THE INQUIRY RESUMED ON THURSDAY, 12TH NOVEMBER 2026 AS FOLLOWS:

CHAIRMAN: Good morning Mr. Greaney.

MR. GREANEY: Sir, good morning. At the risk of stating the obvious, we are starting 35 minutes late this morning. By way of explanation, there has been a lot going on and a lot to deal with. It was no one's fault that we are starting late but, nonetheless, I apologise. 10:33 10:34

We have in the witness box retired Detective Chief Superintendent Norman Baxter. Could I ask that he be sworn please.

10:34

MR. NORMAN BAXTER, HAVING BEEN SWORN, WAS QUESTIONED BY MR. GREANEY AS FOLLOWS:

CHAIRMAN: Thank you Mr. Baxter, and good morning.

A. Good morning. 10:34

1 Q. MR. GREANEY: Mr. Baxter would you be begin by telling us your full name please?

A. Norman Samuel James Baxter.

2 Q. And, as I indicated a moment ago, you are a retired Detective Chief Superintendent? 10:34

A. That's correct, Sir.

3 Q. Having spent your many years of service with the RUC, later the Police Service of Northern Ireland?

A. That's correct.

4 Q. And what we'll begin by doing is by identifying where you fit into the picture of the Inquiry. And, first, did you lead the investigation into the Omagh bombing between the 27th May 2002 and the 22nd November 2008?

A. That's correct. 10:35

5 Q. The 27th May 2002 being the date upon which you were appointed the Senior Investigating Officer for the investigation?

A. Yes.

6 Q. And the 22nd November 2008 being the date of your retirement? 10:35

A. That's correct.

7 Q. And does it therefore, follow that you were the Senior Investigating Officer, I will use the abbreviation SIO for a period of six years and six months? 10:35

A. That would be correct, yes.

8 Q. Second, on 11th September 2009, so 10 months after your retirement, did you give evidence to the Northern Ireland Affairs Committee?

A. I did. 10:36

9 Q. Did you give evidence alongside the officer who had been your Deputy SIO?

A. I did, it was Officer 15.

10 Q. And we will be - thank you very much - we will be describing him by the cipher "Officer 15" during the course of his, during the course of your evidence. 10:36

And did the two of you give evidence to NIAC in circumstances in which the Committee was exploring, as

it put it, the Omagh bombing 10 years on?

A. Yes.

11 Q. Now, a transcript of your evidence to NIAC, and indeed I believe a recording is available. But a transcript records you as having said: 10:36

"I think it is inconceivable on Mainland UK if you had a series of bombs happening every week or two weeks that there would not have been arrests and there would not have been Government intervention to ensure this 10:37 team was disrupted."

Now, first of all, do you agree that you said those words?

A. I do agree, yes. 10:37

12 Q. And, secondly, do you stand by them as you sit there today?

A. Yes, I do.

13 Q. And you are recorded as having gone on to say: 10:37

"I am satisfied that all the intelligence in relation to Omagh was disseminated. I am also satisfied from that intelligence the Omagh bomb on that day could not have been prevented but what I'm saying is that there were a number of opportunities in the past when this 10:37 group could have been disrupted."

A. Yes, I was speaking from a position of the knowledge I had at that stage.

14 Q. Yes.
A. I was not implying that all intelligence had been disseminated at the beginning of this investigation.
15 Q. So that's a very important qualification. I will ask you the same two questions: Do you agree that you said those words that I have just repeated? 10:38
A. Yes, I do, yes.
16 Q. And, as you sit there today, do you stand by them?
A. I do.
17 Q. Have I correctly understood therefore that the view that you were expressing was that the group, or one might say gang of terrorists, who carried out the Omagh bombing had carried out a whole series of attacks and attempted attacks in the period before August 1998? 10:38
A. Yes, what I was meaning was that the suspects as identified had been active terrorists for many years, including the period leading up to Omagh. 10:38
18 Q. You were expressing the view that there had been opportunities before 15th August 1998 to disrupt their activities? 10:39
A. Yes.
19 Q. And that if such disruption had taken place the Omagh bombing would have been prevented, that was your line of reasoning?
A. I think if I could expand that in terms of probabilities. 10:39
20 Q. Yes.
A. I cannot be certain but I think there's a high level of probability that this could have been prevented.

21 Q. And that's very helpful. Have I correctly understood your line of reasoning; those that you identified as suspects for the Omagh bombing had carried out, on the basis of your investigation, a whole series of attacks before the Omagh bombing? 10:39

A. Yes.

22 Q. That there were opportunities to disrupt them before the Omagh bombing?

A. Yes.

23 Q. And that if those opportunities had been taken, there was, as you have just put it, a high level of probability that the Omagh bombing could have been prevented? 10:39

A. That's correct.

24 Q. And does that remain your view today? 10:39

A. It would be my firm view today.

25 Q. So I'm still dealing with where you fit into our picture. So, first, your leadership of the investigation. Secondly, your evidence to NIAC. And, thirdly, as you will surely know, your evidence formed one of nine grounds upon which Michael Gallagher argued in the judicial review proceedings that came before this Inquiry that Article 2 of the European Convention had been breached, it was ground 9 was one of the four grounds upon which Mr. Justice Horner, as he then was, was persuaded that that claim was arguable. And you will be aware of that I'm certain? 10:40 10:40

A. Yes.

26 Q. And, fourthly, as again I'm certain you will know, you

feature by name in the Inquiry's Terms of Reference, those Terms of Reference requiring the Chairman to include consideration of, and I quote:

"The allegation made by Norman Baxter, former Senior Investigating Officer in the investigation into the Omagh bombing, in the course of his evidence to the Northern Ireland Affairs Select Committee on 11th November 2009 that police investigators in two previous attacks in Moira, 20th February 1998; Portadown, 9th May 1998; Banbridge, 1st of August 1998; and Lisburn 30th April 1998; did not have access to intelligence materials which may reasonably have enabled them to disrupt the activities of dissident republican terrorists prior to the Omagh bombing". 10:41

So, as I've said, named in the Terms of Reference. So that I hope gives a helpful indication of where you fit into the picture and will ensure that everyone is aware that you are a witness of importance to the work of the Inquiry. 10:41

Mr. Baxter, have you provided two witness statements to the Inquiry?

A. I have, yes. 10:42

27 Q. The first, your principal witness statement, running to 112 pages?

A. Yes.

28 Q. And a second shorter statement dealing with the

relationship between your investigation and the Guards running to four pages?

A. That's correct.

29 Q. Now next I am just going to deal with the scope of the evidence that you will give today, and I'm certain into tomorrow. The work of the Inquiry is split into a number of chapters and they include Chapter 3, which is the chapter that we are currently engaged in, which addresses the events of the day of the 15th August 1998 and involves identifying a working hypothesis for who carried out the bombing. Chapters 4 and 6 are focused on previous attacks, or attempted attacks, to which the group who carried out the Omagh bombing are associated. Chapter 5 is focused on security normalisation and Chapter 7 is focused on intelligence. And I'm certain that you will agree that the evidence in your two witness statements travels across the whole of that landscape, do you agree? 10:42 10:42 10:43 10:43

A. Yes.

30 Q. But today, Mr. Baxter, you're here to assist with Chapter 3 and, in particular, your investigation between 2002 and 2008. And you and I need to focus upon what you're here for today, and if we could invite everyone who asks questions after we do to focus again on that topic in the knowledge that you will be returning to give evidence in a later chapter or chapters. Does that make sense to you? 10:43 10:43

A. It does, yes.

31 Q. So against that rather lengthy lead in, let me tell you

the topics that I will be addressing with you today, and they are, as follows, 11 of them in total:

First of all, your background and experience.

10:44

Secondly, your connection or connections to Omagh prior to your appointment as the Senior Investigating Officer and that will include evidence that you are able to give about certain events of the 14th August 1998 that you were principally at least an observer to. 10:44

Thirdly, I want to deal with your appointment as Senior Investigating Officer and whether at the time of your appointment you considered you were the best man for the job and what your experience was in the early 10:44 stages of your investigation.

Fourthly, we'll seek your reflections on the investigation that had gone before you. So the investigation between 1998 and 2002. 10:45

Fifthly, I will ask you to identify for us, those that you identified as suspects for the Omagh bombing. Mr. Billingsley gave some evidence about that yesterday, as I'm certain you will be aware, but we 10:45 need to hear it from you direct. I'll also be asking you at that stage about your methodology in selecting those suspects, and it may be that we can't take that to a conclusion today or tomorrow and that you'll need

to help us further in due course, which we will all understand.

Sixthly, I'll have a small number of questions about the scientific review panel that you appointed. 10:45

Seventh, I will ask you about what you describe as the prior incidents, what the Inquiry describes as "previous incidents". But we will deal with that at a high level because, as I've said, in Chapters 4 and 6 10:46 we will be drilling into the detail of that.

Eighth, I'm going to ask you about Sean Hoey and the trial of that man. But again at a high level because we will be looking into that in detail in Chapter 4. 10:46

And I appreciate that you are a person who holds strong views about that trial, what happened and what didn't happen, but I hope you will bear with me as we deal with it in summary. 10:46

Ninth, I will have some questions for you about Detective Sergeant John White of the Guards, who I know you were involved in in interviewing and have much to say about, but we will principally exploring that issue 10:46 in Chapter 7.

Tenthly, I am going to be asking you about a particular vehicle, namely a Nissan Bluebird said to be associated

with Seamus McKenna and the journey that it made through the Aughnacloy checkpoint on 14th August.

And, finally, I'll return to pretty much where I started, namely, your evidence to NIAC and we'll identify some aspects of the particular things that you said. 10:47

So that's where we are going over the course of I would have thought much, if not all, of today. And can I ask you does that make sense? 10:47

A. It does, yes.

32 Q. So now is your opportunity to say something and we'll begin by dealing with your background and experience and we'll need to do so in a little detail because it will provide colour for your opinion about whether you were the right person for the job. 10:47

When was it, Mr. Baxter, that you joined the Royal Ulster Constabulary? 10:48

A. I joined the Royal Ulster Constabulary Full-time Reserve in February 1980.

33 Q. After some basic training in Belfast, where were you attached?

A. To Cookstown RUC Station and then subsequently went to Pomeroy. 10:48

34 Q. Did you remain at Pomeroy station until you joined the regular RUC as a Constable --

A. Yes.

35 Q. -- on 22nd November 1981?
A. That's correct, I went to the police training centre.
36 Q. And having attended the training centre in Enniskillen to where were you posted?
A. I was posted in June 1980 to Newtownbutler in County Fermanagh, which covered the Cavan/Monaghan border, the region of southeast Fermanagh. 10:48
37 Q. And were those what might be described as uniformed policing responsibilities?
A. Yes, it's normal policing but in an abnormal security situation. 10:49
38 Q. I am going to be drawing a distinction between two very broad areas of policing: Uniform policing, on the one hand, and CID or detective policing on the other. Because self-evidently when you became the Senior Investigating Officer for the Omagh bombing investigation, you were performing a detective function? 10:49
A. That's correct.
39 Q. And one of the things I am exploring at the moment is the extent of your background and experience in such policing at the time of your appointment and I can promise you that is in no way to criticise you. 10:49

In August 1984 were you promoted to the rank of sergeant? 10:49
A. Yes, I was promoted and transferred to Carrickmore, which was classified as special duty station, which required a shift pattern of four days in the station

and then two days off. And transport was by helicopter in and helicopter out again. So it was almost like a military posting.

40 Q. So you were policing an area of intense terrorist threat? 10:50

A. Yes.

41 Q. And it required, as you've said, something akin to a military operation, albeit in a policing context, you will be flown in by helicopter to the station?

A. Yes. 10:50

42 Q. And you would work a solid four-day shift?

A. Yes.

43 Q. Conducting day-time patrols in that area?

A. Yes, day-time patrols would have been on foot because of the landmine threat. And then at night-time there 10:50 would have been some mobile patrolling.

44 Q. And although this would be a form of very unusual and exceptional policing, in the context of policing across the United Kingdom, would it be described as uniformed policing or detective policing? 10:51

A. Uniform.

45 Q. In 1986, having spent well over a year working in that environment, were you transferred to somewhere else?

A. Yes, I went to Beara Police Station which was next to Carrickmore, which was uniformed policing, but in a 10:51 slightly less hostile environment. And then I went to Newtownstewart.

46 Q. What was your role from 1987 in Newtownstewart?

A. It was to Headquarters Support Unit, which was really a

province-wide counterterrorism unit.

47 Q. And was that in a uniformed capacity as well?

A. Uniformed, yes.

48 Q. In 1989 were you appointed the Station Sergeant at Newtownstewart RUC Station? 10:52

A. Yes, again that was uniform.

49 Q. Now, you had been promoted to Sergeant in 1984, as I've said?

A. Yes.

50 Q. In April 1991 were you promoted further, this time to the rank of Inspector? 10:52

A. Yes, and transferred to Cookstown, which was again a uniformed policing post.

51 Q. So up until this stage, and it's now 11 years into your career as a police officer, all of your service has been in uniform policing? 10:52

A. Yes.

52 Q. In 1992 were you appointed the Inspector in charge of a district mobile support unit in Dungannon?

A. Yes, and again that was uniform. 10:52

53 Q. And in that capacity were you primarily performing an anti-terrorist function in the east Tyrone area?

A. Yes, that was east Tyrone.

54 Q. In 1995 were you appointed to a new role?

A. Yes, I applied and was appointed to be Staff Officer to the Assistant Chief Constable South Region based in Mahon Road, Portadown. 10:53

55 Q. And Mahon Road is a location that is going to become relevant when we turn to the 14th August, is that

correct?

A. Yes.

56 Q. In that role as Staff Officer to the Assistant Chief Constable, what role and responsibilities did you have?

A. Basically the administration of the Regional Office and coordination of the ACC's activities, preparing the various reports, managing of budgets. 10:53

57 Q. And it may be that this role doesn't fall into either but would you describe this role as uniformed, detective or some different role? 10:53

A. It would be uniform part of the time and administrative, so not detective.

58 Q. Not a detective role. In 1997 were you promoted to the rank of Chief Inspector?

A. I was, and appointed to the regional, as the Regional Tactical Advisor to the Assistant Chief Constable. 10:54

59 Q. What did that role involve?

A. That was an operational role with responsibility for nine divisional mobile support units. So it was overseeing training, personnel and operations. 10:54

60 Q. Would that also have been a uniformed policing role?

A. Uniformed, yes.

61 Q. In April 1998, so 18 years into your policing career, were you transferred into a different role?

A. Yes, I was transferred to Gough Barracks in Armagh as an Investigator in Complaints and Discipline Branch to investigate internal discipline and complaints by members of the public. So that would have been the forerunner type of activities to the Police Ombudsman's 10:54

Office.

62 Q. So the principal job that you would have been doing would have been involved investigating complaints made about police officers?

A. Yes, and internal issues raised by the Chief Constable in relation to discipline. 10:55

63 Q. And would you describe that as being a detective role?

A. It wasn't classified as detective at the time. So it didn't carry the name Detective Chief Inspector.

64 Q. So it was still Chief Inspector, not Detective Chief Inspector? 10:55

A. That's correct, yeah.

65 Q. It wasn't termed a detective role but it did involve work on investigation?

A. It did. 10:55

66 Q. But bearing in mind the type of thing that you would be investigating, am I right that sometimes it would involve crime, sometimes a disciplinary offence?

A. No, if there was a complaint involving crime, it would have been investigated by CID. The investigation would have came to Complaints and Discipline. 10:56

67 Q. So this is just what I want to be clear about, so thank you. Your role there involved investigation but investigations into matters of disciplinary misconduct, not crime? 10:56

A. Yes, incidents at road stops, complaints about house searches. But there wouldn't be, for instance, if a police officer was accused of a serious assault, then CID would investigate that, with Complaints and

Discipline having an overview until the investigation was complete.

68 Q. Would it be fair to say that whilst that role involved investigation, it was a world away from the investigation that you were to be placed in charge of in May 2002? 10:57

A. Yes.

69 Q. In September 1991, did you secure a further and different appointment?

A. Sorry? 10:57

70 Q. I am at paragraph 15 of your statement, Mr. Baxter. What role were you appointed to in September 1999?

A. Yes, I was transferred --

71 Q. Sorry, I said 1991, I'm sorry, that's my fault.

A. I was transferred to Enniskillen as Detective Chief Inspector CID, Divisional CID. 10:57

72 Q. So this is late 1999, nearly 20 years into your career as a police officer, was this the first occasion upon which you performed the role as Detective?

A. Yes. 10:57

73 Q. And what type of crime did you have responsibility for investigating from September 1999?

A. A complete range of crime from murder, to armed robbery, to terrorism.

74 Q. In March 2002, were you promoted to the rank of Detective Superintendent? 10:58

A. Yes.

75 Q. And did you have a responsibility for a particular area?

A. Yes, I had responsibility then for North Region which covered from Lisnaskea through Omagh, Strabane, Londonderry, Coleraine and Ballymena. So the northern side of the province.

