THE INQUIRY RESUMED ON MONDAY, 16TH NOVEMBER 2026 AS FOLLOWS:

CHAIRMAN: Good morning Mr. Greaney.

MR. GREANEY: Sir, good morning. In light of the evidence given at the very end of Friday by Mr. Baxter, Fox Law, over the course of the weekend, sought permission to ask questions about one short topic and that permission has been granted. As a result, we'll ask Mr. McGowan to ask his questions on that issue now please. 10:05 10:05

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

10:05

1 Q. MR. McGOWAN: Mr. Baxter, on Friday you were asked whether, applying the definition of collusion adopted by the Smithwick Tribunal, An Garda Síochána had colluded in relation to the Omagh bombing and your answer was that it had? 10:06

A. Yes.

2 Q. Now, you had also given evidence that you believe the person who drove the car to Omagh was a joint Garda/MI5 source, is that right?

A. I think my evidence was one of the people who drove the car to Omagh was. I just need to, I would need time to check whether he was the driver or passenger. 10:06

3 Q. Okay. And I think you had said there was a high potential that he was jointly, whichever it was, he was

jointly handled by An Garda Síochána and the Security Service?

A. Yes.

4 Q. And that you would have to suspect the Security Service in respect of the obstruction of your investigation? 10:06

A. Yes.

5 Q. My question is, applying the same definition of collusion that you applied to An Garda Síochána - and it was put to you on Friday - does your answer, in respect of collusion, extend to the Security Service? 10:07

A. Yes, it would within the Smithwick definition, yes.

6 Q. Thank you. That's my questions. Thank you, Sir.

CHAIRMAN: Mr. Greaney.

MR. GREANEY: So next Ms. Fee has permission to ask questions on behalf of His Majesty's Government. 10:07

MR. NORMAN BAXTER WAS THEN QUESTIONED BY MS. FEE AS FOLLOWS:

7 Q. MS. FEE: Mr. Baxter, I act for the UK Government and I want to ask you about a limited number of matters which arise from your oral evidence on Friday. I'd like to ask you, first of all, about, I could describe them as intelligence access arrangements. This is dealt with at paragraph 107 of your statement. And just for your own reference. You explained that there was an arrangement for intelligence material coming from the UK intelligence community, or UKIC as they are sometimes known. The arrangement was that you, 10:07 10:08

yourself, had no direct access to the intelligence or the intelligence agencies in connection with the Omagh investigation. Detective Chief Superintendent Jones and Chief Inspector Evans acted as the conduit, it was them that reviewed the material held by UKIC, and they liaised with those organisations, is that a fair summary of how it worked? 10:08

A. Yes.

8 Q. You explained in your oral evidence on Friday that, as a matter of principle, there should be, what you described as a fire wall between the investigator and intelligence people. But you said there were reasons for that which included, for example, so that if an SIO is in court giving evidence he can't expose by accident the origins of intelligence, is that one of the reasons? 10:08 10:09

A. That's correct, expose the origins of the raw intelligence, yes.

9 Q. And I want to make clear, it's no criticism of you at all but, as a result of that structure that was in place, your evidence on intelligence matters, including intelligence capabilities and intelligence sources, is given in the context that you didn't personally have direct knowledge of or engagement with those who were responsible for intelligence, and that's because Detective Chief Superintendent Jones and Chief Inspector Evans had that liaison role, is that right? 10:09 10:09

A. Yes, in respect of Omagh. That's correct.

10 Q. So what you cannot help us with, through no fault of

your own but simply of the structures that were in place, is detail in relation to the information available to and the capabilities of intelligence agencies in the context of Omagh, is that right?

A. That would be correct, yes. 10:10

11 Q. And indeed that information might require a closed hearing in any event?

A. It would.

12 Q. If I could ask you next, Mr. Baxter, about the deployment of the Army in Omagh. I believe you had 10:10 indicated in oral evidence that the Army was not allowed to be deployed in Omagh because of security normalisation, is that right?

A. I think I indicated that the Army were not allowed to be deployed within Omagh Town, rather than the Omagh 10:10 sub-division, and I base that on material that I've seen within the Inquiry.

13 Q. Around I just want to explore that with you. So the Inquiry has heard evidence from the MoD, the Ministry of Defence, that after the bomb warning calls, for 10:10 example, the Army was standing by at the barracks, which I understand is - you will know better than me - but not a particularly great distance from the centre of Omagh?

A. They would be quite close, yes. 10:11

14 Q. And that they were ready to enter the centre of Omagh should the police need assistance. The Inquiry has heard evidence that, in fact, police on the ground did exactly what the Army would have done and they followed

exactly the same clearance procedures, but because of the incorrect information provided in the warning calls, devastation and tragedy nonetheless followed. But, regardless of security normalisation, soldiers were, it was described, in their vehicles ready to move into Omagh Town on request?

A. Yes, but perhaps my evidence has been misunderstood. What I was referring to was the policy in respect of patrolling the area prior to Omagh. It wasn't that the Army on the day could have made any difference. 10:11

15 Q. The Inquiry has some information about that and, no doubt, will gather more information. But we know that after the bomb soldiers were deployed to various locations in Omagh and is it fair to say there was no hard and fast rule against deployment of the Army as needed? 10:12

A. No, my understanding is that it was policy that the Army wouldn't be deployed on patrolling and, in fact, there was, from recollection, a military patrol on duty on the ground outside Omagh on that morning. So the Sub-Divisional Commander could bring the Army in if they wished, it wasn't a hard and fast rule, but the policy was that they shouldn't routinely be patrolling in Omagh. 10:12

16 Q. If I could then ask you, Mr. Baxter, about another topic connected to the Ministry of Defence and that is the records at Thiepval. In your statement you recorded that Detective Sergeant McClure had established that an order had been given the previous 10:12

day to destroy records of 18th July 2002, and you instructed that an action be raised to establish who had ordered that destruction. I'm not going to ask you to name any person who was identified as a result of that action, if any, but I am asking, first of all, whether a name attached to that order was provided to you?

A. No.

17 Q. And so whether or not you know the name of the person who ordered the destruction? 10:13

A. I don't know the name. And the reason for that is, the Inquiry into that was to be undertaken by different -- Mr. Jones and Mr. Evans was to take it up and the ACC was aware of it. So I don't know who ordered the destruction. 10:14

18 Q. And in terms of the actual records that you sought - and for your reference I think this is at paragraph 293 of your statement at page 75 - you had explained that the records for the period that you sought, which was September 1997 were in fact not destroyed, those records still existed and ultimately were available to you, is that right? 10:14

A. That's correct. The individual who was given the task to burn the documents burnt so many of them and then I think perhaps finished his shift and was leaving the rest until the next day. So in the box or box and a half that was left, the one we were looking for was found. 10:14

19 Q. I then want to move on and ask you about another topic,

you describe that as the national security lead and I want to ask you about that in very general terms and, of course, limited only to what can be said in an open forum about that. But the national security lead in 1998. So in your oral evidence on Friday you referred on several occasions to MI5 and I just wanted to clarify, if I may, the respective positions of MI5 and the police in Northern Ireland in 1998 in terms of what's called the national security lead. So, firstly, in terms of what that phrase 'national security lead' means, does it mean who has lead responsibility for national security intelligence in Northern Ireland? 10:15 10:15

A. In my mind it was the person known as the DCI.

20 Q. In terms of the organisation which held the National security lead, would you agree that in Northern Ireland in 1998 police, rather than MI5, had the national security lead? 10:15

A. The RUC, and subsequently the PSNI, retained national security lead until I think 2007/2008.

21 Q. So am I right in saying that what that means is that in 1998 the lead on gathering counterintelligence in Northern Ireland rested with police, rather than MI5? 10:16

A. The responsibilities for national security intelligence was the RUC.

22 Q. And, in practical terms, what that meant was that domestic intelligence-gathering within Northern Ireland was largely handled by Special Branch within the RUC and they had deep local knowledge and networks, is that right? 10:16

A. That would be correct, but supported significantly by MI5.

23 Q. And that position was different in England in 1998 where MI5 did have a national security lead, is that right? 10:17

A. That's correct. The legislation which MI5 established and operated under gives them primacy for national security but there was an exception for Northern Ireland up until 2007 I believe.

24 Q. And the last topic that I want to ask you about, 10:17 Mr. Baxter, is in relation to sources, and I want to proceed carefully around this topic. But if I could ask you about some suspicions you have aired about individuals who you came to suspect might have been sources - and I stress this Inquiry does have a closed 10:17 hearing component and I am not asking you to violate that - but you have explained to the Inquiry, and you have clarified to me this morning, that you yourself did not have direct access to intelligence agencies or intelligence in your role as Omagh SIO. The Inquiry 10:17 has sought a huge volume of sensitive documentation, including intelligence, and it will review that as part of its work. And would you accept that it would be best placed to analyse the truth or falsity of the suspicions that have formed about who was and was not a 10:18 source or what intelligence information did or did not exist?

A. What I have said in my statement is that the investigative hypothesis is that individual was a

source, and I have laid out in the statement the rationale behind that, but it will ultimately for the Inquiry to establish if my hypothesis is correct.

25 Q. Thank you very much, Mr. Baxter. I have no further questions for you. 10:18

MR. GREANEY: Sir, next Mr. Henry on behalf of the Police Service of Northern Ireland.

MR. NORMAN BAXTER WAS THEN QUESTIONED BY MR. HENRY AS FOLLOWS. 10:18

26 Q. MR. HENRY: Mr. Baxter, I just want to check at the outset that you can hear me okay?

A. I can indeed, yes.

27 Q. Now I am going to ask you about a range of different issues, the first of which is the meeting on 14th August at Mahon Road, and I think you have a copy of your statement in front of you? 10:18

A. Yes.

28 Q. If it makes your life any easier, the relevant section begins at paragraph 35 on page No. 9. Now I know this has been touched on several times already over the course of Thursday and Friday of last week, but just to remind you, you had a meeting at approximately 3:00 p.m. prearranged with someone else in Mahon Road, isn't that correct? 10:19 10:19

A. That's correct.

29 Q. And prior to that meeting you called in with the Deputy ACC, Mr. McCreesh, into his office?

A. That's correct, yes.

30 Q. And whilst you were in his office then Officer 1 came into the room and that's when he started to discuss the issue of information from the Guards, AGS?

A. That's correct. 10:20

31 Q. One thing I would like just to establish with you at the outset then is the respective roles played by those two other officers in the room. So dealing with officer No. 1, he was the Regional Head of Special Branch for South Region? 10:20

A. That's correct.

32 Q. And what I'm not so clear in relation to is the Deputy ACC, was he the Deputy ACC for the region?

A. He was Deputy for South Region.

33 Q. And so did he sit over both Crime and Special Branch? 10:20

A. No, he sat over the four divisional commanders of the four divisions within South Region. And the Regional Head of Crime and the Regional Head of Special Branch reported to ACC Crime and ACC Special Branch at that time. 10:21

34 Q. And if we were to oversimplify this, Mr. McCreesh's role was, albeit at a senior level, he was a local police officer in charge of local police and Officer 1 was the most senior Special Branch Officer in that region and he answered up to ACC Special Branch? 10:21

A. That's correct.

35 Q. And really the point I'm just trying to establish with you, Mr. Baxter, is that the Deputy ACC was not a Special Branch Officer?

A. No, he wasn't.

36 Q. And he had, within his gift, the ability to deploy local police resources through the various, through that region, the various sub-divisions?

A. That's correct. 10:21

37 Q. Now, you've already helpfully explained that you were familiar with both of those officers, I think more so Mr. McCreesh?

A. Yes.

10 38 Q. That was through your staff officer days? 10:21

A. That's correct, yes.

12 39 Q. And whilst they were discussing sensitive materials they were both comfortable with you remaining within the room and hearing what they were saying?

A. That's correct, yes. 10:22

16 40 Q. Now, I am going to ask you now about what Officer 1, so the Special Branch Officer, said. And in your statement, I am just going to take you to paragraph number 39 please, so over the page, on to page No. 10. I am looking specifically at the second line and the 10:22 second sentence:

"Officer 1 informed the Deputy ACC that the Garda believed a car bomb was coming north the following day". 10:23

A. Yes.

28 41 Q. Now in relation to, and perhaps I should have said this at the outset, Mr. Baxter, I think you are well tuned

into it already but we are conscious of the open and the closed divide, so if I ask you anything if you would try your best to respect that open/closed divide and I will do so likewise as well.

In relation to the information from the Garda, answering yes or no, did Officer 1 disclose to you and Mr. McCreesh anything about the source of that information, so did he say from where within the Guards it came? 10:23

A. No, and --

42 Q. Or simply - I beg your pardon - simply that it came from the Guards?

A. No, what he said was he believed, the Guards believed. He didn't come in and say 'oh, the Garda have been upon and there is a bomb coming tomorrow', it's 'the Garda believe'. 10:23

43 Q. Well that is this, Mr. Baxter, because what I was intending to go on to ask you was you don't know, as you sit here today, how Officer 1 came to be in possession of that information? 10:24

A. No.

44 Q. So you don't know whether he received it directly from the Guards or from someone else in South Region or from Headquarters of RUC? 10:24

A. That's correct.

45 Q. And all you know is his description, the Guards believed. So within the Garda, however that information came to the RUC and through whatever

conduit, you don't know any more detail about how it was obtained within the Guards?

