY
5 MR. RAFFERTY AS FOLLOWS:

12:25

6

7 CHAIRMAN: Thank you, Dr. Jacob, and good afternoon.

8 THE WITNESS: Good afternoon.

9 191 Q. MR. RAFFERTY: Dr. Jacob, your expertise is in the
10 areas of marks and traces, is that correct?

12:25

11 A. That is correct.

12 192 Q. what I'd like do first is examine, briefly, your
13 professional background. Is it correct that you hold a
14 bachelor of science?

15 A. Yes, I do.

12:25

16 193 Q. And do you hold a doctorate of a physical chemistry
17 degree?

18 A. Yes, I do.

19 194 Q. Do you have over 20 years' experience practising as a
20 forensic chemist?

12:26

21 A. Yes, I have over 25 years' experience.

22 195 Q. And in 2001 did you begin your career working with the
23 Forensic Science Service?

24 A. I did.

25 196 Q. Did you continue your work in the same capacity for an
26 independent forensic company, Forensic Access Limited,
27 until 2023?

12:26

28 A. That's correct.

29 197 Q. And since that time have you been an independent

1 forensic consultant?

2 A. I have, yes.

3 198 Q. Is your practical experience, Dr. Jacob, in the
4 assessment and strategy setting and examination and
5 then interpretation of cases involving complex murders 12:26
6 and other serious high profile cases, some
7 incorporating joint examinations with experts in other
8 evidence types?

9 A. Yes, it is.

10 199 Q. Is it correct that you're a guest lecturer at a number 12:27
11 of UK Universities and that you are a published author
12 to include the Royal Society of Chemistry Textbook
13 called The Crime Scene to Court: The Essentials of
14 Forensic Science?

15 A. That is correct. 12:27

16 200 Q. Dr. Jacob, what I'd like to do first is ask you some
17 questions generally about the concepts of marks and
18 traces before we look at the investigation in relation
19 to the Omagh bomb. Is it important to distinguish
20 between marks and traces? 12:27

21 A. Yes, marks and traces are two different evidence types.
22 They are generally put together in one department
23 because they are viewed as being based on chemistry, so
24 there's no biology involved, no specialist
25 examinations, so that's why they're put together in one 12:27
26 department. But marks examinations involve the
27 comparison of physical characteristics between items.
28 So, for example, you might have an item of footwear
29 comparing that to a footwear mark from a crime scene.

1 Traces involves the comparison of small pieces of
2 material, for example, small fragments of glass
3 recovered from a suspect's clothing and comparing that
4 to a reference sample from a crime scene.

5 201 Q. Is it the case that you would exclude the examination 12:28
6 of items such as fibres from the study of marks and
7 traces?

8 A. Yes, fibres themselves are a very specialised type of
9 trace, so they are done by a specialist in fibres.

10 202 Q. You've given an example there of what we might 12:28
11 anticipate marks to consider. Is it the case that
12 marks might be left by tools?

13 A. Yes, that's correct, yes.

14 203 Q. You've referred to footwear?

15 A. Yes. 12:28

16 204 Q. For those of us who don't know, should footwear, as you
17 refer to it, be distinguished from, for example,
18 footprints?

19 A. Yeah. So, a footprint would be bare foot impression
20 left by an individual, whereas a footwear mark would 12:29
21 be, in effect, a shoe print.

22 205 Q. And is the process, in summary, where an investigator
23 will obtain an exhibit and then compare it to a sample
24 of another similar or potentially identical item?

25 A. Can you just repeat the question please. 12:29

26 206 Q. Forgive me. Is the process that somebody will take an
27 exhibit, so something like a footwear mark and then
28 seek to compare that with something else in order to
29 assess its potential forensic value?

1 A. Yes. So, if it was a footwear mark you would be
2 comparing that to an item of footwear that potentially
3 could or could not have made the mark.

4 207 Q. Is that process referred to as a physical fit?

5 A. A physical fit is when you are comparing two different 12:29
6 items that you just suspected could potentially have
7 originally formed one item. So, for example, pieces of
8 tape, where a piece of tape has been removed from a
9 roll of tape, you would be comparing that piece of tape
10 against the tape end of the roll to see if they 12:30
11 originally formed one item.

12 208 Q. And the potential forensic value of studying things
13 like marks and traces could be said to be what?

14 A. The forensic value of marks evidence, in particular, is
15 that it has the potential for a conclusive link. If 12:30
16 there are enough distinguishing characteristics then
17 you can say that that item or the mark was definitely
18 made by a particular item.

19 209 Q. Is it, for example, trying to identify links between
20 crime scenes and victims or between suspects and 12:30
21 environments where crimes have been committed?

22 A. You could use it to compare anything. So, typically,
23 you're comparing footwear relating to a suspect and
24 comparing those to a footwear mark, for example, or a
25 tool from a suspect, relating to a suspect comparing 12:30
26 that to a crime scene mark. But you could be looking
27 at other individuals to see if other individuals were
28 present at a location. If the victim was present at a
29 location, if you were looking at their footwear. So,

1 it has a wide range of uses.

2 210 Q. And in carrying out assessments you've referred to
3 trying to establish a conclusive link; is that the
4 terminology "conclusive links" been established, or are
5 there other terminologies in terms of relative
6 strengths of assessments?

12:31

7 A. So, if there are enough identifying characteristics
8 that you can say you could exclude all other items of
9 footwear, for example, in a footwear mark examination,
10 then you could say that it's a conclusive link.
11 However, often, there's not enough detail in the mark
12 and you are limited, perhaps, in the extent of a
13 comparison that you can carry out. But there is some
14 corroborative evidence, so some areas of agreement, but
15 you're not able to compare the full range of fine
16 detail, for example, in which case would you have to
17 strength of evidence but it would not be a conclusive
18 link. And that is articulated normally on an
19 evidential scale.

12:31

12:31

20 211 Q. I understand. I appreciate I've been asking you
21 questions about marks so I want to step back for a
22 moment and ask about traces. What is trace evidence?

12.32

23 A. So, trace evidence is taking small samples of a
24 material that's not biological in nature and comparing
25 that to a reference sample, that might be from a crime
26 scene.

12:32

27 212 Q. And, practically, what could trace evidence be at a
28 crime scene?

29 A. So, the two most frequently encountered at the

1 laboratory tend to be glass evidence and paint
2 evidence, but, theoretically, any material could form a
3 trace, a trace sample that's suitable for examination,
4 be that glue, brick dust, metal swarf. The list goes
5 on. 12:33

6 213 Q. This, perhaps, is one of the appropriate moments to
7 footnote where you'd said earlier that it doesn't
8 involve study of fibres. That's something we know
9 Prof. Robson commented on it yesterday.

10 A. Yeah, so fibres, as I've said, is a very specialised 12:33
11 type of trace, so you tend to get experts who
12 specifically work on fibres as opposed to other types
13 of trace evidence.

14 214 Q. And when traces are recovered from a scene, is it the
15 case, typically, then they will be compared with 12:33
16 samples to try and identify their potential source?

17 A. You could do that if you had -- if this is the question
18 you're asking, if you had a type of material you might
19 want to identify what it is as an investigative --

20 215 Q. Yes, I'm referring to the aspect of, I think it's in 12:33
21 Report 1 you refer to something called a reference
22 sample?

23 A. Yes. So, if you have a reference sample from a crime
24 scene you can then examine an item relating to a
25 suspect, for example, a T-shirt from a suspect, you 12:34
26 could examine that for any small particles of glass if
27 that's what you're interested in, and you can compare
28 any small particles of glass that you find with a
29 reference sample taken from the crime scene.

1 216 Q. In terms of the results of assessments with reference
2 samples, is there a similar scale or spectrum of
3 results as there is with marks?
4 A. So, a lot of the trace evidence materials that we
5 encounter, for example, glass, are mass-produced, so 12:34
6 it's not possible to gain a conclusive link. The
7 exception is paint evidence, that being because paint
8 is applied in a layer, quite often it's applied in a
9 layer sequence so, therefore, you've got lots of layers
10 of paint, so if there's enough layers there you do get 12:34
11 to the point where you can say, 'I can exclude all
12 other paint samples, therefore, I'm happy to say it's a
13 conclusive link.' However, for most trace evidence
14 types, because they're mass-produced items, you're not
15 able to say it's a conclusive link but often it's 12:35
16 possible to get a high level of support, so strong
17 support or very strong support, for example.
18 217 Q. Is it correct to suggest, Dr. Jacob, that evidence of
19 traces or marks can assist investigators and police in
20 understanding the story of how an event occurred? 12:35
21 A. Yes, using trace evidence you can -- if I give you an
22 example, you could look at a tool to see if that had
23 been used to gain entry to a property and how entry
24 might have been gained to see -- for example, you might
25 look at the tool to see if there's any crushed paint on 12:35
26 the surface of that tool and comparing that to a paint
27 sample from the door frame to say, you know, there's
28 evidence that the door was levered open using that
29 tool.

1 218 Q. I would like to ask you a question about the stages of
2 examinations for marks and traces in the late 1990s.
3 Were there typically established stages in the
4 examination that you would expect to see?
5 A. Yes. 12:36
6 219 Q. What are those?
7 A. So, initially if we're talking about marks evidence,
8 would you have recovery of the mark from the scene.
9 You would then submit that to the lab for comparison
10 with a sample relating to a suspect. At that point you 12:36
11 would do a screen or a visual comparison to see if it
12 is a possibility that that mark could have been made by
13 the item in question, or whether you could exclude the
14 possibility, at that stage, and conclude the comparison
15 at that point. 12:36
16
17 Following on from that, you would then look at the
18 scene mark. You may need to carry out some
19 enhancement, for tool marks, for example, you may need
20 to cast the tool mark or if it's a footwear mark you 12:37
21 might want to carry out some sort of photography using
22 specialist lighting conditions, just to try and improve
23 the quality of the mark for comparison. You will then
24 need to look at your item that's been recovered in
25 relation to a suspect, if it's a tool you would want to 12:37
26 make a test mark with that tool. So, you're taking the
27 tool, if it's a levering mark, for example, you would
28 make the mark into something soft like wax or lead.
29 You would try and replicate how you think the mark has

1 been made, you would cast that test mark so you end up
2 with two casts that you can compare side by side using
3 comparison microscopy. If it's a footwear mark you
4 would make a test mark by dusting up the sole of the
5 shoe and then pressing that shoe on to -- so, you would 12:38
6 dust it up with something like aluminium powder or
7 black powder, you would then press that shoe sole on to
8 a sheet of it's called Fablon, it's like sticky film,
9 so the powder transfers to the sticky surface. You
10 would then peel that off and cover that with acetate so 12:38
11 you've got sort of a piece of clear acetate which has
12 got a footwear mark on it, for comparison with a crime
13 scene mark. Is that clear? Am I making that clear so
14 far?

15 220 Q. It is. One might take the impression that it rather 12:38
16 depends on what it is that's going to be examined?

17 A. But it's the same sort of process, you're basically
18 making a test mark, be that into wax because it's a
19 tool, or be that aluminium powder because it's dusting
20 a piece of footwear, but the principle is you're making 12:38
21 a test mark that you can then compare with your crime
22 scene mark. Once you've made the test mark you can
23 carry out the comparison. It should be said that
24 you're looking for similarities and differences, it's
25 important that we're impartial. So, in terms of 12:39
26 footwear you'd be looking for similarities or
27 differences in terms of pattern, pattern arrangement,
28 wear or fine detail like damage on the sole of the
29 shoe. For a tool you'd be looking at the size and

1 shape of the tool, any damage on the surface of the
2 tool and also any manufacturing detail such as grinding
3 detail on the surface of the tool.

4 221 Q. Dr. Jacob, in the first report that was provided by you
5 and your colleagues to the Inquiry there is a 12:39
6 description of the various processes that would be
7 available to study marks and traces. I'll refer to
8 them in shorthand, if I can. And what that report
9 does, it sets out details of microscopy processes, and
10 a process referred to as GRIM, another which is SEM, 12:40
11 another is FTIR and then finally, GSMS. No doubt, you
12 have a much better understanding of those than any of
13 us. But can I ask you: Were the processes which were
14 typically used by forensic scientists working in the
15 area of marks and traces, were they new or established 12:40
16 processes as of the period of time we're concerned with
17 at the end of the 1990s?

18 A. These were established processes at the time in
19 question.

20 222 Q. Were they implemented in the same way across 12:40
21 laboratories in the United Kingdom?

22 A. Yes, they were. The way these techniques were
23 implemented was very broadly similar between different
24 laboratories across the United Kingdom with very, very
25 slight differences in the way that processes were 12:40
26 carried out, but no appreciable difference.

27 223 Q. And from the papers that you have received, is it your
28 understanding that FSANI was aware of and was
29 implementing the various techniques in a manner in

1 which you would expect?

2 A. Yes.

3 224 Q. Has there been any significant change in the technology
4 which is available in relation to marks and traces from
5 1998 to where we are now? 12:41

6 A. There's been no appreciable change. The processes in
7 doing the comparisons are the same. Slight changes
8 have evolved in the sense of a couple of examples, the
9 casting media used to cast tool marks, be those test
10 marks made with the tools or crime scene marks are 12:41
11 slightly better now than they would have been in the
12 1990s, they're easier to use and just produce better
13 detail. In terms of traces, the equipment, the
14 analytical equipment has evolved over time. So, it's
15 easier to look at samples, you can look at potentially 12:42
16 smaller samples, but, in essence, the results that
17 you're getting is the same.

18 225 Q. Can I ask in terms of limitations of recovering items
19 from a scene that has been the subject of a terrorist
20 bombing incident, can you give us an idea, in practical 12:42
21 terms, of the type of challenges that an investigator
22 might face in recovering items that might be
23 potentially of forensic value?

24 A. So, the main limitation you would have is the
25 conditions to which the evidence has been subjected to. 12:42
26 So, obviously, there's going to be the heat of the
27 explosion, it's going to be dirty, then you're going to
28 have had the actions of potentially fire water at the
29 scene being put on evidence. So, really the evidence

1 is not as I suppose, nice, for want of a better word,
2 as you would get from a windowsill of a burglary, for
3 example.

4 226 Q. So, the considerations you've given can, ultimately,
5 impact and perhaps reduce the value or any examinations 12:43
6 that might -- not value necessarily but the outcome of
7 the assessments that might then follow, is that
8 correct?