76 Q. And in that role again, did you have responsibility for the investigation of a range of criminal behaviour? 10:58

A. Yes.

77 Q. As I've said already on 27th May 2002, you were appointed to the role of Senior Investigating Officer for the Omagh bombing? 10:59

A. Yes.

78 Q. And does it follow that by that stage you had a police career which had lasted for 22 years?

A. Yes.

79 Q. And of that 22-year career, two and a half years had been as a detective? 10:59

A. Yes.

80 Q. Which I am going to come on to that period in detail in due course. Were you promoted further to the rank of Detective Chief Superintendent in August 2004? 10:59

A. Yes.

81 Q. So that would be during the period that you were Senior Investigating Officer for the Omagh bombing?

A. Yes.

82 Q. And on being promoted to that role, were you given some additional responsibility? 10:59

A. I was given the new role but, had to retain the SIO as well, so I had a complete new job plus...

83 Q. Are you comfortable telling us what that additional job

was?

A. It was in the Special Branch.

84 Q. And does it follow that from that date in August 2004, you were performing both that role and the role of Senior Investigating Officer? 11:00

A. Yes.

85 Q. So you had to combine the two?

A. Yes, which meant quite long working hours but...

86 Q. It meant necessarily that you were not dedicated, through no fault of yours, full-time to the Omagh bombing investigation? 11:00

A. That's correct.

87 Q. Was that something that you were happy about, comfortable with, or indifferent to?

A. Something I didn't have a choice in. 11:00

88 Q. Well if you had had a choice, would your choice have been different from that which was imposed upon you?

A. Well, I think there should have been a full-time SIO in Omagh. I also think it should have been of Chief Superintendent rank, for reasons we may come to later. 11:01

89 Q. And we will come to.

A. Because I was interfacing with people of a higher rank, which makes it difficult.

90 Q. And did it make particularly difficult if you were having to deal with people of a higher rank within, not the CID, but within Special Branch? 11:01

A. Sorry?

91 Q. I'm sure it was my question.

A. No, maybe I didn't pick it up correctly.

92 Q. You told us that, for reasons that we will come on to, you felt that the SIO should have been a permanent job for somebody?

A. Yes.

93 Q. And should have been a permanent job, not for a Detective Superintendent, as you were at the time of your appointment, but should have been a job for someone who was a Detective Chief Superintendent? 11:01

A. Yes.

94 Q. And that was because, as the Senior Investigating Officer for the Omagh Bombing Inquiry, you would be having to deal with people of a higher rank? 11:02

A. Yes, but on resourcing issues and other matters that arose. So by September I had expressed that view to the Assistant Chief Constable. 11:02

95 Q. In all events, we will come back to that.

A. Yes.

96 Q. In 2006 - I am at paragraph 18 now - were you appointed to a further role?

A. Yes, I was then transferred from -- had become Intelligence Branch to Serious Crime Branch, as Head of Branch. 11:02

97 Q. And did that mean that you had responsibility for the investigation of serious crime across Northern Ireland?

A. That's correct. The responsibility for the -- all investigation teams. 11:02

98 Q. And that sounds like it was a significant responsibility?

A. It was, but it made the role of SIO a little easier

because, you know, I could manage my time better within crime branch.

99 Q. So in the result it made it easier. But did it mean that necessarily you were not able to devote all of your time to the Omagh bombing investigation? 11:03

A. Definitely not.

100 Q. And in June of 2008, were you appointed as the Senior Liaison Officer between the PSNI and MI5?

A. That's correct, yes.

101 Q. And was that an additional responsibility on top of being Head of Serious Crime or was it a replacement role? 11:03

A. A replacement.

102 Q. And did you perform that role between June 2008 and your retirement on 22nd November 2008? 11:04

A. Yes.

103 Q. So let's just pull all of those things together. Does it follow that between August 2004 and November 2008, so four or so years, it was necessary for you to combine your role as Senior Investigating Officer with other roles? 11:04

A. No. When I took over in 2002 I had to combine it with other duties.

104 Q. That's what I haven't understood.

A. Sorry. I was appointed SIO of Omagh but I also had responsibility as a Senior Investigating Officer in North Region. 11:04

105 Q. Right.

A. So it wasn't a full-time role in that sense, although I

was able to dedicate a lot of time. But in the initial stages I also had the Arkinson murder trial and other crimes.

106 Q. I have understood, and that was my misunderstanding.

A. Yes. 11:05

107 Q. I had, my impression was that there was a period from May 2002 to August 2004 when you were dedicating all of your time to the Omagh bombing investigation and that only thereafter did you have to combine it with other responsibilities. In fact, what you are telling us now 11:05 is that for the whole of the period, that six and a half year period between May 2002 and November 2008, you were combining your role as the SIO with other significant responsibilities?

A. Yes. And doing on-calls for murders and serious crimes 11:05 at weekends and the evenings, so it was a very busy number of years.

108 Q. I'm going to deal next, and all of this is background to a big question I'll ask you a little bit later whether you felt you were the right person for that 11:06 appointment. But before we get there I am going to ask you about the training you had received, and so I am now at paragraph 19. Did you complete the Standard Sergeant and Inspector post promotion courses?

A. Yes. 11:06

109 Q. And the senior leadership training modules at the Police National Staff College in England?

A. Yes.

110 Q. And were those courses that trained you in being a

detective?

A. No.

111 Q. In 2002 did you complete the managing serious crime course?

A. Yes. 11:06

112 Q. And was that a course that involved training in being a detective?

A. Yes.

113 Q. For how long did that course last?

A. I think that was one week. 11:07

114 Q. And in 2006, so well into your period as SIO, did you complete what was called the professionalising investigative policing, called P-I-P or PIP, Level 3 validation process?

A. Yes, that was a system whereby you could collective evidence against competencies, so it wasn't a course, it was evidence-based portfolio. 11:07

115 Q. So that was a sort of assessment process over a period of time --

A. Yes. 11:07

116 Q. -- as opposed to a dedicated course?

A. Yes.

117 Q. Was that a process that involved assessing your abilities as a detective?

A. It was a new process that was introduced across the United Kingdom and it was designed to accredit detectives with Level 1, 2 or Level 3, depending on how you met a list of criteria for each level. So it was an accreditation process. So you produced evidence of 11:07

different activities to show that you had performed.

118 Q. So it sounds as if that was not training that was delivered to you it was assessing your ability to perform that job as a detective?

A. Yes, it's not training, it was assessing experience. 11:08

119 Q. Assessing experience.

A. Yes.

120 Q. And, in any event, that was something you completed in 2006, well into your period of SIO?

A. Yes, and that was the first opportunity to do it, it had just been introduced. 11:08

121 Q. And did you attend the linking serious crime and serious crime investigation review courses in 2006 and 2007?

A. Yes. 11:08

122 Q. Again, well into your period as SIO. And did you also complete the leadership in counterterrorism course delivered by the University of St. Andrews?

A. Yes.

123 Q. And the Kennedy School of Government, Harvard University, in partnership with PSNI, Scottish Police, the FBI and Royal Canadian Mounted Police? 11:09

A. Yes. That was funded as part of the normalisation of the police.

124 Q. And so have I correctly understood that before or at about the time that you were appointed the Senior Investigating Officer, the extent of the training that you had received in detective work was that one-week managing serious crime course? 11:09

A. That was after I was appointed.

125 Q. So at the time that you were appointed you had not received any formal training in being a detective?

A. Correct.

126 Q. But in the same year as your appointment you attended that one-week course? 11:09

A. Yes.

127 Q. Would it be fair to say that in that first year as SIO for the Omagh bombing investigation, your training as a detective was limited? 11:10

A. "Absent" would be the more appropriate word.

128 Q. And this was --

A. Sorry, in relation to when I joined in 1989, obviously gained experience between 1989 and 2002.

129 Q. Yes, you gained experience when you were in CID but in terms of training, as you put it, it was absent, so no doubt -- 11:10

A. Formal training, yes.

130 Q. No doubt you had picked up skills on the job?

A. Yes. 11:10

131 Q. In terms of formal training?

A. But Detective Superintendent McArthur, who was my line manager, was a really good mentor. So he would have came down at least once a week, but at most once a fortnight and through all the investigations. So it was very good learning process, he was an outstanding, a good detective. 11:11

132 Q. So genuinely my question is not seeking to criticise you.

A. No, but what I am trying to explain is that when I went in 2002, it wasn't that I had no knowledge of investigations.

133 Q. No.

A. But it was life-learned, life experience. 11:11

134 Q. And I am not suggesting that you had no knowledge nor am I suggesting you had no experience and no skills?

A. No.

135 Q. It is obvious for reasons we're going to.

A. I could probably simplify it. 11:11

136 Q. Please do.

A. But, in my view, I was the least qualified person to be appointed.

137 Q. And we will come back to this but it's very helpful.

A. At the time I, you know, thought that. 11:11

138 Q. Let's you and I be entirely frank about this, this was an investigation into the most dreadful crime which had involved the murder of 29 people and the loss of two unborn lives?

A. Yes. But it was also in a context when there was 11:12 intense hostility between the PSNI and the Police Ombudsman, there was a lot of public controversy. And I think at the end of the day, I was the one who lived west of the province and I was the one who probably - I don't mean this with any disrespect to the families - 11:12 but one probably drew the short straw in terms of the allocation of it. And I really don't mean in any disrespectful way. But I just got the impression that no one else would go there.

But, having said that, the team who were investigating was probably one of the best detective teams that could ever have been formed. And I knew most of them so...

139 Q. And all of that will be understood. But let's just agree, the two of us, on some basic aspects of this. 11:13
Obviously you will agree that it's scarcely possible to imagine a more terrible crime than that that which was committed on 15th August?

A. Absolutely.

140 Q. I don't need to tell you and your family that. The 11:13
investigation was made complex by a whole series of factors: The fact that it involved cross-border activity; the fact that the people who bombed Omagh had carried out other extremely serious crimes in the build up; the political background to all of this happening; 11:13
and the significant friction, to use your word, that existed around the investigation because of the disagreements between the Chief Constable and the Ombudsman?

A. Yes. 11:14

141 Q. And into that was placed an experienced police officer, you, but someone who had two and a half years' experience as a detective and at that stage had received no formal training as a detective?

A. Yes. And, if I'm being totally frank, I would have 11:14
been better suited to be the Deputy SIO. I recall saying to some colleagues, this is a poison chalice I've been given. I'm being sent here because it's not to be solved. So that was my understanding when I was

told in February/March. Although I took over in May, I knew from, I think it's February time, that I was being coming to do it which was at the period that the judicial reviews were ongoing between the Ombudsman and the PSNI.

142 Q. What do you, and sorry now I'm jumping forward because you have helpfully brought this focus to your evidence now, and I'm turning to paragraph 50. You said:

"I recall thinking that I was being handed a poisoned chalice".

A. Yeah.

143 Q. So you said that to us before I've read that to you.

A. Yes.

144 Q. "At that time point" --

So this is the point of your appointment --

"...the investigation was mired in controversy and was under intense public scrutiny. I felt that there were more experienced personnel to take on the role from within the cadre of existing senior investigators".

A. Yes.

145 Q. So, to say the least, you did not believe yourself that you were the best choice for that role?

A. No, I didn't.

146 Q. "However Detective Chief Superintendent McArthur" --

and let's remind ourselves, he was the Senior Investigating Officer before you?

A. Yes.

147 Q. Having earlier been the Deputy SIO.

"However Detective Chief Superintendent McArthur expressed the view that the investigation was moving into a file maintenance phase as all lines of inquiry would be completed when I assumed the role. In effect the view was that by the time I assumed the role then plan for September 2002, there would be no proactive investigations required." 11:16 11:16

A. That's correct.

148 Q. And is that what you were told? 11:17

A. Yes. So basically, you'll be fine, you'll manage, because you are only closing it down. That was the point.

The issue here was that the Police Ombudsman after McVicker Review had carried out or created reports which were very, very critical or presented as critical. Some of it was very unfair in terms of the work from the detectives' perspective who had done so much good work. And so then we had the Chief Constable and the senior officers taking legal proceedings, which was inflaming the 'us and them' attitude. And then we have the SIO, who is planning to retire, and he is working towards what he understood the close-down 11:17 11:17

phase. And so, 'you are coming in to close this down so don't worry'.

149 Q. But by this stage, no one had been convicted of their involvement in the Omagh bombing?

A. No. 11:18

150 Q. And indeed no one remains convicted of the Omagh bombing. And yet the investigation was, as it was explained to you, in the close-down phase?

A. By September it would be, all the actions would have been completed. 11:18

151 Q. And to cut a very long story short, once you actually got into your work as SIO, did you conclude that it was appropriate or inappropriate that the investigation was intended to be closed down from September of 2002?

A. No, it became very clear that it shouldn't be. But I'm not sure when Mr. McArthur was expressing that view, he was totally unaware of John White, he was totally unaware of David Rupert, he was totally unaware of items of intelligence which the Jones evidence team produced, and ultimately he wasn't aware of things that John Ware referred to in his programme, whether they were right or wrong. So those things started to emerge and then the other issue was linking the incidents which became an investigative strategy. 11:19 11:19

152 Q. So... 11:19

A. So I'm not criticising Brian McArthur for his view at that time, and I suspect that there was some organisational pressure to get the resources out of Omagh.

153 Q. Let me just make sure I've understood that. And I have certainly understood that you don't intend any criticism of Brian McArthur?

A. No, I would say knowing Brian McArthur for years, that he would have done everything he could to bring people to justice. But I think he had reached a stage that, all the lines of inquiry were closing. Probably frustrated because he'd spent almost two years responding to reviews and the Ombudsman's report. 11:20

154 Q. Whilst it is, in your view, not an individual failure by Mr. McArthur, the point you're making - tell me if I have got this wrong - is that Brian McArthur was making his decision that the investigation was to be shut down on the basis of an understanding of the situation that was partial? 11:20

A. Yes.

155 Q. And that there were elements to all of this that were known about within the police more generally, so the intelligence that you have spoken about, for example?

A. Yes. 11:21

156 Q. The fact that there had been earlier attacks, which just didn't come within the investigation?

A. I could interject here and just say.

157 Q. Of course.

A. After the bomb exploded the Chief Constable said that no stone would be left unturned and I'm sure he genuinely believed that. The problem was that people had hid some of the stones. So the investigators couldn't find the stones to look under. So Brian 11:21

McArthur at that stage didn't know these stones existed, you know the pre-intelligence, if I can mention GCHQ potential. White, although he came on towards the end of his time. So he was looking at a landscape that part of the organisation had put a screen around to deny him the very essential stuff that he needed to solve the crime.

158 Q. Who had hidden those stones?

A. Well, that's, I would hope, that the Inquiry will find out. Because it wasn't hid by Brian McArthur, it wasn't hid by Officer 15, it wasn't hid by Hamilton Houston. But all that material that we may discuss later was, and I am going to say this very carefully, was deliberately hidden from the investigation, not accidentally, deliberately, to prevent the investigators finding out. And at an organisational level there was a failure to ensure that all the stones that were to be unturned were still, you know, available to be looked at.

159 Q. So from what you have said, Brian McArthur faced a situation which involved the stones which should have been unturned being hidden so they couldn't be?

A. Indeed, they may even have been removed.

160 Q. He faced a situation of great friction between the Chief Constable and the Ombudsman during 2001?

A. That's correct.

161 Q. And I think you said along the way of one of your answers that there was, what you perceived to be, an organisational desire, drive or imperative to close

down the investigation?

A. Well, Brian McArthur would not have reached that stage without consultation with, you know, the Regional Head and the Assistant Chief Constable. It's not -- and we know that Mr. Kincaid was actively involved because he was speaking to Police Ombudsman in 2000 -- late 2001. So this was a corporate decision. And might I say that the investigators in Omagh was one that wouldn't have been shared by them, some of the finest detectives that you could have the privilege of working with, they knew, when I arrived, they were very clear that lines of inquiry weren't complete. 11:24 11:24

162 Q. Removing stones, as you've described it, was bound to reduce the prospect that those responsible would be detected, do you agree? 11:24

A. Prevented people from being detected. Not reduced, prevented.

163 Q. You've said that the Chief Constable, you believe, was speaking the truth when he said that he wanted the situation which no stone was left unturned? 11:25

A. I would take at face value that he did mean it, but he didn't ensure it.

164 Q. You've said that stones, you think, were deliberately removed. And I need to ask you, because otherwise the point will hang, in circumstances where removing stones was going to prevent the prosecution of people who had carried out this appalling crime, why do you consider that someone or some people would have deliberately removed stones? 11:25

A. Well if I can answer that and say that, it is a hypothesis but it's based on some reasonable understanding; source protection, methodology protection and a political pressure not to disrupt the Peace Process by having, in the short-term after the bombing, not having a large-scale police operation in South Armagh to destabilise the ceasefire. So a combination of the three.

165 Q. So the three being source protection, protection of sensitive capabilities or techniques, and not having a large-scale police operation, because to do so might disrupt the Peace Process? 11:26

A. And there could be a third which was to prevent activities prior to the bombing being exposed, but that would be more in the speculative than... 11:27

166 Q. Are you able -- if there was intention behind that state of affairs, are you able to help the Inquiry with whose intention that was and who was driving that state of affairs?

A. But I can't pinpoint but clearly - and I know this is very difficult for the families and survivors - but there has been a sequence of events in the investigation which points to a coordinated obstruction of the investigation. 11:27

167 Q. Sir, I'm going to turn next to the second topic, the connection of the witness to Omagh before his appointment. And it's probably little earlier than we would normally take it, but that is an important topic, and I wonder if we might take our break at this stage? 11:27

CHAIRMAN: Yes, of course, Mr. Greaney. I think it is best if you just guide me as to when and where we should take our break.