A. I've no idea beyond, that's -- he said, 'believed', 'the Guards believed there was a bomb coming north' and then the discussion moved on to something like, 'so soon after Banbridge' and then 'we need to deploy'. 10:24

46 Q. Okay. The reference to Banbridge is helpful as well. Just before we lead on to that, I can anticipate what your answer to this will be but just in the interests of completeness, from what Officer 1 said was there anything about, was there anything to inform you and Mr. McCreesh about when that information had been received? 10:25

A. No.

47 Q. Now you mentioned a moment ago that there was a discussion about Banbridge and you were referring to - in this Inquiry we are referring to Banbridge No. 1 and Banbridge No. 2, No. 2 being the bomb attack on the 1st August 1998 - whenever you mentioned Banbridge a moment ago that was what was being discussed in the room? 10:25 10:26

A. The one on 1st August, yes. And that led on to the other sensitive matters that I refer to later on.

48 Q. In the second half of paragraph number 39?

A. Yes.

49 Q. Now, in terms of the information, just remaining with it for a moment, about the detail of the information that was discussed in the room as having come from or originated from the Guards or their belief. It was No. 1, a car bomb? 10:26

A. Yes.

50 Q. And No. 2 that it was going to come north, and No. 3 that it was going to be the following day, so the 15th August?

A. That's correct. 10:26

51 Q. In relation to the car, there was no details about the make, model, colour, year, registration number?

A. Nothing.

52 Q. Whether it was stolen, whether it was not stolen, nothing like that? 10:27

A. There was nothing other than they believed.

53 Q. And again I think we anticipate the answer to this, Mr. Baxter, but just in the interests of completeness, was there any information about the occupants of the car occupant or occupants of the car, so who would be 10:27 in the bomb car the following day?

A. No, nothing.

54 Q. No names, no descriptions, no gender, no age, nothing like that?

A. Nothing. 10:27

55 Q. And I think you've set this out expressly, yes, in the middle of paragraph 39, you say that there was a discussion about the target of the car bomb not being known?

A. No. 10:27

56 Q. And by that I assume you mean they didn't know which town or location the car bomb was going to go to?

A. No, there was no knowledge, sorry, no discussion or knowledge. In fact Mr. McCreesh and Officer 1, a very

short discussion about Lisburn, possibly Lisburn, Banbridge, Portadown. So there was no knowledge whatsoever, it was just...

57 Q. And in relation to that discussion about those three towns you have mentioned; Lisburn, Portadown and Banbridge, I think you said, do you recall who mentioned those towns, was it Officer 1, was it Mr. McCreesh, was it both of them or can you recall? 10:28

A. I think, I think, testing memory here, but certainly Officer 1 mentioned the three towns, it may have been Mr. McCreesh asked him where do you think, but that's -- I haven't a clear recollection of who started that conversation but that... 10:28

58 Q. That's quite all right. I appreciate we are dealing with something that's a considerable period of time ago. In terms of their respective roles then, you described to Mr. Greaney, I think the phrase that you used was something along the lines of, it was Officer 1's assessment that it would be Lisburn, Portadown or Banbridge? 10:29

A. Yes.

59 Q. Is that accurate?

A. That is accurate, yes.

60 Q. In terms of their respective roles, Mr. McCreesh as being the Deputy ACC for the region and Officer 1 being Special Branch Officer, would have been more in tune with Officer 1's role to make that assessment? 10:29

A. That's correct.

61 Q. And you've already mentioned that there was a reference

to the Banbridge bomb on 1st August?

A. Yes.

62 Q. Was there any reference to the series of previous attacks in Newry and so forth in July and moving backwards in time? 10:30

A. No.

63 Q. And you are familiar though, through your conduct of the Omagh investigation, that there were, in the attacks leading up to Banbridge and the Omagh bombing, there were a series of attacks in and around that region? 10:30

A. Yes, the issue about Banbridge was the number of casualties.

64 Q. And you think that Mr. McCreesh asked Officer 1 for his assessment as to the likely target? 10:30

A. I think, I can't remember exactly what was said but it ended up the conversation, the Regional Head saying, Portadown, Banbridge, Lisburn, the Banbridge corridor as it was referred to. So, yes, it most likely was, but I'm partially guessing there. 10:31

65 Q. It's quite all right. It is right that you say so if you there are elements that you are not entirely clear on, working on the basis of memory. You were in the room, were you, did you think that the assessment in relation to Portadown, Banbridge and Lisburn was a reasonable assessment in the circumstances? I appreciate you wouldn't have been privy to the same information that the Special Branch Officer would have been? 10:31

A. It seemed logical. I left the room thinking, you know...

66 Q. That's a sensible way to go about it?

A. Another threat, that I had no concerns about what happened, and in fact for four years never thought about it until I was appointed SIO and then started looking into the circumstances around the bombing. 10:31

67 Q. When you say you had no concerns, Mr. Baxter, do you mean that you had no concerns that that was the appropriate reaction to the information that you were, insofar as you were aware of it, about what the Guards believed? 10:32

A. Well in the context that I'm sitting in South Region, yes, that was the appropriate thing do in South Region. If a device similar to Banbridge was coming, you would try to interject it, stop it en route. 10:32

68 Q. I am going to ask you a little bit more about that operation now, if I may. Mr. Greaney helpfully probed that with you, he was asking about whether it was effective off-the-shelf operation that was planned generally or whether it was a bespoke operation. I don't think you were able to answer that, you weren't aware? 10:32

A. It was a preplanned operation. I can say that I got a text message from former colleague after giving evidence who identified the name of an operation but I'm not sure if I can give that as evidence or not, Sir. 10:33

69 Q. Well I think it would be useful if you were to make a

note of that and provide it to the Inquiry Team --

A. Yes.

70 Q. -- before you leave today, that's my respectful suggestion.

A. I have passed it onto the Inquiry Team but I'm not sure it's my evidence as such, because I can't remember the name. So this individual sent a text with the name of an operation at the time. 10:33

71 Q. One thing you are absolutely clear on though is that this operation, so this reaction to a threat was preplanned so that if such a threat came in, the security forces didn't need to start from scratch in terms of deciding how or arranging the resources and; logistics to deal with it, it was something they had already set a plan in place so that they could react quicker? 10:33 10:34

A. Yes, so there would have been preappointed road stop locations.

72 Q. So if you don't know the make/model of the car, or any details of the car other than its described as a car bomb, the appropriate course then is to set up static vehicle checkpoints on the roads that are assessed as most likely to be used to transport the bomb? 10:34

A. Yes. And from my experience the idea would be to stop car to see if there is any suspects in the cars, it's primarily a deterrent value. 10:34

73 Q. In your previous role prior to CID whenever you had, in the first 20 years of your career had you experience of taking part in those kinds of operations?

A. Yes.

74 Q. And so, based on that experience, is it likely then that every car would be stopped along the chosen road or selection of cars chosen or just the ones that might attract attention if you don't know the car that you are looking for? 10:35

A. What normally happened was if you were operating a small checkpoint on a minor road you would stop every car but on main routes you can't stop everybody because of tailbacks. So you would adopt a random approach, maybe stopping every fifth car, tenth car. But you also would have radio operators radioing in registration numbers and checking them. But on a main route you can't stop everyone. 10:35

75 Q. So would the radio operator be checking vehicles that did not, that were not stopped? 10:35

A. Well they would be randomly checking vehicles as well.

76 Q. And so the purpose is either to detect the bomb car or deter it so that it turns round and goes back?

A. Yes, it would have a huge deterrent effect because the scout car would come across first and then, through some communications, would then tell the people coming with the bomb behind so that they would either take an alternative route or abandon the operation on that day. 10:36

77 Q. I am going to ask you a little bit more about your understanding of where those checkpoints were going to be based on what you said in your statement. And if you just bear with me one moment. If you would look down at paragraph number 40 and the first three lines 10:36

of that please, Mr. Baxter. So what you said is:

"It was agreed by both officers, that a planned proactive operation involving Military Police personnel setting up static vehicle checkpoints in the Newry area to protect the Banbridge corridor should be activated."

What I am going to focus there on is the reference to Newry area, is that the extent of what you know or were there specific routes discussed in the room? 10:37

A. That's the extent of what I know and, in my mind, Newry area would have been Newry Police sub-division.

78 Q. Repeat that last answer for me please?

A. Newry Police sub-division would be my understanding of area but it was, from recollection, area was talked about. 10:37

79 Q. So that's likely to be roads between the Border and south of Newry, whatever the selection of roads were?

A. Yes.

80 Q. One of the things that, and it may just have been a turn of phrase by one of my learned friends asking questions previously, talked about closing the Border. In your experience and various roles that you have played, would that have been a possibility? 10:37

A. That would be a total impossibility. The number of roads, certainly the main roads that had been kept open during the Troubles, they could have been stopped, but there was multiple unauthorised crossings. 10:38

81 Q. In terms of logistics it would have been impossible,

also would have had other potential political consequences as well if police had attempted to do so?

A. I think from a security perspective it would have been impossible to have deploy people. If you had the numbers to stop routes in some areas in South Armagh, it would have been a huge operation to secure the road stops.

82 Q. So from your knowledge, Mr. Baxter, were there any particular security risks about setting up static vehicle checkpoints in the Newry area in and around that time, in 1998? 10:38 10:39

A. For any operation that was preplanned, if it had been used before, there is always the risk of pattern setting, and therefore each VCP point would have had to have been checked. So when the officers or military arrived, they would have had to have done a security check around the checkpoints. So there would be some security considerations irrespective of where the checkpoints where. 10:39

83 Q. So by setting up the vehicle static checkpoint there is an inherent security risk but there are ways potentially to mitigate that risk? 10:39

A. To mitigate, if the position has been used a number of times previously, then that's pattern setting so that's a target risk. 10:40

84 Q. The more times you do it, the greater the risk?

A. The higher the risk. And then the longer you are there the greater the risk as well.

85 Q. And what are we talking about, what is the risk, the

risk of what happened?

A. The risk of a booby trap, a landmine close by, a sniper attack. The sniper attack is less likely on the setting up because they need, they would time to move the weapons. But booby traps and built-in land mines would be a huge issue in some parts of South Armagh. 10:40

86 Q. And in the years previous to this had there been issues with sniper attacks on the security forces in and around the South Armagh region?

A. Well there had been the, obviously the well-known sniper cases where quite a few people have been murdered, but at that time one of the snipers had been detained. 10:40

87 Q. Well, just before I move on then, Mr. Baxter. So when you left the room that day, I appreciate - and I don't mean this in dismissive way - but it wasn't your business as such, you were there for other, you were in Mahon Road for another reason, but when you left the room you had no concerns about the nature of what police were doing in response to having received this information? 10:41

A. Well I just thought it was a normal Special Branch meeting on a threat. Truthfully, I never thought about it until the bomb went off and then I thought that must be what they were talking about yesterday. Then after that I didn't reflect on it until I became SIO. 10:41

88 Q. The final point I want to ask you about in relation to this is, Mr. Smyth, one of my learned friends, asked you about whether the possibility of Officer 1 having

provided inaccurate information to Mr. McCreesh deliberately in relation to what he had been told and why he was going into Mr. McCreesh's room and it seemed to me that you dismissed that possibility?

A. No, I don't see that as ever being a possibility. 10:42

89 Q. And I think you described Officer 1 as an experienced officer, an experienced Special Branch Officer?

A. Yes. If Officer 1 came in and said 'the Guards believed', there would have been no reason to question that because, Officer 1's experience, and that is a 10:42 fact as far as I was concerned.

90 Q. I am going to move on to a different topic now, Mr. Baxter, and that is the issue of the evidence from Sir Ronnie Flanagan about telephone calls that were made on the day of the bombing and the days subsequent. 10:43 And, in particular, emphasis being attached to who he called and in what region. So you have attached some potential significance to the fact that the Chief Constable then made direct contact with the Regional Head of Special Branch for South Region in the 10:43 aftermath of the bombing, is that fair?

A. Yes, that's correct. It seemed to be his evidence that it emphasised the South Region part so early on in the investigation.

91 Q. And I think, in fairness to him, he did, and I'll deal 10:44 with the North Region/South Region issue in just a second, but in fairness to Sir Ronnie he did mention that his first Special Branch phone call, if you like, was to the Head of Special Branch, so ACC Special

Branch?

A. Yes.

92 Q. And it's correct that the Regional Head of North Region would have reported up to the ACC Special Branch?

A. Yes. 10:44

93 Q. And also equally South Region Regional Head would have reported up to ACC Special Branch?

A. That's correct.

94 Q. So if there was any information from the lower ranks, as it were, in the Special Branch camp, and it ought to 10:44 have been briefed up to the Head of Special Branch, he would have been in possession of that information whenever he was called by the Chief Constable, if it was available at that stage?

A. Yes, the Assistant Constable and his staff should have 10:44 known anything at that time from all three regions.

95 Q. Now in relation to the particular focus on South Region, in and around that time - so I'm dealing with 1998 and the period of 1997 before that - was there a significant threat from republican terrorists in the 10:45 South Armagh region and south of the Border from there as well, in and around the Louth region?

A. The predominant number of incidents were in that South Region but there were ones in North Region as well.

96 Q. And don't misunderstand me for a second, Mr. Baxter, I 10:45 am not suggesting that there wasn't various threats at various parts of Northern Ireland in and around that time, and also various parts on the other side of the Border, I don't want to you pick me up the wrong way,

but there was a particularly significant threat from South Armagh and south of the Border, Louth region, as well?

A. Yes, and I now know that South Region and Garda were aware of quite a few of suspects involved in those previous incidents.