9 A. Yes, they can reduce the outcome and, also, they can
10 stop an examination taking place because, you know, for 12:43
11 example, if you've bomb debris, if you've got a car
12 that's exploded you might have wanted to examine that
13 for tool marks, but because it's now fragmented, the
14 pieces are very twisted, they have had water covering
15 them, the metal on the surface of the car has been 12:43
16 stripped off, that may mean that it's not possible
17 to -- you may examine it for tool marks but the
18 likelihood is you may well not find any because they've
19 been obliterated or destroyed during the incident in
20 question. 12:43

21 227 Q. Can the timing of examinations be important as regards
22 the prospect of a forensic outcome?

23 A. Yes, for both marks and trace evidence. For marks
24 evidence, if you've got -- if you recover a mark from a
25 scene that you want to compare with an item, if the 12:44
26 item is taken straight away you've got a good chance,
27 if there is corresponding detail, that that detail will
28 still be present. If you recover an item much further
29 down the line, a comparison with crime scene mark, if

1 it's an item of footwear that footwear may well have
2 been worn over that timescale, so the sole of the shoe
3 will have got more worn, any damage that was there
4 before might have been eroded away and new damage
5 appeared, so the shoe sole would have changed over 12:44
6 time. The same with a tool as well, if that's used in
7 the intervening period, if it's a cutting tool, then
8 the blade characteristics might have changed as it's
9 cut more items. The same if it's a screwdriver used in
10 a levering motion, the surface of the tool might have 12:44
11 become damaged differently so any damage that was there
12 might have changed or some new damage might have
13 appeared. So, you're going to have a difference
14 possibly. And that will increase as the length of time
15 increases, if that tool or item of footwear is used. 12:45

16 228 Q. Was the potential impact of passage of time known to
17 forensic scientists in the late 1990s?

18 A. Yes. Did you want me to talk about trace evidence as
19 well and the impact of time on them?

20 229 Q. Yes please. 12:45

21 A. In terms of trace evidence if you are looking for loose
22 particles on item's clothing, for example, if that
23 clothing is being worn those loose particles will fall
24 off just during general wear depending on the fabric of
25 which the item is made and also the activity of the 12:45
26 wearer. If it's impacted paint on a tool, that may be
27 retained. It is not going to fall off, however, if
28 that tool is subsequently used then it will be, the
29 likelihood is it will be removed. So the longer you

1 leave it -- I mean with glass on clothing that's lost
2 within a matter of hours, as I said the paint on a tool
3 that is going to be lost when the tool is next used.

4 230 Q. So the same question in relation to marks can I ask in
5 relation to traces, was it known to forensic scientists 12:46
6 in the 1990s or late 1990s that the longer period of
7 time that passes say after an event the potential
8 forensic outcome be impacted?

9 A. Yes, that was known.

10 231 Q. The last general question that I would like to ask you 12:46
11 Dr. Jacob, is in relation to the decision to carry out
12 tests for marks and trace evidence, this is an issue
13 which has been raised with the other forensic
14 scientists who have given evidence over yesterday and
15 this morning. Was there a challenge in determining if 12:46
16 and when to carry out examinations for marks and trace
17 evidence if there was a potential that that might
18 impact the viability of other examinations?

19 A. Yes, so what you would normally do is, you would liaise
20 with other scientists and you would work out a strategy 12:47
21 for examining items and for marks evidence and trace
22 evidence may well come at the bottom of that list. So
23 with marks evidence you would, because if you are
24 making a test mark with a tool or test mark with an
25 item of footwear that is going to ruin any DNA 12:47
26 examination, any fingerprint examination, so would you
27 tend to do those examinations first being mindful of
28 the fact that you want to do, you don't want to damage
29 the surfaces because you want to keep the surfaces in

1 the same condition that they are and you would then,
2 you would do marks evidence at sort of at the end of
3 the chain of examinations, does that make sense?

4 232 Q. Is that to suggest that test for marks and trace
5 evidence can be amongst the most destructive? 12:48

6 A. Yes, yes, that's a good way.

7 233 Q. In terms of, I think you way you put it was, this would
8 have be worked out between the scientists. would that
9 be done on your expectation in the late 1990s on an
10 informal basis or how would you expect that to occur? 12:48

11 A. So I started work in the early, so I started work in
12 2001, so at that point case assessment interpretation
13 model had come into play, so it was done formally, so
14 everything was written down and you had, you know,
15 documents that you looked at and you wrote down your 12:48
16 strategy. That should have been coming into play I
17 think around that time. So whether it was being done
18 or not in the late '90s, I don't know. I would expect
19 you know, subsequent consequent to that it was
20 definitely in the early 2000s. At what point that 12:49
21 started, I can't say. But it certainly was around that
22 time that that whole new process was coming in.

23 234 Q. If you could just give me one moment please? Sorry, I
24 was just checking with Ms. Harrison, that she is
25 content to go until one o'clock. 12:49

26

27 Dr. Jacob, I would like to ask you some questions about
28 the Omagh bomb investigation. So following on from the
29 answer you gave a moment ago. The first question is

1 about strategy and strategy as regards items of
2 examination of evidence of marks and traces. Is it
3 correct in your report you say that Dr. John Davidson
4 in a report from the 16th October 2000, indicated that
5 no marks or traces evidence examinations had been
6 carried out as part of the forensic examination of
7 items immediately following the incident?

12:49

8 A. Yes, that's correct, I didn't find any documents
9 relating to any examinations and that's what he has
10 said in his report.

12:50

11 235 Q. So noting what Dr. Davidson has said, and we'll come to
12 whether or not in fact you had evidence of some type of
13 investigation actually occurring before that point in
14 time, was there evidence of a strategy not to carry out
15 those examinations prior to October 2000?

12:50

16 A. I haven't found any evidence of a strategy saying as to
17 why marks and traces evidence might have been put on
18 hold at that time, no.

19 236 Q. Based on your evidence a moment ago, would it surprise
20 you to know that or to see what Dr. Davidson has said
21 in terms of marks and traces examinations not having
22 been carried out by the point of his report?

12:50

23 A. It's difficult to say. From my point of view I would
24 have, you know, I should -- I would have hoped and
25 should imagine this happened and they were considered
26 but it was considered in the wider context of all the
27 evidence that had been found and they were deemed to be
28 lower priority just because the chances of getting a
29 result were deemed -- you know, it is all a question of

12:51

1 resources, isn't it, as to what examinations you are
2 going to carry out first. So I imagine, and I would
3 hope it happened, that was considered but they were not
4 done at that time just because of resources and due to
5 the condition of the exhibits, therefore, there may be 12:51
6 those examinations were considered more of a long shot,
7 and, therefore, prioritised less. Does that make
8 sense?

9 237 Q. Yes, and I will ask you about this reference to a long
10 shot in a moment. It is to clarify if there was 12:52
11 reference to a formal strategy we understand you have
12 not received evidence of, if there was consideration of
13 marks and trace examinations is it your expectation
14 that marks and trace examinations would be towards the
15 bottom end of the list of priorities? 12:52

16 A. They would be towards the bottom end of a list of
17 priorities, however, if there was something that
18 potentially could give a good result then you would
19 expect that to be prioritised.

20 238 Q. Is that as a result of, bearing in mind the stages of 12:52
21 examination you spoke about a moment ago, generally
22 there would be preliminary visual assessment of a
23 document or of an item?

24 A. Yes, and also if you had an obvious tool mark for
25 example, then it would be prudent to expedite that 12:52
26 item. So to be able to do the tool mark examination.
27 If there are other examinations required on the item to
28 prioritise those then the tool mark examination could
29 be carried out.

1 239 Q. And is it your understanding that Dr. Davidson
2 suggested in his report from October 2000 that marks
3 and traces should get underway from that point in
4 October 2000 then into 2001?

5 A. He made comment in his report and gave areas of 12:53
6 potential marks and traces examinations that should be
7 carried out, in his opinion.

8 240 Q. You referred a moment ago to the phrase or the term 'a
9 long shot', is it correct that you have received some
10 information which assists you in understanding what had 12:53
11 happened up to the point of Dr. Davidson's report in
12 October 2000?

13 A. Having received the statements from the scientists who
14 worked on the case, the statements they provided
15 recently, this year, of the conditions they were 12:53
16 working in and the pressures they were under, I can see
17 that there was a lot to do and just by common sense you
18 would understand there was a lot to do and you would
19 prioritise examinations that were more likely to give a
20 fruitful line of inquiry. 12:54

21 241 Q. You have referred to Dr. Griffin and that she had said
22 in her statement that in complex serious cases such as
23 bombings, there was prioritisation and that there would
24 be prioritisation within cases to ensure that items
25 that would provide best evidence were examined as 12:54
26 quickly as possible. And she also refers, you note, to
27 the condition of the bomb car and to the device at
28 Omagh, to the fact that it had been exposed to
29 chemicals, isn't that correct?

1 A. That's correct, yes.

2 242 Q. And to the reference, which you repeated a moment ago,
3 to there being 'a long shot', is that correct?

4 A. Yes.

5 243 Q. Does that help you understand again that period of time 12:55
6 up to 2000, 2001 and whether or not in fact, and why
7 not perhaps, marks and traces investigations had not
8 been carried out?

9 A. So her comments fit in with what my expectations would
10 be of conditions, working conditions at that time and I 12:55
11 can see why marks and traces examinations were not
12 prioritised given the resources available.

13 244 Q. Is it correct that in a further report from
14 Dr. Davidson in December 2001, this being a joint
15 report with Dr. Griffin, that the investigation 12:55
16 extended to consider potentially linked terrorist cases
17 first of all, but also in relation to marks and traces
18 went on to explore the potential examination of
19 thermoplastic glues?

20 A. Yes, that was suggested at that time. 12:56

21 245 Q. And even solder composition?

22 A. That was also suggested at that time, yes.

23 MR. RAFFERTY: Sir, the next thing I was going to do
24 was introduce a slideshow that Dr. Jacob has provided
25 the Inquiry, it may be appropriate to do that after a 12:56
26 break.

27 CHAIRMAN: Yes, of course.

28 MR. RAFFERTY: If I could invite you to rise and return
29 at two o'clock please.

1 CHAIRMAN: Right.

2
3 THE INQUIRY ADJOURNED FOR LUNCH AND RESUMED AS FOLLOWS:

4
5
6 CHAIRMAN: So, Mr. Rafferty.

7 MR. RAFFERTY: Good afternoon, Sir. We're going to
8 continue now with the evidence of Dr. Jacob.

9
10 DR. SARAH JACOB CONTINUED TO BE QUESTIONED BY
11 MR. RAFFERTY AS FOLLOWS:

12
13 246 Q. MR. RAFFERTY: Dr. Jacob, is it correct that you have
14 prepared a short presentation for the benefit of the
15 Inquiry summarising some of the key points that you
16 have found from your review of the papers?

17 A. It's a very short rudimentary presentation but just
18 shows some pictures -- you know, examination in picture
19 format which might illuminate the examination of tool
20 marks and tapes more for people that are present.

21 247 Q. Can I ask for that slideshow to be brought on to screen
22 now, thank you. [Slide shown]. This is the first
23 slide of the slideshow that you've prepared, isn't that
24 correct?

25 A. That's correct, yes.

26 248 Q. So, in summary, the important marks examinations that
27 you have identified from the papers you've received
28 first, that involves a manufacturing mark comparison of
29 the number plate from the bomb car?

1 A. Yes, that's correct.

2 249 Q. And, second, a physical fit comparison of tape ends?

3 A. Yes.

4 250 Q. Third is the examination of debris from the bomb, the
5 bomb car, and scene for tool marks? 14:01

6 A. Correct.

7 251 Q. Next is the examination of the number plate from the
8 bomb car for tool marks?

9 A. Yes.

10 252 Q. And, lastly, the examination of toolbox and tools? 14:01

11 A. Yes.

12 253 Q. Staying with the area of marks examinations, I'd like
13 to ask you about the examination of the number plate
14 from the bomb car, Dr. Jacob. You refer in your report
15 to that item having an exhibit reference DW -- sorry, I 14:02
16 beg your pardon, I'll just confirm that in a moment.
17 But you provide the reference for that item and you say
18 that when Dr. Davidson provided a review, carried out a
19 review -- it's DWGK3?

20 A. Yes, correct. 14:02

21 254 Q. -- on 16th October 2000, did he comment that no
22 examination of the number plate had been carried out at
23 that stage?

24 A. He said words to the effect that there were no marks or
25 traces evidence examinations that had been carried out 14:02
26 immediately following the incident. So, he didn't
27 reference this particular examination in his report
28 which had in fact been carried out.

29 255 Q. And he went on to say that there could be some value in

1 investigation of the bomb car number plate?

2 A. Yes, he did go on to say that. In his report he does
3 say that he saw this, he looked at this report from
4 George Johnston but I think maybe he's not included it,
5 I'm speculating, obviously, because it didn't provide 14:03
6 anything meaningful. In effect, the surfaces of the
7 plate were too scuffed for meaningful comparison,
8 therefore, no actual comparison was carried out.

9 256 Q. Just so we understand, Dr. Davidson is saying in
10 October 2000, in his view no examination had been 14:03
11 carried out, he had recommended that there could be
12 steps taken in respect of the number plate, is that
13 correct?

14 A. Yes.

15 257 Q. But in fact what your review has revealed is that 14:03
16 somebody had in fact looked at this and provided a
17 statement as of 18 of June from 1999, is that right?

18 A. That's correct, yes. So, somebody had, or
19 George Johnston had in fact looked at the number plate
20 in 1999 prior to John Davidson's report. 14:04

21 258 Q. What is your understanding of the assessment that had
22 been carried out by Mr. Johnston?

23 A. So, in effect, he's just looked at a small aspect of
24 the number plate. So, if you think about how number
25 plates were made at the time, you had a sheet of clear 14:04
26 plastic on which you put your letters and numbers, you
27 would then stick a reflective layer onto the back of it
28 and then that sandwich construction was then passed
29 through two rollers, so a roller assembly, which then

1 ensured even bonding of those component parts. So,
2 George Johnston looked at the upper and lower surfaces
3 of those and compared those to a roller press that had
4 been recovered from an address. So, he was just
5 looking at the top surface and the bottom surface, not 14:04
6 any -- there was no taking apart of the number plate at
7 that point to look at the individual numbers and
8 letters under any manufacturing marks or tool marks
9 that could be associated with those or around the edges
10 of the whole number plate assembly, it was just purely 14:05
11 the top and the bottom surfaces of the number plate.
12 259 Q. So, if there was an examination before Dr. Davidson
13 provided his report in October 2000 it was a limited
14 examination, is that right?
15 A. It was limited examination, yeah. 14:05
16 260 Q. Subsequent to Dr. Davidson's report, you refer in your
17 statement to an examination not just of the number
18 plate but how this then appeared to widen into an
19 examination of recovered debris from the bomb car and
20 the device -- 14:05
21 A. Yes.
22 261 Q. -- by Mr. Armstrong, is that correct?
23 A. That's correct. So, after the 2000 report of
24 John Davidson there was an examination of the debris
25 from the car and from the bomb scene as well, which 14:05
26 included the number plate.
27 262 Q. And you say at 8.19 of your report that there were
28 several purposes to the examinations that were going to
29 be carried out?