MR. GREANEY: Thank you very much. Can we have a break until shortly before 10 to midday please? 11:28

THE INQUIRY ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

CHAIRMAN: Mr. Greaney.

168 Q. MR. GREANEY: Thank you. 11:51

Mr. Baxter, we'll move on just in a short time to the issue of your connections to Omagh. But, I just want to be clear about one aspect of things before we move on. Before we broke you told me that you had 11:51 identified three reasons or potential reasons why there was deliberate disruption of the investigation. And the first was protection of sources or sensitive techniques. Second, was a desire to avoid undermining the Peace Process by a major police operation. And the 11:52 third was, you said this would be more speculative, there could be a third you said which was to prevent activities prior to the bombing being exposed. And I am going to ask you by way of, what I hope would be some carefully-formulated questions just to help us 11:52 with that. What I don't want you to do is name any individuals as we go through these questions.

But when you talk about preventing activities prior to

the bombing being exposed, I believe that the lay view that you have come to is that one of those that you came to suspect of involvement in the Omagh bombing was a source, a covert human intelligence source?

A. Yes. I believe, just for total clarity, that one of the people who brought the bomb to Omagh on the day was an agent. 11:53

169 Q. And so, when you said to me a little earlier that a third reason why there may have been this disruption deliberately of the investigation was to prevent activities prior to the bombing being exposed, did you have in mind in saying that the activities of a person that you believe was a source? 11:53

A. No, I think it's wider than that. And we will come on to the August 14th meeting. 11:54

170 Q. We will.

A. That's part of it. There is also the issue of what John Mooney disclosed about the Garda being with the bomb car the evening before.

171 Q. Yes. 11:54

A. There is also the issue of the bomb being at the Cullaville GAA Club. So there is also the issues of what John White was reporting on. So in the collection of all of those, I think there is reasonable grounds to hypothesise that whatever was going on operationally was not going to be disclosed. 11:54

172 Q. So there were a series of things, in your hypothesis?

A. Yeah, and sorry, may be if I could expand a little. On Monday Sir Ronnie was here and Mr. Mansfield asked a

very pertinent question, in which he asked Ronnie who did he contact, and I am paraphrasing this, on the way from Headquarters to Omagh. So he had rang the ACC Special Branch who could not give him any names. He then contacted the Regional Head of South, who couldn't 11:55 give him any names.

173 Q. But that's Officer 1?

A. Officer 1.

174 Q. Yes.

A. And then he contacted Officer 1 on several occasions 11:55 over the next few days. And I'm sure that's true, but the issue is the bomb happened in North Region. The natural place for the Chief Constable to be ringing would have been the Head of North Region, bearing in mind that North Region had five names of suspects given 11:55 to the Inquiry, if not on the Saturday evening perhaps the Sunday morning, I can't remember.

So we have this unalignment between where the bomb happened and responsibilities for intelligence and 11:56 Special Branch, and the Chief Constable's focus on South Region, which I think probably needs to be explored in terms of what was in the mind of the Chief Constable that focused him towards the South Region when there was no suspects identified rather than North 11:56 Region.

175 Q. We're going to come onto the 14th August in a moment, but are you hypothesising that the Chief Constable made contact with Officer 1, notwithstanding that the bomb

had detonated in North Region, because the Chief Constable knew that Officer 1 knew something?

A. That there was knowledge in South Region pertinent to the bomb very soon after it happened.

176 Q. And are you - and we are jumping ahead slightly and we will make sure this all makes sense - are you in your own mind connecting that to what you heard Officer 1 saying to the Deputy Assistant Chief Constable on 14th August? 11:57

A. Yes. So for that reason, and again this is a stone that has been hidden, I don't know what was going on. 11:57

177 Q. But just pull all of this together, am I fairly summarising this third point that you told us about in this way; that your hypothesis is that senior figures within policing in Northern Ireland and the Republic of Ireland knew of matters of importance before the bombing that they did not act upon and that gives them a reason for the investigation not to succeed? 11:57

A. This is the centre of your question. Clearly in my mind there was knowledge that something was coming north, not knowing where it was, but I think there was something going on behind the scenes that the evidence would point to that there was pre-knowledge. 11:58

178 Q. And there are people who don't want that to come out, and they fear it will come out or feared it would come out, if there were an effective investigation? 11:58

A. Yes, and that materialised very early in my view when Mr. Anderson was appointed.

179 Q. I'm sure I can be excused for saying that you've

obviously given over the years a very considerable amount of thought to the investigation and what was and was not done?

A. Yes.

180 Q. And you are agreeing with me. And so it is important that we should know a little bit more about you as a person and, in particular, about your academic background before we move on. And I'm now Mr. Baxter, maybe I should refer to you as Dr. Baxter but I'll carry on calling you Mr. Baxter if you don't mind? 11:58 11:59

A. Mr. is fine.

181 Q. I am now at paragraph 20 of your witness statement. In 1989 did you commence a part-time Undergraduate Degree part-funded by the RUC at Ulster University?

A. I did. 11:59

182 Q. In June 1994 did you graduate with a degree, a BA Honours degree in Public Policy and Management?

A. Yes.

183 Q. Subsequently, the next academic year, did you commence a further period of study? 11:59

A. I did, yes.

184 Q. And what was that study in and where?

A. That was a part-time course University of Ulster in Administrative and Legal Studies. And in the interests of transparency, Baroness O'Loan was my supervisor for 11:59 the thesis in the Masters.

185 Q. And, as you'll appreciate, I'm going to come on to ask you something about Baroness O'Loan and, in particular, the investigation that she conducted on the back of the

allegations of John White. And I believe that the point in simple terms is that Baroness O'Loan is someone that you hold in high regard?

A. I think she's a very professional person.

186 Q. But you think that she took a wrong turn in what she did in relation to John White? 12:00

A. Yes.

187 Q. But we'll get to that. And did you graduate in 1996 with a Master, with MA Degree with a Distinction?

A. I did, yes. 12:00

188 Q. In 1996 were you awarded a fellowship from the police college in Bramshill, as we've heard a number of times?

A. Yes.

189 Q. And did you commence a research-based PhD at the School of Law at Ulster University in 1997? 12:01

A. I did, and again for transparency, Baroness O'Loan was one of two supervisors appointed to supervise the research.

190 Q. Did you graduate in 2000 following the completion of a doctoral thesis? 12:01

A. I did, yes.

191 Q. And what was the title of your thesis?

A. It was, "the development of a theoretical model for the policing of conflict through an examination of the role of police and the management of conflict between divided societies within the United Kingdom". 12:01

192 Q. And in due course was the research that you had completed for that thesis incorporated into a book published by Ashgate Publishers in 2001?

A. It was, yes.

193 Q. In 2006 were you awarded a Postgraduate Certificate in Law, Policing and the Investigation of Serious Crime from Queen's University here in Belfast?

A. I was, yes. 12:02

194 Q. In 2008 did you complete a Master of Studies in Criminology and Policeman Management at Cambridge University?

A. Yes.

195 Q. What was the thesis for that degree? 12:02

A. The thesis was "human rights and national security, the paradox of legitimacy."

196 Q. And so that it's clear to you and, Mr. Baxter, the reason why I have taken you through those distinguished academic credentials is so that they can be taken into 12:02 account when people make an assessment of the thinking that you have done about which you told us before lunch. Does that make sense?

A. That makes sense, yes.

197 Q. Now, I'm going to turn next to the second topic, and 12:03 bearing in mind I told you earlier there were 11 and we have only done one so far people will be starting to get worried. But we have dealt with some other things along the way of the first topic.

12:03

So the second topic is your connection with Omagh prior to your appointment as Senior Investigating Officer. And are you in fact a native of the Omagh area?

A. I am, yes, and very strong family connections still in

the area.

198 Q. And in fact did you receive your own secondary level education in Omagh?

A. I did.

199 Q. During the course of your career have you worked at a number of RUC Stations within the Omagh Police sub-division? 12:03

A. I did, yes.

200 Q. And I'm, I hope you won't mind me mentioning it because it is in your statement, but did you personally know relatives of some of those murdered in the bombing? 12:04

A. I did, I knew quite a few of them.

201 Q. And you knew some of the injured?

A. Yes, I haven't listed them because I didn't want to draw attention to them but... 12:04

202 Q. I am not going to ask you to list any particular names. But I'm going to ask you to confirm that a further connection that you personally have, or that your close family personally have, with the bombing is that your wife, a nurse, responded following the explosion and was involved in treating those who had been injured on 15th and 16th August? 12:04

A. Yes, she responded to the emergency.

203 Q. Now, a second connection takes us to Mahon Road on Friday, 14th August. On Friday, 14th August did you have a meeting scheduled with another police officer? 12:05

A. Yes, I had a meeting scheduled with the Detective Superintendent in Special Branch in Block 50 of Mahon Road.

204 Q. And for those following in the statement I am at page 9, paragraph 35. Could you describe, just at a high level, what the purpose of that meeting was please?

A. At a high level, I think it was in May I had become the subject of a threat, a severe threat from dissident republicans in the Omagh area, and as a consequence of that I was being admitted into the key protection scheme which is a scheme for providing protection to the home. And it was run by the Northern Ireland Office in conjunction with the RUC security branch. They did an inspection of the home but, because of the cost factors they had felt that it was too expensive to do all the recommended security work. And so they were coming, I think it was a Tuesday after the Omagh bomb, a meeting to discuss what they were cutting out of the recommendations. So that meeting was to speak to Special Branch about to satisfy myself about the extent of the threat and in relation to the work they were going to do. So before that I went into Block 48 to speak to Mr. McCreesh. 12:05 12:06 12:06 12:06

205 Q. Pause there for one moment. So you were at Mahon Road Police Station for a meeting with an officer, essentially about your personal security, connected in particular with your home?

A. Yes, but prior to that, I had stopped in to speak to the Deputy ACC, primarily just to raise concerns that the work wasn't going to be done, and I suppose to see what support could be got. 12:07

206 Q. So before the meeting with the Special Branch Officer

you dropped in to speak to another officer, who was also at Mahon Road police station as you've told us, the Deputy Assistant Chief Constable (DACC) for the South Region was that an officer called Chief Superintendent Bill McCreesh? 12:07

A. Yes, and I had been Staff Officer to Mr. McCreesh from 1995 until -- and tactical advisor up until early 1998, so I knew him very, very well.

207 Q. And those are roles you told us about earlier. Were you hoping to obtain his support for the carrying out 12:08 of the four recommendations in respect of your home?

A. Yes, and it was really to update him and to say, here's the problem, the funding is an issue.

208 Q. And initially was it just the two of you who were in his office? 12:08

A. Yes.

209 Q. Did there come a time when that changed so that you were joined by someone else?

A. Yes, there was a knock on the door, and the door opened and it was Officer 1, who was Regional Head of Special 12:08 Branch.

210 Q. Pause there for one moment. So Officer 1 is the Regional Head of Special Branch South Region?

A. Yes.

211 Q. And he is the person to whom you made reference shortly 12:08 after we resumed after the break? Don't worry --

A. Sorry.

212 Q. You mentioned the Chief Constable telephoning someone after the break?

A. Yes, that's correct, that is Officer 1.

213 Q. Yes. And so, there was a knock on the door and Officer 1 entered?

A. Yes, and he apologised but there was something urgent.

214 Q. So he said, 'I'm sorry, I am interrupting but I have an urgent issue I need to draw your attention'? 12:09

A. Yes, and I offered to leave, because I knew it was obviously intelligence, but both said, no, you stay.

215 Q. Did you know Officer 1 as well?

A. Yes, I do know Officer 1, yes. 12:09

216 Q. Did you know him at the time?

A. Yes, I knew him at the time and I knew him when he was in Omagh Sub-Division as a Special Branch Officer.

217 Q. So he was also well known to you?

A. Not as well as Mr. McCreesh but... 12:09

218 Q. But nonetheless known to you. And you had offered to leave?

A. Yes.

219 Q. And was that because you had understood that something sensitive was going to be discussed? 12:10

A. Yes, it was the Head of Special Branch coming to see the Deputy ACC.

220 Q. But nonetheless both indicated that...

A. 'No, no, just stay'.

221 Q. 'Just stay'. To be fair to their decision, no doubt, you had been at intelligence briefings on many previous occasions? 12:10

A. Yes.

222 Q. And including, during the time that you had worked for

Mr. McCreesh earlier in your career?

A. Yes, and Mr. Hall who replaced him.

223 Q. So you stayed?

A. I stayed.

224 Q. And so now there are three of you in the room, Mr. McCreesh, Officer 1 and you. Did Officer 1 have anything with him? 12:10

A. He had a spiral reporter's notepad with him.

225 Q. And during the course of what was to follow, did he make any reference to anything within that book? 12:10

A. He did look at it from time to time but it was mainly direct conversation.

226 Q. And did Officer 1, who had said that he had something to discuss, say something to the Assistant Deputy Chief Constable? 12:11

A. He informed him that the Garda believed that a car bomb was coming the next day.

227 Q. And coming where the next day?

A. Coming north the next day. So he explained that he didn't know where it was going or the car, and just a short conversation -- 12:11

228 Q. If I can ask to you pause and then we'll come on to what happened after. So Officer 1 has come into the room and said, "the Garda believe that a car bomb" - have I got this right - "was coming north" the following day? 12:11

A. Yes.

229 Q. And the following day would be?

A. The 15th.

230 Q. 15th August 1998. Are you able to help us with the tone of voice and/or the manner of Officer 1 as he passed on this information?

A. He was very calm, just normal Officer 1 just delivering the message. 12:12

231 Q. Did Officer - I don't want to know exactly where he did work - but did Officer 1 with work in that police station?

A. He worked in Block 50, which I suppose it was 50 yards away. These blocks were pre-fabricated buildings, 12:12 temporary buildings, but it was being placed in a military base.

232 Q. So he had come from wherever he had been?

A. 50 yards perhaps.

233 Q. And he had come to Mr. McCreesh's office and passed on 12:12 this information. Why, if you are able to make an assessment, would that information have been of relevance to the Deputy Assistant Chief Constable?

A. He was the Operational Commander for the region. That's the person you would pass that intelligence to. 12:13

234 Q. So he was the natural person to tell?

A. Yes.

235 Q. And I interrupted you as you were giving us more information. But you told us that Officer 1 didn't have any details of the vehicle that was coming north 12:13 and he didn't know where the target was for the attack, is that correct?

A. No, he didn't.

236 Q. And you were about to tell us with what emerged from a

further discussion?

A. So they had a short discussion, I think Mr. McCreesh asked, 'well where do you think it could go'? And there was discussion it could be Banbridge or Newry -- sorry, Banbridge or Lisburn. So they talked about the Banbridge area and there was a VCP operation preplanned that was meant to be implemented in the event of threat to those towns. So they discussed that. 12:13

237 Q. Let me just go back over that. So in your witness statement, the way in which you describe it is this: 12:14

"He" --

Officer 1 --

12:14

"didn't have any details on the vehicle or know where the target was, but in discussion with Chief Superintendent McCreesh, he assessed that Lisburn, Portadown or Banbridge could be the target".

12:14

A. Yes, that's correct.

238 Q. When you say "he assessed" is that assessment being made by Officer 1, Mr. McCreesh, or both of them?

A. Officer 1.

239 Q. You go on in your statement to say -- 12:14

A. That was based on Banbridge had happened two weeks previously, so it was in the context of --

240 Q. On 1st August?

A. Yes.

241 Q. And you say:

"It was agreed between both officers that a planned proactive operation involving military and police personnel setting up static vehicle checkpoints in the Newry area to protect the Banbridge corridor should be activated."

A. Yes.

12:15

242 Q. And so was this AN existing scheme or plan that was capable of going geared up quickly if the kind of situation that Officer 1 was describing were to occur?

A. Yes, it was a preplanned operation and there was a code name for it, which I can't remember, which was to be activated when a threat emerged.

12:15

243 Q. And during the period of this discussion, was it still just the three of you who were present in the room?

A. Just the three.

244 Q. So on Mr. McCreesh being given this information, and on the decision being made to activate the planned proactive operation, did Chief Superintendent McCreesh then do anything?

12:16

A. Yes, he telephoned the Brigade and asked to speak to the Brigadier.

245 Q. And by?

12:16

A. Or he asked the Brigadier to call to see him, I can't remember, but he contacted the Brigade.

246 Q. So he called the Brigade and your statement tells us that was 3 Brigade?

A. Yes, which was also in Mahon Road, the Brigade Headquarters.

247 Q. He asked to speak to the Brigadier?

A. Yes.

248 Q. And did he tell the person that he was speaking to about what he wanted to discuss? 12:16

A. No.

249 Q. And did you remain any longer in the room or did you depart?

A. I remained a short time because it was coming up the time to see Mr. Hanson. So when I left they were still there. 12:16

250 Q. Did you keep a book in which you made a record of what duties you were performing each day?

A. I did, yes. 12:17

251 Q. And what was the purpose of that book?

A. It was just to keep a record of duty and people that I had met in relation to Investigations and Complaints and Discipline and to track my sort of daily work.

252 Q. And what did you describe that book as? 12:17

A. I called it a journal, police journal.

253 Q. Was this a piece of official police stationery or just something that you were in the habit of keeping?

A. No, it is an official police document that every officer of Inspector or above should keep. 12:18

254 Q. And was it simply to record duties, who you'd met and so on, or did it have an evidential purpose in the sense that if something of significance happened you would note down what that thing was?