97 Q. And on your understanding was that, well, were you aware of, in Mr. Justice Horner's judgment, as he was then, in the Gallagher judicial review, at paragraph 36 he refers to the project being set up in 1996 in South Armagh because of the particular threat there? 10:46

A. Yes.

98 Q. So it was a generally-recognised issue that there was not the exclusive threat but a particular threat in and around that region -- 10:46

A. Yes.

99 Q. -- from republican terrorists, and might that have provided an explanation for why there was a natural leading by the Chief Constable after his first phone call to the Head of Special Branch to go and speak via phone with the Regional Head of Special Branch South? 10:47

A. Yes, it would. But that creates another problem of course, that the SIO on the day should also have been given that indication.

100 Q. If we might move on now, Mr. Baxter, to ask you some questions about the Omagh investigation. In fact, just before I do, there was one discrete issue in your statement, for your benefit, if you want to go to the reference, it's paragraph 439 but it's about your 10:47

knowledge of cell site in 1998. And I think this was probably in direct response to a question asked by the Inquiry team, which is why you have included it as a separate subheading within your statement?

A. Can I ask you to repeat the paragraph please? 10:48

101 Q. Certainly, it is 439, and that's on page 111.

A. Yes.

102 Q. One of the things that the Inquiry is interested in is about the potential use of the cell site data and analysis in the criminal justice forum in and around 10:48 1997 and 1998 in the period leading up to the bombing, and that's why, obviously why, you're being asked this question, and I think you can probably only speak from your own personal experience that you were unaware, prior to 1998, of the existence of that type of 10:49 material and the potential investigative value of it?

A. Yes, that's correct.

103 Q. Are you able to go any further than that and, you were unaware of it, do you know, even retrospectively, whether it was common knowledge in policing at that 10:49 time?

A. No, I hadn't heard of, I was aware that, of cell sites that you had to be close to a cell site because the signal went back and forward, but not that records that were actually kept, that as you moved around, no. 10:49

104 Q. Okay. I said I was going to ask you about the investigation, I am going to begin by touching briefly, and I do mean briefly, about your appointment. And again for ease of your reference this is dealt with I

think at paragraph 45 of your statement. When I say appointment, you've dealt with it in several paragraphs, but it begins in and around there.

Now, there you say, Mr. Baxter: 10:50

"In early 2002 I was successful in the promotion process for the rank of Superintendent. And on 26th February 2002 a meeting in Maydown Regional CID Headquarters, Detective Chief Superintendent McArthur, 10:50 then the SIO for Omagh Inquiry, requested that I become involved in the Omagh Bomb Inquiry to ensure succession after his retirement, which was planned for September."

So you've already spoken, I think on Thursday, in quite 10:51 kind terms or complimentary terms in relation to Mr. McArthur, in summary you were describing him as a good detective and that was his general reputation as being a first class detective?

A. It was, yes. 10:51

105 Q. And when I said kind words, you described him as a good mentor to you whenever you were working in CID in the period from 1999 up until his retirement?

A. That's correct.

106 Q. Is it a case, and the reason I am asking about this 10:51 now, is it the case that he was asking you to come in to the Omagh investigation in the sense that he had chosen you or were you being told that was what was going to happen?

A. Yes, the word "request" might be a bit, probably not may be the correct word, was being told, I was being...

107 Q. And are you aware of whose decision it was to chose you?

A. No. 10:52

108 Q. So was it McArthur to chose you as his successor or was it someone else?

A. I presumed that, having discussed with the Assistant Chief Constable at that stage.

109 Q. Discussed with him to be approved by the ACC at that stage? 10:52

A. Yes, I would suspect that, he wouldn't have taken that decision without consultation.

110 Q. And am I understanding you correctly to say that really the decision would have been, at first instance, made below ACC but then rubber-stamped by ACC approval? 10:52

A. I'm not sure, because of the nature of the circumstances surrounding the Omagh Inquiry, I think what may have happened is Mr. McArthur indicated his intention to retire and that would have been, would have led to a discussion, 'who will replace you'? 10:52

111 Q. And that's when your name would have come up?

A. That's when my name would have come up.

112 Q. And one of the other things I was interested in, Mr. Baxter, is, is it the case that Mr. McArthur felt that you were to the job, is that why you were being selected or is it not as straightforward as that? 10:53

A. I think he felt I was up to the job in closing the Inquiry down, if that makes sense.

113 Q. What you refer to as the maintenance phase?
A. Yes, the maintenance phase of the investigation is really not an investigation, it's administrative management. So he may have felt that I was an outstanding detective but the role was one of closing down. 10:53
114 Q. And at that stage though there were outstanding, at least forensic inquiries ongoing?
A. Which he said he would have completed. So it was basically 'don't worry about this when you're coming in, you're only going to close this down'. 10:54
115 Q. Now, one of the other things you said in your oral evidence, Mr. Baxter, about the investigation was that it was not flawed in the way that had been depicted in the media, you felt it was actually well structured and, with the information that was available and the opportunities that were available to the CID team, that it was an exhaustive investigation? 10:54
A. Yes. I feel that a lot of damage was done to the confidence in the inquiry by the combative nature of the dispute between the Chief Constable and the Ombudsman and that hurt a lot of the families of the victims because they believed they had been failed in the investigation. It destroyed morale within the investigation team because they had been doing their best. When, in actual fact, the issue was, not the actual investigation, but the management and the administration of it. So to talk about a flawed investigation is totally incorrect. To talk about 10:54 10:55

flawed leadership is a different matter.

So I'm not disputing the Ombudsman's report, but I would have concerns that the way it was spun and the way it got into the legal conflict between the two organisations, meant it was almost like a poison got into it that, this was a failed investigation, this was flawed; all terrible. When, in actual fact, the work down by Mr. Houston and Mr. McArthur and his team was very, very good. 10:55

The oversight and the administration around HOLMES, and HOLMES in particular on the day, the electricity was out, the telephone lines were out in parts, so it couldn't be set up immediately. So from the outset there was always going to be an issue of backfilling. But the detailed work that was done, and I'll perhaps not go over it again today, but some of the work has been recognised as world leading at that time, and indeed Mr. McVicker in his report identifies that. But the Ombudsman's report it was presented as a totally negative, and that had an impact. 10:56 10:56

116 Q. Overshadowed?

A. Overshadowed. I mean the big issues in the Ombudsman's report was missing fact sheet covers, there was issues around the August 4th call, the issues about the Threat Book, but the actual vast scale of the work that was done was left untouched. It might have been more helpful if some positive commentary in around the 10:56

excellent work that was done that might have helped it. But I'm not sitting here saying the Ombudsman's report was wrong, and I don't want to get into a camp in saying that I am against the Ombudsman's report, I am just saying it happened. You know, there was issues raised correct to be issued, it was how it was dealt with in the aftermath of its publication.

117 Q. Thank you, Mr. Baxter. And I have only a couple of points about the investigation I want to touch upon, one of which you have raised already and it is the issue of HOLMES. Just before I do, in relation to your comments on the PONI Report, you said in terms you didn't take issue with it, I think there were certain parts of it that you disagree with, such as the Fulton, 4th August telephone call and so forth? 10:57 10:57 10:58

A. Yes, they're perhaps talking about two different things. I am not talking issue with it in that they have, PONI had a right to do the investigation and publish.

118 Q. Okay. 10:58

A. What then should flow of it was an adult conversation between two organisations about the findings. Instead it spiralled into legal action and judicial review threats and all types of things that distracted people. There are things within it, a number of things within it, that I think is wrong in terms of their decision-making. But the overall report that I was speaking about, where they indicated that it was flawed investigations, and that type of language that flowed, 10:58

I think that's wrong.

119 Q. Okay. I'm going to move away from PONI and back to the investigation.

A. Yes.

120 Q. And maybe come back to HOLMES in just one moment. But the issue of previous incidents, so it formed, I am going to suggest to you, part of the investigation before you became involved and then also after you became involved. I can see you nodding in agreement, I am just conscious of the record, Mr. Baxter? 10:59

A. Yes. But the SIO before did identify some linked incidents. There are some conflicting documents about the SIO having stated that there was nothing to link the incidents and I don't understand how that arose. But he was looking at linking forensics across three or maybe five when I took over. 10:59

121 Q. And whenever you referred to documents, were those documents you reviewed for the purposes of your evidence today that were provided as part of the Inquiry process? 11:00

A. Yes.

122 Q. But that, if you were to compare that with your overall understanding of the Inquiry that the investigation that you inherited, those comments would conflict with that? 11:00

A. Yeah, total confliction.

123 Q. Because Mr. McVicker in his report, so that's the McVicker Report which was completed in November 2000, and was reviewing Mr. Hamilton and Mr. McArthur's

investigation, talked of the then-Deputy SIO, so Mr. McArthur, having a particularly keen interest in the previous incidents and then it's quite clear from the papers that he had linked or was seeking to link TPUs, code words, that kind of thing? 11:00

A. Yes, and in the Chief Constable's response to the Police Ombudsman there is a paragraph that says that the SIO sees no value in linking incidents, or words to that effect. So basically saying the SIO didn't see any link or any reason to link, which was totally 11:01 contrary to what Mr. McArthur was doing. So I find that hard to reconcile, how these two positions, what is recorded as being a view is totally different from what the team was actually doing and that' s unexplained. 11:01

124 Q. Now the issue of HOLMES, Mr. Baxter. The context to this is that Mr. McVicker, so an RUC officer, had reviewed the account and made some criticisms in relation to the operation of the HOLMES account which he inherited and likewise officers from Merseyside 11:02 Police during the course of a review by them made, not dissimilar criticisms, and the PSNI at a corporate level in recent times for the purpose of this Inquiry have accepted that there were shortcomings in relation to the HOLMES account for the Omagh investigation prior 11:02 to you inheriting it.

To what extent did that inhibit you once you took over as the SIO, those shortcomings, to what extent did it

inhibit you from progressing the investigation?

A. Well I think if I could start by explaining, HOLMES is a database, and as you populate it, it becomes almost like a reference library. So if you put all your information into HOLMES you have categorised properly, 11:02
you have a record, a complete record. But if it doesn't sound too simple, after you have put all your information in, you can't hit a button and it tells us who did it. So it's a research tool to assist the investigator. It doesn't, a good HOLMES system doesn't 11:03
solve a crime, but it helps it and provides a record. So if we think of that record, that inputting system was defective. That meant when I became SIO I was relying quite heavily on the knowledge of the officers who were there, the people who had done the 11:03
investigations into the forensics, the house to house, the people who took statements in the inquest. So it then became an administrative burden for me to try and find out information. But it didn't impact on the actual outworking of what the SIO was doing, it just 11:03
means you are relying on human memory.

So although one helps the other, it doesn't preclude the fact that proactive and positive investigation. But after the Jones and Evans report it became apparent 11:04
to me that the HOLMES system couldn't be fixed by going in and trying to correct everything. So, and I think I'm right in saying this, we took a view after discussions that we would start again and input

everything again, which is what happened I believe. So now the system should be correct and everything should be in it.

So I hope that helps explain, that whilst HOLMES was deficient, as long as the SIO was on top of what he was doing, it shouldn't have impacted on the outworking, it simply made recovering the records or prosecution, preparing the prosecution papers very difficult, which is why, I felt, we had to actually get the HOLMES right so that we could, in the future, simply produce the documents needed for prosecution. So I'm hopeful in saying that by the time I left in 2008 HOLMES was up-to-date. 11:04 11:04

125 Q. In general terms your approach was to re-input rather than try to amend what was there? 11:05

A. I just thought we would waste endless time, we would never be sure it was right. So best just to start again.

126 Q. And just to give you a little bit more context, Mr. Baxter, the reason the Inquiry is interested in the HOLMES issue relating to Omagh is it's potential impact on previous investigations, so the investigation into the previous incidents leading up to the Omagh bombing? 11:05

A. Yes. 11:05

127 Q. And not all of those used a HOLMES account, some of them used more old-fashioned hardcopy investigation technique?

A. Yes.

128 Q. MIRIAM as we think it was referred to?
A. Well Omagh started off with MIRIAM and then gravitated on to HOLMES, that was part of the issue as well.
129 Q. And that was because of the lack of electricity?
A. Lack of electricity, lack of telephone, unstable telephone lines. And so the investigation office, from memory, was based between Omagh and Strabane and maybe Maydown initially. 11:06
130 Q. Well, what I am going to ask you about then, bearing in mind the Inquiry's interest in the HOLMES issue is about your experience with HOLMES in your CID years before taking over as SIO in the Omagh investigation. So, first of all, in any of your previous investigations was the HOLMES system used? 11:06
A. No. 11:06
131 Q. And were you involved in murder investigations and terrorist cases prior to the Omagh investigation?
A. Yes.
132 Q. And none of those used the HOLMES system?
A. No, HOLMES is very labour intensive, resource intensive in terms of if you were to get a copy of the Major Incident Room manual, which is the national standard, it takes about I think 28 people to populate all the positions identified to run a proper Major Incident Room on HOLMES. So if you have domestic murders, which there are unfortunately many, there just isn't the trained personnel. So it's the very major investigations that use HOLMES, of which Omagh was one. 11:07 11:07
133 Q. I think the point that, if I have understood you

correctly, Mr. Baxter, is that it was so resource intensive in terms of the amount of specifically trained staff that you would need for a single investigation, if there were a number of different investigations ongoing at the time you wouldn't necessarily have all of that resource to hand?

A. That's correct. The Enniskillen bombing, it was run on a MIRIAM system.

134 Q. Are you referring to the one at the start of 1998?

A. Yes, sorry, no, the Enniskillen bombing, the cenotaph bombing in 1987, which was a very major incident, it was conducted under MIRIAM.