1 A. That's correct, yes.

2 263 Q. What were those?

3 A. Those were, first of all, to look for tool marks to

4 determine how the vehicle had been stolen, for example,

5 whether any doors had been forced. Second point, 14:06

6 whether the car had been modified to accommodate the

7 device. Thirdly, the value of any tool marks which may

8 be present if the vehicle had been forced or modified.

9 And, fourthly, to identify any fragments of the device

10 which may be suitable for tool marks examination. 14:06

11 264 Q. And is it right that Mr. Armstrong reported that there

12 were no tool marks that were recovered to indicate how

13 the vehicle had been stolen or adapted?

14 A. That is correct, yes.

15 265 Q. And there were no tool marks on the recovered remains 14:06

16 of the device which could be used for comparison with

17 any tool that had been seized in relation to the

18 suspects?

19 A. Yes, that's correct.

20 266 Q. In relation to his examination or consideration of the 14:07

21 number plate, what did he report?

22 A. He reports that he examined the number plate, it had

23 been split to allow for DNA fibre fingerprint and tool

24 mark examinations. Tool mark examinations show that

25 there was no striated or impressed detail on either the 14:07

26 inside or outside surfaces of the plate that could be

27 used for comparison. But then he says:

28 "All four edges of the plate bore noticeable striated

29 detail."

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So, in effect, that's tool marks that are present.
This indicated that the plate had been cut and then
shaped by a router.

267 Q. Was that a significant finding? 14:07

A. It's significant in fact that there are some tool marks
present which it may be possible, in theory, to compare
with the tool. However, at this point it's three years
since the incident occurred so he makes comment that if
the tool is still in use that you would have expected
its cutting characteristics, the appearance of the
blade to have changed over that time if it was used
during that three-year period. 14:08

268 Q. So, you say in your report at 8.24 that the detail in
the mark was good and suitable for comparison, is that
consideration of the number plate? 14:08

A. That's what I interpret from the report, yeah.

269 Q. But, in fact, then could any comparison or valuable
comparison exercise be carried out because of the
period of time that had passed? 14:08

A. No, because you would expect the blade not to be
present or there not to be the cutting characteristics
to have changed if it is indeed still present on the
tool. I understand that enquiries were made, because
it might be possible, it would be possible to identify
or find a number plate that had been cut and
manufactured by the same router around the same time as
this number plate, in which case you could do a
comparison of striated marks between the two. So, 14:09

1 you're not comparing it directly to the cutting
2 implement, you're comparing to two different items that
3 had been cut by the same implement around the same
4 time. As I understand it, there were enquiries to try
5 and identify such a number plate that could be used for 14:09
6 reference purposes, however, it was not possible to
7 find one.

8 270 Q. You say at 8.42 and 8.43 of your report, and you make
9 reference to a forensic management team meeting in
10 April 2001, that efforts were made to source reference 14:09
11 number plates around the same time as the number plate
12 related to the Omagh bomb car, and from the records
13 that you have seen it appears these were unsuccessful?

14 A. Yes.

15 271 Q. I'd like to ask you then next about examination in 14:10
16 relation to tools. Dr. Davidson said in October 2000
17 that tools, including drill bits and wire cutters, were
18 seized from suspects and at that stage none of those
19 had been compared with any drill holes or cut ends on
20 the recovered parts of the Omagh device, is that 14:10
21 correct?

22 A. That is correct, yes.

23 272 Q. And is it right that further examinations were
24 performed in relation to those items?

25 A. So, subsequent to the 2000 report, after that was 14:10
26 produced, there was an examination of the bits of bomb
27 material and debris from around the bomb site for any
28 tool marks that could potentially be compared with
29 tools that had been seized from suspects, including the

1 drill bits and wire cutters. However, from the
2 information that I've been given, no such tool marks
3 were found.

4 273 Q. Is it correct that this examination, particularly in
5 relation to a toolbox, was carried out by Mr. Armstrong 14:11
6 when he was reviewing the number plate that we've just
7 spoken about?

8 A. Yes.

9 274 Q. You say at 8.23 of your report, that toolbox was
10 examined by Mr. Armstrong as part of his tool mark 14:11
11 examination and numerous tools were exhibited for
12 future reference. The toolbox was also found to
13 contain fragments of wire, plastic conduit, nails
14 screws and other items, is that correct?

15 A. That is correct, yes. 14:11

16 275 Q. And is it your understanding that anything of forensic
17 value was ultimately obtained in terms of comparison?

18 A. So, it's my understanding, from the information that
19 I've read, that there were no -- in terms of the
20 material that was examined, parts of the bomb car and 14:12
21 from around the bomb site, there were no tool marks
22 that could be compared with those items, apart from a
23 mark that was present on the number plate.

24 276 Q. Yes. And at 8.32 of your report, I appreciate I'm
25 moving around a little bit, Dr. Jacob, but if bear with 14:12
26 me. At 8.32 of your report you indicate that there was
27 an impacted single-bladed mark, as you've referred to,
28 found on the number plate but that this showed
29 different dimensions when compared with a wood chisel?

1 A. That's correct, yes.

2 277 Q. And there's a reference to tools from a toolbox, which
3 is within Item 371, and the mark on the number plate
4 could not have been made by this tool?

5 A. Yes. So, none of the other tools in the toolbox could 14:12
6 have made the mark and that would have been due to
7 differences in appearance and dimensions.

8 278 Q. You go on to say there were no other useful tool marks
9 suitable for comparison found on examined debris from
10 the Omagh bomb car, from the device or around the bomb 14:13
11 site?

12 A. That's correct, yes.

13 279 Q. I'll turn to the issue of tapes. So, again, that was
14 the subject of comment from Dr. Davidson back in
15 October 2000. You say at paragraph 8.10, that tapes 14:13
16 and wires were recorded as having been seized from
17 suspects but at that stage none had been compared with
18 any fragments of materials retained on the recovered
19 parts of the Omagh device?

20 A. That's correct, yes. 14:13

21 280 Q. Did Mr. McAuley then carry out a physical fit
22 comparison?

23 A. Yes. So, subsequent to the 2000 report of
24 John Davidson, a physical fit comparison was carried
25 out of the tape ends, so that involved tape recovered 14:14
26 from the device compared to rolls of tape recovered
27 from or relating to suspects. So, recovered in house
28 searches.

29 281 Q. And perhaps just to illustrate what Mr. McAuley was

1 doing, if I could just ask for the slideshow to be
2 moved further forward I believe, two sides in. I beg
3 your pardon, it is going to be the next one, slide 4.
4 [Slide shown]. Have you provided a slight just to
5 illustrate the process that Mr. McAuley was going 14:14
6 through?

7 A. Yes, this is just provided for illustrative means.
8 It's not the Omagh bomb exhibits, but it just shows how
9 you would go about doing a tape comparison. You would
10 put tape on to acetate so it's laid out flat so there's 14:15
11 no distortion, and then you would just literally
12 compare the two ends to see if there is a physical fit
13 between the two.

14 282 Q. And so I understand this practically, essentially what
15 he's doing is comparing tapes taken from house searches 14:15
16 with tapes ends from the scene?

17 A. Correct, yes.

18 283 Q. And did Mr. McAuley say when he was carrying out his
19 examination that some items - and I use the next words
20 intentionally - were not found? 14:15

21 A. That is correct, yes.

22 284 Q. You refer to this at 8.15 of your report. Can I ask
23 you to give us your understanding of what you interpret
24 the phrase "were not found" to mean?

25 A. So, by saying "were not found" I can only surmise that 14:15
26 the items had been lost at some point. There's no
27 further information that I have found as to whether or
28 not that is actually the case and where this may have
29 occurred, be that during storage or examination at the

1 laboratory or at some other time.

2 285 Q. And at 8.15 of your report you refer to tape within an
3 item from the Omagh bomb scene and then tape within an
4 item relating to house searches?

5 A. Yes. 14:16

6 286 Q. Now, the outcome of the material that Mr. McAuley could
7 examine you refer to at 8.30 of your report, Dr. Jacob,
8 and is it correct to summarise it in this way, that
9 none of the tape ends recovered from the scene were
10 found to physically fit with any of the samples of tape 14:16
11 recovered from the house searches?

12 A. That is correct, yes.

13 287 Q. You refer to the findings as being inconclusive?

14 A. Yes. In effect, the findings are inconclusive because
15 there is some time between the incident having occurred 14:17
16 and seizure of the rolls of tape, therefore, removal of
17 additional pieces of tape may have occurred. So,
18 therefore, you're not saying for sure that the tape has
19 not come from those rolls of tape but you can't say one
20 way or the other. So it is inconclusive. 14:17

21 288 Q. Now, I'm going to turn to the examination of traces, so
22 if we could look at the last slide, so that's slide 6.
23 [Slide shown]. The two key areas within this topic
24 are, first of all, the comparison of glue samples and,
25 secondly, the comparison of solder, is that correct? 14:17

26 A. That's correct, yes.

27 289 Q. You set out your understanding of the work that had
28 been carried out by October 2000 by saying that
29 Dr. Davidson reported that none of the tapes or wires

1 A. It is a limiting factor, yes, because it's very hard to
2 put any findings into context.

3 293 Q. This was a feature, am I right in understanding, of the
4 original investigation and it was commented on by
5 Dr. Davidson? 14:19

6 A. Yes, sorry, can you just give me a... I know it has
7 been commented on in various reports of Dr. Davidson
8 along the way that there is no background information.

9 294 Q. I found it now, Dr. Jacob. This is 8.47 of your
10 report, it's within the middle of the paragraph, I 14:20
11 don't think it needs to be brought onto the screen but
12 you refer to the lack of background information
13 relating to glue samples has been commented on by
14 John Davidson?

15 A. Yes. 14:20

16 295 Q. So, is it correct to say that there was an analysis,
17 then, of glue samples taken from the Omagh device and
18 items from the various scenes investigated by police?

19 A. Yes. An examination was carried out, that was reported
20 in 2004. 14:20

21 296 Q. Dr. Griffin produced her statement on 27th October 2004
22 which provides the details of the findings of glue
23 comparison?

24 A. Yes.

25 297 Q. And is it right to say that the two samples that were 14:21
26 taken from the bomb device were found to be
27 indistinguishable from each other?

28 A. Yes, they were.

29 298 Q. And what were the findings in relation to samples from

1 other areas?

2 A. So, there was one sample, a very small sample which was
3 taken from the toolbox which was examined, and that
4 corresponded in the results of one test which is FTIR,
5 but it was too small for further analysis. But 14:21
6 actually, although it corresponded in FTIR, that just
7 gave the very general type of glue that it was, so
8 those findings are not significant and it was too small
9 to do any further examination of. All the other
10 samples were distinguishable from the samples from the 14:21
11 Omagh device and also from each other.

12 299 Q. So, just that I'm clear on this, the connection
13 between -- and you address this at 8.36 of your report,
14 Dr. Jacob, the two samples from the Omagh device, they
15 are indistinguishable from one another? 14:22

16 A. They are.

17 300 Q. The remaining samples which are examined, they are
18 distinguishable from one another and also from the
19 Omagh device?

20 A. That's correct, yes. 14:22

21 301 Q. You then do go on to say there's an exception in
22 relation to what's described as a piece of loose glue,
23 so can you just clarify what that related to?

24 A. So, the piece of loose glue was taken from the toolbox
25 Item 371 AMCC16, which was the one examined by 14:22
26 Dr. Davidson. And that piece of loose glue was
27 examined in terms of FTIR spectroscopy. It
28 corresponded with those samples taken from the Omagh
29 device that was too small for further analysis, but the

1 results of the FTIR spectroscopy are, in themselves, of
2 no evidential significance because it's such a common,
3 it just gives the general type of glue present as
4 opposed to any more identifying components that are
5 present.

14:23

6 302 Q. You go on to refer, Dr. Jacob, to a draft report from
7 Dr. Davidson from 16th October 2005 and that that makes
8 comment on the examination of samples from all of the
9 potentially linked scenes and reference samples as a
10 whole.

14:23

11 A. Yes.

12 303 Q. And on the basis of available knowledge, it was not
13 possible to confirm whether differences observed were
14 as a result of the glues having originated from
15 different batches or whether they were due to artefacts
16 due to the treatments that they had received since
17 assembly and prior to chemical examination?

14:23

18 A. That is correct. So, this is where the whole problem
19 of lack of background knowledge comes in. So, it's not
20 just the range of different glue types that in the
21 market place and how you can distinguish them using the
22 different techniques that were employed but also what
23 happens to those glue samples when they're subjected to
24 different treatments, including explosion.

14:23

25 304 Q. Dr. Davidson also appears to have indicated that glue
26 sticks which have may have originated from different
27 batches could affect the results that are obtained.
28 And, in summary, glue comparison results should,
29 therefore, be regarded as inconclusive?

14:24

1 A. That is correct. There just isn't sufficient
2 background or research to be able to draw any reliable
3 conclusions either way.

4 305 Q. You say at 8.48 of your report that in your opinion
5 there were no obvious further tests or techniques 14:24
6 relating to marks and trace evidence which were
7 available at the time of the Omagh bomb investigation
8 which could reasonably have been applied to the
9 examination of items, is that correct?

10 A. Yes, that's correct. 14:24

11 306 Q. If I recall your evidence from earlier, it was to the
12 effect that there was no appreciable difference between
13 what was available then and what's available now, is
14 that correct?

15 A. That is correct. There's been only very, very minor 14:25
16 changes in the examinations which would not effect the
17 result that is have been obtained, in my opinion.

18 307 Q. The last question I have is in relation to the
19 potential comparison of solder. You indicate that this
20 was something suggested by Dr. Davidson in 2004? 14:25

21 A. Yes. Do you have a paragraph reference?

22 308 Q. I'm referring to the bullet point on the slideshow?