A. Yes, it is the officer's equivalent of a police notebook.

255 Q. Did you make any entry relating to your attendance at Mahon Road that day?

A. I did. 12:18

256 Q. And have you been able to locate and provide to the Inquiry the journal in which you made that record?

A. I have.

257 Q. And you will agree with me it is in front of me at the moment, it's a substantial journal, A4 in size? 12:18

A. Yes.

258 Q. And the particular journal in which you made this entry, well, entries run from July 1994 through to 1999?

A. Yes. 12:19

259 Q. Take that from me maybe I've --

A. Yes, that would be correct.

260 Q. And they run, those entries sequentially, and I am just going to read out the record that you made that is relevant to what you have just told us. Did you make a 12:19 record of the relevant part of which reads:

"14th August 1998. Duty to C&D. Armagh files and administration."

12:19

Then this:

"Travelled to Mahon Road, ACC's office, meeting with Detective Superintendent" --

And then the name is given --

"Block 50, 3:00 p.m."

A. Yes. 12:19

261 Q. So that that entry indicates that you on that date went to Mahon Road?

A. Yes.

262 Q. It indicates on, the face of it, ACC's office, does that mean that you had been in that office? 12:20

A. Yes.

263 Q. And it appears to indicate that there was then a meeting with the Special Branch Superintendent?

A. Yes.

264 Q. Whilst that entry does specify all of those matters, what it does not contain is the narrative of what Officer 1 did and said? 12:20

A. That's correct.

265 Q. And is there a reason for that?

A. Well the reason is that, first of all, it was intelligence, which has never been recorded or I have never recorded intelligence in any journals. Secondly, I was in Complaints and Discipline and it was not a relevant matter to me. And so I listened and left, just another threat in my mind. 12:20

266 Q. So what is clear, although it will be for the Chairman to make a decision about this in due course, but what is clear is that you were indeed in the ACC's office?

A. Yes.

267 Q. Deputy ACC's office on 14th August?
A. Yes.
268 Q. Do you think that there is any scope for you to have misunderstood what Officer 1 was communicating to the Deputy Assistant Chief Constable? 12:21
A. No, and when the bomb exploded on the Saturday I was at a church event in County Fermanagh, and I was speaking to a gentleman and his telephone rang, and it was his daughter who had been in a shop in Omagh, in Kells', to tell him that she survived and a bomb had gone off and 12:21 that my immediate thought was, 'that must have been what they were talking about yesterday'. So I've a very clear recollection of the meeting, I have a very clear recollection of where I was when the bomb went off. And I think you may come on to it, there is not 12:22 contemporaneous, but there's notes of it very close to the time.
269 Q. You are quite right and we will...
A. So, no, I have absolutely no problem telling you that that was what was conveyed. 12:22
270 Q. As I mentioned earlier, we will get to the note that you referred to a moment ago. As I mentioned earlier on the 11th September 2009 you gave evidence to the Northern Ireland Affairs Committee in connection with the Omagh bombing? 12:22
A. Yes.
271 Q. And were you sent a transcript of your evidence before it was published?
A. I was.

272 Q. And were you asked whether you had any comments or anything you wished to add?

A. Yes.

273 Q. Now during the course of your evidence to the Committee, you were asked whether you agreed with the conclusions of Sir Peter Gibson in his report? 12:23

A. That's correct.

274 Q. And everyone here, and I have no doubt watching, will note what I am referring, it was his report following on from the Panorama broadcast? 12:23

A. Yes.

275 Q. What the police were never told. So you were asked whether you agreed with his conclusions, and you said, and I quote: 12:23

"I do not disagree with his report. I will take a different view of some of the evidence he gave to the committee in terms of the use of information which may have been available and which it could have been put to at the time of the explosion. I think Sir Peter takes 12:24 the view that there was nothing there that could have helped the Omagh Bomb Inquiry team, I suspect that is not correct", is what you said.

Then when the transcript was published, a footnote was 12:24 added in respect of that answer, and I am going to ask you in a moment if that footnote was added at your request. The footnote reads, about that answer I have just read out:

"The answer is correct but would I add for clarification reference para. 28 of Sir Peter Gibson's report. I am aware of a briefing to the Senior Operational Commander South Region on 14th August 1998 indicating that information had been received from AGS in connection with a potential vehicle-borne IED on 15th August. As a consequence, a joint police military operation was deployed in the South Armagh/South Down area on the morning of the 15th August 1998. The Police Ombudsman's report refers to this security operation."

Was that footnote added at your request or suggestion?

A. At my, I sent it to the Inquiry, so yes, at my, I suppose request, originated from me in response to the material they had sent me. 12:25

276 Q. And in that footnote were you referring to the events at Mahon Road on 14th August about which you have told us?

A. I was and I tried to word it in a way that wouldn't expose liability for breaching the Official Secrets Act, which is why it was couched in those terms. 12:26

277 Q. But it was a reference back to the events on 14th August 1998?

A. Yes. 12:26

278 Q. And had those events stayed with you for the whole of that period of all 11 years by then?

A. Yes, and indeed, I attended many meetings with the Omagh families and they had a view on the security

forces having pre-knowledge. And I sat at those meetings, knowing what I knew, but unable to tell them. But doing my best to investigate, to get to solutions.

279 Q. So I am going to come onto the relationship between your role as SIO and this knowledge that you had separately from that appointment. But why was it that you were unable to tell the Omagh families about what you, yourself, knew about the events of 14th August? 12:27

A. Well, that meeting was classified and the intelligence was classified.

280 Q. Now, you referred in the footnote to the Police Ombudsman's report referring to the security operation, and I'm not going to ask you to identify what you had in mind there in the witness box, but in due course I will ask you to help us with that. 12:27

A. No, I can help you.

281 Q. Oh.

A. I had a recollection of that time, and I still have a recollection that somewhere in the police, the full Police Ombudsman's report, which the Chief Constable received, there is something to do with an operation in the South Down area on the 15th morning, I have that recollection. But in preparing this statement the team wasn't able to recover that report to let me double check. 12:27 12:28

282 Q. So it's very helpful for you to orientate us and it will help us to make our own inquiries into that.

A. So that is my recollection but I haven't been able to confirm in making this statement.

283 Q. I understand. Now, I'm now at paragraph 42 of your statement. When you were appointed the Senior Investigating Officer in May 2002, did you undertake a review of documentation that was at that stage within the investigation? 12:28

A. Yes.

284 Q. And did you see any record of the information or intelligence that had been passed to Mr. McCreesh on the 14th August?

A. No. 12:28

285 Q. And what were your thoughts about the fact that you saw no such thing?

A. Well, the fact it wasn't there just made me consider had it been passed onto the Omagh Inquiry. And at this stage Detective Chief Superintendent Jones and Chief 12:29 Inspector Evans had been appointed from Merseyside.

286 Q. Yes.

A. So it was an issue that I raised with them.

287 Q. Let me just ask you to pause for a moment so we can understand. Now in the Ombudsman's report of 12:29 12th December 2001 she had made a number of recommendations for the investigation and off the back of those recommendations, one of the things that happened was that a senior external officer was appointed to carry out certain tasks connected with the 12:29 investigation?

A. Yes.

288 Q. A team came in from Merseyside under the leadership of Deputy Chief Constable Michael Tonge, who has given

evidence. The senior members of his team were Detective Chief Superintendent Phil Jones and Detective Chief Inspector Evans of Merseyside?

A. Yes.

289 Q. And did they in particular have responsibility, as we will come on to explain, for managing intelligence relating to the Omagh bombing? 12:30

A. Yes, the arrangement was that I, as SIO, would not access any intelligence but that the Merseyside officers would conduct the review of intelligence across the intelligence agencies and report back to the investigation. So this was an issue then I raised with them, because obviously I knew the force's position in relation to pre-knowledge, and this was something that needed to be resolved I thought. 12:30 12:31

290 Q. So unconnected with the fact that you were the SIO you had this prior knowledge because you had been a witness to this briefing?

A. Yes.

291 Q. And here were the officers who were, my phrase, the filter for intelligence through to you now that you were the SIO, and so did you consider it was necessary to tell them about this thing that you had witnessed? 12:31

A. Yes.

292 Q. And did you do so? 12:31

A. I absolutely did, I just can't remember at what point but it was very early on. I don't have a record of when they were briefed.

293 Q. No, but do you have a recollection of briefing them?

A. Yes, amongst a lot of things, because they weren't only a filter but they were also to investigate and interrogate available intelligence.

294 Q. This was shortly after you think you had been appointed Senior Investigating Officer? 12:32

A. It had probably been a few weeks into it by the time I had got to, got through the material.

295 Q. And did they react by indicating a knowledge of that briefing or in any way to what you said to them?

A. Well in part of the work they were going to do was to try and find out any intelligence relating to 14th August. 12:32

296 Q. As you may know, the Inquiry has in chain a piece of work to secure the recollections of those two officers in relation to that. 12:33

A. Yes.

297 Q. And we will have to see where that takes us.

Now on the 12th August 2002, did you have a further meeting that is of relevance to this issue we are considering? 12:33

A. Yes, I had a meeting with Assistant Chief Constable Kincaid accompanied by Detective Inspector 11, Officer 11.

298 Q. And what was the purpose of that meeting with ACC Sam Kincaid? 12:33

A. It was to review issues relating to the Omagh investigation. And I also briefed him at that meeting about the meeting at Mahon Road on 14th August.

299 Q. So you gave him a briefing about what the Regional Head of Special Branch had said to Mr. McCreesh on 14th August?

A. Yes.

300 Q. What did the Assistant Chief Constable say in response? 12:34

A. He requested a statement of evidence relating to the matter to be brought to him by hand, but not to put the statement into the Inquiry, the Omagh bomb investigation papers.

301 Q. Did he indicate to you why he didn't feel that that statement should be introduced into the investigation papers? 12:34

A. He said that he would introduce it to the investigation when he thought it was appropriate.

302 Q. And did you make such a statement? 12:34

A. I can't remember. I didn't remember about this meeting until I was going through the journal, but if he asked for it I would have done the statement.

303 Q. That was all I was going to ask you.

A. Because everything else that he asked for has been done. The issue, this is slightly different, because it didn't go through the system, you know, his instruction was draft it and hand it. 12:34

304 Q. Yes, 'and hand it to him', that was the instruction?

A. So I am fairly confident I did but I have no recollection. I had no recollection of this meeting until I was going through journals making a statement. 12:35

305 Q. So you know because of looking at the journal - and we will look at your entry in a moment - that you gave a

briefing to the Assistant Chief Constable, you know that you were directed to produce a statement, you don't have a recollection of those events or of whether you did or didn't use the statement, but if you had been told to do a statement you would have done one? 12:35

A. Yes, because it's just the hierarchical nature of the organisation. But he was told. And this comes to the issue of the rank within the investigation. As a Superintendent, I couldn't go to the Regional Head and say, 'where is this intelligence'? Plus the barrier of 12:36 the Merseyside Police dealing with intelligence so...

306 Q. You are answering a question I am going to ask you in a moment.

A. Yes, so I've -- and I may just be recreating this memory, but I have a vague recollection of Mr. Jones 12:36 advising to go to the ACC about it.

307 Q. Advising you to go to the ACC about the briefing?

A. Yes, but again we are talking about 25 years ago now. But Officer 11 who was with me has notes, he was a very diligent person, and he would have notes. 12:36

308 Q. What was Officer 11 your deputy in the investigation?

A. No, he has been appointed to be the intelligence liaison.

309 Q. Thank you for reminding me.

A. So at that point it was a fairly active line of inquiry 12:37 because I had John White, and what he was saying about what the Guards knew before Omagh, and I had this knowledge, so I needed to find out.

310 Q. Let's just focus back in on 12th August and how you

were feeling at this time. Because, on the one hand, you are the Senior Investigating Officer for the Omagh bombing, on the other hand, you are a witness to a briefing of a high degree of relevance to the Omagh bombing? 12:37

A. Yes.

311 Q. And did you feel at the time as if you were in something of a dilemma about how to handle that situation?

A. A huge dilemma, one of many dilemmas. The issue was my investigation was into the bomb after it exploded, this was investigating the activities of an organisation before the bomb exploded. 12:37

312 Q. Yes.

A. This was really the ACC's responsibility to investigate. 12:38

313 Q. I am going to come in one moment as to what you did, as I say, in relation to this, so that an informed view can be formed about this important evidence you are giving. But you have mentioned a number of times that you have seen an entry in your journal, which is relevant to the meeting with ACC Kincaid? 12:38

A. Yes.

314 Q. And have you been able to - because obviously you have - to locate the journal that contains that entry? 12:38

A. Yes.

315 Q. And again you will be able to agree with me that it covers a period from 2001 to 2004?

A. Yes.

316 Q. With entries running sequentially, chronologically?
A. Correct.
317 Q. And on the 12th August did you record this, and I quote:

"Briefed ACC on meeting at Mahon Road on 14th August 1998 when Regional Head Special Branch had given Acting ACC South threat briefing re car bomb in my presence. ACC requested SOE". 12:39

So statement of evidence, is that correct?
A. That's correct.
318 Q. "Re the matter to be delivered by hand to him. ACC to hold on to SOE until he felt it appropriate to introduce to investigation." 12:39

A. Yes.
319 Q. Let me read that again before I ask you about it:

"Briefed ACC on meeting at Mahon Road on 14th August 1998 when Regional Head SP" --

Special Branch --

"had given Acting ACC South threat briefing re car bomb in my presence. ACC requested SOE re the matter to be delivered by hand to him. ACC to hand on to SOE until he felt it appropriate to introduce to investigation papers."

A. Yes.

320 Q. Is that what your entry reads to the extent relevant?

A. Sorry?

321 Q. Is that what your entry reads to the extent relevant?

A. Yes, yes. 12:40

322 Q. This entry, will it have been made on the same day as your visit to see ACC Kincaid?

A. Yes.

323 Q. And in it, does it follow you have briefed, you have indicated that you have briefed, the ACC about a 12:40 meeting at Mahon Road on 14th August when the Regional Head of Special Branch had given the Acting ACC South a threat briefing regarding the car bomb and had done so in your presence?

A. Yes. 12:40

324 Q. And at the risk of asking you to confirm the obvious, was that a reference to that briefing that you have told us about that you were present at, at which the ACC or Acting or Deputy ACC was briefed that a car bomb was coming north the next day, the 15th? 12:41

A. That's correct.

325 Q. Now when you became the SIO you had this knowledge about information on the 14th August, did you take steps, as the SIO, to investigate with Officer 1 what this information was and/or where it had come from? 12:41

A. No. And the reason being, apart from the rank difference, strict guidelines was that Mr. Jones, Mr. Evans would interface with the intelligence.

326 Q. And you had told Mr. Jones and Mr. Evans about this?

A. Yes.

327 Q. And was it your belief therefore, that they would take steps to manage it?

A. Well the steps that I would have expected them, and I'm sure they did, was to check the records for the 14th August in terms of threats and messages. 12:42

328 Q. And they were essentially acting as a filter of the intelligence, you have a view about that but we'll come to. But did you ever receive, through the filter of Mr. Jones or Mr. Evans, any information about such a briefing on the 14th August? 12:42

A. No, from memory they didn't find anything.

329 Q. That's all I intend to ask you at this stage about the 14th August. And we were dealing with that second topic you will remember, any other connection you had with Omagh before your appointment. 12:42

A. Yes.

330 Q. Just to finish off that particular topic: Yesterday there was a suggestion in the evidence of Mr. Billingsley, we think addressed in the questioning of Mr. Thompson in fact, but let's have no doubt about, there was a suggestion in DCI Billingsley's evidence that you had some involvement in the Omagh bombing investigation before your appointment. Do you agree with what Mr. Billingsley ultimately was to say, namely, the only involvement that you had before your appointment was as part of a handover prior to your appointment? 12:43 12:43

A. Yes, that's correct. And it's detailed in the

statement, the context I had.

331 Q. In other words, you had no role as an investigator into the Omagh bombing?

A. No.

332 Q. Before you become SIO, save this handover, which understandably occurred. And I think you agree with that? 12:44

A. Yes.

333 Q. But let's turn to Topic 3 and see how much we can deal with before we break for lunch. As we've heard in 2002 you were promoted to the rank of Superintendent. And very shortly afterwards did you attend a meeting at Regional CID Headquarters? I am at paragraph 45, under the heading "appointment to the Omagh bombing investigation". 12:44 12:44

A. Yes, 28th February.

334 Q. With whom was that meeting, I think it reads, 26th February 2002?

A. I'm sorry. It was with Mr. McArthur who was then the SIO. 12:44

335 Q. And what did Mr. McArthur say to you?

A. He requested I become involved in the Omagh Inquiry in relation to succession after he retired, which he planned for September 2002.

336 Q. Was he essentially suggesting to you that you would replace him as the Senior Investigating Officer? 12:45

A. That's correct, yes.

337 Q. Did he go on, as you have indicated already, to express his belief that the Inquiry would be completed by the

time of his retirement, which was then planned for September?

A. Yes, and again this is from notes in my journal, he believed that the Inquiry would be completed at that stage and the investigation would be in maintenance. And then we discussed the investigation in general terms. 12:45

338 Q. Was it your understanding that this plan for you to be SIO during a maintenance phase had been approved by the Assistant Chief Constable, Mr. Kincaid? 12:46

A. Yes, I understood from that conversation. Although I hadn't been involved in any discussion about whether I should or not, it was just Mr. McArthur saying.