135 Q. Now, if we move on to a different topic, Mr. Baxter, and I think it will probably be the last, certainly one of the last things I ask you about in relation to the investigation. I am just conscious of the time.

MR. GREANEY: I think we were probably having the same thought, Mr. Henry, if we were moving on to a separate topic, now would seem to be a good time for a break until shortly before 11:30, Sir. 11:09

CHAIRMAN: Yes, thank you.

THE INQUIRY ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

CHAIRMAN: Mr. Henry, thank you. 11:27

136 Q. MR. HENRY: Thank you, my Lord.

Now, Mr. Baxter, I said I was going to move on to a new topic or subtopic, it's the issue of Kevin Fulton, and

where you deal with this in your statement is beginning at paragraph 217 on page 54 and into page 55. So I'll just give you a moment to turn that up. And if you need any more time to consider the contents, by all means, take it, but just to give you, or to introduce the context, this was an issue that was raised in the PONI Report in 2001 and it's an issue that you then subsequently explored when you took over as SIO, isn't that correct? 11:34

A. That's correct. 11:34

137 Q. In summary form, you deal with the steps that you took and the information you obtained from paragraph 2 one eight onwards, so at the top of page 55. And I am going to ask you about those now, so would you prefer a little bit of time to look through that or are you content for me to proceed? 11:35

A. Content for you to proceed.

138 Q. What you have said is that, in addition to the material held within the investigation, you received a debrief document relating to Fulton from Martin Bridger, and I think that was in May, 30th May 2002? 11:35

A. That's correct, yes.

139 Q. And then you sought an interview with Mr. Fulton as well, so you say at paragraph 219: 11:35

"I reviewed the allegations made by Kevin Fulton and related documentation. All decisions relating to Kevin Fulton were recorded in the SIO log. I decided to seek an interview with him."

And how did he respond to that please, Mr. Baxter?

A. We went through a process of corresponding, I think through a legal team, but at the end of the day he was looking for a pension from the British Government and, without that guarantee, he wasn't prepared to give a statement. So what he was trying to do was get me to arrange money for him in order for him to make him give us the statement.

140 Q. And by your use of the word "pension", both in your evidence today in and your statement, are we to understand from that, it wasn't simply a one-off payment, not that that would have been acceptable in exchange for evidence, but he was looking for a series of repetitive payments?

A. He was looking for what we would call a life-long pension. He felt that he had basically was a serving, still a serving soldier when he was acting as an informer, and therefore he should receive a pension. He was quite delusional about that because, first of all, I'm not a person who could have provided that and, secondly, it's something that is well outside policing.

141 Q. And I'm sorry for interrupting you, Mr. Baxter, I am just conscious of the open and closed divide, there is no issue with anything that is said in your statement?

A. Yes.

142 Q. But I didn't mean any discourtesy to you.

A. Oh, sorry.

143 Q. So your assessment then of Mr. Fulton's credibility, how would you describe it?

A. Well, as I say in my statement I didn't find him, from what I read, I didn't find him to be a truthful or credible witness. And, of course, I'm writing this in retrospect, in that I now know things later on in the investigation than I did in 2002, which is why I was saying he was not a truthful witness. 11:37

144 Q. And your reasons for that assessment please, Mr. Baxter?

A. The reason for that is he published a book in which he described his life story and in that book he described involvement in two murders, and in my role as Head of Crime Branch I appointed a Detective Superintendent to investigate. He was arrested and was interviewed, and during interview he wrote a handwritten statement, a very short statement, in which he said that the book was a work of fiction, not true. So part of what was in that book is part of the evidence to give to the Ombudsman but he systematically, we went through chapter by chapter, and he said every chapter was untrue, so he's lying at one level. He is either lying to the Ombudsman and the newspapers or he's lying in the book. 11:38 11:38 11:38

145 Q. And therefore couldn't be relied upon in your view?

A. Well he couldn't be relied upon and, I suppose, in the interests of transparency, just that the Inquiry can gauge whether I am being impartial or not, but he set up a fictitious account in my name and he set up a fictitious website called NormanBaxter.com and he published a lot of nonsense on it, and videos and 11:39

stuff. So, in modern parlance, he was trolling me as I was trying to deal with the investigation and I just think he's just a very unpleasant character.

146 Q. Within the body of your statement, and paragraph 220, Mr. Baxter, you mentioned the issue with Mr. Fulton's book, you mention some other issues as well. Do those other issues remain in your current view? 11:39

A. Yes, if we come back to the book, the handwritten note should still be in existence for the Inquiry to get access to. Yes, I still standby that. The issue of 'Mooch' Blair smelling of diesel oil is not supported by the forensic evidence, there was no fuel oil in the Omagh bomb, it was an explosives. So even if 'Mooch' Blair was smelling of diesel and oil, it had nothing do with manufacturing explosives for Omagh. 11:40 11:40

147 Q. Just before you move on, Mr. Baxter, is that exclusive to the composition of the Omagh bomb or do you believe it applies to the composition of other bombs?

A. Banbridge and Lisburn were also ammonium nitrate and icing sugar. 11:40

148 Q. So the same comments apply to those two?

A. Yes.

149 Q. And I am very sorry I cut across you, you were going to continue, Mr. Baxter.

A. Sorry, I have lost track of what I was going to say there. 11:40

150 Q. You are quite all right. At point number B of paragraph 220 you refer to 'Mooch' Blair not being a suspect, would you wish to elaborate on that?

A. Yes, I had assessed he was not a suspect and for reasons which I can't disclose within this hearing but for a closed hearing.

151 Q. I don't think I'll ask you anything more about Mr. Fulton. 11:41

We will touch upon an issue now which Ms. Fee has, to some extent, spoken with you about already this morning. So that's the barrister on behalf of the Government, His Majesty's Government. It's the issue of the arrangement for access by you to the intelligence materials when you were sitting in the position of SIO for the Omagh bomb investigation? 11:41

A. Yes.

152 Q. And we all recognise I think plainly, Mr. Baxter, that these arrangements, such as they were, didn't come about as a result of your doing, they were, I don't want to use the word "enforced" but they were in place -- 11:42

A. I would say that they were the outworking of the Police Ombudsman's report and an attempt to compromise between the recommendation of an external officer conducting an investigation and the investigation remaining within the PSNI. So this arrangement was created, along with other elements such as the management Board and Policing Board review. 11:42

153 Q. And you helpfully described then that whilst, you correct me if I have mis-summarised any of your earlier account or your belief, but, whilst you weren't

entirely happy with the arrangement because it was unusual that the SIO wouldn't have that direct access, you did develop a good working relationship with Mr. Evans and Mr. Jones, you had regular meetings with them and they were able to brief you? 11:43

A. Yes, I would say that my initial reservations were probably unfounded in that I developed a good working relationship.

154 Q. But nonetheless you still didn't have direct access to the material, the underlying intelligence materials? 11:43

A. That's correct.

155 Q. I would just like to probe that with you just so we understand what that means. You were shown a copy of the report which Mr. Evans and Mr. Jones produced in and around, they finalised it in and around February 2003? 11:43

A. That's correct, yes.

156 Q. That report contained their analysis of the intelligence in relation to some previous incidents and in relation to Omagh? 11:44

A. Yes.

157 Q. And necessarily therefore, was based on that intelligence that would have made some references to it?

A. That's correct. 11:44

158 Q. And I'm not going to ask you about any specific details in relation to each of the incidents, I am just going to ask you about this in general terms bearing in mind the forum that we're in. What it would be useful to

have an understanding from you, Sir, is when you were looking at the product of their analysis, were you able to see things like the type of source where that intelligence came from, so human, technical, et cetera?

A. But it's not in the report but, as I say, we had a very close working relationship and indications were given to me verbally about the sensitivities. 11:44

159 Q. Again that's very helpful.

A. So there are gradings of intelligence which I would have known through that grading the source. They weren't telling me this came from X or Y, but it would have been obvious, the nature of the source. 11:45

160 Q. And in relation to the date on which the information, each piece of information which informed the assessment or that analysis by Mr. Evans and Mr. Jones, were you privy to that information? 11:45

A. No, but I did have sight of intelligence documents I recovered from the Police Ombudsman which I was able to, in my mind, correlate to some of that. So there was intelligence with a timeline. 11:45

161 Q. Is the upshot of that, Mr. Baxter, that you were aware of some of the dates but not all of the dates?

A. That's correct, yes.

162 Q. I'll not ask you any more about the specifics.

A. But I wouldn't want the Inquiry to think, Sir, that I just got a document in February and that I was kept in the dark for 10 months, it was a very fluid relationship, or dynamic relationship, with Mr. Jones and Evans and they were guiding me and I also had sight 11:45

of the Ombudsman's material.

163 Q. And you had confidence in the two, over the time you got to know them you had confidence in Mr. Jones and Mr. Evans as well?

A. I am confident they were doing their best, I am not confident they saw everything. 11:46

164 Q. Their respective ranks, would you remind us of those starting with Mr. Jones?

A. Mr. Jones was a Detective Chief Superintendent from Merseyside, and Cliff Evans was a Detective Chief Inspector. 11:46

165 Q. Okay and then their superior in the Merseyside cohort was?

A. Deputy Chief Constable Tonge.

166 Q. Now, whilst he might have been part of the team that came in, he wasn't directly involved in reviewing the intelligence for the purpose of producing that 2003 report? 11:46

A. No, but he did visit several times and I had meetings with him, so he was hands-on. It wasn't a case that he was sort of an absent landlord, he did take an interest and came to the Policing Board and I had meetings with him. I would probably say it is quite a good model for these complex cases. 11:47

167 Q. In the period then after, so if we think about the departure of Mr. Evans and Mr. Jones from that intelligence role in the early part of 2003, then appointed an intelligence manager? 11:47

A. Yes.

168 Q. Detective Inspector I think in terms of rank?
A. He was, yes.
169 Q. And then he or she maintained that role until the, certainly until after the end of the Hoey prosecution?
A. That's correct, although the intelligence requirements were probably getting less and less as time went on. 11:48
170 Q. Later in the investigation?
A. Yes.
171 Q. And during that period in which the intelligence manager had been appointed did you maintain the same position then that you didn't look at the underlying materials as such, that was the role of the intelligence manager? 11:48
A. Yes, that was the direction of the ACC, no direct access. 11:48
172 Q. Now you mentioned, you used the word "fluid" a couple of minutes ago in relation to the situation with Mr. Evans and Mr. Jones, and in your evidence in response to questions from Mr. Greaney, you described that they had mentioned to you that there was fluidity in terms of high remembers in and around 1998 and their potential, want of a better expression, defecting from PIRA and moving towards dissident republican organisations? 11:48
A. That's correct. 11:49
173 Q. And you also mentioned that there was some fluidity in terms of, fluidity is probably not the correct word, but a degree of cooperation in the 1998 period between some of the republican terrorist groups, when mounting

operations?

A. That's correct.

174 Q. And in your assessment then Mr. Baxter, with those, well let me approach this in a slightly different way, that cooperation insofar as you are concerned, or you were aware, between the various groups was that a common feature prior to that 1998 period? 11:49

A. Yes, but there seems to have been a core group and then there were others who assisted them in getting cars, scouting, logistics. 11:50

175 Q. And before the second of the ceasefires, so we think about 1994 being the first, and then we have the second, but prior to that was there, as far as you were aware, a high degree of cooperation between different republican terrorist groups? 11:50

A. Even at a senior level of Sinn Féin there was a degree of contact with Michael McKevitt in terms of the bombing campaign. There was an acceptable, I think within my reading of the material is that the Sinn Féin leadership were content that there were bombs happening so that they could say to the British Government 'you can't push us too far'. I suppose it's probably more for the closed hearing that, but certainly the bombing campaign of early 1997, or sorry, 1998, was beneficial in the political negotiations Sinn Féin had with the British Government and that. Banbridge was an issue for them, there was significant number of people injured. But, by and large, Sinn Féin and IRA leadership were content for some bombs to go off and 11:50 11:51

that would possibly explain the continuance around South Armagh of some of their members. But coy explore that more in the closed hearing.

176 Q. I will not ask you any more about that and, Sir, we will return to that issue in due course. 11:52

So if I may then move on to another topic and it's this issue of previous incidents. Now I know that the next chapter in this Inquiry will deal with the detail of those previous incidents. I think you are aware that 11:52 the Inquiry has identified a list of 32 incidents which we're referring to within the body of these proceedings as previous incidents. And you have expressed an opinion in relation to the likelihood of successfully intervening after some of those and I'd like to probe 11:52 that with you a little bit if I may. And just to give you an idea of what I mean, I'm not going to ask you any particular questions about incident one or two or three, I am going to talk about in a more general terms. 11:53

Now, in terms of the type of intervention that you were discussing at the start of your evidence in response to questions from Mr. Greaney and in your witness statement, I would just like to check what kind of 11:53 intervention you were talking about. I am going to suggest to you there were two different kinds if we are thinking about broad categories and then I will ask you which of the two you mean.

So No. 1 is a proactive operation to try and prevent an attack happening, which would fall more in the Special Branch camp at that time?