23 A. Oh, yeah, okay.

24 309 Q. This is something you've indicated was considered in
25 2004, is that correct? 14:25

26 A. Yes, that's correct, that was mentioned by
27 Dr. Davidson.

28 310 Q. But it appears in your last bullet point you said, and
29 this is reflection, I believe, of Dr. Davidson:

1
2 "To do this, more specialised techniques could be used
3 but solders on bomb devices were unlikely to be
4 suitable for such examination due to contamination."
5

14:26

6 A. Yes, that's correct. I mean, in my opinion, again,
7 this is a non-standard examination type, therefore,
8 there just isn't the background data to be able to
9 carry out the examination in terms of what techniques
10 you could employ and how you would go about validating
11 them properly. And that would take a long time anyway
12 and there is no real background data I'm aware of.

14:26

13 311 Q. Insofar as you're aware, this is not an exercise which
14 was actually carried out in relation to the Omagh bomb
15 investigation?

14:26

16 A. No, this was just a suggestion of a possible line of
17 inquiry, but it was not carried out.

18 312 Q. In fact, I can see in your report you refer to this
19 being considered by the Peer Review Panel as well?

20 A. Yes.

14:26

21 313 Q. You note that at 8.47?

22 A. Yes, correct.

23 MR. RAFFERTY: Dr. Jacob, that completes the questions
24 I have for you. Sir, can I ask if you have any
25 questions for Dr. Jacob.

14:27

26 CHAIRMAN: I don't, thank you.

27 MR. RAFFERTY: Can I tell you Mr. Henry has permission
28 to ask questions if he wishes, he's just indicated to
29 me that he doesn't intend to use that time. Unless

1 there is any reason, Dr. Jacob can be thanked and
2 released.

3 CHAIRMAN: well, thank you very much, Dr. Jacob.

4 THE WITNESS: Thank you.

5 MR. RAFFERTY: I'm going to hand over to Mr. Greaney. 14:27

6 MR. GREANEY: Sir, I'm going to ask Mr. Kershaw to
7 return to the witness box please, he's in the hearing
8 room.

9
10 MR. KEVIN KERSHAW WAS FURTHER QUESTIONED BY MR. GREANEY 14:27
11 AS FOLLOWS:

12
13 314 Q. MR. GREANEY: Mr. Kershaw, you remain sworn, as you'll
14 appreciate. What we need to do is to return to the
15 issue that arose at the very end of the questioning on 14:27
16 behalf of PSNI. And, Sir, I've now obtained a full
17 transcript of the relevant part of the evidence and I
18 have found the statement that you yourself referred to
19 during our exchange. The exchange we're going that
20 we're going to be focused on is this, it's timed at 14:28
21 1203 and 41 seconds. In the transcript it starts at
22 page 68, line 9. The question, as it became, started:

23
24 "We know that the RUC sent all of their terrorist
25 fingerprints to SO13 or to New Scotland Yard?" 14:28

26
27 And the witness said, "okay."

28 The questioning continued:
29

1 "You may not have been aware of this, just through the
2 nature of your work, but there was a high degree of
3 cooperation between the Met generally and the RUC in
4 relation to terrorism work, as you might well
5 understand the reasons for. Now, what we don't know at
6 the moment, and I'm hoping you might be able to help
7 with this, if you can, if the RUC were sending their
8 prints to the terrorism team in London do you know if
9 the terrorism team in London were sending their prints
10 back to the RUC?"

14:29

11
12 And as we discussed before lunch, you had understood
13 that line of questioning to suggest there was material
14 available indicating that the fingerprints from the
15 Omagh bombing had been sent to S013.

14:29

16
17 Sir, what I've had the chance to do, shortly before you
18 came into the hearing room, was to speak to Mr. Henry,
19 who very kindly explained to me what he had been
20 driving at and what the evidential position was
21 underpinning his questioning. And, Sir, just before I
22 ask some further questions of Mr. Kershaw, can I
23 indicate my understanding of the position of PSNI,
24 which I hope will bring clarity both for you, Sir, for
25 the witness and for others who are watching.

14:29

14:30

26
27 The position of PSNI is that at the relevant time, so
28 in 1998 and following, it was usual (to underline that
29 word) for fingerprints of those arrested on suspicion

1 of terrorism offences to be sent to SO13. And in that
2 regard, Mr. Henry has drawn my attention to comments
3 that his team had made on what we have been describing
4 as Report 2A, and those comments were:

5
6 "It is also more than probable that finger marks
7 recovered in relation to the bombing were sent to the
8 Fingerprint Bureau at New Scotland Yard for comparison.
9 However, no documents have been discovered within the
10 OBI document database available to the scientific team 14:30
11 that pertain to the Met Police and to Terrorist Branch,
12 SO13 or the Force's Fingerprint Bureau at New Scotland
13 Yard."

14
15 And he has also drawn my attention to a Rule 10 request 14:31
16 made in respect of the forensic scientists I think
17 generally, in which the following was said:

18
19 "The majority of SO13's republican and dissident
20 republican terrorist suspect prints were provided to it 14:31
21 by the RUC and later the PSNI."

22
23 So, Sir, what it comes to is this, that the proposition
24 that it was commonplace or usual for terrorists'
25 fingerprints to be sent to New Scotland Yard was not 14:31
26 new during the course of the questioning, but is a
27 position that the PSNI has adopted consistently over a
28 number of documents.
29

1 I'm afraid I haven't quite finished in relation to an
2 update on PSNI's position.

3
4 PSNI acknowledge that they have been unable to locate
5 any written policy, or other document, going to 14:32
6 establish the liaison that they maintain usually took
7 place between themselves or RUC, and New Scotland Yard
8 at the time. So, the upshot is that Mr. Henry put his
9 question, the question I've drawn attention to, which
10 contained information wrapped up in the question, on 14:32
11 the basis of the instructions that had been given to
12 his client and, in turn, those instructions were based
13 upon what those who had been in post at the relevant
14 time have said to PSNI. So, that is the evidential
15 basis for the question. There is no document which 14:32
16 underpins it.

17
18 And so, Mr. Henry has very candidly acknowledged in his
19 discussions with me that to have said "we know that the
20 RUC sent all of their fingerprints to S013 or New 14:33
21 Scotland Yard" may well have involved a degree of
22 overstatement of the type that can happen to any
23 advocate and for our part, Sir, we've passed beyond
24 that. What he has been very clear with me about is
25 that what he was seeking to capture in that question 14:33
26 was the effect of the instructions I've just set out,
27 namely, that his client has been told it was usual for
28 such liaison to take place.

1 So, just to complete the picture, before I finally get
2 to ask some questions, there is no document that PSNI
3 can point to that establishes that fingerprints
4 relating to the Omagh bombing were sent to New Scotland
5 Yard.

14:33

6
7 So, Mr. Kershaw, in terms of documentation, your
8 understanding has not moved on at all, save that there
9 is confirmation that your belief that there is no
10 relevant document exists but at least I hope I've been
11 able to communicate to you an understanding of what the
12 position of PSNI is in relation to the usual approach.
13 Now does all of that make sense?

14:34

14 A. It does, but I want to assist the Inquiry in terms of
15 what we would define as fingerprint, because my opening
16 address was about what was a fingerprint, there's two
17 types. There's one whereby it's set of fingerprints of
18 a donor, of a suspect, of an arrestee, that's the ink
19 set. And then, of course, there's the crime scene
20 fingerprints, the ones that have been developed at the
21 crime scene and recovered.

14:34

22 315 Q. I'm going to ask you to stop there. My understanding,
23 it may be that further clarity can be brought to this
24 in due course and your views can be sought, but my
25 understanding is that no fingerprint material was sent
26 relating to the Omagh bombing by the RUC to New
27 Scotland Yard and so can we proceed on that basis?

14:34

28 A. Right.

29 316 Q. And does that basis make sense?

1 A. Yeah.

2 317 Q. So, obviously, the fact that there is no documentation
3 that reveals that fingerprint material was sent to New
4 Scotland Yard doesn't determine the question of whether
5 in fact it was sent because it is, obviously, a 14:35
6 possibility that it was sent without it being
7 documented, do you follow me?

8 A. Yes, I agree with you.

9 318 Q. But it may be that you are able to provide further
10 assistance and it's that further assistance that I want 14:35
11 to seek?

12 A. Most certainly.

13 319 Q. Can I say that both of us, me and my questions and you
14 and your answers - and this is not intended in any way
15 as criticism - need to remain highly focused because 14:35
16 we've got a lot to get through once you've finished,
17 both today and tomorrow, and I believe that you have
18 already had to delay your flight back home.

19 A. Mm-hmm.

20 320 Q. So let's try to avoid you having to do that for a 14:35
21 second time.

22

23 As a starting point, would you have expected any
24 fingerprints found in relation to the Omagh bombing to
25 have been sent in 1998 to New Scotland Yard? 14:36

26 A. In all probability, yes.

27 321 Q. And why would you have expected that to have happened?

28 A. Basically because the type of offence, this was a
29 terrorist offence and, of course, New Scotland Yard was

1 the hub of the UK terrorist fingerprint team.

2 322 Q. And so, you've described it in terms of probability but
3 if I say it would have been your expectation that such
4 material was sent, am I capturing your view?

5 A. Yeah, you are. 14:36

6 323 Q. But, in fact, in the materials that you've had, you've
7 seen nothing to indicate that that did in fact occur?

8 A. That is correct also.

9 324 Q. So, on the face of it, your expectations were not met?

10 A. That is certainly correct, yeah. 14:36

11 325 Q. Now, I want to understand from you, and this shouldn't
12 take long at all, what materials you would have
13 expected to have been generated if a submission had
14 been made of fingerprint materials by the RUC to New
15 Scotland Yard. So, I'm going to talk you through it. 14:37
16 But before we do so we need to be fair to the evidence
17 you're going to give. You were working in 1998,
18 weren't you?

19 A. Yes, yeah.

20 326 Q. And I think you were working in GMP at that point in 14:37
21 time?

22 A. That's correct.

23 327 Q. You were working in the world of fingerprints?

24 A. That's correct.

25 328 Q. And since then you have carried out work within the 14:37
26 Metropolitan Police Service?

27 A. Prior to that, prior to 1998, yes.

28 329 Q. So, you have a degree of familiarity with how they were
29 working at the time?

1 A. Most certainly, most certainly.

2 330 Q. But, as I've said to be fair to the point, you haven't
3 worked in, as we've understood it in the RUC?

4 A. No.

5 331 Q. Or in PSNI? 14:38

6 A. No.

7 332 Q. But GMP and the MPS did use, for example, the Home
8 Office Large Major Enquiries System, HOLMES?

9 A. Yes, we did.

10 333 Q. As we know, that RUC and PSNI did, but nonetheless, we 14:38
11 must bear all of those factors in mind in assessing the
12 evidence that you're about to give.
13

14 Now, if a submission of fingerprint material had been
15 made to New Scotland Yard, what would you have expected 14:38
16 to have been created by way of that submission. Let's
17 just take this slowly and carefully.

18 A. Okay. From my perspective, I would expect initially at
19 the highest level within the two police forces some
20 kind of agreement that this information would be 14:38
21 shared. So, for instance, it may be that the chief
22 officer at GMP or RUC would be in contact with a senior
23 officer at the Metropolitan Police. So, firstly there
24 would be an agreement between the two authorities.

25 334 Q. Just pausing there. So, some liaison at chief officer 14:39
26 or similar level?

27 A. Chief officer.

28 335 Q. Would you expect there to have been some documentation
29 relating to that agreement?

1 A. There would more than likely have been some
2 documentation.

3 336 Q. So, that would have been the starting point. And from
4 there, assuming agreement had been reached, what would
5 you have expected to have been created by way of 14:39
6 documentation?

7 A. From that point when agreement would be made, there
8 would be some entry on the HOLMES system that an action
9 needed to occur and that would be in this case the
10 transmission or the sending of said items to the 14:39
11 Metropolitan Police.

12 337 Q. So, one of the very purposes of the HOLMES system is
13 that should provide an audit of what has occurred
14 during the course of an investigation, hence, as you've
15 said, actions will be erased, saying this must be done. 14:40
16 And, in due course, once something has been done,
17 either in the form of a report, an officer's witness
18 statement or in some other form there would be a record
19 of what the outcome of that action was?

20 A. Yes, there certainly would, for continuity purposes. 14:40

21 338 Q. So, the agreement having been reached, you would expect
22 to be able to find an action on HOLMES that the
23 Metropolitan Police in the form of New Scotland Yard
24 were helping?

25 A. I would expect so. 14:40

26 339 Q. Obviously, then a bundle of materials needed to be
27 created, one would have thought, to go to New Scotland
28 Yard, is that correct?

29 A. I would say before that there would be probably, from a

1 senior officer, a kind of letter of authority to the
2 head of fingerprints. I would receive a letter or a
3 correspondence to request that I release and there
4 would be two options there, I would either be releasing
5 the actual exhibits or releasing copies of the 14:40
6 exhibits. There's a slight difference in the two.

7 340 Q. I understand.

8 A. In terms of you may possibly have agreed to hand over
9 the responsibility to investigating that forensic
10 sample to the other authority. 14:41

11 341 Q. So, the fingerprint scientists, they would need to know
12 that they had authority to --

13 A. Yes.

14 342 Q. -- effectively transfer the information. So I had
15 jumped ahead. Once the fingerprint officer had that 14:41
16 authority, what would you then expect that person to
17 have done?

18 A. Okay. A senior officer within the Fingerprint Bureau
19 would be given an action from the Head of Bureau to
20 either take good quality copies, as many as possible of 14:41
21 the fingerprints that were going to be sent, get
22 somebody to quality assure them, to check them, and
23 them fingerprints, them copies of fingerprints would
24 then be agreed that they were good likeness and of
25 sufficient quality to be used for comparison. And then 14:42
26 all documentation relating to that fingerprint image or
27 a number of fingerprint images would be copied and
28 accompany the bundle of copies of that particular
29 fingerprint. So, it's --

1 343 Q. Pause there. So, a bundle of materials is created?
2 A. Yeah.

3 344 Q. And would it have been your expectation that somewhere
4 within the system the fact that that bundle had been
5 created would be the subject itself of documentation? 14:42
6 A. Most definitely.

7 345 Q. And then, one way or another, whether physically or
8 electronically, that bundle needs to get to New
9 Scotland Yard?

10 A. Generally speaking, that would be a physical 14:42
11 transaction. What we would do is, once we got the
12 bundle together, we satisfied -- again, I'm talking two
13 scenarios here, one where we're handing the whole thing
14 over where we would retain the copies for ourselves for
15 our own reference purposes. But if we were going to 14:43
16 hand over copies of the fingerprint exhibit, the images
17 to New Scotland Yard we would be providing
18 documentation endorsing what we'd actually pulled
19 together, say 20 sets of the image of marks A, B, C, D,
20 E, et cetera, and that would be endorsed on our case 14:43
21 docket.