339 Q. So this was your understanding based upon what you were told? 12:46

A. Yes.

340 Q. And from your discussions with Detective Chief Superintendent McArthur, did you become aware that another senior officer within the force, Detective Chief Superintendent McVicker, had carried out a review of the investigation? 12:46

A. Yes, although I would have had knowledge from public reporting in relation to the Omagh Ombudsman's report that there had been a review but, he went into more detail about it. 12:46

341 Q. And was it your understanding from your discussion with Mr. McArthur that he had been spending a substantial portion of his time dealing with recommendations from the McVicker Review and also with a response to the

December 2001 report of the Ombudsman?

A. Yes, he spent a lot of time, a lot of documentation. He went through the McVicker recommendations one by one and did a response to them and that's what he was working on. 12:47

342 Q. Was the impression that you were gaining from this discussion with Mr. McArthur and, no doubt, subsequent discussions, was your impression that the proactive aspect of the investigation into the bombing had essentially given way to other activities that 12:47 Mr. McArthur was having to engage in, in relation to the McVicker Review and in relation to the PONI Report?

A. I got the impression that the substantial effort of the investigation team was in responding to the Ombudsman and the McVicker Report, although the forensic work was 12:48 still ongoing. But it was almost like the organisation was turning in on itself, reviewing reviews, and trying to respond rather than actually targeting who they should have been targeting, which was the people who did this. 12:48

343 Q. So --

A. It's very hard to explain. Whilst all these things are quite proper do, they aren't cost neutral in terms of progressing the investigation. You know, they take up energy, they take up time, they take up detectives and, 12:48 therefore, the focus was off the investigation largely.

344 Q. Well, if you are having to devote resources to addressing recommendations or issues arising from reviews and reports, unless the team grows in size,

that is inevitably going to take resources away from the investigation?

A. Yes, so what seems to have happened is that the choice was made at command level 'that you'll deal with this, and when you've that done, then you'll go back to the real work'. 12:49

345 Q. And the real work being the investigation?

A. Trying to catch the people who did this.

346 Q. So there was this, again my word, problem within the investigation. And were you also aware of an additional difficulty, namely, the friction that was in existence? 12:49

A. Yes.

347 Q. Where was that friction coming from or between whom was it? 12:49

A. Well it was certainly a friction between the - I'm trying to remember whether it was the RUC or PSNI at that time - but between the police and the Ombudsman. There was a real sense of hurt within the investigation team that the Ombudsman had got things wrong, that the investigators felt that they were being blamed when in actual fact it should have been the terrorists. Then there was the issues that they felt that the Ombudsman had misunderstood a lot of things. 12:49

348 Q. It is important we get a sense of what the impact of that was. Are you describing an impact on the morale of those whose job it was to investigate the Omagh bombing? 12:50

A. Yeah, I think morale was the issue. And the fact that

some of the content of the Ombudsman's report was not, I'll be careful, not thought out I suppose would be, in terms of seriousness.

I mean if I could put it this way; there were a lot of suggestions in the McVicker Report and the Ombudsman's report that missed opportunities, 'there was evidence could have been missed', that type of language, when the reality is that after all the years nothing had been missed. You know, there was no investigative opportunity ever identified that was missed apart from two items that I discovered. But so this whole public image that flawed investigation, missed opportunities, it was not right. Now what was right is that there was administrative issues in terms of HOLMES. 12:50 12:51 12:51

349 Q. Yes.

A. But the actual Detective work going into tons and tons of rubble and finding very minute bomb particles, TPU particles; excellent work. The trawling through millions and millions of telephone records; fantastic police work. You know, so all of that was done but - and I can assure the families today - there was no evidential opportunities missed from what, and we go back to the stones, the stones that were available. 12:51

350 Q. That's just what I wanted to understand. Is what you're saying that the detectives on the investigation did a good job, pursued the reasonable lines of inquiry that were open to them on the basis of what they knew, and that wasn't the problem, the problem was what was 12:52

revealed to them?

A. Well the problem was what was hidden from them. And obviously there is, and we may come on to this, the administrative issue with HOLMES and the management issues. But I'm sure the Inquiry will look at this, but the amount of work, and ingenuity, and I think tremendous detective work that was done to identify the people who had those telephones from a standing still position amongst millions of calls, it is really sterling work, and I inherited that but in a context whereby this was a shambles, this was flawed investigation. 12:52 12:53

Now the flaws in the investigation, I would suggest, is because of what was hidden but not because of what the detectives did. I am not saying that the investigation was perfect or got all the answers but what I am saying is detectives who, from the 15th August, carried out their work diligently, there were no missed opportunities other than the serial number on the Coupatan timer was missed and an issue about splitting a number plate. And then of course we go into the linked incidents where there were, through linking the incidents, there were other evidential opportunities. So that's the tension that was there. 12:53 12:53 12:54

351 Q. You have expressed that both fully and clearly. What you are describing is a situation which morale was substantially diminished, time was being taken away from the work of the investigation to deal with other

issues, and the way you put it at paragraph 49, top of page 13 is:

"I found this reduced focus on the investigation and lack of capacity a totally unsatisfactory situation." 12:54

A. Yes. I may have been an inexperienced detective but I was sufficiently experienced to know that this was not right; 29 people dead, two unborn children and this dysfunctional, I will use that word, dysfunctional approach, where you divert your best resources to answering fairly minor administrative issues. 12:54

352 Q. And it was against that background that, as you regarded it at the time, you were handed this poisoned chalice? 12:55

A. Yes, because it was like two bulls locking horns. You had the Ombudsman and the Chief Constable and both of them were arguing for their position at a senior level and that filters down to operational personnel, you know, and no ability to say; 'we haven't caught these people, what are we doing about this, what is our focus'? 12:55

353 Q. So you would rather not have been put into this post, but put into this post you were, from 27th May?

A. Yes. 12:56

354 Q. And some of the features you have told us about already are, one, you were a Detective Superintendent, you felt that the role was one for a Detective Chief Superintendent?

A. Yes.

355 Q. Two, you were unable to dedicate all of your time to the investigation because you continued to have other significant responsibilities?

A. I did very long hours and very long days for months. 12:56

356 Q. Yes, but as a matter of fact?

A. And that in itself had an impact on the capability to think, but not the best way to do resilience within an investigation.

357 Q. So these were all things that, to understate it, were far from optimal. 12:56

And I just want to next move to something else that may fall into that category. And it takes us back to Mr. Evans and Mr. Jones, and I raise this without in any way seeking to criticise them. But you've told us already that the effect of the consequence of the recommendations made in the Ombudsman's report was that you were not to have hands-on responsibility for intelligence relating to the Omagh bombing? 12:57 12:57

A. Yes.

358 Q. And instead what was to happen; how was intelligence, if relevant, going to be fed into your investigation?

A. The intelligence, the Jones -- Mr. Jones and Evans, who I want to, if I can, sort of commend them for their work, and very, very good working relationship. I trusted them but they were to go round all the intelligence agencies and check out what intelligence was available, to ensure that everything that was 12:57

relevant to us was shared.

359 Q. Yes.

A. And then they reported back in, I think it was February 2003, but in between that we would have met regularly and I would have discussed issues with them and they would have given me informal briefings. So I had a very good working relationship with them. But the issue was it was a barrier put between the SIO and intelligence again. 12:58

360 Q. Yes, well that was the point I wanted to explore with you, and it was my phrase; did you regard that barrier as being sub-optimal in terms of the effectiveness of the investigation? 12:58

A. Well at the start I did think that but I had a very good relationship with them and we overcome that. 12:58

361 Q. So is this a fair way of putting it; that you, at the start, were concerned by this structure which involved, as you put it, a barrier but you managed to develop a very positive working relationship with the Merseyside officers? 12:59

A. Yes, because Mr. Jones, Philip Jones was a detective, CID background, and understood the requirements that an SIO would have. So although he produced an intelligence report in February 2003, I had a very good understanding of what they were finding prior to that, although I never did see the raw intelligence or the origins of material. 12:59

362 Q. Now, the officer who was to be your deputy was Officer 15?

A. Yes.

363 Q. And he in fact had been the Deputy SIO for a period before your appointment?

A. Yes.

364 Q. And so there was continuity? 12:59

A. Yes.

365 Q. And did he continue in that role, along with you, until 2008?

A. He did.

366 Q. And did you feel that that continuity was valuable to your investigation? 13:00

A. Extremely valuable because as you have explained, I was coming in with very limited CID experience at an investigative level, at a management level, yes. But Officer 15 had complete career in CID, very experienced, very knowledgeable. And this is part of I think running an investigation, if you have the correct people with experience and interest, you can achieve a lot. 13:00

367 Q. So he was an officer in whom you had considerable confidence? 13:00

A. Total confidence in.

368 Q. I am just going to ask you about one topic still connected with your appointment and then I'll suggest to Chairman that we take our lunch break. 13:01

In the early weeks of your appointment as Senior Investigating Officer, did you take steps to acquaint yourself with the materials that were in existence, the

documentary materials?

A. Yes.

369 Q. And I'm going to have to ask you because this relates to a redacted part of your statement, to answer these next questions yes or no. But was one of the documents that you acquainted yourself with the response of PSNI to the PONI Report of 12th December 2001? 13:01

A. Yes.

370 Q. And did you develop concerns about whether some parts of that response were accurate? 13:01

A. Yes.

371 Q. And indeed did you develop a rather more serious concern about their accuracy?

A. I have to say the lack of candour in some parts and I think part of it may not have been factually true. 13:02

372 Q. There is one final topic that we will deal with, I suggest, after the break which relates to your investigation and issues that you experienced. And I'll just mention what that is so that you can have it in mind over lunch. And it is what you describe in your statement at paragraph 71 as, "the corporate doctrine of absolute non-disclosure." 13:02

A. Yes.

373 Q. So that's where we are going next. But, Sir I had hoped to finish the appointment of SIO topic, I haven't quite got there, but this would be a convenient moment to break please. 13:02

CHAIRMAN: Certainly.

MR. GREANEY: And, Sir can we come back at about 2:05

please?

THE INQUIRY ADJOURNED FOR LUNCH AND RESUMED AS FOLLOWS:

CHAIRMAN: Mr. Greaney. 14:06

374 Q. MR. GREANEY: Thank you very much, Sir.

We were, as you'll remember not far from the end of dealing with your appointment as Senior Investigating Officer and the subsequent period. But just before we 14:06 finish that topic off, I'm just going to go back to the events of the 14th August and to one aspect of it. Largely, we're going to follow up in relation to this issue in writing but I'm just going to check if there is any further assistance that you can give. The issue 14:07 is paragraph 40, and I'll just read it out to you:

"It was agreed between both officers" --

So this was Mr. McCreesh and Officer 1 -- 14:07

"that a planned proactive operation involving military and police personnel setting up static vehicle checkpoints in the Newry area to protect the Banbridge corridor should be activated." 14:07

It's really those words "should be activated" that I want to understand the import of.

Now two things are possible:

One is that it was decided to create a bespoke operation for that day and the next day to address this particular issue that had arisen, so something that was specific to that particular threat.

The other possibility, perhaps there are others, the other possibility is that there was already in existence an operation which could be geared up at speed if particular circumstances demanded it.

A. Yes.

375 Q. Do those two possibilities make sense to you?

A. Well my understanding and my recollection is that it was a pre-organised plan. 14:08

376 Q. Right. So it was something that was in existence, an agreement between the military and the police which, if particular circumstances were to eventuate, could be put into action?

A. Yes, there was a code name for the operation which I can't remember. 14:08

377 Q. No, and that's what I am not going to press you on or make any suggestions about, but that's something that we will try to drill into later. But what I will ask you is, do you remember whether you had encountered this operation before 14th August, whether by name or whether by experiencing it, being put into place on the ground? 14:08

A. Well from my time as tactical advisor I would be aware

that there was different VCP contingency plans across the region.

378 Q. Yes. So do you think that the code name for the operation was used in the discussion?

A. Yes. 14:09

379 Q. And do you think that that was a name that, even though you can't recall it now many, many years later, at the time you recognised?

A. I can't say I recognised at the time but I knew what they were referring to. It was the nature of the 14:09 operation, there are fixed points that military and police patrols would seal off.

380 Q. So, there was a code, I'm sorry?

A. Yes, sorry, there was a code, I can't recall whether I recognised it or not but I knew what it meant; seal off 14:09 the roads into Banbridge, Portadown.

381 Q. So the code name was used, of that you have confidence, you can't say one way or the other now whether you recognised it but you did recognise the type of tactic that was being described? 14:10

A. I certainly knew that there was going to be a CVP operation around A1 south down to intercept anything coming across the Border heading towards Banbridge, Portadown or Lisburn.

382 Q. That's -- 14:10

A. That was my understanding on the evening.

383 Q. Well, as I have said I am not going to press you any further today. We will try to drill into this further in due course but perhaps by posing questions for you

which I know you will be happy me to answer. But let's leave that where it is for now and go back to the period after your appointment as SIO.

I'm now at paragraph 71, page 18 of your statement. 14:11
And this is where you talk about the corporate doctrine of absolute non-disclosure. First of all, can you tell us what you mean by that term "corporate doctrine of absolute non-disclosure."

A. Basically the intelligence side of policing doesn't 14:11
disclose to the investigators.

384 Q. Are you describing something that was specific to the Omagh bombing investigation or something that was an issue across policing?

A. Just general, generally across policing. There would 14:11
have been - and I fully understand why this culture developed during the Troubles - but you would get intelligence that was so sanitised, that it could be simply that Norman Baxter was involved in a murder or a particular murder, but nothing what he did or how he 14:12
did it or who was with him, it would just be the most basic of information.

385 Q. Right.

A. So that's what I mean, this concept that you can't trust the detectives investigating. 14:12

386 Q. Are you talking therefore, about the relationship between, on the one hand, the CID investigators and, on the other hand, the Special Branch officers?

A. Yes. And then into that mix, as well as protecting

intelligence sources, there is the concept of you need the agent for the next operation, so therefore you don't disclose anything that could expose the identity or make him redundant, or her redundant.

387 Q. Are you describing a situation which the custodians of the intelligence, so Special Branch, because of a desire to protect the identity of the source and/or the capability and/or to ensure that the source remained available for subsequent intelligence gathering, would be reluctant to provide the investigators with anything other than a sanitised version of the information they had received? 14:13 14:13

A. Yes, if anything.

388 Q. So sometimes they wouldn't give anything and, if they did, it would be sanitised or at a very high level? 14:13

A. There would be a strong operational reason for doing that because good agents are very hard to recruit and get into organisational positions.

389 Q. Yes.

A. But there was no arbitrator who could independently look at that time to say, 'well, that piece of information doesn't compromise your source or methodology but would be very useful to the investigators'. 14:14

390 Q. So you are not suggesting that they were doing this for the sake of it, but what you are saying, if I have understood, is that the form in which the information reached the investigator, if it reached them at all, would be in a form that made it, at the very least 14:14

difficult to understand what weight could be placed upon it?

A. Yes.

391 Q. And you are describing a general issue across policing in Northern Ireland which is your experience, and did it seem to you that that had been an issue with the investigation into the Omagh bombing from the outset? 14:14

A. That would be a position that I came to after a period of time.

392 Q. And is it the position that you came to, to take you directly to paragraph 71, that had this corporate doctrine of absolute non-disclosure not been prevalent prior to August 1998 and available: 14:15

"Sanitised intelligence disseminated to investigators following previous terrorists incidents in 1997 and 1998, there is a probability investigative intervention may have disrupted and dismantled the terrorist network responsible prior to August 1998". 14:15

A. Yeah. So if we go to Lisburn in April, we now know there was intelligence about who was involved, we know the telephones. Nothing was disseminated. Then there is a sequence, there is Newry, a number of others, and then we get to Banbridge and still nothing was disseminated. 14:16

393 Q. You are raising the possibility, based upon your knowledge of the investigation, that had relevant intelligence about those previous incidents been

disclosed to those investigating those previous incidents then there is, as you put it, a probability of disruption and/or dismantling of the network before they were able to bomb Omagh?

A. Yes, and I think Sir Ronnie's evidence on Monday characterises the issue. So the Chief Constable contacts Assistant Chief Constable Special Branch to ask him is there any suspects. He's told no one, and yet all the suspects, well not all, quite a few of the suspects were known and active throughout 1998, but the Chief Constable is not even told that there are suspects. So if the Chief Constable is not being told there is very little likelihood that the investigating officer is going to be told. 14:16 14:16

394 Q. And you mentioned that there was no person to arbitrate or mediate between those holding intelligence and those who wished to receive the intelligence, and what are you there describing? 14:17

A. Well, there now is, following I think it was a review by HMI Crompton, we're now in an intelligence operation a vetted senior detective is included to discuss the intelligence issues. So at that time the Regional Head of Special Branch, or at higher level the ACC, would arbitrarily say no, no dissemination. 14:17

395 Q. Right. You say in your statement at paragraph 72 connected with this: 14:18

"The PSNI response report did not make any reference to the Chief Constable or another senior officer convening

a joint meeting between the Head of Special Branch and the Head of Crime Branch to coordinate the investigative intelligence response to the Omagh bomb investigation".