A. Sorry, could you say that again?

177 Q. You are quite all right. A proactive operation to try and stop an attack before it happens. 11:53

A. Yes.

178 Q. And I suggested that that was, I wouldn't necessarily say exclusively, but that was falling more into Special Branch camp? 11:53

A. I would probably disagree with you on that.

179 Q. Okay. Well I will possibly come back --

A. Both have a role, put it that way.

180 Q. And this might assist you, or perhaps assists both of us, Mr. Baxter, in relation to the second type of 11:54 operation, it is after an attack has taken place to try and apprehend those who were responsible, potentially put them in prison or put them on trial and in prison if possible as well. I think you have mentioned some other ways in which arrests might serve to disrupt or 11:54 degrade a group of terrorists as well. So that would be, if you like, an intervention after an attack has taken place?

A. Mm-hmm.

181 Q. So do you understand if -- 11:54

A. Yes, I understand what you are saying, it is perhaps not a simple as that, if I can elaborate?

182 Q. Certainly go ahead.

A. From my experience, and I served for a considerable

period of time in a very difficult terrorist environment, Carrickmore and Beara, there was constant terrorist attacks. So Special Branch, their task was to collect intelligence to try and create preventative operations and to identify people who were involved in those operations.

183 Q. Mm-hmm.

A. But knowing that there was significant threat of bombing, there was a constant security operation. So there was constant deployment of troops and police, there was constant patrols to prevent attacks. So it wasn't only attacks in the Carrickmore area but it was attacks towards Dungannon, Cookstown and Omagh.

184 Q. Right.

A. But the main thrust, because of the numbers, was in the uniformed operation people who were deployed into the area to patrol. But if we wind on 10 years or so to 1998, we don't have that level of security in South Armagh. First of all, there is a higher threat perhaps but, systematic bombs happening does not match with an increased security operations. So whilst Special Branch would have been collecting intelligence, and again I would explain to the Inquiry that I think Special Branch officers did a very dangerous job and the cold face handlers and surveillance put their lives in danger constantly to get intelligence. But, having said that, there is only limited amount they can do. But if you are facing a threat where there are devices going off once a week or once a fortnight, there's

11:55 11:55 11:55 11:56 11:56

mortars, car bombs, the best preventative measure is to deploy uniformed operational resources in a constant format so that the terrorists are disrupted.

So that's the bit that is missing, and that's why I don't agree with you that the primary role is for Special Branch. Special Branch had a major role, a very valuable role, and they did it outstandingly well. Now whether after the information was collected and it was disseminated, that is management issue. But the actual Special Branch officers were probably some of the best intelligence people anywhere in the United Kingdom. But no matter how good they were, unless there was a proactive military and police operation to deter and degrade the terrorist threat in Armagh, their work was so isolated that it would have had no effect. And I think when you look back on 1998 as the incidents, and I refer to them in my statement, as the incidents and tempo increased the security was going down and that's part of the issue here. That's why I say there were opportunities.

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185 Q. I didn't want to cut across you at any stage, and it is helpful that you explain yourself and expose your mind more fully to us, Mr. Baxter. And you have pointed out the flaw in my question as well, because I categorised a proactive or a preventative type of operation as falling within the Special Branch camp, and I think you've helpfully explained that the information might originate from there, but the resources which are used

11:58

would be different, it would be uniform police, a collection of different units?

A. Yes.

186 Q. And tactics as well?

A. Yes, if I could put it another way; if Special Branch didn't exist what would you expect the security forces do when there's an increasing threat coming from a small area, albeit south of the Border? The natural thing to do is you increase your patrols, you protect your populations, then add on Special Branch who are there to try and infiltrate and give Operational Commanders guidance and saying, 'we believe that suspect A and B are involved, they live in that area'. So it would put your profile a little bit more towards that. So that's the role of Special Branch. And then when an incident happens, Special Branch can say 'X, Y and Z we believe did A, B and C'. 11:58 11:58 11:59

So what is missing in the equation in 1998 is that Special Branch were working very, very hard, and we can see from the and Evans report the scale of work they were doing. And from my own experience I have to say their ingenuity and their dedication was tremendous, it's just it didn't get back to the investigators. 11:59

But on the operation side we have de-escalation which is part of the security policy by the Northern Ireland Office. So you have people who are risking their lives in surveillance in South Armagh to produce a product 11:59

that, first of all, isn't shared and, secondly, there's no resource to actually deploy to deal with the threat that the Special Branch are identifying.

So the evidence I'm giving here is that it's not the Special Branch were a failure, Special Branch were exceptionally successful, it was the people who felt it wasn't necessary to disseminate to the investigators after each incident is the issue. And, secondly, the failure in security policy to ensure there was adequate resources in South Armagh to address a non-predictable increasing tempo of very dangerous people. So I hope that explains. 12:00 12:00

187 Q. It does very clearly if I might say, Mr. Baxter, as well. At the very end you divided into two different responses, for want of a better label, and one of which was the dissemination of information to the investigators. Would that necessarily mean you are disseminating information to a team of detectives and officers who are investigating an incident which has unfortunately taken place, a previous attack? 12:00 12:00

A. Yes, so Special Branch have, I suppose, two roles:

One is to collect intelligence to prevent attacks, and that may lead to and intelligence operation with the support of specialist resources to arrest people in the act of a terrorist incident. That's the first level. 12:01

The second level is to say, 'we believe they are

planning attacks, we don't know what they are but these are the people'. 'Right, go to, for instance, Sean Hoey's house. We believe he is a bomb maker, Sean Hoey is a bomb maker'. So the response to that would be to search his home for bomb-making equipment or his associates. Right, so that's the second level of preventability. 12:01

The third level is you just look at the environment, bombs and mortars are going off. We don't have a lot of intelligence perhaps but I think, you know, you need to concentrate your forces. I am absolutely certain Special Branch on day-to-day basis was doing that, the problem is somewhere up in the Government they had taken a policy to withdraw soldiers, deescalate and leave that whole border area vulnerable. 12:01 12:02

Now the Inquiry may look to resources and think they were adequate but there doesn't seem to be any evidence, particularly when you think about Aughnacloy - and Mr. Greaney were quite right, I reflected over the weekend - there were no soldiers at the checkpoint, they were close by in their Ops Room. So that checkpoint was left vulnerable, and bearing in mind the suspects crossed over the day before, but there doesn't seem to have been a mechanism to say', well, these two terrorists have crossed Aughnacloy, we need to put resources in there'. Or was the decision 'if we restart checking at Aughnacloy, it will damage this 12:02 12:02

agreement we have with a party to the Peace Process'.

188 Q. Thank you very much, Mr. Baxter. It's helpful, as I said earlier, for you to have an opportunity to articulate your, how you have arrived at your opinion.

A. Yes. 12:03

189 Q. You mentioned during the course of that explanation some of the scale and ingenuity, I think the hard work of the Special Branch officers generally. May I take you to your statement please, and in particular paragraph 29. What I am going to ask you about next is 12:03 your own personal experience of operating with Special Branch. So this is on page number 7, and begins paragraph 29. And I will give you a moment to reflect on that please.

A. Yes. 12:03

190 Q. And you describe within paragraph 29 you had - and you are talking about the period when you were in Enniskillen CID in North Region - considered that you had an excellent relationship with the Divisional Special Branch Inspector and other Special Branch 12:04 officers. You went on to say that the relationship was formal in terms of processes of exchanging information. You say that you are unaware of how relationships were managed within Special Branch at a more senior level during that period, but you found local Special Branch 12:04 personnel did cooperate with CID and responded to formal requests for support. And I wonder if you would assist us with that then, Mr. Baxter; does that mean that during the course of your time in CID in

Enniskillen when you were conducting investigations you were liaising either directly yourself or through other members of your team with Special Branch officers?

A. Well at the divisional level we would have interfaced with the local, as a Chief Inspector I liaised with the Detective Inspector who was the Divisional Head of Special Branch. And so, for instance, there was a bomb, to give you an example, at Mahon's Hotel in Irvinestown. So the immediate response if you send a team to investigate that, that I liaised with Special Branch, 'who are the suspects here?' And that was fine, that was disclosed. 12:05 12:05

191 Q. So that type of way?

A. But it wasn't 'we believe that Mr. X planted that bomb', it was 'we have intelligence that Mr. A, B and C have been conspiring to do something, they may be the people'. And then later further when they got the time to go out and check whatever sources they had there was further information. So, yes, to me that's the way that it should work. Formal process, they tell what they can, then they go away and do the research and give you more detail. 12:05 12:06

192 Q. I am going to ask you a little bit about practically how that happened on the ground, as it were, during the course of an investigation. So you used an example of an incident in Irvinestown. 12:06

A. Yes.

193 Q. Did that mean that you went and met the Special Branch Officer your counterpart within Special Branch or did

you telephone him or was a case conference arranged, what way would it have took...?

A. In that case, from memory I went to the scene and then in writing up as an action, 'contact Special Branch to establish any intelligence'. 12:06

194 Q. Mm-hmm.

A. And from memory then I executed that by going to personally meet Special Branch.

195 Q. And providing them with the action, you are providing them with a request for information? 12:07

A. No, I was delivering what do you know as an initial conversation.

196 Q. And you get initial response but then they go off and they conduct research and come back to you later about the investigation later? 12:07

A. Yes, and they would come back with a document saying 'intelligence indicates A, B and C'. And then it's that intelligence document which forms the basis of any arrest or further action.

197 Q. And so you have mentioned the document, which really would be the product of their analysis. Were there ever instances where information was provided to you by way of a conversation or a verbal briefing but nothing was written down? 12:07

A. Yes. 12:07

198 Q. Was that common?

A. I have experienced it a number of times, frustratingly so, but that was on the basis of what I was being told was no downwards dissemination.

199 Q. Were there cases in which you were given a written document and also a verbal briefing and there was more information in the verbal briefing?

A. It wouldn't have strayed far from what was in the document. 12:08

200 Q. But, in any event, prior to the Omagh investigation the extent of your Inquiry, sorry, your experience within CID of the exchanges and interaction between CID and Special Branch within that area were good?

A. They were good but formal, in that I had to intervene in one particular dispute where an officer went for a briefing, was shown a document to read and then was put away, he wasn't allowed to have it. We felt we should have it because it would have justified an arrest. But it was for no downward disclosure. So therefore I went to resolve it but the resolution was it wasn't disclosed. So that's the balance that they are making between protecting methodology and providing some sort of guidance which is really ineffectual. 12:08 12:09

If a police officer doesn't have a document from Special Branch saying 'X intelligence, reliable intelligence indicates that X drove a car, a car bomb to Enniskillen', there is no basis to go and arrest that person because you don't have the reasonable grounds. But what it does give you is an indication that you should research and look at that person more closely and try and build an evidential case against them. Intelligence itself isn't evidence but you then 12:09 12:09

go away, if you don't have it, to try and get the information to arrest. But if you are not given that even at the start, it greatly hampers the investigation.

201 Q. I think hopefully the final thing, the final topic I'd like to ask you about, Mr. Baxter, is in relation to your concerns about your investigation being obstructed, and by that I mean your investigation into Omagh during the time of you operating as the SIO. Just bear with me one moment. I think the language you used on Thursday was that it was a coordinated obstruction, and that someone potentially didn't want your investigation to succeed? 12:10 12:10

A. I think that's my perception of it, yes. But it's the only explanation I can see for certain things that did happen that somewhere from the John White, right through to Thiepval, exhibits in Dungannon, that they just didn't happen by accident. 12:11

202 Q. Well, bearing in mind the forum that we're in I am going to be relatively careful about the way in which I frame the questions, but is your belief that the reason for that obstruction relates to events on 15th August or in and around that period? 12:11

A. Yes.

203 Q. Okay. 12:12

A. In fact, counsel for the Inquiry raised an issue with me on Friday in relation to an engagement I had with the Police Ombudsman, which I checked over the weekend, and I think by the 19th June 2002, I had serious

concerns about the obstruction of my investigation in relation to John White, that I met with now Baroness O'Loan to discuss those issues. And I have a record of that in my journal that I felt that I was being undermined at that stage in relation to John White, 12:12
where decisions were being recorded in writing at management Board meetings and then I was being given verbal instructions to do the opposite. Decisions were taken, a decision taken not to brief the Garda on my plans to interview John White, and then Assistant 12:13
Commissioner Carty was briefed. So even at that stage, I am only a month into being SIO and these things are happening. And then we move to July and we have the books being burnt in Thiepval.

204 Q. If I think in terms of sequence it's John White and, 12:13
first of all, in around June?

A. Yes.

205 Q. All in the same year, 2002?

A. Yes, yes.

206 Q. What we could refer to in shorthand is 'the Thiepval 12:13
incident'?

A. Yes.

207 Q. And then I think the date of the Altmore or Dungannon exhibit issue was...

A. It's also July but I didn't discover it until 12:13
September.

208 Q. Okay. So all within a timeframe of a few months?

A. There is a reason that I cannot give in this open hearing in relation to Altmore and there's a connection

with Omagh, but yes, they are linked. And the problem I had, and I was deeply concerned on the 19th June, that I made an appointment with the Police Ombudsman to ensure that she was aware that I was being obstructed because I had concerns in around what may happen if I pursued the intelligence in relation to John White. And in fact I knew I could recall making this statement about meeting Ms. O'Loan, but it was actually only when I went back to look at the extent of my concern at that time. 12:14

209 Q. Okay. Where I am ultimately going to go to is who you think was responsible or what was responsible. If you just bear with me for a moment, I'm sorry, Mr. Baxter, I don't mean any discourtesy to you. You have mentioned the John White issue which was associated with PONI, you've mentioned, in particular, the records at Thiepval Barracks? 12:15

A. Yes.

210 Q. That would be within the control of the Army and then you've mentioned the Altmore exhibits in Dungannon Police Station which would be within the control of police? 12:15

A. Well let's start back, John White, I got the material from the Police Ombudsman, but the investigation into him goes to the heart of what the Garda knew in the days leading up to Omagh, so it is central to understanding what was going on south of the Border. And of course, there is then the link between the guard, John White's source and operations going into 12:15

England, which then links the Security Service to that, those would have been joint operations.