22 346 Q. Just pause there. So, there would be, on a case
23 docket, an endorsement to indicate that the bundle had
24 been put together and that the bundle had been
25 transferred to New Scotland Yard? 14:43
26 A. Yeah.

27 347 Q. Obviously, that is not being done just for the sake of
28 it, it's being done for the benefit of the
29 investigation. So, at some point in time should we

1 understand that information is going to come back from
2 New Scotland Yard to the RUC?

3 A. Can I just go back, because in addition to doing that,
4 each police force has a separate system for recording
5 any activity on a forensic case. 14:44

6 348 Q. Right.

7 A. So, that would also be updated with information that
8 copy sets of exhibits A, B, C, et cetera, have been
9 sent to New Scotland Yard on such a day to ensure that
10 the chain of custody is maintained throughout that 14:44
11 transaction.

12 349 Q. The chain of custody is very important because if,
13 ultimately, there is a criminal prosecution the
14 prosecution need to be in a position to prove what has
15 happened to an important exhibit at every stage of its 14:44
16 life?

17 A. Yes, that's correct.

18 350 Q. So, I jumped ahead again and if I do it more you need
19 to tell me. But am I right that there then has to come
20 a point at which information comes back, whether 14:44
21 negative, or positive or neutral, from New Scotland
22 Yard to the investigators in the RUC?

23 A. Again, that depends on what the agreement was at the
24 highest level. If the agreement was that they were
25 handing over, yes, they would get that information to 14:45
26 the senior officer and identification. If the liaison
27 was close between the forensic unit and New Scotland
28 Yard, most certainly, there would be information on
29 outcomes of that work.

1 351 Q. We know in relation to the Omagh bombing that the
2 investigation continued to be the responsibility of the
3 RUC and you would have expected them to have got
4 information back?

5 A. Yeah. I'm just giving you a general oversight, but 14:45
6 most certainly there would have been updates regularly
7 on the outcomes of any searches or any fingerprint
8 comparisons of suspects.

9 352 Q. And if it is the position that no document of any of
10 the types that you have described can be found by PSNI, 14:45
11 what would your view be of the likelihood as to whether
12 fingerprint material was submitted to SO13?

13 A. Well, I would have expected a considerable amount of
14 documentation available to me to review during the
15 review period. 14:46

16 353 Q. Having been given none, do you assess it to be unlikely
17 that such a submission was made likely or are you
18 unable to say?

19 A. I'm unable to say on the basis that I am not aware of
20 any doc -- I've not seen any and within my report I've 14:46
21 already made inference that I would have expected to
22 have -- the PSNI/RUC utilise them services.

23 354 Q. Ultimately, it will be for the Chairman to decide where
24 that takes us.
25 14:46

26 I just want to ask you about one final topic, and this
27 may need to be explored separately. We've been
28 speaking about documentation you would expect to have
29 seen at the RUC end of all of this. At the New

1 Scotland Yard end of all of this, would you have
2 expected them to have possession of documentation
3 relating to the receipt of materials from the RUC and
4 the work they had done?

5 A. Most definitely. Having worked there myself on a 14:47
6 number of occasions, the level of documentation,
7 cross-referencing and checking is of a very, very high
8 standard. I wouldn't expect anything less than very
9 clear documentation relating to any submission made by
10 any police force to the fingerprint hub on the other 14:47
11 side.

12 MR. GREANEY: Thank you very much indeed, Mr. Kershaw.
13 That concludes my questioning of you and thank you very
14 much indeed for changing your arrangements. I'm just
15 going to check whether the Chairman has any questions 14:47
16 for you.

17
18 MR. KEVIN KERSHAW WAS FURTHER QUESTIONED BY THE
19 CHAIRMAN AS FOLLOWS:

20 14:47
21 355 Q. CHAIRMAN: I'd just like to be clear about one thing if
22 I may, Mr. Kershaw. Even if we put aside completely
23 the question of whether there was any high level
24 agreement between RUC and New Scotland Yard, just put
25 all that aside, if, on any given occasion, the RUC 14:47
26 wanted to send fingerprints to the New Scotland Yard in
27 order that they could check them through their
28 database, you'd have to do, it seems to me at least, a
29 minimum of two things, first of all, they'd have to

1 send copies of the prints?

2 A. Yeah.

3 356 Q. And, secondly, you'd have to tell New Scotland Yard

4 what they wanted them do with those?

5 A. Correct, yeah. 14:48

6 357 Q. So, there would be communication of some sort?

7 A. Most definitely. Most definitely. And that

8 communication, Sir, was generally done between the

9 heads of bureaus, you know. Any occasion I had another

10 force wanting us to do a search in Manchester, say, 14:48

11 from West Yorkshire or otherwise, they'd contact you

12 direct and then make appropriate arrangements for the

13 transfer and obviously to maintain continuity of that

14 exhibit.

15 CHAIRMAN: Yes. Thank you. 14:48

16 MR. GREANEY: Thank you very much indeed, Sir.

17

18 The timetable accommodated the possibility that we

19 would hear further from Prof. Gallop in order to sweep

20 up anything that needed to be swept up. I've had a 14:49

21 chance to have a discussion with her and we're both

22 satisfied that no such need arises. And, Sir, the next

23 stage, Sir, will be a continuation of the playing of

24 the evidence of Detective Superintendent Emmet Casserly

25 of the AGS. 14:49

26 CHAIRMAN: We can release Mr. Kershaw.

27 MR. GREANEY: And we can release Mr. Kershaw with

28 certainly with our thanks.

29 CHAIRMAN: Thanks very much indeed, Mr. Kershaw.

1 MR. GREANEY: Sir, we're still with Part 7, this is the
2 evidence that Detective Superintendent Casserly was
3 able to assist us with in relation to that part.
4 [video played].

14:49

5
6
7 DETECTIVE SUPERINTENDENT EMMET CASSERLY CONTINUED TO BE
8 QUESTIONED (ON 1ST SEPTEMBER 2026) BY MR. GREANEY AS
9 FOLLOWS:

14:49

10
11 358 Q. MR. GREANEY: So, Detective Superintendent, we're going
12 to move now to Part 7 of Chapter 3 of the Inquiry's
13 oral evidence process. Part 7 deals with investigation
14 and subsequent processes, so we're dealing with a
15 period which is after the Omagh bombing.

16
17 The first topic, Topic 1, to deal with under that
18 heading is the setting up of the AGS investigation.

19 A. Mm-hmm.

20 359 Q. And so would you begin, please, by helping us with how
21 the original investigation of the AGS was conducted and
22 coordinated?

23 A. Okay. So, in response to the Omagh bomb, the garda
24 investigation commenced almost immediately after as
25 soon as that vehicle was identified. And the original
26 investigation was conducted by Gardaí in Monaghan and
27 in the early stages of the investigation an incident
28 room, which would be standard, was set up in
29 Carrickmacross Garda Station, but that subsequently

1 moved to Monaghan Garda Station. As you can imagine,
2 the investigation was very, very large and it went on
3 for a long period of time, decades, generating hundreds
4 of investigative tasks and a massive amount of
5 material.

6 360 Q. And indeed, as we know from earlier evidence you gave,
7 the Omagh file itself and the related investigation
8 material has, in recent times, been housed in the Garda
9 repository section at Santry?

10 A. That's correct, yes.

11 361 Q. And contained 107 large storage boxes?

12 A. That's correct.

13 362 Q. So, next topic, the first stages of the investigation.
14 And could you give us an overview, please, first of
15 all, before we delve into the detail?

16 A. So, as you're aware, shortly after 3:00 p.m. on 15th
17 August, a car bomb exploded in Omagh and, you know,
18 killing 29 people and injuring hundreds. And as soon
19 as that vehicle, it was identified that the vehicle in
20 which the bomb had been placed was a Vauxhall Cavalier,
21 registration number 91-DL-2554, as soon as it was
22 established that that vehicle had been taken, or stolen
23 from Macartans Villas in Carrickmacross, County
24 Monaghan, an incident room was set up in Carrickmacross
25 immediately on that information becoming available to
26 An Garda Síochána.

27 363 Q. And you've used the phrase "incident room" twice now;
28 what is an incident room?

29 A. So, an incident room is a space or an office,

1 essentially, set up to manage information, coordinate
2 an investigation for major crimes or complex cases and
3 it's really a central area or central hub for all
4 information incoming to the investigation, all tasks
5 allocated, storage of all documents and any
6 intelligence related to the investigation and all such
7 related matters.

8 364 Q. In terms of those who work within the incident room,
9 are there a number of posts in particular that are of
10 importance?

11 A. Yeah, there's some key post in any incident room, the
12 main two being the Senior Investigating Officer to take
13 control of the investigation and determine its
14 direction, and they're ably assisted, generally, by an
15 Incident Room Coordinator who will manage the
16 documentation, assign tasks or suggest tasks to be
17 conducted by the investigation. So those two positions
18 worked hand in hand together.

19 365 Q. Within the AGS investigation, were there both uniformed
20 and detective officers?

21 A. There were, yes. In this investigation there were
22 uniformed and plain clothed detectives assigned to the
23 investigation from the Monaghan division, the
24 Cavan/Monaghan division as it was at the time, and the
25 Lough/Meath division as it was at the time as well,
26 which would be the adjoining division. And they were
27 assisted then by detectives from the National Bureau of
28 Criminal Investigation in Harcourt Square in Dublin.
29 And then there was other support staff brought in as

1 needed then.

2 366 Q. And it might be helpful if you just describe in a
3 sentence or two what the National Bureau of Criminal
4 Investigation is, or at least was back then?

5 A. So, the National Bureau of Criminal Investigation is a
6 unit, was and is a unit that's based here in Dublin
7 which would be used to lead out on very complex and
8 serious investigations or to assist in very complex and
9 serious investigations that happen nationwide.

10 367 Q. Did the investigation also utilise specially-trained
11 search teams?

12 A. Yes, it did.

13 368 Q. And experts from the Technical Bureau in Garda
14 Headquarters?

15 A. Yeah, from Garda Technical Bureau. So in cases like
16 this, or any complex case, the Technical Bureau has a
17 resource of expertise that can be used to deploy to
18 assist in the investigation - so, you know, ballistics,
19 fingerprints, documents examination, all that type of
20 stuff.

21 369 Q. Were house-to-house enquiries also conducted as part of
22 the investigation?

23 A. Yeah, there were house-to-house enquiries conducted in
24 the immediate aftermath of the investigation, yes.

25 370 Q. The way in which tasks are identified would be by way
26 of either jobs or lines of inquiry being --

27 A. That's correct.

28 371 Q. -- established?

29 A. Yes.

1 372 Q. And then tasked out from the Incident Room to various
2 of the garda teams involved in the investigation?
3 A. That's correct, yes.
4 373 Q. So, that a job or line of inquiry would be raised, it
5 would be allocated and then it would be resulted by
6 those to whom the task had been given?
7 A. Absolutely. So, in an investigation of this nature,
8 there would be regular conferences in which the whole
9 investigation team would be present for updates in
10 relation to lines of inquiry and jobs. So that's how
11 jobs are allocated at conferences; so they're
12 identified by analysis of the material coming into the
13 Incident Room and tasked out or jobbed out at
14 conferences to individual or teams of Gardaí and then
15 they respond back when the tasks are completed.
16 374 Q. And where would one expect to find a record of the
17 result of a particular job?
18 A. In what's known as the Jobs Book.
19 375 Q. And the investigation that we are dealing with into the
20 Omagh bombing resulted in the issuing of how many
21 separate jobs or lines of inquiry?
22 A. So, it's recorded that there's 1,077 separate lines of
23 inquiry in this investigation.
24 376 Q. And from how many people did the investigation take
25 witness statements?
26 A. So, statements were taken from over 480 people during
27 the course of the investigation.
28 377 Q. And when we reach Part 10 of Chapter 3, we'll deal with
29 this in more detail, but during the course of the

1 investigation over its years, how many arrests, in
2 total, were made?

3 A. So, it's recorded that 99 arrests were made as part of
4 this investigation over those years.

5 378 Q. And how many searches were carried out?

6 A. So, there was 92 recorded searches that took place
7 under the authority of a search warrant.

8 379 Q. How does the report go on to describe the working
9 relationship between the Incident Room based in
10 Carrickmacross Garda Station and later moved to
11 Monaghan Garda Station, on the one hand, and the RUC
12 investigation in Omagh, on the other?

13 A. It's outlined that there was a very close working
14 relationship between the two teams and that they
15 regularly met and there was direct communication
16 between them and a free flow of information between
17 them.

18 380 Q. Next topic, Topic 3: Contact between the RUC and the
19 AGS on 16th August.

20 A. Yes.

21 381 Q. And again could you summarise the position for us so
22 far as that is concerned, please?

23 A. So, on 16th August 1998 An Garda Síochána confirmed
24 that Paul Ward had his car stolen on 13th August 1998
25 and that an inquiry was conducted with An Garda
26 Síochána by the Royal Ulster Constabulary in relation
27 to that vehicle at 3:01 a.m. on 16th August 1998 in
28 respect of that vehicle, 91-DL-2554.

29 382 Q. So that I understand it, an inquiry was conducted by

1 the RUC with AGS at Command and Control within Dublin
2 Castle, and that happened at 3:01 a.m. on 16th August?

3 A. That is correct.

4 383 Q. Relating to the stolen vehicle?

5 A. Yeah.

6 384 Q. And there are two slides that we can look at that
7 assist us with that. So, first of all, slide 32,
8 please. And could you explain to us what we are
9 looking at there, please?

10 A. So, that's a printout from the Garda computer system at
11 the time detailing the vehicle in question, 91-DL-2554,
12 and indicating that its status is "stolen." And you
13 can see on it there it's listed as taken from
14 Carrickmacross and that it hasn't been located at that
15 point. So, if you go down through it, you can see then
16 on the next section down, "Previous Enquiries," and you
17 can see where it was checked and for what reason. So
18 if you see on the Dublin Castle check, 16:08, at 3:01
19 "Check for RUC by B544", I think it is, B544, and "E"
20 is just to recognise it's an enquiry, that's all.

21 385 Q. So, that is the documentary confirmation that that
22 check was made on behalf of the RUC at one minute past
23 three in the morning of 16th August?

24 A. That's correct. In Control, yes.

25 386 Q. And then we can look at a document at page 34. So,
26 slide 34, please. And what document are we now looking
27 at on the screen, please?