14:18

A. That's right.

396 Q. And so, you had seen nothing to indicate that anything had occurred to try to re balance that relationship?

A. If I refer back to Sir Ronnie's evidence on Monday, he stated he was in Headquarters, in his office. His 14:18
office would be less than 50 yards from the Special Branch office in Headquarters where the answers to the questions he would have been seeking out of Omagh existed, if they did exist. So he decided to go to
Omagh. There was no planning to get people together at 14:19
a strategic level at that early stage to say, 'what do we know, what historic intelligence', there was no strategic planning.

397 Q. So you had seen no evidence of strategic planning in the immediate aftermath of the bombing? 14:19

A. Well there is no evidence whatsoever that, perhaps the Inquiry will find it, where the Head of ACC Crime and ACC Special Branch got together with their teams to plan the response to the investigation.

398 Q. So if we take this in stages: First of all, there is 14:19
no strategic planning to ensure that those who need the intelligence in order to disrupt terrorists are receiving it in the period before the 15th August?

A. Yes.

399 Q. There is no strategic planning of a similar type in the immediate aftermath of the Omagh bombing so as to enable the perpetrators to be identified and detected and prosecuted?

A. Yes. If we look at Sir Ronnie's evidence, he went to Omagh, and quite rightly concerned about his officers, his Assistant Chief Constable Crime was on holidays, he sent his Deputy Assistant Chief Constable Crime to Omagh to perform this Task Force Commander role. The question is, well, who was actually in Headquarters organising and sorting out the logistics and the interface with Special Branch? So that was missing. 14:20 14:20

400 Q. So none of that strategic planning at the second stage, after the Omagh bombing. And when we come to your appointment in May 2002, was there any of that strategic planning at that stage or was that stripped away because of the role of Mr. Evans and Mr. Jones? 14:21

A. That, Mr. Evans and Jones did that intelligence bit so the liaison at that point was between myself and the Merseyside people and then there was a management board set up under the chairmanship of Mr. Kincaid where we met to discuss resources. So there was a structure there that Mr. Kincaid set up. But the root problem, if I could say this, was that there was no organisational leadership on the day of the bombing in terms of coordinating intelligence and investigations. 14:21 14:21

Now there is reference to a meeting of Special Branch heads on the Tuesday but there is no reference of CID

and Special Branch leadership ever sitting down and saying 'what do you have for us' at an organisational level. It didn't happen after Lisburn, Banbridge, and it didn't happen after Omagh. And that was a strategic failure in the organisation because you had a sequence of bombs, each one getting more dangerous because warnings were being reduced, time limits were being reduced, but there was no coordination at a strategic level.

401 Q. Let me turn on to some other issues in relation to the investigation. You told us earlier that you had considered that the appropriate rank of the officer to perform the role of SIO was Detective Chief Superintendent? 14:22

A. Yes. 14:23

402 Q. And yet for the first two years of your posting to that position, you were a Detective Superintendent?

A. Correct.

403 Q. And no doubt those first two years were important years in your investigation? 14:23

A. They were very important. And when I spoke to Mr. Kincaid in September it was against the backdrop of what happened in Lisburn, which you may come to later, the sort of helplessness of knowing your investigation is being interfered with but not having the organisational power to do anything about it. 14:23

404 Q. Because of the fact that you would be a Detective Superintendent and not therefore in a position of any responsibility, but rather subordination, to a

Detective Chief Superintendent and above?

A. Yes, and I was tied into a relationship with Mr. Jones and Evans where it was whose responsibility was it to track down who gave the instruction to destroy the material. So it fell within their remit but also when I had to go to Assistant Chief Constable and he was briefed but I personally had no organisational standing to go to people who I think were responsible. 14:24

405 Q. Did you raise with anyone your view that an officer of the rank of Detective Chief Superintendent ought to be in post? 14:24

A. Yes, with the Assistant Chief Constable in September, it's in the statement.

406 Q. So that is in September of 2002?

A. Yes. 14:24

407 Q. What was the reaction of the Assistant Chief Constable?

A. He listened to me but nothing happened.

408 Q. Was the Assistant Chief Constable you are referring to Sam Kincaid?

A. Yes, and it was at a management meeting. So at that stage I was deeply frustrated. It was very major thing to me what happened at Thiepval Barracks. And then after that meeting there was the issue in Dungannon were exhibits were destroyed. And so, I suppose I would admit I was at the absolute point of almost breaking point. 14:25 14:25

409 Q. This is in September of 2002?

A. 2003 -- 2002, 2002, I think it was.

410 Q. So that would be some months but not a year after your

appointment?

A. What was quite clear to me, and I may be wrong, but it seemed to me the decisions I was taking to get evidence, someone was going ahead of me and destroying it. And what was worse nothing was done about it. To this day nothing. 14:25

411 Q. So the view you held and expressed was that a more senior officer should have that appointment, that was not acted upon in a timely way at any rate?

A. No, it wasn't acted upon. 14:26

412 Q. I mean you did become a Detective Chief Superintendent but in 2004?

A. '04, yeah.

413 Q. And was that as a result of someone finally listening to you and agreeing it needed to be more senior rank in your position? 14:26

A. No, I went through a promotion process and was selected. But I was appointed to Intelligence Branch, and then the fact that I was Chief Superintendent in the Omagh Inquiry was secondary to that. 14:26

414 Q. This is the point we discussed earlier.

A. But in terms of skills it doesn't really matter whether it is an Inspector running an investigation or a Chief Superintendent, it is the access that the rank gives you and the authority. 14:26

415 Q. Yes, the weight that it gives you in any difficult situation to resolve it?

A. People think Superintendent is a very senior rank but actually it's not really, you know, because there is

tiers above and they are powerful tiers.

416 Q. The next issue that I wanted your help with in order to understand whether this was an issue with your investigation is this: Obviously Special Branch was one source of intelligence for your investigation but need not have been the only source of intelligence for your investigation. During your period as Senior Investigating Officer did you have any direct engagement with the UK intelligence community? 14:27

A. No, the interface was the Merseyside team. 14:27

417 Q. So you had to rely upon that team to have the relationship with and acquire information, not only from Special Branch, but also from the UK intelligence community?

A. Yes. 14:28

418 Q. And I've nearly finished dealing with aspects of your investigation following your appointment as SIO.

The final topic I want to ask you about in that connection is the issue of cooperation with the Guards in the Republic of Ireland. 14:28

A. Yes.

419 Q. So this takes us to your second statement, namely, your statement dated 2nd November. And over the years before you were appointed to lead the Omagh bombing investigation had you had dealings with the Guards? 14:28

A. I had at a divisional level in terms of ordinary crime, I would call it.

420 Q. How had you found the relationship to work?

A. Well I found it, on a personal level it was very good but what did happen, each organisation sent the other lists of people who were suspected of stealing farm machinery, attacking the elderly, that type of level of crime.

421 Q. Yes.

A. And then we would go to the meetings and the Guards would give us back, regurgitate the intelligence or the information we had sent them, and they would tell us names of people who were crossing from Northern Ireland that we had already told them, so it was... 14:29

422 Q. By the time you became the Senior Investigating Officer was it known that the bomb car had been stolen in the Republic of Ireland?

A. Yes. 14:29

423 Q. Was it known that the bomb car had been transported, been driven from the Republic of Ireland to the North of Ireland in order for the bomb to be planted?

A. Yes.

424 Q. And was it the suspicion of the investigators that those who were responsible for this appalling crime were based in the Republic of Ireland? 14:30

A. Yes.

425 Q. And principally, at least in the Dundalk area?

A. That's correct. 14:30

426 Q. And so, things obviously had occurred in the Republic of Ireland that were of relevance to your investigation?

A. Yes, and there were some unanswered questions arising

from all of that.

427 Q. And that's even before we get to issues about John White and so on?

A. One of the biggest issues that I looked at was why Anthony Donegan hadn't been charged with stealing the car. 14:30

428 Q. Yes.

A. That was an issue. Obviously we talked about Seamus McKenna, why he wasn't arrested in July. So those things were emerging. The Garda inactivity around some of the events. 14:31

429 Q. So there were a whole series of seriously important things to your investigation, the answers to which lay in, even if only partly, the Republic of Ireland?

A. Yes. 14:31

430 Q. And did you consider during your period as SIO that you were provided with an adequate level of support by the AGS?

A. I would have to answer that on two levels. As a day-to-day operational level with the investigation team, in terms of getting profiles and routine material, the working relationship was very good, slow at times, but I think the team would have said it was good, very good relationship. But at a strategic level the answer would be no. 14:31 14:32

431 Q. The strategic level would obviously be very important?

A. Strategic level was absolutely important and to this day there are still unanswered questions.

432 Q. I am going to ask you to help us with the examples you

have given in your statement, the first one I am going to deal with carefully because there is some information redacted. But you became aware that a Detective Sergeant with the AGS called John White, had operated an informant within the Republic of Ireland? 14:32

A. That's correct, that came to light in May 2002, before I became SIO.

433 Q. Yes. And you became aware that that informant was a car thief?

A. Yes. 14:33

434 Q. And that he had been tasked with acquiring a vehicle for the purpose of an attack?

A. That's correct.

435 Q. And even though ultimately that person had not sourced the vehicle that was used in the Omagh bombing - 14:33 because to mention a name you have referred to already - Anthony Donegan performed that task it is suspected ultimately, did you nonetheless consider that it was important that your investigation should be able to speak to John White's informant? 14:33

A. Yes.

436 Q. And were you supported by the AGS in achieving that aim?

A. No.

437 Q. And ultimately, although you were able to speak to 14:33 John White, were you ever able to speak to his informant?

A. Yes. He was arrested coming into, I think it was Bristol, by Her Majesty's Customs, after we had

circulated him as wanted.

438 Q. And you were able to speak to him in the end?

A. Yes, but through no assistance from the Guards.

439 Q. The second example relates to a man called Seamus Daly.

A. Yes. 14:34

440 Q. And by the middle of February of 2003 had your investigation reached a position in which you had been able to put together a file containing evidence against Seamus Daly implicating him in the most serious type of terrorist activity for submission through the Director 14:34 of Public Prosecutions?

A. Yes, that's correct.

441 Q. And would you have expected the investigation team, looking into the Omagh bombing in the Republic of Ireland, to have been aware of the fact that you were 14:34 putting together a case against Seamus Daly?

A. Yes, they would have been aware.

442 Q. And against that background of being in a position in February 2003 to submit a file, was there something that occurred that caused you concern? 14:35

A. Well, on 18th February he was arrested in the Republic in relation to membership of the Real IRA.

443 Q. And what impact did that have on your planning?

A. It meant that he couldn't be arrested and just prevented the arrest and interview of Seamus Daly. 14:35

444 Q. And did that have a seriously damaging impact upon your own planning?

A. Sorry, what was the last?

445 Q. Did it have a seriously damaging impact upon your own

planning?

A. It was catastrophic, because as the sequence of events unfolded, it was 10 years later before he was arrested and then we had the issue of a witness changing his mind, changing his evidence. 14:36

446 Q. Denis O'Connor?

A. Mm-hmm.

447 Q. And you are nodding your head.

A. Yeah.

448 Q. Now that was all I wanted at this stage at any rate to ask you about the challenges that you faced as Senior Investigating Officer. 14:36

I, next - and so this is the fourth topic - want to ask you about a particular challenge that you came to conclude had faced Detective Chief Superintendent Houston and later Detective Chief Superintendent McArthur during their periods as Senior Investigating Officer. This takes us back to your first statement and to paragraph, it probably starts at about paragraph 80, and it relates to Detective Chief Superintendent Anderson. So we can probably start at paragraph 83 at the bottom of page 20. 14:36 14:36

Now what the Chairman knows of very well, through evidence that he has received from, among others, Sir Ronnie Flanagan, is that a particular structure was put in place for the top of the investigation at the outset. And that involved roles that you would be 14:37

familiar with, Senior Investigating Officer, and Deputy Senior Investigating Officer. And I'm sure you'll confirm you were well familiar with those important roles in an investigation?

A. Yes. 14:37

449 Q. A third role that was identified in the investigation, was the role of Task Force Commander or TFC. And Sir Ronnie told the Chairman on Monday that he thought that this was the first time that any such appointment had been made in Northern Ireland in an investigation? 14:38

A. Yeah, I think it was the first time, and only time, in UK policing, but I could be wrong about that.

450 Q. Was it the only time that you ever encountered such a role?

A. Yes, and it doesn't appear in any Home Office crime investigation policies or manuals. 14:38

451 Q. And I'm at the top of page 21, from the records that you had access to what role did Mr. Anderson, as TFC, appear to discharge in the investigation?

A. Yeah, it seems to me that he interfaced with Special Branch and to Garda, that was his role. 14:38

452 Q. You say in the statement, and I'll just make sure there's no misunderstanding:

"Mr. Anderson appears from the records to have been operationally in control of the investigation". 14:39

A. Yes.

453 Q. Did that seem to you to be the position?

A. Yes, it seems in reading some of the material, yes.
454 Q. "Taking strategic decisions and interfacing with other agencies and departments."

A. Yes. 14:39
455 Q. And would you have seen that as the role of a Task Force Commander or something for the person in the position of SIO?
A. First of all, there shouldn't have been a Task Force Commander. There should have been an SIO who, if, as 14:39
it was in this case, a very large complex and significant investigation, he should have had a number of deputies rather than a Task Force Commander. So if it was felt that the complexity of dealing with the media, dealing with the Guards, dealing with 14:40
intelligence and dealing with the crime scene was too great for one person to physically do.
456 Q. Yes.
A. Then there should have been the overall responsible SIO as per the Home Office guidelines, with designated 14:40
deputies for media and intelligence. So one SIO and a number of deputies with areas of responsibility.
457 Q. But the SIO should have been the person with ultimate control over the investigation?
A. Legally, and I have referred to the law, legally it 14:40
should have been an SIO with deputies.
458 Q. And as you point out in your witness statement at paragraphs 84 to 85, you identify the guidance and statutory provisions which would tend to support what

you say. And so, in short, did you regard the appointment of a Task Force Commander as being first anomalous?

A. Yes.

459 Q. Second, inconsistent with how you understood major investigations were to operate? 14:41

A. Yes.

460 Q. And, thirdly, did you consider from what you read, that the appointment of Task Force Commander was not of advantage to the investigation and its effectiveness? 14:41

A. It was a serious disadvantage, but I think I could go further and say it ensured that the SIO could not access intelligence, it controlled access to intelligence. So there was Mr. Anderson was a filter. Even though there was a legal requirement under CPIA 14:41 that every document, every meeting should be recorded, he went to meetings, nothing was recorded. He went to intelligence briefings, nothing is recorded. There are a few documents which I refer to which he put in to the system but, by and large, he was operating in parallel 14:42 to the Inquiry but the SIO was blind to what he was doing and, to this day, the Inquiry is blind to what he did.

461 Q. Let me just explore that. You tell us at paragraph 90 that: 14:42

"The appointment of Mr. Anderson to that role hindered the appointed SIO's legal duty to ensure that proper procedures were put in place for recording information,

the retention of records, information and other materials".

A. Yes.

462 Q. You've already explained to us that he, in your judgment, acted as a blocker or barrier between Special Branch and the investigators? 14:42

A. Yes, sorry if I could come back to paragraph 90?

463 Q. Yes.

A. I know I'm in a roomful of lawyers, BUT the reason for that is to protect the rights of a defendant, AND it's to protect the integrity of an investigation so that the defence have access to all documentation. 14:42

464 Q. Yes.

A. And that becomes a problem later on in the Hoey trial because, you know, disclosure and what we can't disclose because we don't know. So it's just not an academic point, it is a very strong legal issue. 14:43

465 Q. You've already referred to CPIA, so the Criminal Procedures and Investigations Act of 1996 -- 14:43

A. Correct.

466 Q. -- and the order here in Northern Ireland made in respect of that --

A. Yes.

467 Q. -- which places obligations upon the prosecution this in a trial to disclose material to the defence if it undermines the prosecution case or assists the defence? 14:43

A. That's right. So, as the Omagh investigation stands today, I'm not sure that it would meet that standard in

that...

468 Q. Well it is --

A. And that's because of a decision taken by the Chief Constable.

469 Q. In order to discharge your disclosure responsibilities as a prosecutor you necessarily need to have possession of and control of the material that might give rise to disclosure obligation? 14:44

A. That's correct. I am certain it hasn't changed but when I left there was no guarantee that all the information's there, because Mr. Anderson did not put the material into the system. 14:44

470 Q. So your concern is you, just articulated, is in circumstances in which the police and prosecution need to know what material may be relevant, you are worried that one could never know because -- 14:44

A. Yes.

471 Q. -- of Mr. Anderson's role?

A. And part of the problem with the Police Ombudsman's report in 2001 is that they didn't even focus on that. So that was a very important issue that could have been rectified in 2001, rather than later on. 14:44

472 Q. As a result of these, let me put it this way; were these concerns that you just harboured privately and were anxious about or did you seek to do something about these concerns you held about the role that Mr. Anderson had played? 14:45

A. Well at that stage Mr. Anderson had retired and the matter had rectified itself. But I had considered

getting his notes and documents but by that stage he had taken ill.

473 Q. Let's just understand this, so I am at paragraph 96 of your statement. And you observed:

14:45

"During my period as SIO I directed that Mr. Anderson should be interviewed to obtain details of all meetings he conducted with the Garda in relation to the Omagh bomb investigation and to obtain copies of journals and materials which he may have had relating to his period when he was involved with the Omagh bomb investigation."