The Thiepval goes to the heart of the relationship between the suspect I have identified as an informant and his relationship in July 1998 with terrorism in London, which was a jointly run Special Branch, sorry, my apologies, MI5/Garda operation, and that is quite widely explored in John Mooney's book, Black Operations. 12:16

And Altmore is connected in that Sean Hoey was the bomb maker but there were other people involved in that, that played a role which I can't discuss in this forum today. 12:17

So all of them are linked and all of them point to intelligence operations which go back to the Security Service.

211 Q. In terms of, it appeared from your statement, Mr. Baxter, that focusing just a moment on Thiepval and Altmore, two of the three that we've discussed? 12:17

A. Yes.

212 Q. You had concerns that the interference there was, it manifested very shortly after you were seeking to take steps to obtain evidence for your investigation? 12:17

A. Yes.

213 Q. And so, if someone was obstructing or quite seriously trying to interfere with your investigation, they would

necessarily have had to know that you were seeking to obtain that material?

A. Yes, that's correct. And I constantly briefed Mr. Jones and Mr. Evans, who I trust - and I am not saying in any way that they were involved in this - but when I took the decision to recover the books from Thiepval, they were in my presence in the office, I briefed them that morning and they were going to meet, a meeting with intelligence people. And they were going to brief and update them on the investigation into Omagh. And it flowed from that. 12:18 12:18

214 Q. And again just thinking about what would actually have been involved, somebody would have to know that you were taking proactive steps to obtain this material at Thiepval first? 12:18

A. Yes.

215 Q. And Dungannon second. And then they would have to have relayed an instruction or had sufficient clout or sway with the Army for the records to have been destroyed, but also effect that same kind of sway on the police as well? 12:18

A. Well, the RUC would have had no sway in getting records burned in Thiepval. There is an aspect to Thiepval that I can't discuss in this forum, but it is, it would have been within the scope of another organisation, and I am speculating in this, it would be within their scope that they could have arranged that. The speed at which it happened is quite remarkable. 12:19

216 Q. I think the point I am trying to make to you,

Mr. Baxter, is that whoever, whatever was responsible, had to effect their influence on both the Army and the police?

A. Yes.

217 Q. And they had to do that in the middle of 2002? 12:19

A. Yes.

218 Q. June to July kind of period. A substantial number of the individuals who were involved in and around 1998 had retired by the time we got to 2001/2002?

A. Some of them had, but not some of the key people. You also have to see this in the context that the issue was raised in relation to the burning of the books with Mr. Jones and Mr. Evans, and there is records in my journals about the discussions, and I was going to go to the Ombudsman's Office to complain and they felt, no, best they would deal with it because it was in the terms of their reference. 12:20 12:20

The Assistant Chief Constable Kincaid was briefed about it, so I left it with them to deal with. The issue of the exhibits, again it was raised with Assistant Chief Constable Kincaid. A report, which I personally handed to him, and that was left with him. So it wasn't all this was ignored, it was passed up, and therefore, I don't have the answers to the outcome. Did those reports go up and someone say 'don't investigate any further?' 12:20 12:21

So, in looking at that, looking at the incidents, I

have concluded that there was a coordinated - coordinated that no action was taken internally when it was raised - a coordinated action that someone had passed the information that I was looking, for all I know our telephones could have been monitored. And there was a coordination in how you get books burnt in Lisburn and exhibits out of a store in Dungannon. Do there has to be some, unless the world is full of crazy coincidences, there has to be coordination. 12:21 12:22

The commonality of all of this was to prevent certain things being discovered. The suspect's car may have gone -- obviously there was concern it had gone into Thiepval. What we were going to discover on the DNA, because there was more than one sample in the Altmore TPU. 12:22

And in relation to John White, briefing the Garda, this was going to block me finding out that John White's full evidence was because he was then going to be probably arrested by the Guards before I got there, which I resolved by arranging the interview with John White on the mainland without any other police officer knowing, other than the Detective Inspector who came with me. No one was told, the ACC wasn't told, he was got away to a secure unknown location. And so I tried to protect the integrity of the John White investigation. 12:22 12:22

But, there was serious issues in this 2002 era which probably remain unresolved today. And the Inquiry may find different, I hope they do, but it is my firm belief, living through it, that there was deliberate obstruction in the investigation. 12:23

219 Q. Thank you, Mr. Baxter. I have no further questions. Thank you.

MR. GREANEY: Sir, as I indicated, both on 21st September and on Friday, we have some short closing remarks to make. And we could just make those now, 12:23 once Mr. Baxter has left the witness box, but it may be better if we have a short break at this stage of no more than ten minutes and then we return so we can make those remarks?

CHAIRMAN: Could I just ask you one thing please, 12:24 Mr. Baxter.

THE WITNESS: Yes, Sir.

CHAIRMAN: It is just a small thing I think, but I would just like to be sure about it. In the course of your evidence from time to time you've told us about 12:24 your assessment of one of the individuals who travelled in the bomb car?

THE WITNESS: Yes.

CHAIRMAN: Your assessment of his status. At times you've referred to him as a 'source' and other times as 12:24 an 'agent', is there any difference in the terminology?

THE WITNESS: There's no difference, it's just interchangeable. So in the south I think the Garda refer to them as 'agents' and in the North we call them

'human sources'. But, sorry, my apologies if I have confused.
CHAIRMAN: No, no, not at all, I just wanted to be sure.
THE WITNESS: I think the proper term would be a 'covert human intelligence source'. 12:24
CHAIRMAN: Thank you, that's very helpful.
MR. GREANEY: Sir, I'm very sorry, I ought to have asked you whether you did have any questions. And I was also going to say that Mr. Baxter's evidence has, as will be obvious to everyone, given rise to issues that will need to be explored, including, for example, the evidence that he has very recently given about the meeting with Baroness O'Loan on 19th June 2002. 12:25
12:25
But he will, of course, be returning and in those circumstances, while we will certainly have questions for him in due course in later chapters, we have no further questions for him at this stage.
CHAIRMAN: Well, thank you very much in the meantime, Mr. Baxter, I look forward to seeing you again. 12:25
THE WITNESS: Thank you.

THE WITNESS WITHDREW

12:25
MR. GREANEY: So, Sir, do you prefer to take a break, a short break, at this stage?
CHAIRMAN: Yes, if that's convenient.
MR. GREANEY: Yes, it is. Could we have a break of ten

minutes please?

THE INQUIRY ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

CHAIRMAN: Mr. Greaney. 12:47

CLOSING REMARKS BY MR. GREANEY, AS FOLLOWS:

MR. GREANEY: Sir, thank you. As everyone will recall, Chapter 3 started on the 21st September. In the weeks 12:47 since then we have heard live evidence from a total of 29 witnesses, of whom retired Detective Chief Superintendent Baxter was the last.

In our opening remarks on the 21st September we made 12:47 clear that our purpose in Chapter 3 was to establish a working hypothesis for how and by whom the Omagh bombing was carried out. And it is on those issues that the evidence has been focused.

12:47

The position of the Inquiry Legal Team is that ultimately our working hypothesis expressed on 21st September, has found substantial support in the evidence heard in Chapter 3 and that it therefore, 12:47 provides an appropriate, albeit provisional, basis for analysis as your work, Sir, of investigation progresses through subsequent chapters.

Before Chapter 3 comes to an end, there are two topics

on which we need to make short submissions. First, the topic of written statements and, second, the question of when Chapter 4 will commence and what form it will take.

12:48

So, first, written statements following the evidence heard in Chapter 3: There are three aspects to this; First, as was made clear as long ago as April 2025, Chapter 8 of the Inquiry's oral hearings will involve the closing statements of Core Participants. Given the scale of the Inquiry's work it will be obvious to everyone that Chapter 8 will take place some distance into the future. At that stage, when it comes, all of the oral evidence will have been heard and so Core Participants will be able to draw out themes, bring together disparate data points from across the Inquiry's material and make their submissions by reference to the full breadth of the Inquiry's work. And that plainly, it seems to us, has very considerable advantages as an approach.

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However, there are at least two clear disadvantages with the statements of Core Participants being made only once and only at that stage. Those disadvantages are: One, that given the undoubted scale of this Inquiry, there is a risk that the length and complexity of statements spanning for the first time the entirety of the Inquiry's evidence will be so great as to diminish their effectiveness. And, two, it is

12:49

inevitable that the evidence relating to Chapter 3, will be less fresh in everyone's minds at that stage than it is now.

In order to avoid those two disadvantages, which we judge to be significant, later this week Core Participants will be invited to make a written statement about the key facts they submit should be found arising from the evidence of Chapter 3, so that is to say the invitation will come later this week. The statements should be directed towards the objectives of Chapter 3, namely, as we have said, how was the bombing carried out and by whom. 12:50

There is, of course, an important limitation to this which it is necessary to spell out. The evidence on those issues is not complete. It is highly likely that there will be further relevant evidence going to these two objectives which will be heard in later chapters, including in closed. Nevertheless, even bearing this limitation in mind, the Inquiry Legal Team sees utility in such written statements. 12:50 12:50

Core Participants should be reassured of two things: First, that the opportunity to update these statements will be given at an appropriate point in the future. Second, the submissions made in the statements will not be the subject, Sir, of a determination by you at this stage. 12:51

So, that is the first of what we explained are three aspects of the Chapter 3 written statements.

The second aspect is this, in addition to addressing the evidence going to the key objectives of Chapter 3, all Core Participants are requested to identify any areas of preventability that they have identified as a result of the evidence heard to date. The Inquiry Legal Team has published a provisional list of issues which has been updated. Core Participants should be reassured that the request that we have just made is not an indication that any part of the investigation set out in that document is in any way being abandoned at this stage, it certainly is not. 12:51 12:52 12:52

But, the Inquiry Legal Team considers it inevitable that the evidence heard during Chapter 3 will have brought areas of preventability into particular focus for Core Participants. The Inquiry Legal Team considers further, that Core Participants having the opportunity to formally share these views at this stage before we embark on Chapter 4, is likely to have real value. And so, that is the second aspect of matters on which all Core Participants are invited to provide a written statement at this stage. 12:52 12:52

There is a third aspect, but this third aspect is confined only to State Core Participants. Sir, a protocol for Chapter 2 of the oral hearings, during

which you heard the opening statements of the Core Participants, was published before those opening statements were delivered. That protocol set out your expectation, Sir, that State Core Participants would set out mistakes or failings, going to the Terms of Reference, so as to assist your investigation and narrow the issues. 12:53

In the event no State Core Participant identified any mistake or failing going to the Terms of Reference in their opening statement made during Chapter 2, whether written or oral. One point made by some Core Participants in their opening statements in relation to your expectation that mistakes or failings be identified in Chapter 2, was to the effect that it was not appropriate to make concessions at that point in time, but that when a better understanding of the evidence developed, it might become appropriate to do so at that stage. 12:53 12:54

One point consistently made by the Inquiry Legal Team bears repetition, we assess, in this context; the Inquiry is a search for the truth. The importance of narrowing the issues, particularly in an inquiry of this size and complexity, cannot be overstated. And so, ahead of the commencement of Chapter 4, all State Core Participants are expected to use the opportunity of a written statement at this stage to point out, in plain language, any mistakes or failings which they now 12:54

accept they made and which go to the Terms of Reference. These should not be confined only to any deepening and understanding arising from the Chapter 3 evidence, but also from any deepening in understanding arising from their analysis of their own material, whichever chapter that material relates to. 12:55

As the opening statement protocol makes clear, where any mistake or failing can only be recognised in closed, then this should be addressed by way of a closed document with thought being given to what part of that document, if any, can be broken out into open. In the event that State Core Participants have not identified any mistakes or failings going to the Terms of Reference at this stage, that should be stated in terms. 12:55

There is no need, nor in our view would it be helpful to address, at this stage, why mistakes or failings which elements of the evidence so far suggest may have been made, have not in fact been made. In other words, this third aspect of the written statements is not an opportunity for State Core Participants to engage in advocacy designed and intended to persuade you, Sir, of why a particular evidence going to the issue of preventability might be wrong, that opportunity will come, but is not now. 12:55 12:56

In due course, and before you, Sir, make any findings,

all Core Participants will be given the opportunity to make their full submissions on all aspects of preventability. What we are describing is not that opportunity and it would be unfair, inappropriate and unacceptable were any State Core Participants to treat it as such. Sir, this opportunity that we have just described arises out of your expectation of candour, the importance of narrowing the issues and aiding you in your search for the truth. 12:56

12:57

We'll turn next to the second part of these closing remarks which, as we've indicated, are focused on Chapter 4.

The next phase of oral evidence will be Chapter 4. Chapter 4, as everyone in the hearing room and many beyond know, is concerned with the overt policing side of the previous incidents. When we say previous incidents, we mean terrorist attacks and attempted attacks which occurred before the Omagh bombing on 15th August 1998. 12:57 12:57

The Inquiry Legal Team's provisional list of issues available on the Inquiry's website, lists, as we heard earlier today, a total of 32 previous incidents. As we made clear in our opening remarks on 21st September, while work has been underway by members of the Inquiry Legal Team to deliver these Chapter 3 oral evidence hearings, other members of the Inquiry Legal Team have 12:57

been working through material which is relevant to Chapter 4.