28 A. Again, it's a similar document in relation to the
29 vehicle and showing the checks conducted at 3:01 a.m.

1 387 Q. So, again towards the bottom of that page --
2 A. Yeah, towards the bottom of the page.
3 388 Q. -- we are able to see the check was made at 3:01?
4 A. 3:01 a.m., yeah.
5 389 Q. Now, the next topic might be described as number plate
6 switch. And a forensic scientist called Dennis McAuley
7 carried out substantial work in relation to the Omagh
8 investigation, would you agree?
9 A. Yes. Absolutely, yeah.
10 390 Q. And was that work carried out on behalf of the RUC, as
11 opposed to the AGS?
12 A. It was, yeah.
13 391 Q. But in due course, was the AGS supplied with the
14 product of the work of Mr. McAuley?
15 A. Yeah. It's clear that this was shared from the RUC to
16 An Garda Síochána. And I think it goes on to identify
17 the registration number of the vehicle, which was also
18 a maroon-coloured Vauxhall Cavalier, which is believed
19 to have been on the bomb vehicle. It's MDZ 5211.
20 392 Q. So, let's just make sure we're entirely clear about
21 this. We know the true identity of the Cavalier that
22 was used to contain the bomb?
23 A. Yeah.
24 393 Q. Namely Mr. Ward's Cavalier?
25 A. That's right.
26 394 Q. But the work of Mr. McAuley made clear that at the time
27 that that vehicle was in Omagh and exploded, it was not
28 displaying its true registration mark, but in fact was
29 displaying the registration mark of a different

1 vehicle, namely MDZ 5211?

2 A. That's correct.

3 395 Q. And were checks made in order to establish the owner
4 details for that vehicle MDZ 5211, and indeed to
5 establish whether such a vehicle existed?

6 A. There were checks carried out on that vehicle 5211.
7 And it was registered at that time to a Mr. Bernard
8 McGinn, also a resident of County Monaghan.

9 396 Q. So, there was a real maroon Vauxhall Cavalier owned by
10 Bernard McGinn of County Monaghan; that vehicle
11 displayed the registration mark MDZ 5211?

12 A. Yes, that's correct.

13 397 Q. And so, as everyone listening will realise,
14 Mr. McGinn's vehicle was similar in model and colour to
15 the vehicle that had been stolen from Mr. Ward?

16 A. That's correct.

17 398 Q. And so, as we're going to come on to deal with in more
18 detail, was an assessment made that what had happened
19 was that, effectively, cloned plates had been used?

20 A. Absolutely, yes.

21 399 Q. So, the plates relating to a genuine vehicle similar to
22 the stolen vehicle being applied to the stolen vehicle
23 in order to conceal its origin?

24 A. That's correct.

25 400 Q. Was Mr. McGinn spoken to by the AGS?

26 A. He was. He was. And he made a statement outlining the
27 movements of the vehicle in the days leading up to the
28 explosion in Omagh.

29 401 Q. So, next topic; having dealt with the initiation of the

1 AGS investigation, can we deal with its development?

2 A. Of course.

3 402 Q. We know that an Incident Room was quickly established
4 and material came in and was examined?

5 A. Yes, that's correct.

6 403 Q. Under whose overall command was the AGS Incident Room?

7 A. So, the overall command for the investigation and
8 Incident Room was under Assistant Commissioner Kevin
9 Carty, who was in charge of the Northern Region on
10 behalf of An Garda Síochána at that time.

11 404 Q. And did that investigation under Assistant Commissioner
12 Carty run in parallel with the Investigations Unit set
13 up by the Royal Ulster Constabulary in Omagh?

14 A. It did.

15 405 Q. Under whose overall command was the Investigations Unit
16 in Northern Ireland, in Omagh, under whose overall
17 command was that investigation?

18 A. So, the RUC investigation was led by Assistant Chief
19 Constable Eric Anderson, Crime Department, RUC,
20 Belfast.

21 406 Q. And did those who prepared the AGS report come to a
22 view about the extent to which information was
23 exchanged between the two forces?

24 A. Yes. Yes, they did. And it was seamless.

25 407 Q. You've told us already that the garda investigation was
26 moved from Carrickmacross, where it was initially, to
27 Monaghan?

28 A. That's correct, on 2nd October.

29 408 Q. And that happened on 2nd October?

1 A. 2nd October, yeah.

2 409 Q. What was the reason for that move?

3 A. I can't say. I can't say for sure. But I'd say

4 Monaghan is a bigger station, I'd assess it's a bigger

5 station with more resources and it would be better able

6 to hold the larger investigation. But that's my own

7 assessment.

8 410 Q. And the day-to-day running of the investigation once it

9 had moved to Monaghan was under whose command?

10 A. The Chief Superintendent in Monaghan at that time was

11 Chief Superintendent Columba Rooney, who's in charge of

12 that Cavan/Monaghan division, so he led. And he was

13 ably assisted then by Superintendent Tom Flannery - he

14 was the District Officer out of Carrickmacross - and

15 Detective Superintendent Noel White, who was the

16 Detective Superintendent assigned to the Cavan/Monaghan

17 division. And then Detective Inspector Tadhg Foley was

18 also assigned to Cavan/Monaghan division and worked

19 with those people also.

20 411 Q. And as you've explained already, the investigation team

21 was comprised of both uniform and plain clothes

22 officers?

23 A. It was.

24 412 Q. Alongside members from the divisional search teams?

25 A. That's right.

26 413 Q. With assistance provided by personnel from the National

27 Bureau of Criminal Investigation?

28 A. That's correct.

29 414 Q. And under whose command was the National Bureau of

1 Criminal Investigation, or NBCI?

2 A. Detective Chief Superintendent Seán Cannon, who was

3 based out of Harcourt Square in Dublin at that time.

4 415 Q. And the day-to-day running of the investigation across

5 the Border in Northern Ireland was under whose command?

6 A. It was under the command of Detective Chief

7 Superintendent Hamilton Heuston, Detective

8 Superintendent Brian McArthur and a Detective

9 Inspector.

10 416 Q. Now, next, Topic 6: House-to-house enquiries?

11 A. Yes.

12 417 Q. Would you be able to provide us, please, with an

13 overview of the house-to-house enquiries that were

14 undertaken within the Republic of Ireland?

15 A. Yeah, so the initial house-to-house enquiries, which

16 would be a standard approach after any incident, any

17 serious incident, around the area of concern, which in

18 this case was St. Macartans Villas in Carrickmacross, a

19 template questionnaire was prepared and assigned to

20 various members of An Garda Síochána tasked with

21 conducting door-to-door enquiries or house-to-house

22 enquiries in order to note responses in relation to

23 potential witnesses being available coming out of the

24 enquiries. So, there was a list of housing estates or

25 areas inside Carrickmacross that were subject to

26 house-to-house enquiries. I can read through them if

27 you like or --

28 418 Q. Well, in a moment I'll invite you to. But so as to

29 achieve consistency of questioning, was a template

1 questionnaire created --

2 A. Yes.

3 419 Q. -- for the officers carrying out the house-to-house
4 enquiries?

5 A. Yes.

6 420 Q. And yes, please, if you could identify the housing
7 estates and locations that were canvassed?

8 A. Yeah, so the following areas, all in Carrickmacross,
9 were subject to house-to-house enquiries: Drummond
10 Heights, Tullynaskeagh, Drummond Etra, Inver Heights,
11 Emmet Villas, Pearse Avenue, Emmett Road, Convent View,
12 Emmett Street and St. Macartans Villas itself.

13 421 Q. Were the completed questionnaires forwarded to the
14 Incident room for analysis?

15 A. They were, yes.

16 422 Q. And, where necessary, were new jobs or lines of inquiry
17 generated on the back of the house-to-house
18 questionnaires?

19 A. They were, yes.

20 423 Q. With those lines of enquiries being recorded, as you've
21 explained, in the Jobs Book?

22 A. That's correct, yes.

23 424 Q. A week after the vehicle had been stolen from Mr. Ward,
24 was something connected undertaken by the AGS?

25 A. Yes. So a follow-up checkpoint was conducted at
26 St. Macartans Villas one week after on 19th August 1999
27 at the bottom of St. Macartans Villas between similar
28 times, 10:30 p.m. and 3:00 a.m., the purpose of this
29 being to identify, potentially, drivers who may have

1 been driving in the area on the previous week.

2 425 Q. And as with the house-to-house questionnaires, was each
3 form forwarded to the Incident Room for the process
4 that you've described to be undertaken?

5 A. Yes, it was.

6 426 Q. Topic 7, and still dealing with investigation and
7 subsequent processes, so Part 7.

8 A. Yeah.

9 427 Q. CCTV enquiries. And these days, of course, if an
10 incident such as Omagh were to occur then one would
11 expect there to be a very significant yield in terms of
12 CCTV footage?

13 A. Yes.

14 428 Q. But was that the world in 1998?

15 A. No. From -- so, domestic systems as we know them now
16 were virtually non-existent and then systems that were
17 in place in businesses or commercially used systems,
18 while they did exist, weren't merely to the same
19 standard or quality that we would have today, meaning
20 that there was very, very little or none, no CCTV
21 produced which was of any use to the inquiry or the
22 investigation.

23 429 Q. So, was it the position that whilst there were a number
24 of CCTV-related tasks or jobs issued during the course
25 of the investigation, there was no CCTV footage
26 harvested by the Garda Investigation Team?

27 A. That's correct.

28 430 Q. And, as a result, did that limit the Investigation Team
29 in identifying suspects?

1 A. It did.

2 431 Q. In capturing the sequence of events?

3 A. It did.

4 432 Q. And in corroborating the statements of eyewitnesss or
5 potential eyewitnesss?

6 A. Yes, it did. Yes.

7 433 Q. Topic 8: Maps. And what work was done by the AGS in
8 relation to mapping?

9 A. So, members from Garda Mapping Section, which is part
10 of the Technical Bureau in Garda Headquarters, were
11 assigned to assist the Investigation Team and they
12 attended various locations as requested by the
13 Investigation Team or the Incident Room in and around
14 Carrickmacross generating maps as required.

15 434 Q. And we can see an example of such a map showing the
16 area of St. Macartans Villas at Slide 42, please?

17 A. Yes.

18 435 Q. So, that's an example of a map produced by the Mapping
19 Team of AGS. And the street that is being indicated by
20 Mr. Suter at the moment is a street that was identified
21 earlier in your evidence when you dealt with a
22 different part, it's a street that runs at right angles
23 from the top of St. Macartans Villas, and that's the
24 street called either Farney Street or Farney Road?

25 A. Yeah, that's right.

26 436 Q. Topic 9: Media appeal?

27 A. Yes.

28 437 Q. As part of the AGS investigative strategy, were a
29 number of appeals through various media channels made?

1 A. There were, yes.

2 438 Q. And did that include both local, national and indeed
3 international news, radio and television outlets?

4 A. Yes, it did, yes.

5 439 Q. So, a wide ranging media appeal?

6 A. Absolutely, yeah.

7 440 Q. And do you have the wording of the media appeal that
8 was used available to you?

9 A. I do.

10 441 Q. Would you mind reading it to us, please?

11 A. Of course.

12

13 "Gardaí at Carrickmacross, County Monaghan are seeking
14 assistance from the public in tracing the movements of
15 a car stolen from St. Macartans Villas, Carrickmacross,
16 County Monaghan on the night of Wednesday, 12th August
17 1998, midnight, and Thursday, 13th August 1998,
18 3:30 a.m. The car, a maroon Vauxhall Cavalier
19 four-door saloon model, registration number 91-DL-2554.
20 Both number plates bore an IRL crest on the right-hand
21 corner of each. The car was in good condition, with a
22 telescopic aerial fully extended on the rear passenger
23 boot side of the car. On the windscreen of the car at
24 the driver's side there was an Aer Lingus staff car
25 badge.

26

27 St. Macartans Villas is located between the main
28 Dublin/Derry Road and the main Carrickmacross/Dundalk
29 Road off Farney Street, Carrickmacross, County

1 Monaghan.

2
3 We are appealing for anyone who may have seen this car
4 from the time it was stolen to contact Gardaí at
5 Carrickmacross Garda Station Incident Room or the Garda
6 confidential telephone number."

7
8 442 Q. And so, there's the name of the street that I was
9 reaching for a moment ago, Farney Street?

10 A. Yes.

11 443 Q. And did Chief Superintendent Columba Rooney appear on
12 an RTÉ television programme?

13 A. He did, yes. He appeared on the Crimeline television
14 programme on 7th September 1998 to appeal for
15 information in respect of the unauthorised taking of
16 the bomb car, 91-DL-2554.

17 444 Q. And Crimeline was a programme broadcast by RTÉ?

18 A. It was, yes.

19 445 Q. At the time, at any rate?

20 A. Yeah.

21 446 Q. Which involved reconstructions of unsolved crimes?

22 A. Absolutely, yeah.

23 447 Q. So, those within the UK would recognise that as
24 something similar to Crimewatch?

25 A. Same thing, yeah.

26 448 Q. Same thing?

27 A. Very, very similar, yeah.

28 449 Q. And as a result of the Chief Superintendent's
29 appearance on that programme, did any people come

1 forward?

2 A. So, a number of persons came forward with information,
3 which was subsequently analysed at the Incident Room
4 and new lines of inquiry were generated and followed
5 up, where necessary.

6 450 Q. Topic 10: Fingerprint examination. You and I, earlier
7 in your evidence, discussed three other vehicles, all
8 Cavaliers, that had been the subject of, at least
9 potentially, attempted thefts on 12th or 13th August.
10 Was each of those vehicles the subject of a technical
11 examination?

12 A. They were.

13 451 Q. So, first of all, the vehicle 1, as we called it
14 earlier, the blue Vauxhall Cavalier with the
15 registration mark 90-DL-3782, which was the vehicle
16 owned by Mr. Hugh McFadden?

17 A. That's right.

18 452 Q. And was that subject of a technical examination?

19 A. It was, yes, by Detective Garda Oliver Cloonan.

20 453 Q. And Detective Cloonan was a member of which section?

21 A. He was from Fingerprints Section in the Garda Technical
22 Bureau based at Garda Headquarters.

23 454 Q. And on a date in August 1998, did he carry out a
24 fingerprint examination on that vehicle?

25 A. He did.

26 455 Q. With what outcome?

27 A. He lifted a finger mark from the driver's door, which
28 he retained possession of. But the finger mark, or the
29 fingerprint as it would be more commonly known, has not

1 been identified.