14:45

A. Yes.

474 Q. So was that a step that you didn't just have as a possibility in your mind but, for a period at least, you sought to actively progress that?

14:46

A. I did, but looking back I probably didn't get to that action in enough time, earlier. It was probably about 2004, when I was starting to look at the Hoey trial.

14:46

475 Q. Yes.

A. And the problems that we were in, in terms of what defence lawyers may or may not raise in relation to Mr. Anderson's role.

476 Q. So at that stage would it have occurred to you that a way in which you might seek to regularise things was to go to Mr. Anderson and say 'what have you got', but by that stage he was, he had taken unwell?

14:46

A. He was unwell. And the nature of his illness I

understand meant that it just wasn't possible to.

477 Q. So as you'll appreciate, different people in this process have expressed different views about the role of Task Force Commander. Sir Ronnie told us on Monday that he thought this was good innovation, you are squarely in the other camp as regarding it as having been, not just a bad idea, but extremely damaging? 14:47

A. I see it more than damaging, I see it as a - and do see it today - as a method to control access to intelligence and information. And we now know from the Jones and Evans reviews, that there was so much that could have been disclosed at the time that wasn't disclosed. But it was Mr. Anderson's responsibility to get it 1998 but he didn't, or he did get it and didn't pass it on. 14:47

478 Q. Now, I'm going to move next to the fifth topic, so the topic of suspects.

A. Yes.

479 Q. And I am going to need for that purposes, my computer. So could I ask a member of the team to bring that that into me please? Thank you, Mr. Suter. 14:48

Now, by February of 1999, a total of 66 people were or had been suspected, so 66 separate individuals, so a very large, very large number. And were you aware of that? 14:48

A. Yes.

480 Q. Did you have an opportunity to view or read the evidence of Detective Chief Inspector Billingsley

yesterday about the issue of suspects?

A. I did, I read it last night.

481 Q. So you read it as opposed to -- you read it as opposed to viewing it?

A. Yes, I read it last night. 14:49

482 Q. Thank you very much Mr. Suter. Sir, I meant to have a particular document printed off and it slipped my mind. Would you mind bearing with me just whilst I find it?

A. That's fine.

483 Q. [Short pause]. I've got it. Now when you came into 14:49 the investigation, did you review a list of suspects?

A. I would have looked at all the documentation and suspects, but at that point we had the Merseyside team, so it wasn't until after they reported that the formal list of suspects was drafted. 14:50

484 Q. And what PSNI has said about this, and Mr. Billingsley covered some of this ground, and I am just going to read out from a PSNI document that was created to address the issue of suspects. It won't go on the screen but I'll give the INQ reference, it's INQ038234. 14:50 And what this tells us is on the 6th February 2003 Detective Superintendent Norman Baxter created a list of 19 suspects. And it references policy decision 288, which we, I believe, did look at on the screen yesterday. 14:51

"This was created after he" --

so you Mr. Baxter --

"had considered the comprehensive Omagh bombing intelligence review undertaken by Detective Chief Superintendent Philip Jones of Merseyside Police."

And that's essentially what you have just said to us -- 14:51

A. Yes.

485 Q. -- you needed to wait until that was available.

The Jones report was shown to Detective Superintendent Baxter in February 2003. It did not just consider the 14:51 bombing in Omagh, it also considered the Lisburn attack, the 30th April 1998; the Newry Courthouse attack, 13th July 1998; the attempted mortar attack on RUC Station in Newry on 21st July 1998; and the second Banbridge attack on 1st August 1998. The report" -- 14:51

so the Jones report --

"examined each incident in turn and provided comment as to who the author believed was likely to have been 14:52 involved."

Again is that a fair summary of the position as of February of 2003?

A. Yes. 14:52

486 Q. In respect of Omagh the Jones report listed eight names, and I'll read those in a moment, but is that correct, that the Jones report identified eight persons that you considered ought to be suspects?

A. I haven't seen it but, yes, I think that -- when I say I haven't seen it, I haven't seen it recently, but I think that sounds right.

487 Q. It sounds about right. And bearing in mind the care I know that will have gone into this document, let's proceed on that basis. So, those individuals were: Padraig Daly, Liam Campbell, Sean Hoey, Seamus Daly, Oliver Treanor, Peter Campbell, Seamus McKenna and Joe Fee. So was it the position that the people who were identified in the Jones reported been identified on the basis of the intelligence review that had been undertaken by the Merseyside team? 14:52 14:53

A. From memory it was intelligence supported by the telephone evidence and other material.

488 Q. And did you essentially approach those names on the basis that they were a given, they had to be suspects because of the work that had been done to reach that point? 14:53

A. Well, I am going from memory and I'm quite happy to come back if I have to check, but I do believe that we created a matrix -- 14:53

489 Q. Yes.

A. -- for assessing suspects. What was in that I just can't fully remember, but each suspect, including the ones that were in the Jones report, were checked against the criteria in the matrix and then the basis for that. So there is existing somewhere within the HOLMES system, or should exist, an individual matrix or intelligent or suspect assessment for each of those. 14:54

490 Q. And you are good enough to indicate something similar, materially identical, to me earlier today when you and I had a conversation of the type that I would have with all witnesses. And that has enabled the team who sit behind me do some work to see if such a document can be found. And I am going to show you a document in a moment and see if it rings a bell. But the last thing I want to do is take you by surprise so if, even once you have seen the document, you wish to go away and reflect further, that will be fine, certainly by me and I would expect by the Chairman. 14:54 14:54

A. Yeah. Sorry, I think from memory I would have delegated the collection of that material to someone and then we would have reviewed it as a team.

491 Q. Let's see how we get on. But from what you have said already, and as would be obvious, the 19 names didn't come from nowhere, you identified 19 suspects because you applied criteria? 14:55

A. Yes.

492 Q. And so, the question is what were those criteria. And I mentioned a document, I am going to ask that we put on the screen a document that we think might be an example of the matrix you told us about, equally it might not be. So the INQ reference is 050591, I hope. Thank you. So this is an assessment of one of those who made it onto the suspect list, a man, Joseph or Joe Fee. And this is just the first page of? 14:55 14:56

A. Yeah, that does look like it.

493 Q. It does, okay.

A. What would be helpful to see the date that it was produced.

494 Q. What I was going to say to you, this was the first page of a number of pages, I'm certain at some stage before we finish your evidence today we can find the dates of it? 14:56

A. It does look, yeah.

495 Q. We're only putting the first page on because obviously we need to take care not to put on the screen anything that is sensitive on national security or other grounds and this first page isn't. So this looks like the matrix that you believe you applied? 14:56

A. It looks like the categories.

496 Q. Forgive me, looks like the categories?

A. The categories, the format, that has been typed on to HOLMES, the format may be different but the headings look familiar. 14:57

497 Q. This is the substance of what you were doing. Can I thank whoever within the team has located that.

A. I can assure the Inquiry that it just wasn't a random selection of 19 people. 14:57

498 Q. Of course, and no one sensible would suggest that it was. Let's just work through this.

"Assessment of Joseph Fee. Category 1, source intelligence". 14:57

So:

"Has information come from a source that implicates this individual?"

And there is a 'yes' column and a 'no' column and here we have, and this is just an example, here we have a 'X' in the 'no' column.

"Then information other than source intelligence, 'yes'. Telephone inquiries, 'yes'." 14:57

So presumably information to potentially implicate that person on the basis of telecommunications evidence.

"Real IRA suspect, 'yes'. Dissident trace, 'yes'. CIRA" -- 14:58

So Continuity IRA.

"Others trace", a 'X'. And then an overall assessment. 14:58

Would it have been the position, I'm not going to ask you in detail about these categories in case I get into sensitive areas, we will probably seek your assistance later on. But was it the position that in order to become a suspect an individual would have to achieve a particular number of Xs, if I can put it that way? 14:59

A. Not necessarily. I think some of the crosses plus the overall assessment, that's coming from Jones.

499 Q. Right.

A. So this guy, there's quite a lot there, so, yes, he's a suspect.

500 Q. Yeah, okay. In terms of what it took to become a suspect --

A. Sorry, could I explain? 14:59

501 Q. Of course.

A. The purpose of the suspect list wasn't to determine everybody who was possibly involved in the bombing, it was to identify who we had power to arrest.

502 Q. Yes. 14:59

A. So it's an assessment to say to police officer you have reasonable grounds to suspect.

503 Q. Right.

A. So there are people not on the list of 19 who possibly were involved but are not in a position to be arrested. 15:00

504 Q. All right, okay.

A. I was just explaining there was some discussion yesterday about that. So the 19 are people to give authority, legal authority, to police officers to arrest. So if that's helpful. 15:00

505 Q. That's extremely helpful. I just want to make sure that I have unpicked everything that needs to be unpicked from this and then we will seek further information in due course. But point one, this wasn't a tick box exercise? 15:00

A. No.

506 Q. That seeing whether a particular individual fell into a number of categories would be helpful, but then there would be a qualitative assessment made of pulling

everything together whether they should be a suspect?

A. Yes.

507 Q. And so presumably sometimes a person might hit only one category but the information might be so compelling that on that basis alone they could be a suspect? 15:01

A. That's correct, yes. It's simply to give a structure to decision-making.

508 Q. Yes.

A. And perhaps some of the decisions are wrong but it is based on the best understanding. 15:01

509 Q. So this was a structure that you were applying?

A. Yes.

510 Q. And it was not a structure that was designed to identify those that would be the exclusive focus of investigation and everyone else would be left out of 15:01 the picture?

A. No, there was people that, the purpose of this was to have it available. So if some of these people were stopped.

511 Q. Yes. 15:02

A. They would have been flagged on the police computer as wanted. And then if they're stopped the arresting officer -- or the stopping officer would contact the inquiry and there was their legal authority, reasonable grounds to suspect. So that's the context in which -- 15:02 or the value of this list.

512 Q. Yes. We need to understand what your 19 meant.

A. Yes.

513 Q. We are definitely getting nearer to that. So the list

of 19 was a list of persons in respect of whom you considered that the legal test for a lawful arrest were satisfied?

A. Yes.

514 Q. In other words there were reasonable grounds to suspect them of the Omagh bombing. But there would have been a group or cadre of other individuals who didn't hit that threshold but in respect of which there was active consideration being given to whether they may have played a role in the bombing? 15:02 15:03

A. Yes.

515 Q. And I hope that I have therefore understood the position?

A. Yes, so if I can give reassurance to the Core Participants; just because a person was not on the 19 doesn't mean that they were totally forgotten about, it was just the position to get to a point to legally arrest hadn't been reached. 15:03

516 Q. We can take that from the screen. Thank you very much indeed. 15:03

A. And then there was some discussion yesterday as well about some people who weren't on the list, like Mr. Tumelty, there was an issue about him.

517 Q. Yes.

A. But he had died, I believe he died in 2003 or so. So he wouldn't have been on it, even though the Inquiry may find he was involved. So the list of people that the Inquiry may wish to consider will not mirror the suspect list. 15:03

518 Q. Yes. So that might be a very stark example of a person who wouldn't be on the list of 19, because you are not going to arrest someone who is dead?

A. If that list was being composed today, four or five names wouldn't be on it. Murphy wouldn't be on it, McKevitt wouldn't be it, McKenna wouldn't be it, because you can't arrest obviously people who are deceased. 15:04

519 Q. I see. So if the investigation were live today and the same criteria were being applied to identify those who were liable to arrest, you obviously wouldn't be putting on the list someone who was dead because you couldn't arrest them, but they would still be someone who would be considered as part of the investigation when you were putting together the various bricks to see who was involved? 15:04 15:04

A. Yes, to see the pattern of what happened. So the work of the Inquiry in identifying suspects, or who to look at as being involved, is different than this list.

520 Q. Yes. And necessarily, and it must be cast wider than the net that you were casting in terms of those who would be arrested, because what we are seeking to do at this stage is to identify a working hypothesis about who was involved in the bombing, who was part of the conspiracy to bomb Omagh, whether they are dead or alive today? 15:05 15:05

A. Yes. And there are people who are outside that list who were involved.

521 Q. I have understood what the purpose of your list was.

Just before I suggest we take a break, I just want to ask you about one particular individual who is not on your list. He is someone Sir Ronnie Flanagan was asked about by me, and the Detective Chief Inspector Billingsley was asked about by Mr. de la Poer yesterday. This is a name that you will be extremely familiar with, his name is Patrick Blair, known as Patrick 'Mooch' Blair. His name, I'm not going to read the name of the 19 out, it was read out yesterday, and his name is not on that list. 15:06

I'm not going to go over all the same ground again, but you'll remember that Baroness O'Loan has given evidence that Sir Ronnie Flanagan, when Chief Constable, expressed a view to her on 10th December of 2001 about the status of Patrick 'Mooch' Blair as not being a suspect, that was all rather clumsily expressed but you know what I am talking about. And I think I suggested to Sir Ronnie that the effect of her evidence was that the Chief Constable had said that he was not, and wouldn't ever be, a suspect. That overstated the effect of the evidence we have, and the evidence that she gave us, and it was along the lines of that the Chief Constable said to her on 10th December that Blair was not and should not be a suspect, okay. 15:06 15:07 15:07

Now, do you remember having any discussion with Sir Ronnie Flanagan about Patrick 'Mooch' Blair?

A. I never discussed the inquiry with Sir Ronnie.

522 Q. You never had a discussion with him?
A. No, he retired before I...
523 Q. Of course, he retired. So, for that reason, you've never had a discussion with him directly about your work as Senior Investigating Officer? 15:08
A. No.
524 Q. Now, we've been through this a number of times, in his review Mr. McVicker identified intelligence relating to Patrick 'Mooch' Blair. He identified that he was strongly associated with Michael McKevitt, believed to 15:08
be one of the leaders of the Real IRA, if not the leader. A phone attributed to him was engaged in a call with a phone that was --
A. Yes.
525 Q. -- involved in the bomb run, at a critical time. And 15:08
you may have picked up as well that ACC Kincaid on 20th November 2001 had said, according to a record made by Mr. Wood of the Ombudsman's Office:

"He finds it" -- 15:08

so ACC Kincaid finds it --

"unbelievable that Blair is not a firm suspect. He says he is a suspect now but accepts that no inquiries 15:09
have been made regarding him."

So let me just take this in stages: First of all, do you recall ever having a discussion with ACC Kincaid

about Patrick 'Mooch' Blair?

A. No. Perhaps I could circumvent this.

526 Q. Yes, please.

A. The answer to the question as to why he's not a suspect -- 15:09

527 Q. Yes.

A. -- I cannot disclose in this hearing, if that helps.

528 Q. Well, that does help. So that is an issue that we'll need to explore separately.

A. But, in addition to that, I can say he did not meet the suspect criteria but I cannot give the reason here. 15:09

529 Q. So thank you very much for respecting an open and close divide, which I will respect as well. Your answer is helpful.

A. But I can assure the Inquiry, you know, I will answer the question. 15:09

530 Q. But you are unable to do so in this environment?

A. In this environment, yes.

531 Q. I am going to move on next to topic 6, which is the scientific review panel. 15:10

Sir, can I indicate that it's touch and go whether I will finish my questioning today, if I had to make a sensible assessment I would say probably not. On any view there is most unlikely to be any time left for questioning by Core Participants today. 15:10

Mr. Baxter has been giving evidence for some time now, I have indicated if he needs a break at any stage, he

must say so, because these are difficult issues that he is dealing with. I am going to ask in the first instance that we have a break, Sir, until 3:25 please?

CHAIRMAN: Of course.

15:11

THE INQUIRY ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

CHAIRMAN: Mr. Greaney.

532 Q. MR. GREANEY: Thank you very much Sir.

15:28

So, topic 6, the establishment of the International Scientific Peer Review Panel. So we are now at paragraph 112, page 28 of your witness statement.

During the early stages of your appointment as Senior Investigating Officer, did you make a decision in relation to the scientific evidence? 15:28

A. Yes, I engaged Dr. John Davidson from the Forensic Science Service of the United Kingdom, to conduct an external review across the incidents. 15:28

533 Q. An external review across several linked incidents?

A. Yes.

534 Q. And what was your thinking in directing that that should occur?

A. Well, what I was trying do at that stage was to try to bring the perpetrators of Omagh, or some of them, to trial through linking forensic evidence across a number of different incidents. And then central to that was the integrity of the exhibits and to ensure that 15:29

everything that could have been examined had been and was properly examined.

535 Q. So, were you thinking, as indeed was proved to be the case, that if there was a scientific analysis of the evidence across a number of incidents there might be links between those incidents and between those incidents and Omagh? 15:29

A. Yes, but I had a major, major problem and that was what happened in Dungannon, where exhibits were destroyed and others had been put in a skip. 15:30

536 Q. Okay.

A. And so I needed some reassurance that I had some integrity left.

537 Q. So, what is often called continuity in a criminal context -- 15:30

A. Yes.

538 Q. -- is important, can be vital, and by continuity we mean the idea that one needs to trace an exhibit which is being scientifically examined from the point of seizure to the point of examination? 15:30

A. Yes, and that continuity was seriously compromised by the actions of someone in Dungannon.

539 Q. This is Dungannon. So you deal with that incident in some detail in your witness statement. And look, could you give us a summary of what continuity concern had developed in your mind and why it had developed? 15:31

A. Well, first of all, we had to make sure that all the exhibits that were relevant to the various investigations across the linked incidents still

existed.