Disclosure of relevant material to Core Participants in relation to Chapter 4 is underway and has been for some months. However, the scale of the material is substantial and it's important the Inquiry continues to follow its processes to assess material for relevance, have it checked by the relevant equity holders for sensitivity, redacted where required by statute, before being ultimately disclosed to Core Participants. 12:58 12:58

What we have just described is an ongoing process in terms of disclosure. And what that means is that the Inquiry is continuing to receive material which will be assessed for disclosure. 12:59

Sir, concurrently, once you have ruled in relation to sample documents in the Closed Material Restriction Order applications, provisionally closed material, which contains information which may be relevant to Chapter 4, will need to be assessed against that ruling. Given the way in which the Inquiry had structured its evidence hearings and, given in particular that Chapter 4 is concerned with the overt side of the police investigations, it is to be hoped that any material which falls to be broken out into open will more likely to be relevant to later chapters. How much material can be broken out and how much of 12:59 12:59

that may contain information relevant to Chapter 4 remains to be determined and that is something that we have acutely in mind.

It is, important, in the highest degree to the Inquiry Legal Team, that Core Participants have disclosed to them all material relevant to any of the oral evidence hearings in which they participate and that this disclosure happens in sufficient time for the Core Participants to consider that material ahead of the relevant hearing. 12:59 13:00

In addition, as Core Participants know, two experts in policing have been instructed by the Inquiry with a view to obtaining their opinion about the overt side of the police investigations into the 32 previous incidents, so as to assist you, Sir, in your analysis of those investigations. That work, by those two experts is well underway but is not yet complete. 13:00 13:00

All of that is to say there remains much work to do by the Inquiry Legal Team and Core Participants before it will be possible to start the Chapter 4 oral evidence hearings. We can well understand that what all Core Participants, and indeed the public, will want to know is when the Chapter 4 oral evidence hearings will begin. We regret to say that standing here today, we are not in a position to say definitively. 13:01

What we can say today are two things: First, that the Chapter 4 oral evidence hearings will not start before Easter next year. That is to say they will not start before the beginning of April 2027. Second, we're also able to say that Chapter 4 will not be heard in a single block but rather it will be broken down into phases, so as to allow us to make a start on some aspects of it while others are still being finalised for hearing. The phases will likely involve a phase of overview evidence at the start, followed by phases focused on particular attacks and attempted attacks, probably in chronological order, earliest first. 13:01 13:02

Sir, that concludes the closing remarks that we wish to make. Can we finally indicate that we are very grateful to all Core Participants, both State and non-State for the positive and cooperative way in which they have engaged in Chapter 3. 13:02

And, Sir, subject to any remarks that you wish to make, that will conclude Chapter 3. 13:02

CHAIRMAN: You mentioned, Mr. Greaney, that an invitation concerning the written statements will be issued later this week?

MR. GREANEY: It will Sir, yes. 13:02

CHAIRMAN: And will it be the case that that invitation will set out what you anticipate by way of the content, the context and the form of the written submissions?

MR. GREANEY: It will, Sir, yes, although we have set

out in our oral address the headlines.
CHAIRMAN: Yes. Well, that's very helpful. So at this stage we should simply adjourn until we fix a date for the commencement of Chapter 4.
MR. GREANEY: We should, Sir, yes. 13:03
CHAIRMAN: Thank you, Mr. Greaney.
MR. GREANEY: Thank you very much, Sir.

THE INQUIRY ADJOURNED UNTIL A DATE TO BE FIXED.

INDEX

WITNESS PAGE

MR. NORMAN BAXTER (CONTINUED)

QUESTIONED BY MR. McGOWAN 1
QUESTIONED BY MS. FEE 2
QUESTIONED BY MR. HENRY 9

CLOSING REMARKS BY MR. GREANEY 68

'

'agent' [1] - 66:26
'agents' [1] - 66:29
'believed' [1] - 13:3
'contact' [1] - 57:4
'covert' [1] - 67:6
'human' [1] - 67:1
'if' [1] - 54:28
'intelligence' [1] - 57:17
'Mooch' [3] - 41:11, 41:13, 41:28
'national' [1] - 7:10
'oh' [1] - 12:15
'right' [1] - 54:2
'so' [1] - 13:5
'source' [1] - 66:25
'the' [4] - 12:16, 13:4, 23:8, 60:20
'we' [5] - 13:6, 52:12, 53:29, 56:14, 56:15
'who' [2] - 28:21, 56:11
'you' [1] - 47:21

1

1 [20] - 10:2, 10:9, 10:23, 11:16, 11:23, 12:7, 12:20, 13:10, 13:17, 13:29, 14:29, 15:7, 15:10, 15:25, 16:14, 22:29, 23:6, 23:8, 49:1, 79:6
1's [3] - 15:19, 15:27, 23:10
10 [3] - 11:19, 44:27, 50:17
111 [1] - 26:6
11:30 [1] - 37:20
14th [1] - 9:17
15th [3] - 14:4, 59:22, 74:21
18th [1] - 6:1
1987 [1] - 37:11
1994 [1] - 47:12
1996 [1] - 25:10
1997 [4] - 6:20, 24:19, 26:11, 47:24
1998 [22] - 7:5, 7:8, 7:16, 7:21, 8:3, 13:19, 21:11, 24:19, 26:1, 26:11, 26:15, 37:9, 46:21, 46:28, 47:7, 47:24, 50:18, 51:17, 52:19, 62:6, 64:8, 74:21
1999 [1] - 27:23
19th [3] - 59:29, 61:2, 67:14
1st [3] - 13:18, 13:21, 16:1

2

2 [8] - 13:18, 14:2, 38:12, 71:29, 72:11, 72:15, 79:7
20 [1] - 18:28
2000 [1] - 32:28
2001 [1] - 38:7
2001/2002 [1] - 64:9
2002 [10] - 6:1, 27:7, 27:9, 38:21, 40:5, 59:29, 60:18, 64:5, 66:1, 67:14
2003 [3] - 43:16, 45:17, 45:27
2007 [1] - 8:9
2007/2008 [1] - 7:19
2008 [1] - 35:13
2025 [1] - 69:8
2027 [1] - 77:4
217 [1] - 38:2
219 [1] - 38:24
21st [5] - 66:8, 68:10, 68:15, 68:22, 74:26
220 [2] - 41:4, 41:28
26th [1] - 27:9
28 [1] - 36:23
29 [4] - 55:10, 55:13, 55:16, 68:12
293 [1] - 6:17

3

3 [16] - 14:2, 68:10, 68:16, 68:24, 68:29, 69:7, 70:1, 70:9, 70:12, 71:2, 71:5, 71:17, 73:3, 74:28, 77:18, 77:21
30th [1] - 38:21
32 [3] - 48:11, 74:25, 76:16
35 [1] - 9:21
36 [1] - 25:9
39 [3] - 11:19, 13:23, 14:22
3:00 [1] - 9:25

4

4 [16] - 69:3, 71:22, 72:26, 74:13, 74:15, 74:16, 75:2, 75:5, 75:22, 75:25, 76:1, 76:23, 76:26, 77:2, 77:5, 78:4
40 [1] - 19:29
439 [2] - 25:29, 26:6
45 [1] - 27:1
4th [2] - 30:26, 31:15

5

54 [1] - 38:2
55 [2] - 38:2, 38:13

6

68 [1] - 79:11

7

7 [1] - 55:12
75 [1] - 6:18

8

8 [2] - 69:9, 69:12

9

9 [2] - 9:21, 79:8

A

abandon [1] - 19:24
abandoned [1] - 71:13
ability [1] - 11:2
able [7] - 17:22, 26:18, 43:5, 44:2, 44:18, 69:15, 77:5
absent [1] - 45:21
absolutely [2] - 18:9, 54:12
ACC [18] - 6:13, 9:29, 10:13, 10:19, 10:25, 10:28, 11:23, 15:25, 23:29, 24:4, 24:7, 28:10, 28:16, 46:14, 65:25
accept [2] - 8:23, 73:1
acceptable [2] - 39:12, 47:18
accepted [1] - 33:24
access [7] - 3:1, 8:19, 41:10, 42:11, 43:2, 43:9, 46:15
accident [2] - 3:14, 59:18
account [6] - 33:18, 33:19, 33:25, 35:26, 40:27, 42:29
accurate [2] - 15:22, 15:23
act [1] - 53:27
acted [1] - 3:4
acting [1] - 39:17
action [8] - 6:2, 6:5, 31:23, 57:4, 57:9, 57:19, 65:2, 65:3
activated [1] - 20:6
actual [7] - 6:16, 29:26, 29:27, 30:8, 30:27, 34:20, 51:11
acutely [1] - 76:3
add [1] - 52:10
addition [3] - 38:18, 71:4, 76:13
address [3] - 53:11, 73:19, 78:1
addressed [1] - 73:10
addressing [1] - 71:4
adequate [2] - 53:10, 54:19
adjourn [1] - 78:3
ADJOURNED [3] - 37:23, 68:3, 78:9
administration [2] - 29:28, 30:12
administrative [2] - 29:3, 34:18
adopt [1] - 19:10
adult [1] - 31:21
advantages [1] - 69:20
advocacy [1] - 73:24
aftermath [2] - 23:21, 31:7
age [1] - 14:18
agencies [3] - 3:2, 4:4, 8:19
ago [5] - 13:15, 13:20, 15:16, 46:17, 69:8
agree [2] - 7:15, 51:6
agreed [1] - 20:3
agreement [2] - 32:9, 55:1
AGS [1] - 10:4
ahead [3] - 49:28, 72:26, 76:10
aiding [1] - 74:8
aired [1] - 8:13
albeit [3] - 10:22, 52:8, 68:25
allegations [1] - 38:26
allow [1] - 77:7
allowed [3] - 4:12, 4:14, 58:13
almost [2] - 30:6, 34:3
alternative [1] - 19:24
Altmore [6] - 60:23, 60:29, 61:20, 62:12, 62:22, 65:15
amend [1] - 35:16
ammonium [1] - 41:19
amount [2] - 37:2, 50:27
analyse [1] - 8:24
analysis [8] - 26:10, 43:18, 44:2, 44:15, 57:21, 68:26, 73:5, 76:17
AND [2] - 37:23, 68:3
answer [4] - 13:9, 14:12, 17:22, 20:13
answered [1] - 10:25
answering [1] - 12:7
answers [1] - 64:25
anticipate [3] - 13:8, 14:12, 77:27
apologies [2] - 62:8, 67:1
apparent [1] - 34:25
appeared [1] - 62:20
applications [1] - 75:20
applies [1] - 41:18
apply [1] - 41:21
appointed [4] - 17:6, 40:12, 45:28, 46:10
appointment [3] - 26:28, 27:2, 61:3
appreciate [3] - 15:14, 16:27, 22:15
apprehend [1] - 49:17
approach [4] - 19:10, 35:15, 47:4, 69:20
appropriate [7] - 17:10, 17:14, 18:21, 68:25,

70:26, 72:16, 72:18
approval [1] - 28:16
approved [1] - 28:10
April [2] - 69:8, 77:4
area [12] - 5:9, 20:5, 20:9, 20:12, 20:15, 21:10, 50:12, 50:17, 52:8, 54:16, 58:9
area' [1] - 52:13
areas [3] - 21:5, 71:7, 71:18
arises [1] - 74:7
arising [3] - 70:9, 73:3, 73:5
Armagh [11] - 21:5, 22:6, 22:9, 24:21, 25:2, 25:11, 48:2, 50:19, 51:15, 52:29, 53:11
Army [12] - 4:10, 4:11, 4:14, 4:21, 4:29, 5:10, 5:15, 5:18, 5:21, 61:19, 63:19, 64:2
arose [1] - 32:14
arrange [1] - 39:7
arranged [2] - 57:1, 63:27
arrangement [3] - 42:11, 42:24, 43:1
arrangements [1] - 42:16
arranging [2] - 18:13, 65:22
arrest [5] - 53:26, 57:19, 58:14, 58:24, 59:2
arrested [2] - 40:13, 65:21
arrests [1] - 49:20
arrived [2] - 21:16, 55:4
articulate [1] - 55:4
AS [4] - 9:9, 37:23, 68:3, 68:7
aspect [6] - 63:23, 71:4, 71:23, 71:27, 73:22
aspects [4] - 69:7, 71:2, 74:2, 77:8
assess [2] - 72:22, 75:8
assessed [4] - 18:22, 42:1, 75:16, 75:22
assessment [11] - 15:19, 15:27, 16:15, 16:24, 16:26, 39:28, 40:7, 44:14, 47:3, 66:21, 66:24
assist [5] - 34:9, 49:14, 55:28, 72:6, 76:17
assistance [1] - 4:27
assistant [1] - 24:15
Assistant [4] - 28:8, 60:10, 64:19, 64:21
assisted [1] - 47:9
assists [1] - 49:14
associated [1] - 61:15
associates [1] - 54:6
assume [1] - 14:26
attached [3] - 6:6, 23:16, 23:17
attack [8] - 13:18, 22:3, 49:2, 49:6, 49:16, 49:22, 53:21
attacks [14] - 16:4, 16:9, 16:10, 22:8, 50:3, 50:11, 50:12, 50:13, 53:24, 54:1, 74:19, 74:20, 77:11
attempt [1] - 42:21
attempted [3] - 21:2, 74:19, 77:11
attention [1] - 19:5
attract [1] - 19:5
Aughnacloy [3] - 54:20, 54:27, 54:29
August [9] - 9:17, 13:19, 13:21, 14:4, 16:1, 30:26, 31:15, 59:22, 74:21
available [6] - 4:3, 6:21, 24:14, 29:16, 29:17, 74:24
avoid [1] - 70:5
aware [12] - 6:14, 17:11, 17:23, 25:5, 25:8, 26:22, 28:3, 44:21, 47:6, 47:14, 48:10, 61:4