2 456 Q. So, as it's put in the report:

3

4 "There is nothing on file for this investigation to

5 state that this fingerprint has been identified."

6

7 A. That's correct.

8 457 Q. Vehicle number 2 was the Opel Vectra - so identical to

9 a Cavalier - bearing the registration mark 90-D-34639?

10 A. That's correct.

11 458 Q. And that was the vehicle owned by Mr. John Brady?

12 A. That's right.

13 459 Q. And did Detective Garda Cloonan also carry out a

14 technical examination of that vehicle?

15 A. Yeah, so Detective Garda Cloonan similarly examined

16 that vehicle, however with negative results. So there

17 was no marks found on it.

18 460 Q. The third vehicle was again a Vauxhall Cavalier, with

19 the registration mark 90-MN-2231. And that was the

20 vehicle of Mrs. Theresa Drumgoole?

21 A. That's correct.

22 461 Q. The subject of an attempted theft on 13th August?

23 A. Mm-hmm.

24 462 Q. And was that vehicle also subjected to a technical

25 examination by Detective Garda Cloonan?

26 A. It was. It was again. And on this occasion, a palm

27 mark was developed and lifted from the driver's door of

28 the vehicle, which is, as opposed to a fingerprint,

29 it's a mark from somebody's palm, obviously.

1 463 Q. Yes.

2 A. And so that was subsequently examined and found to be

3 the palm mark of a neighbour of Mrs. Drumgoole.

4 464 Q. And so, drawing all of those strands together, did the

5 technical examinations of those three other vehicles

6 the subject of attempted, or at least potentially

7 attempted thefts on the 12th and 13th from the general

8 area of Macartans Villas, did they point in the

9 direction of any suspect or suspects?

10 A. No.

11 465 Q. Topic 11: Telephone enquiries?

12 A. Mm-hmm.

13 466 Q. As part of the AGS investigation into the Omagh

14 bombing, did the Investigation Team undertake a trawl

15 of phone-related data?

16 A. They did.

17 467 Q. And how would you describe that trawl?

18 A. So, in September '98 these phone numbers were provided

19 to An Garda Síochána in respect of the numbers we

20 outlined earlier on by the RUC, and that was noted in

21 the Incident Room at the time. So, as we went through

22 earlier on, phone calls made or received on those

23 phones show up on company records, and those records

24 were obtained and analysed.

25 468 Q. So, just to take this in stages.

26 A. Okay.

27 469 Q. The trawl of phone-related data; big, small or medium

28 in scale?

29 A. It's large scale.

1 470 Q. The way in which it's described in the report is a
2 mammoth trawl?
3 A. A mammoth trawl is right, yes.
4 471 Q. Was a component part of that trawl the analysis, or the
5 obtaining and then analysis of the call data records
6 and cell site locations?
7 A. Correct. It was, yes.
8 472 Q. So, these are the records held by mobile
9 telecommunications providers --
10 A. That's correct.
11 473 Q. -- that contain details of calls made by, or texts sent
12 by, particular mobile telephone numbers?
13 A. That's correct.
14 474 Q. And the cell sites utilised by the phone in order to
15 make those transmissions?
16 A. That's correct.
17 475 Q. So, such data was obtained?
18 A. It was.
19 476 Q. And in particular, data was obtained in respect of the
20 980 number?
21 A. Yes, that's correct.
22 477 Q. Which was associated with Terence Morgan?
23 A. That's right.
24 478 Q. And the 585 number, which was associated with
25 Colm Murphy?
26 A. That's right.
27 479 Q. And I believe you told us along the way that those
28 numbers were provided to the AGS Incident Room by the
29 RUC?

1 A. They were.

2 480 Q. Was that fact, so the provision of those numbers by the
3 RUC, documented by the AGS?

4 A. It was.

5 481 Q. And who was it that documented that?

6 A. So, it was documented by Detective Garda whelan,
7 working out of the Incident Room in Carrickmacross at
8 that point. And it's noted in one of the slides.

9 482 Q. And we can look at the documentation dealing with this
10 at, first of all, slide 62.

11 A. Yeah.

12 483 Q. And what are we looking at here?

13 A. So, the top entry, you know, surrounded by a red
14 outline is the entry by Detective Garda whelan
15 indicating the receipt of the numbers, the phone
16 numbers, from the RUC.

17 484 Q. And what type of document is this?

18 A. So, that is -- it's an Incident Room document. I can't
19 tell you exactly what this particular one is called,
20 but it's like an index book for an Incident Room. But
21 it's noting calls in and out and pertinent things that
22 happen on a day-to-day basis in an Incident Room.

23 485 Q. So, you might describe this as a sort of incident log
24 that sets out --

25 A. Yes.

26 486 Q. -- what is happening chronologically in an
27 investigation?

28 A. Yeah.

29 487 Q. And we can see that within the numbers provided, 980..?

1 A. That's correct, yeah.

2 488 Q. 259 --

3 A. That's right.

4 489 Q. -- and 430 here. So, 585 isn't in that list?

5 A. Is it 5430 maybe? Yeah.

6 490 Q. 5430?

7 A. Yeah.

8 491 Q. And, as I indicated, no 585, so no Colm Murphy number.

9 But if we go to page 64, please, Mr. Suter, and if we

10 can just slightly enlarge the top entry, we can see

11 that there, information is being supplied to the AGS in

12 respect of that number --

13 A. That's right.

14 492 Q. -- ending 585?

15 A. That's correct.

16 493 Q. And a name is associated alongside the number, that

17 name being Colm Murphy?

18 A. That's right.

19 494 Q. And an address is also given?

20 A. Yeah, it's Ravensdale, Dundalk. I can't make out the

21 first piece before Ravensdale, but it's Ravensdale,

22 Dundalk, County Louth.

23 495 Q. We do know the address. But as you've indicated, that

24 is an address in Dundalk?

25 A. Yeah.

26 496 Q. Now, just as I observed a short time ago that these

27 days a major investigation may well include extensive

28 CCTV evidence, equally a major investigation these days

29 may well include very extensive evidence of the use of

1 mobile telephones?

2 A. Yes.

3 497 Q. Including not just pattern analysis, but also cell site
4 analysis. And does the report consider whether there
5 was any comparison to be made between the position in
6 2026 and the position in the late 1990s?

7 A. Yeah, so I know it outlines in terms of technology at
8 the time what mobile phones were like at that time in
9 comparison to what - you know, modern mobile phones are
10 essentially a mini computer; at that time they were
11 very, very basic devices.

12 498 Q. There is a passage that starts "In the late 1990s..."
13 Do you have that? It's immediately underneath the
14 reference to Slides 62 and 64.

15 A. I don't have it here, no. Sorry, yes, I do have it.

16 499 Q. And I wonder if you can just read that passage in,
17 because that will be an important issue for the Inquiry
18 to investigate in subsequent chapters?

19 A. Of course, yeah.

20

21 "In the late 1990s, mobile telephone use and coverage
22 were nowhere comparable to what it is today. The
23 present day mobile telephones have made significant
24 advancements in their technology and consumer demands.
25 Back in 1998, mobile phones were of the pushbutton type
26 and the smartphone genesis was still in the planning
27 stages. Mobile phones at that time were only capable
28 of making and receiving telephone calls and text
29 messages."

1
2 500 Q. The report then goes on to provide a description of how
3 cell site technology operates?
4 A. Yes.
5 501 Q. Which we summarised earlier in your evidence?
6 A. Yeah.
7 502 Q. And about which there will be expert evidence in the
8 course of the Inquiry.
9
10 Did the AGS investigation concentrate on phone calls
11 made on mobile telephones registered in the Republic of
12 Ireland?
13 A. It did.
14 503 Q. Making calls in the Republic of Ireland on the Eircell
15 system?
16 A. It did, yes, that's correct.
17 504 Q. And Northern Ireland on the Vodafone system?
18 A. Yes.
19 505 Q. Once the Investigation Team in the Republic of Ireland
20 identified a mobile telephone of interest, was there a
21 process that was undertaken?
22 A. Yeah, so the process at the time was that a
23 superintendent or a member of superintendent rank would
24 forward an application to the Detective Superintendent,
25 Crime and Security, at Garda Headquarters seeking the
26 detail in relation to the telephone number, you know,
27 as part of your enquiry, and they would look for
28 registered owner detail and call data records.
29 506 Q. Did the process also involve applications for lists of

1 what we would now call call data records routed through
2 certain cell sites for a specified time and date also
3 to be submitted?
4 A. Yes, they did.
5 507 Q. would such an application be assigned a reference
6 number?
7 A. Yes.
8 508 Q. And would the AGS then forward that to the relevant
9 mobile phone service provider, usually Eircell or
10 vodafone?
11 A. Yes.
12 509 Q. what would the recipient at the mobile phone service
13 provider then be expected to do?
14 A. So, they would be expected to seek out the details, put
15 it into downloadable format and return it to the Garda
16 Investigation Team.
17 510 Q. And as a result of the information that was provided to
18 the AGS by the RUC, were a number of applications for
19 call data records and subscriber details forwarded to
20 the crime and security section at Garda Headquarters?
21 A. Yes, they were.
22 [End of video].
23 MR. RAFFERTY: I'm grateful for the recording to be
24 paused. This might be an appropriate moment to take a
25 break from the recording we're watching at the moment
26 and invite you to return in 10 or 15 minutes and then
27 we'll have a hearing on another issue this afternoon.
28 CHAIRMAN: Yes.
29 MR. RAFFERTY: Thank you, Sir.

15:28

1 THE INQUIRY ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

2
3 CHAIRMAN: Now, Mr. Greaney.

4
5 INTRODUCTORY REMARKS BY MR. GREANEY:

15:49

6
7 MR. GREANEY: Sir, as would have been apparent, we're
8 sure, from our opening statement on 21st of September,
9 PSNI no longer maintains the principle of NCND in
10 relation to the question of the man known publicly as
11 Kevin Fulton was a source for the RUC. At some stage,
12 and we currently plan on probably late Wednesday or
13 early Thursday, a form of words needs to be announced
14 by Mr. Henry.

15:49

15
16 On 2nd October, submissions were submitted on this
17 issue, or at least on the broad topic relating to it,
18 on behalf of the Core Participants represented by Fox
19 Law, and Mr. Southey would welcome an opportunity to
20 make some short oral submissions to you on the topic,
21 which we'll invite him to make now, followed by a
22 response, if he considers it appropriate, as we think
23 he will, from Mr. Henry. So, Mr. Southey.

15:50

24
25 SUBMISSION BY MR. SOUTHEY:

15:50

26
27 MR. SOUTHEY: You, Sir, no doubt will remember that on
28 14th January 2026, the Inquiry Legal Team helpfully
29 produced its note on CMRO applications, and

15:50

1 paragraph 16 of that reminded bodies making
2 applications to CMROs of their need to act with
3 candour. And in that context the note referenced the
4 duties that are proposed by reason of the Public Office
5 (Accountability) Bill. 15:51

6
7 That Bill, as again you may well be aware, at Section 2
8 seeks to define "candour," and in that context makes it
9 clear that, among other things, a public authority
10 must, and these are within the subsections found within 15:51
11 subsection (4):

12
13 "A public authority must...

14
15 (a) where the authority or official has information 15:52
16 that is likely to be relevant to the inquiry or
17 investigation, provide that information."

18
19 In addition:

20 15:52
21 "Where any information is likely to be of particular
22 significance to the inquiry or investigation, draw
23 attention to that fact."

24
25 The standard imposed on public authorities is by reason 15:52
26 of subsection (5), it is that the public official who's
27 in charge of the authority must take all reasonable
28 steps to secure that the authority complies with those
29 obligations.

1
2 As I understand it, from the e-mail correspondence that
3 was shared and summarised for the parties last night,
4 the PSNI in relation to the material relating to
5 Kevin Fulton, accept it, to use its language, made a 15:52
6 mistake. That, we submit, is plainly not consistent
7 with the standards imposed or that will be imposed by
8 the Bill and the standards that the Inquiry Legal Team
9 indicated would be expected in this case.

10
11 It matters, we submit, because it raises issues about 15:53
12 the effectiveness of PSNI's processes as we go forward.
13 In this case, PSNI appear to recognise that the issue
14 arose partly because material was drawn to its
15 attention. Certainly, our understanding of that is 15:53
16 that, in part, that was material that had been drawn to
17 the attention of PSNI by the Fox Law Core Participants.
18 CHAIRMAN: What material did you have in mind in that
19 regard, Mr. Southey?

20 MR. SOUTHEY: Sorry? 15:54

21 CHAIRMAN: What was the material you had in mind in
22 that regard?

23 MR. SOUTHEY: We drew attention, I think, in
24 particular, to the material that was responding to the
25 Police Ombudsman's report, and we drew attention to 15:54
26 both a document that may or may not have been a
27 confidential statement in response to it but also what
28 we believed was a public statement and we drew
29 attention to both of those.

1 CHAIRMAN: When was that done?
2 MR. SOUTHEY: That was done at the hearing, I think, to
3 be fair.
4 CHAIRMAN: I think it was me that did it in the first
5 instance. 15:54
6 MR. SOUTHEY: There were also discussions going on in
7 parallel about similar material, at the same time, and
8 indeed we'd come to -- when you drew attention to it,
9 Sir, if I remember rightly, we'd agreed we'd come to a
10 sort of provisional agreement where while PSNI 15:55
11 investigated material we weren't going to reference it,
12 but we had had discussions with PSNI about material.
13 So, if I can put it this way, it seemed to be a sort of
14 two-track in that we were raising concerns at the same
15 time as you were, Sir. 15:55
16 CHAIRMAN: And your understanding then was that there
17 was to be some further inquiry into that which would
18 then be relayed to you by Mr. Henry?
19 MR. SOUTHEY: Sorry, I couldn't hear the last word.
20 CHAIRMAN: Your understanding then was that there would 15:55
21 be some inquiry into the matter you'd raised out with
22 the hearing room and Mr. Henry would relay the outcome
23 of that to you.
24 MR. SOUTHEY: Absolutely, Sir. The understanding was
25 that there was going to be an inquiry into whether it 15:56
26 was what we believed was public state material was in
27 fact public material.
28 CHAIRMAN: Yes.
29 MR. SOUTHEY: But that's one of the reasons -- I think

1 it's a fair comment to say that obviously you also drew
2 attention to this material but it is a concern from our
3 clients' point of view. But the point I'm making is it
4 is a concern from our clients' point of view that we
5 were able to have an input into that because of the 15:56
6 fact this was an open application. Obviously, that
7 won't necessarily be the case.