540 Q. Yes.

A. That they had been securely maintained and that there was continuity labels. And so, I'm trying to think of his number, Detective Sergeant, I can't remember his officer number, was appointed do that. 15:31

541 Q. Yes.

A. And that's when we discovered the major problem in Dungannon. And so that had to be looked at and tried to get reassurance that there was sufficient integrity to proceed, and also to ensure all our DNA tests were done and comparison tests. 15:31

542 Q. I am just trying to find the cipher of the officer that you've referred to and I can't immediately find it. We'll get to that in due course. 15:32

A. Yes.

543 Q. So let's take it in stages: First of all, did you see any evidence in the materials you reviewed that this thought process that you were going through to link earlier incidents scientifically to Omagh was a thought process that anyone else had gone through before you? 15:32

A. I think Mr. McArthur had identified a number of potential linked incidents. The biggest linkage was the DNA which tied Lisburn to Altmore.

544 Q. Yes. 15:32

A. And then tried to build a jigsaw, a similarity of components.

545 Q. And ultimately this was, in the view of the investigation, to implicate Sean Hoey?

A. To gather evidence to see who -- we didn't know it was Sean Hoey at the time.

546 Q. No.

A. But it was to get to a point that we could identify Man A and Man B. It turned out to be Sean Hoey was the bomb builder. 15:33

547 Q. Rather confusingly for us, we have two Man As, we have Man A in the PONI Report --

A. Yes.

548 Q. -- which is Patrick 'Mooch' Blair and we have Man A in your investigation who turns out, you believe, to be Sean Hoey? 15:33

A. It was Sean Hoey.

549 Q. And I fully understand that you will go to your grave believing that is so and we will look at Sean Hoey tomorrow. 15:33

A. Yes.

550 Q. So the thinking that you were doing about how you could progress the investigation and actually end up prosecuting people, you were building upon thinking that Detective Chief Superintendent McArthur had had? 15:33

A. Yes, he was linking because of the DNA, Altmore and Lisburn. I was trying to go much further and say, 'let's look at the TPUs, are they identical' --

551 Q. Yes. 15:34

A. 'Could they be built by the same person? We looked at the wiring, the composition of the bomb, the cars with the reinforced suspension. So there was a whole range of things we looked at until we built a picture. It

got us at least at the stage of trying Sean Hoey.

552 Q. So just let's pause to just ask, and hopefully answer one question, which is; you've come in, you are building upon this idea and you hope you are going to be prosecuting people as a result of this piece of work? 15:34

A. Yes.

553 Q. But that doesn't sound like an investigation that is in its maintenance stage?

A. No. 15:34

554 Q. And so, did you?

A. Sorry to come back to the maintenance stage, if you look at the records somewhere around October 1998 there is a discussion about closing the investigation down within three months, so it was in senior management's view to close this down. 15:35

555 Q. It sounds like you disagreed with that very profoundly once you got into it?

A. Well that was absolutely the wrong decision. And the only reason it wasn't closed down was because the concept of a review entered the equation, Mr. McVicker came along. 15:35

556 Q. So your view is without McVicker it would have been closed down?

A. It probably would have been. But I don't know the sequence, but it was decided then before it was closed down, that to do a review. 15:35

557 Q. What is clear from the actions that you are beginning to tell us you took, is that it was absolutely wrong

that anyone should have thought this was an investigation in its "maintenance" stage?

A. Yes, but there was history within the RUC and PSNI foreclosing inquiries very quickly, Enniskillen, I think 28 days after the Enniskillen bomb. There was a record in the policy book about closing the inquiry. So this is an institutional issue sustaining investigations in sort of terrorist environment. This organisational thought that 'you can't prosecute them, you'll never get them', and that is reflected in the Chief Constable's response to the Ombudsman, 'you know, there's no point because'... 15:36 15:36

558 Q. There was a kind of cultural belief that there was little point in sustaining long-running detailed investigations because they would be likely to come to nothing? 15:36

A. Yes, I think that was the mindset. There was some very successful investigations but the large-scale ones seemed to be to get the resources moved onto the living rather than dealing with the dead, to put it in a very un -- probably unfriendly terms, but the need to police today rather than the past. 15:37

559 Q. So we were taking it in stages, how the International Scientific Peer Review Panel came to existence. And dealing with it in stages; you were building upon some thinking that had gone before you. The next stage was, as you have mentioned, that you needed to achieve confidence about integrity of the exhibits relating to the earlier incidents? 15:37

A. Yes, correct. In that there was significant problems because, at a strategic organisational level, there was no investment in the management or maintenance of exhibits, there was no standardised policy. So when, and I can't remember his officer number, when he went to various places to get the exhibits.

560 Q. We think it's Officer 7 --

A. Yes, Officer 7.

561 Q. -- who has the responsibility in relation to exhibits?

A. So there is huge issues about storage across and that's primarily because there was no joined up investigative strategy. So, you know, the mortar attack in Belleek was investigated locally in Enniskillen; Newry, local; Banbridge; bomb. So there was no strategic thought as to how to criminally investigate. 15:38

562 Q. Let me make, this may be an important point, and so let's be clear about it. There were a series of attacks taking place within Northern Ireland in the period leading up to the 15th August 1998?

A. Yes, there was continuation of terrorism from three decades. 15:39

563 Q. Yes.

A. But it was still ongoing but the problem was, as an organisation, the RUC, even though they had in my view the finest detectives and very, very good Special Branch, the management didn't ensure that evidential processes were protected. We also have to take into consideration some police stations were bombed and damaged, so there was a natural destruction. But as a 15:39

corporate body there was a failure in maintaining exhibits.

564 Q. In that period across, in particular 1998 but not restricted to 1998, there are attacks taking place on a regular basis? 15:39

A. Yes.

565 Q. And would it be fair to say that it was obvious that those attacks were the work of violent dissident republican terrorists?

A. Yes, and people who were known to. 15:40

566 Q. We are going to get to that, "and people who were known." So you have got a group of people who fall into a particular category, violent dissident republican terrorists, the identities of which some of whom are known on what you have just said. And is the 15:40 point that you're making that what needed to happen was that there was coordination between those investigating those various attacks and that didn't happen?

A. Yes. If I could just say, if this was happening or had happened in England, there would have been certainly 15:40 COBRA meetings, there would have been teams set up, inter-disciplinary teams set up, to investigate and you would have had a coordinated major investigation. But in our case we had a Detective Sergeant working on his own in Fermanagh, we had a Detective Sergeant working 15:41 in Forkhill; no liaison, no coordination.

567 Q. So the first part of what you just said was very similar to what you said to NIAC.

A. Yeah.

568 Q. If this had happened in England you would have had, for example, a meeting of the Cabinet Office Briefing Room --

A. Yes.

569 Q. -- (COBRA) and you would have expected there to have been some kind of overarching control of the various investigations? 15:41

A. Yes, but nothing here.

570 Q. But here in Northern Ireland, notwithstanding what was or should have been known about who was behind this, was that these were all investigated as individual attacks or attempted attacks and there was not coordination between the investigators? 15:41

A. Yes, and added to that, was I describe it, a curtain between the intelligence and the investigators. So you have on this side, people operating independently trying to investigate, doing their best, on this side people had information to help investigators on this side of the curtain of non-disclosure, and the result was the bombing campaign went on and on. 15:42 15:42

571 Q. From what you have just said you have got two problems which are operating in combination. But, first of all, you've got the problem of separate investigations operating in silos and not coordinating between each other. And the second problem is that you also have this difficulty you have mentioned many times, of getting the intelligence to the investigators? 15:42

A. Yes. And part of that is because historically and, in particular in South Region, the end game was always to

intercept the terrorists on the operation. So if you look historically in South Region the number kinetic - I'll use that term "kinetic" - contact with the terrorist groups is exceptionally high compared to North Region and Belfast. So there was a particular culture in South Region in relation how to deal with intelligence. So that may explain why in South Region there was very little intelligence being disseminated.

572 Q. The point you have just made about the aim being to intercept the terrorists on the operation? 15:43

A. Yes, if you look at the Chief Constable's response to the Ombudsman, and might even have been Sir Peter Gibson's report as well, the idea that arresting them never really led to anywhere.

573 Q. So -- 15:44

A. So this wrong assumption that 'there's no point in sharing intelligence because there is no point in an investigation'.

574 Q. So rather than taking some action to disrupt the terrorists before they carry out an attack, the 15:44 cultural approach was to seek to intercept them in the course of actually carrying out the attack?

A. Yes, "let the operation develop" would be the term.

575 Q. Which --

A. I'm not saying that happened here but that's what South 15:44 Region historically would have done.

576 Q. So we were dealing with the scientific review that was undertaken?

A. Sorry.

577 Q. Don't be sorry, because the point that you have been making is a more important one, which is there was an absence of joined-up thinking between different investigations during the period before the Omagh bombing? 15:45

A. Yes, corporate strategic leadership is missing, in that no one took grasp of the situation and said, we've got to do what we can to intercept, to investigate, and to arrest and charge these bombers. I am fairly confident if you trawl through all the documentation at Headquarters you'll not find any coordination or joined-up meetings to try and solve these issues. 15:45

578 Q. And your view is, as you expressed to NIAC that if there had been joined-up thinking there were opportunities to disrupt and, therefore, prevent the Omagh bombing? 15:45

A. Yes and that's not taking into account joined-up operation with the Republic, which is a separate topic.

579 Q. I said we'd get back to the scientific review. A consequence of the fact that there wasn't joined up thinking was that there were different approaches to managing the integrity of exhibits? 15:46

A. Yes, but also the concept that after a few weeks there's no point investigating or detectives moved on to something else because they had exhausted all lines of inquiry because they had no intelligence leads. So therefore, the inquiry, the investigations were parked, moved on because there was demand for their investigations in sub-divisions, lack of resources, so 15:46

therefore, you moved to the next investigation.

580 Q. But your approach involved or depended upon the integrity of exhibits from earlier incidents. And so, what step did you take in order to achieve that and what problem did you encounter, this may take us back to Dungannon? 15:46

A. Yes, well, what we decided that in a number of the linked incidents that I would become the official SIO and the then-appointed SIO within each of the sub-divisions would become the assistant, Deputy SIO. And then Officer 7 was to go round checking the exhibits, checking the files, to see what exhibits. And then we were going to build a forensic picture to try and link the incidents. 15:47

581 Q. And what did Officer 7 discover? 15:47

A. Well he discovered in September 2002, was it, that the exhibits in the Altmore device had been, some of them had been destroyed and some of them had been put in a skip. So shortly after I took the decision to link the incidents and to get the exhibits, then this happened in Dungannon. 15:48

582 Q. So Altmore, I don't have the exact date, but Altmore was an incident in 2001?

A. Yes, I think it was 12th April 2001 but it was quite significant in that it had Sean Hoey's DNA on the timer power unit. 15:48

583 Q. It was 13th of the 13 incidents in respect of which he was prosecuted?

A. Yes. Also I think more importantly from, to prove the

man's mindset, one of the components in the device was manufactured after the Omagh bomb exploded. So, having killed 29 people and two children in Omagh, he then continued to make another one, at least one more, which demonstrated to me that this guy was, you know, a hardened callous terrorist. So, to me, I thought it was a very significant thing that the atrocity in Omagh didn't stop him. 15:48

584 Q. Was what Officer 7 discovered in relation to Dungannon the thing that triggered the engagement of Dr. John Davidson, the forensic scientist, or had he been appointed already? 15:49

A. I would need to check but I think it was part of it, he may have come after that. I think he came after it. So I was in real difficulty over Altmore. First of all, someone had intervened in the investigation to destroy exhibits. 15:49

585 Q. Did you ever establish who that person was?

A. Yes, but I am not sure that he was the person who activated it. But there was a report, which I gave to Mr. Kincaid, seeking an investigation into it but it didn't seem to go anywhere. 15:49

586 Q. So you were telling us you were faced with problems of this scale?

A. Well at that stage, by September, I had the material in Lisburn destroyed. Just within a day of seeking it. And now I had exhibits destroyed. So by that period of time, it just appeared to me that there was some, something behind making sure that this wasn't going 15:50

ahead.

587 Q. Notwithstanding, Sean Hoey was charged, and he was first charged on 5th September 2003?

A. Yes.

588 Q. And then later in 2004 he was charged with additional offences, namely 21 counts of murder relating to Omagh, is that correct? 15:50

A. That's correct.

589 Q. Following the charging of Sean Hoey in September 2003, did you feel that you needed reassurance that you had the best possible scientific interpretation across all areas of the scientific findings? 15:51

A. Yes, because I hadn't the knowledge of the disruption in the continuity. In terms of the exhibits in the skip they were still in their sealed containers and they were retrieved, so we were able to prove continuity there. Obviously that wasn't the intention of someone who arranged for them to be put there. But I needed to be sure that I had a cast, almost cast-iron assurance that these exhibits and the forensic work that was done was up to evidential standard. 15:51 15:51

590 Q. So what did you do as a result?

A. So through the National Crime Agency liaison officer, we were able to arrange for the three international scientists to come. And these were the three people who did the work on Bloody Sunday Inquiry, so they were eminent forensic specialists, world leaders. 15:52

And I should say that the Chief Constable, Mr. Orde,

there was no issue in terms of funding this, so there was no resistance to doing this.

591 Q. So he was supportive?

A. He was supportive, in fact he was supportive at an operational level at all stages, but this was a very expensive exercise which there was no resistance. 15:52

592 Q. And these were distinguished scientists?

A. Yes.

593 Q. That joined the International Scientific Peer Review Panel? 15:53

A. Yes.

594 Q. They were international as the description indicates?

A. Yes.

595 Q. And they were Dr. Peter Forrest of New York?

A. Yes. 15:53

596 Q. Mr. Doug Lucas of Canada?

A. Yes.

597 Q. And Dr. Pierre Margot of Geneva?

A. So their CVs are held within the Inquiry, within the Omagh investigation. So Dr. Margot he was a world-leading expert in fingerprints and fingerprint recovery from forensic. We had a problem in relation to the number plate of the bomb car in that it was two plates sealed and there was the potential of DNA and there was potential of fingerprints. 15:53

598 Q. Yes.

A. But the two methods, the method to recover the DNA would destroyed the fingerprints, the method to recover the fingerprints would have destroyed the DNA. So his

advice was needed on that. So it was a very valuable exercise.

599 Q. Let's just identify a few more data points in relation to this point, it and may be that that then takes us to an appropriate point to finish for the day at 4:00, or shortly after 4:00, but that will be matter for the Chairman. The establishment of the Panel was approved on 13th November 2003? 15:54

A. Yes.

600 Q. The Panel had terms of reference? 15:54

A. Yes, indeed.

601 Q. And those terms of reference were: One, to review investigation techniques from exhibit recovery to laboratory examination. And I'm sure you will agree with that? 15:55

A. Yes.

602 Q. Two, to review interpretation and synthesis of the evidence as a whole and comment on the appropriateness of the conclusions reached?

A. Yes. 15:55

603 Q. And third, to suggest any further lines of inquiry which might prove beneficial to you as Senior Investigating Officer?

A. Yes. So basically was trying to get the best advice on what to do and they came back with a report which, I think from memory, identified forensic exhibit management issues. 15:55

604 Q. Now just before we get to the report, although we won't be going through it, you mentioned already I believe a

man called Dave Barclay, is that correct?

A. Yes.

605 Q. Was he forensic science coordinator for the National Crime Faculty at Bramshill?

A. No, he was senior scientist with the Forensic Science Service but Detective Sergeant Lavery was the liaison officer with the Crime Faculty. David Barclay was the -- there was John Davidson did a review and then Dave Barclay came in and did some additional work. 15:56

606 Q. He was a scientist and did he agree to act as moderator for the Peer Review Panel? 15:56

A. Yes, he came in too. Obviously they needed someone to help them access exhibits and Dave Barclay was the person who did that. Our DNA work was done in England, I think some of it was done in England so there was that connection as well. He facilitated that to be reviewed. 15:56

607 Q. And in due course, as you've told us already, the Peer Review Panel did provide a report based upon their work of review? 15:57

A. Yes.

608 Q. Sir, that concludes all that I want to ask you about topic 6, the Scientific Review Panel.

Sir, as I indicated at the very beginning of today, topic seven is prior incidents; eight, Sean Hoey; nine, John White; 10, the Nissan Bluebird and 11, a return to the evidence given by Mr. Baxter to NIAC. We can, of course, go on until whatever time you would prefer, it 15:57

does feel like it's been quite a long day and quite an intense day already. My preference would be to finish now, at just before 4 o'clock and resume tomorrow morning at 10 o'clock, but my feeling is if you say we should go on for a further period? 15:57

CHAIRMAN: I am perfectly content with that Mr. Greaney.

MR. GREANEY: Thank you very much Sir. So we'll resume at 10 o'clock tomorrow morning.

CHAIRMAN: Can I invite you to return tomorrow Mr. Baxter? 15:57

THE WITNESS: Yes, Sir.

CHAIRMAN: Thank you.

THE WITNESS: Thank you.

15:58

THE INQUIRY ADJOURNED UNTIL FRIDAY, 13TH NOVEMBER 2026 AT 10:00 A.M.

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