8
9 And that's relevant, in some senses, well, primarily
10 because it supports the argument that we've made in the 15:56
11 context of CMROs, that there is a need for proper
12 safeguards in place. We've made the submission that
13 one part of the process should be that applications for
14 CMROs are accompanied by a statement of someone of
15 sufficient seniority indicating that they're aware of 15:57
16 their duties and they believe there's been compliance
17 with them. It also, potentially - and you'll remember
18 the submissions we made about BBC - raises issues about
19 the weight that can be given to assessments of PSNI.
20 And in that context we continue to have concerns about 15:57
21 what we understand to be the position of PSNI regarding
22 Kevin Fulton and Peter Keeley. We understand the
23 position to be that PSNI is willing to confirm the
24 identity of Kevin Fulton but not willing to confirm
25 that Peter Keeley, essentially, is the same agent. 15:58
26

27 Now, that, we submit, suggests an overly cautious
28 approach in circumstances where, routinely almost, the
29 two have been linked.

1
2 To give you a couple of key examples. In the judicial
3 review that was brought of your ruling on Core
4 Participant status, the judgment expressly recorded,
5 effectively, para 11 that Peter Keeley said he was
6 Kevin Fulton. 15:58

7
8 Now, that linked back to the Smithwick Tribunal and, in
9 fact, the Smithwick Tribunal treated Kevin Fulton and
10 Peter Keeley as the same person and the fact, 15:59
11 consistent with that, there was evidence from a retired
12 RUC member confirming, effectively confirming that,
13 it's witness 71 who gave that evidence.

14
15 And that, we submit, is important because it's 15:59
16 difficult to see that either of those processes could
17 have proceeded on that basis, that essentially
18 Mr. Fulton and Mr. Keeley are the same person, without
19 some objection had that been untrue. And it remains a
20 concern to us that in circumstances where the 15:59
21 Kevin Fulton situation became unsustainable from PSNI's
22 point of view, it is not recognised that that has an
23 obvious impact on the Peter Keeley position.

24
25 That, I think, hopefully, helpfully, sets out our 16:00
26 position. We have made written submissions which are
27 intended hopefully to be of assistance in relation to
28 this as well.
29 I'm not sure there's much else I can say because that

1 is the same, what we have hopefully set out in detail
2 in our written submissions as well.

3 CHAIRMAN: In paragraph 5 of your written submissions,
4 you mention that the two names are linked --

5 MR. SOUTHEY: Yes.

16:00

6 CHAIRMAN: -- in open court judgments including that of
7 Horner in the Re Gallagher Judicial Review, I'm not
8 sure that's right?

9 MR. SOUTHEY: Sorry?

10 CHAIRMAN: I'm not sure that's correct.

16:00

11 MR. SOUTHEY: I think that may be correct, I think it's
12 the -- the submissions were made under quite a lot of
13 pressure. I think it may in fact only be the judgment
14 of Mr. Justice Humphreys, if I remember rightly, that
15 does that.

16:01

16 CHAIRMAN: In the Fulton Judicial Review.

17 MR. SOUTHEY: In the Fulton Judicial Review. And that,
18 of course, is a judicial review brought by Mr. -- I
19 think it was actually brought in the name of

20 Mr. Keeley, I can't remember, but in any event it was
21 the judicial review brought by an individual certainly
22 purporting to be Kevin Fulton. In that context it

16:01

23 is -- yes. So, that's the context in which that was,
24 as I say, clearly raised, and it is, I would submit in
25 that context important to recognise it is Mr. Keeley

16:01

26 who, effectively, is making those claims and when one
27 thinks about the purpose of NCND, it's difficult to see
28 how that applies in these circumstances. He, himself,
29 I accept, an individual effectively waiving their

1 confidentiality is not an answer to NCND in most cases,
2 but here we have a situation where the agent is already
3 identified, it's made clear there is an agent and the
4 only real issue is the linkage between the two
5 personalities. Thank you. I'm not sure there's
6 anything else I can assist you with.

16:02

7 CHAIRMAN: Thank you, Mr. Southey.

8 MR. GREANEY: Sir, as I indicated, we suggest you
9 should hear next from Mr. Henry.

10 CHAIRMAN: Yes, Mr. Henry.

16:02

11 MR. HENRY: Thank you, my Lord.

12
13 SUBMISSION BY MR. HENRY:

14
15 MR. HENRY: In relation to the issue or issues which
16 have been raised by my learned Friend, Mr. Southey, as
17 we've candidly set out in our communications in
18 relation to what was described in previous submissions
19 as the family statement or the statement made by
20 Sir Ronnie Flanagan whenever he was the Chief Constable
21 in January 2002, that was in the possession of the PSNI
22 during the course of this Inquiry but hadn't been
23 considered. That was an error, we have been candid in
24 relation to that.

16:02

16:03

25
26 In our written submissions, on a number of occasions,
27 we've indicated that if there's something both within
28 the context of the Closed Material Restriction Order
29 Process and other processes, if there is something

16:03

1 which is brought to our attention that we were not
2 previously aware of and it should cause us to reflect
3 or review our position, we will do so, and we do that
4 mindful of the volume of documentation involved in the
5 Inquiry but also the remove in time between the
6 proceedings themselves and the events in question.

16:04

7
8 So, that's precisely what happened in this situation.
9 There was an error made. The searches for the
10 materials were not as robust as they should have been.
11 A material, a particularly material document was not
12 uncovered and whenever it was brought to our attention
13 the position was reviewed and that caused change in
14 position.

16:04

15
16 So, I would respectfully highlight two things to the
17 Inquiry; firstly, the candid admissions in relation to
18 the error; and, secondly, then, the response and that
19 demonstrates the approach of the PSNI to this kind of
20 issue.

16:04

16:05

21
22 Now, in relation to my learned Friend's submissions -
23 I'm referring both to his oral submissions and his
24 written submissions - in his written submissions he
25 says that the Closed Material Restriction Orders should
26 be explicit in relation to the obligation of candour,
27 whether one calls it that or due diligence. It should
28 be explicit. We don't have any strong view in relation
29 to that. Everyone is aware of what the requirement is

16:05

1 and the Inquiry will form its own view in relation to
2 whether an explicit reminder is required in relation to
3 that.

4
5 The second written submission that was made was in 16:05
6 relation to giving a gist, insofar as is possible, in
7 open and I think, whilst we're relatively early on in
8 that stage of the proceedings, by that I mean the
9 Closed Material Restriction Orders, that is what we
10 have been doing, the PSNI has been redacting its 16:06
11 materials, and for the purpose of the sample document
12 hearing ensured that those were released to the other
13 Core Participants so that they could be considered and
14 their input could be brought to bear on the process,
15 the decision-making process. So, in principle, we have 16:06
16 no objection to that, obviously it has to be within
17 confines of what is safe in terms of Article 2 and
18 national security considerations.

19
20 In relation to the third written submission which was 16:06
21 made about less weight being attached to the PSNI's
22 assessment, we wholeheartedly reject that. It was
23 suggested in the written submissions that the departure
24 from NCND was, in part, to support a narrative that the
25 PSNI were pursuing on PONI issues. We respectfully 16:07
26 suggest that's an unsustainable submission. NCND was
27 initially maintained, therefore, that submission cannot
28 stand.

1 In relation to the other name that my learned Friend
2 has referred to, I've addressed you in general terms on
3 the law and in writing and orally at the hearing at the
4 beginning of September, and respectfully addressed the
5 Inquiry again in closed hearing in relation to the 16:07
6 police position. And I'm afraid, my Lord, that I can't
7 go any further than that in open session.

8
9 I think, my Lord, those are my respectful observations
10 in response to my learned Friend's submissions 16:08

11 CHAIRMAN: There's one thing I'd like to canvas with
12 you if I may, Mr. Henry, in paragraph 4,
13 sub-paragraph (c) of the written submissions on behalf
14 of the Fox Law Core Participants, there's a submission
15 about the weight to be given to NCND. And it's pointed 16:08
16 out, or at least said that there have been a number of
17 departures from the policy and that this is a further
18 example. And they say it's important because it
19 appears to have been a waiver to support the narrative
20 of PSNI in response to the PONI Report. It cannot be 16:09
21 right that NCND is waived to support PSNI's narrative
22 but not others.

23
24 Now, with that in mind, I wanted to ask you about just
25 two things; in the statement which we discussed at the 16:09
26 previous open hearing, there were a number of pieces of
27 information concerning Fulton but there was also, at
28 paragraph 4.7, a statement about the individual who at
29 that time was being referred to as "Man A." And the

1 quote from that paragraph is:

2
3 "Media speculation what Man A in the Ombudsman's
4 statement was an informant is not true. He is not and
5 never has been."

16:10

6
7 Now, is that not another example of the departure from
8 the policy in relation to a different individual?

9 MR. HENRY: That would appear to be the case, my Lord,
10 that's something that I've raised with -- it's an issue
11 I alluded to in closed hearing, an issue I'd raised
12 with your legal team.

16:10

13 CHAIRMAN: The reason I ask you about that and what was
14 said about Fulton is in light of something that was
15 said in the Attorney General v. BBC case which is in
16 the bundle of authorities which we had for the CMRO
17 hearing, do you happen to have access to that?

16:10

18 MR. HENRY: Just not at my fingertips, my Lord. If you
19 bear with me for a moment we may be able to turn it up.
20 [Short pause]. We're just trying to bring that up at
21 the moment, my Lord, but, perhaps, if I could ask for
22 the Inquiry's indulgence to read the paragraph.

16:11

23 CHAIRMAN: Yes. It is a short point and I suspect
24 you'll be familiar with it. It's in paragraph 27 of
25 the decision and the Court, having explained the
26 principles that apply, says:

16:11

27
28 "It is important that a party seeking to adopt an NCND
29 stance in relation to a fact relevant to legal

1 proceedings ensures that the court is candidly
2 informed, if necessary in closed, pursuant to a public
3 interest immunity application or a Closed Material
4 Procedure about..."

5
6 And then it tells you what the court needs to be
7 informed about. And the first is:

8
9 "The existence in terms of any relevant policy or
10 practice relating to the use of NCND and/or to the
11 circumstances in which it may be departed from."

12
13 And then second, and this is perhaps the more pertinent
14 point:

15
16 "The circumstances of any departure from NCND in the
17 particular case, or other related cases, and the
18 precise terms of the departure, including whether the
19 departure was authorised, whether the information was
20 conveyed in confidence and the precise terms of any
21 departure."

22
23 Now, I'm not really sure that's been addressed. You've
24 candidly admitted that there was a departure in
25 relation to Fulton and it would seem in relation to Man 16:13
26 A, in the course of that statement that was issued, but
27 I'm not, I don't think, being given any information as
28 to the circumstances of it, or why it occurred. And
29 that, I think, is the point that the Fox Law Core

1 Participants are making, which is that it cannot be a
2 departure at the whim of the Chief Constable, according
3 to what suits his own interests at any given time.

4 MR. HENRY: I think I understand the point your
5 Lordship is making. And in relation to the

16:14

6 circumstances of the departure, insofar as it's
7 possible to do, one can derive those from the content
8 of the statement in the circumstances broadly
9 surrounding it. What I would respectfully ask the

10 Inquiry to observe is that wasn't the position that we
11 adopted in 2026. When that information was brought to
12 our attention, it was carefully reviewed. In

16:14

13 particular, and as we've explained to the Inquiry, that
14 was a written, considered response rather than
15 something more informal or made in the heat of the
16 moment, as it were. And so that has significantly
17 informed our approach to the issue here.

16:15

18
19 If your Lordship required further information in
20 relation to the particular circumstances, namely, the
21 frame of mind or the thoughts that were going through
22 the former Chief Constable's mind at the time that
23 response was composed, we can certainly try and obtain
24 those for you, but in terms of being able to address
25 you further in relation to the circumstances of
26 departure I won't be able to go any further.

16:15

16:15

27
28 In relation to the other part of that statement that
29 you've referred to, I don't wish to say too much but we

1 flagged it with the Inquiry and said that we were going
2 to examine it. It was not the issue that was at play
3 at the sample CMRO hearing and, therefore, was
4 something that could be addressed in due course

5 CHAIRMAN: well, the circumstances in which the
6 departure was stated and communicated were that a
7 carefully-crafted formal document was prepared and was
8 issued, it transpires, to the family members at the
9 meeting.

16:16

10 MR. HENRY: Mm-hmm.

16:16

11 CHAIRMAN: And so that, as I think you explained,
12 points towards this being a thought-out and
13 carefully-decided upon decision rather than something
14 just said inadvertently or in the heat of the moment;
15 would that be fair?

16:17

16 MR. HENRY: Correct, my Lord.

17 CHAIRMAN: All right then. Thank you very much.

18 MR. HENRY: May I also make one -- I hope that
19 addresses your Lordship's query -- may I make one
20 further observation? we're looking at this, and one
21 doesn't lose sight of the circumstances as they were in
22 and around January 2002, the PSNI is charged with
23 looking at the situation as it is in 2026 and moving
24 forward and that will always inform the decision-making
25 process. So, whilst the historic circumstances and
26 context we readily accept are valid, and a valid
27 consideration, they won't be the only consideration.

16:17

16:17

28
29 And if one were trying to extract some broader

1 application or weight that could be attached in
2 relation to another NCND exercise from this particular
3 one, I'm not sure that that would be the correct
4 approach.

5 CHAIRMAN: All right, thank you then, Mr. Henry.

16:18

6 MR. HENRY: Thank you very much, my Lord.

7 CHAIRMAN: Mr. Southey, is there anything else you want
8 to add?

9 MR. SOUTHEY: I don't think so, at this stage, thank
10 you.

16:18

11 MR. GREANEY: The Inquiry Legal Team considered that
12 our role was to ensure that Core Participants were
13 aware of the communication that there had been between
14 the Inquiry Legal Team and the PSNI in relation to the
15 form of words and we achieved that with a detailed
16 e-mail yesterday, late afternoon, and we don't consider
17 there is anything further we can say to contribute to
18 the issue today.

16:19

19 CHAIRMAN: Shall we adjourn until tomorrow then?

20 MR. GREANEY: Yes, please. Could we adjourn, Sir,
21 please, until tomorrow at 10:00 a.m. when we expect to
22 continue to hear evidence in relation to Part 7.
23 Tomorrow morning we'll hear from Detective Chief
24 Inspector Billingsley of the PSNI.

16:19

25
26 THE INQUIRY ADJOURNED UNTIL WEDNESDAY, 7TH OCTOBER 2026
27 AT 10:00 A.M.
28
29

16:19

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