B

backfilling [1] - 30:16
backwards [1] - 16:5
balance [1] - 58:17
Banbridge [18] - 13:7, 13:16, 13:17, 13:18, 13:19, 15:2, 15:6, 15:20, 16:1, 16:9, 16:12, 16:18, 16:25, 17:15, 20:6, 41:19, 47:26
Banbridge' [1] - 13:6
Baroness [2] - 60:2, 67:14
Barracks [1] - 61:17
barracks [1] - 4:21
barrister [1] - 42:9
base [1] - 4:16
based [4] - 19:2, 19:27, 36:7, 43:22
basis [6] - 16:23, 54:13, 57:18, 57:28, 58:24, 68:25
BAXTER [2] - 9:9, 79:4
Baxter [49] - 4:9, 5:25, 8:11, 9:4, 9:12, 10:28, 11:29, 12:18, 14:13, 17:8, 20:1, 21:8, 22:14, 23:13, 24:25, 25:25, 27:5, 28:25, 29:13, 31:8, 32:10, 33:16, 35:21, 37:1, 37:13, 37:28, 39:1, 39:22, 40:8, 41:5, 41:16, 41:24, 42:15, 44:21, 47:3, 49:15, 51:24, 53:14, 55:2, 55:28, 59:6, 61:13, 62:21, 64:1, 66:6, 66:11, 66:16, 67:21, 68:13
Baxter's [1] - 67:10
BE [1] - 78:9
bear [3] - 19:28, 59:10, 61:13
Beara [1] - 50:2
bearing [5] - 36:9, 43:28, 54:24, 59:19, 70:20
bears [1] - 72:22
became [6] - 22:26, 32:8, 32:9, 34:13, 34:18, 34:25
become [2] - 27:11, 72:18
becomes [1] - 34:3
beg [1] - 12:12
begin [2] - 26:27, 76:27
beginning [2] - 38:1, 77:4
begins [3] - 9:21, 27:3, 55:12
behalf [2] - 9:6, 42:9
behind [2] - 9:2, 19:23
being.. [1] - 28:2
belief [4] - 13:28, 42:29, 59:21, 66:4
believe' [1] - 12:17
believed' [1] - 23:9
below [1] - 28:16
beneficial [1] - 47:24
benefit [1] - 25:28
bespoke [1] - 17:21
best [8] - 8:24, 12:3, 29:26, 35:18, 45:5, 51:1, 51:12, 64:16
better [5] - 4:22, 46:22, 53:16, 66:12, 72:17
between [14] - 3:11, 20:17, 29:21, 30:5, 31:22, 36:7, 42:21, 46:28, 47:6, 47:14, 58:8, 58:18, 61:28, 62:5
beyond [2] - 13:3, 74:17
big [1] - 30:24
bit [9] - 17:17, 19:25, 28:1, 35:20, 38:15, 48:16, 51:5, 52:14, 56:23
black [1] - 62:9
Blair [3] - 41:11, 41:14, 41:28
block [2] - 65:19, 77:6
Board [4] - 42:25, 42:26, 45:22, 60:7
body [2] - 41:4, 48:12
Bomb [1] - 27:12
bomb [26] - 4:20, 5:13, 11:24, 12:16, 13:4, 13:18, 13:29, 14:16, 14:23, 14:27, 16:1, 18:21, 18:23, 19:18, 19:23, 22:24, 41:13, 41:17, 42:13, 54:3, 54:4, 54:5, 56:8, 58:23, 62:12, 66:22
bomb' [1] - 56:15
bomb-making [1] - 54:5
bombing [15] - 16:9, 17:7, 23:15, 23:21, 26:11, 35:24, 37:7, 37:10, 37:11, 47:18, 47:23, 50:9, 68:18, 70:13, 74:20
bombs [6] - 41:18, 47:20, 47:29, 50:20, 51:1, 54:10
booby [2] - 22:2, 22:5
book [8] - 40:9, 40:10, 40:15, 40:17, 40:22, 41:6, 41:8, 62:9
Book [1] - 30:27
books [4] - 60:14, 63:6, 64:12, 65:6
Border [7] - 20:17, 20:22, 24:21, 24:29, 25:2, 52:8, 61:27
border [1] - 54:16
box [3] - 6:26, 66:11
Branch [57] - 7:27, 10:10, 10:15, 10:18, 10:19, 10:24, 10:25, 10:29, 11:17, 15:26, 16:28, 22:22, 23:7, 23:20, 23:28, 23:29, 24:1, 24:4, 24:7, 24:10, 24:11, 25:20, 25:21, 49:3, 49:10, 50:3, 50:22, 50:24, 51:7, 51:11, 51:27, 52:5, 52:10, 52:15, 52:16, 52:20, 53:3, 53:6, 53:22, 55:8, 55:12, 55:20, 55:24, 55:25, 56:3, 56:7, 56:11, 56:28, 56:29, 57:4, 57:8, 58:9, 58:22, 62:7
branch [2] - 40:12, 54:13
breadth [1] - 69:18
break [5] - 37:19, 66:12, 67:26, 67:27, 67:29
Bridger [1] - 38:20
brief [3] - 43:5,

60:9, 63:10
briefed [5] - 24:11, 60:11, 63:3, 63:8, 64:19
briefing [5] - 57:23, 58:2, 58:3, 58:12, 65:18
BRIEFLY [2] - 37:23, 68:3
briefly [2] - 26:27, 26:28
bring [2] - 5:21, 69:15
British [3] - 39:4, 47:21, 47:26
broad [1] - 48:28
broken [4] - 73:12, 75:27, 75:29, 77:6
brought [1] - 71:18
build [1] - 58:28
built [1] - 22:5
built-in [1] - 22:5
burden [1] - 34:18
burn [1] - 6:24
burned [1] - 63:23
burning [1] - 64:12
burnt [3] - 6:24, 60:14, 65:6
business [1] - 22:17
button [1] - 34:8
BY [6] - 9:9, 68:7, 79:6, 79:7, 79:8, 79:11

C

C' [2] - 52:17, 57:17
camp [5] - 24:10, 31:3, 49:3, 49:10, 51:27
campaign [2] - 47:18, 47:24
candour [1] - 74:7
cannot [3] - 3:29, 60:28, 72:25
capabilities [2] - 3:22, 4:3
car [24] - 11:24, 13:29, 14:6, 14:15, 14:16, 14:23, 14:27, 18:19, 18:20, 18:25, 19:3, 19:5, 19:9, 19:11, 19:18, 19:21, 51:1, 58:23, 65:12, 66:22
career [1] - 18:28
careful [1] - 59:20
carefully [1] - 8:12
Carrickmore [2] - 50:2, 50:12
carried [2] - 68:18, 70:13
cars [3] - 18:25, 19:4, 47:9
Carty [1] - 60:11
case [8] - 27:25, 27:26, 28:25, 45:20, 57:1, 57:3, 58:28, 77:26
cases [4] - 22:11, 36:17, 45:24, 58:1
casualties [1] - 16:13
categories [1] - 48:28
categorised [2] - 34:5, 51:25
ceasefires [1] - 47:11
cell [4] - 26:1, 26:9, 26:22, 26:23
cenotaph [1] - 37:10
central [1] - 61:26
centre [2] - 4:23, 4:26
certain [4] - 31:13, 54:12, 59:15, 65:11
certainly [9] - 15:9, 20:26, 26:6, 37:14, 46:4, 47:23, 49:28, 67:17, 71:14
cetera [1] - 44:4
CHAIRMAN [14] - 37:21, 37:25, 66:15, 66:18, 66:24, 67:3, 67:7, 67:20, 67:28, 68:5, 77:22, 77:26, 78:2, 78:6
Chapter [36] - 68:10, 68:16, 68:24, 68:29, 69:3, 69:7, 69:9, 69:12, 70:1, 70:9, 70:12, 71:2, 71:5, 71:17, 71:22, 71:29, 72:11, 72:15, 72:26, 73:3, 74:13, 74:15, 74:16, 74:28, 75:2, 75:5, 75:22, 75:25, 76:1, 76:23, 76:26, 77:2, 77:5, 77:18, 77:21, 78:4
chapter [5] - 40:19, 48:9, 73:6
chapters [4] - 67:18, 68:27, 70:19, 75:28
character [1] - 41:3
charge [1] - 10:23
check [4] - 9:12, 21:17, 48:25, 56:18
checked [3] - 21:15, 59:28, 75:9
checking [4] - 19:13, 19:15, 19:17, 54:29
checkpoint [4] - 19:8, 21:20, 54:22, 54:24
checkpoints [6] - 18:22, 19:26, 20:5, 21:10, 21:17, 21:19
Chief [18] - 3:3, 3:4, 3:26, 23:18, 24:13, 25:19, 27:10, 28:9, 29:21, 33:6, 45:9, 45:10, 45:14, 56:5, 64:19, 64:21, 68:12
chose [2] - 28:3, 28:6
chosen [3] - 19:3, 19:4, 27:28
chronological [1] - 77:12
CID [10] - 18:27, 27:9, 27:22, 29:17, 36:11, 55:18, 55:26, 55:29, 58:8
circumstances [4] - 16:26, 17:7, 28:18, 67:17
clarified [1] - 8:18
clarify [1] - 7:7
class [1] - 27:19
clear [11] - 3:19, 10:12, 15:12, 16:22, 18:9, 33:3, 68:16, 69:8, 69:22, 73:8, 74:26
clearance [1] - 5:1
clearly [1] - 53:14
Cliff [1] - 45:10
close [6] - 4:25, 22:2, 26:23, 29:11, 44:6, 54:23
Closed [1] - 75:19
closed [11] - 4:6, 8:15, 12:2, 39:23, 42:3, 47:23, 48:3, 70:20, 73:10, 73:11, 75:20
closely [1] - 58:28
CLOSING [2] - 68:7, 79:11
closing [7] - 20:22, 28:28, 29:5, 66:9, 69:10, 74:11, 77:14
clout [1] - 63:18
code [1] - 33:5
cohort [1] - 45:12
coincidences [1] - 65:9
cold [1] - 50:25
colleague [1] - 17:25
collect [2] - 50:4, 53:24
collected [1] - 51:9
collecting [1] - 50:22
collection [1] - 52:2
colour [1] - 14:7
combative [1] - 29:20
comfortable [1] - 11:13
coming [7] - 11:24, 12:16, 13:4, 17:15, 19:22, 29:10, 52:7
Commander [1] - 5:21
Commanders [1] - 52:12
commanders [1] - 10:16
commence [1] - 69:3
commencement [2] - 72:26, 78:4
commentary [1] - 30:29
comments [3] - 31:12, 32:24, 41:21
Commissioner [1] - 60:11
common [3] - 26:20, 47:7, 57:26
commonality [1] - 65:11
communications [1] - 19:22
compare [1] - 32:22
complain [1] - 64:15
complete [3] - 34:6, 70:17, 76:19
completed [2] - 29:9, 32:28
completeness [2] - 13:10, 14:13
complex [1] - 45:24
complexity [2] - 69:26, 72:25
complimentary [1] - 27:16
component [1] - 8:16
composition [2] - 41:17, 41:18
compromise [1] - 42:21
concentrate [1] - 54:12
concern [2] - 61:9, 65:13
concerned [5] - 23:11, 47:5, 61:2, 74:17, 75:25
concerning [1] - 77:23
concerns [9] - 17:4, 17:8, 17:9, 22:19, 30:4, 59:7, 60:1, 61:5, 62:24
concessions [1] - 72:16
conclude [1] - 77:21
concluded [1] - 65:1
concludes [1] - 77:14
concurrently [1] - 75:18
conduct [2] - 16:7, 57:14
conducted [1] - 37:12
conducting [2] - 42:22, 56:1
conduit [2] - 3:4, 13:1
conference [1] - 57:1
confidence [3] - 29:20, 45:2, 45:3
confident [2] - 45:5, 45:6
confined [2] - 71:28, 73:2
conflict [2] - 30:5, 32:24
conflicting [1] - 32:12
confliction [1] - 32:26
confused [1] - 67:2
connected [2] - 5:26, 62:12
connection [2] - 3:2, 60:29
conscious [4] - 12:1, 32:10, 37:16, 39:23
consequences [1] - 21:2
consider [2] - 38:4, 76:10
considerable [3] - 15:15, 49:29, 69:19
considerations [1] - 21:18
considered [1] - 55:18
considers [2] - 71:16, 71:20

consistently [1] - 72:21
conspiring [1] - 56:16
Constable [9] - 23:19, 24:13, 24:15, 25:19, 28:9, 29:21, 45:14, 64:19, 64:22
Constable's [1] - 33:6
constant [5] - 50:2, 50:9, 50:10, 50:11, 51:2
constantly [2] - 50:26, 63:3
consultation [1] - 28:13
contact [2] - 23:19, 47:17
contain [1] - 76:1
contained [1] - 43:18
contains [1] - 75:21
content [5] - 38:16, 38:17, 47:20, 47:29, 77:27
contents [1] - 38:4
context [9] - 3:23, 4:4, 17:13, 33:16, 35:20, 38:6, 64:11, 72:22, 77:28
continuance [1] - 48:1
continue [1] - 41:24
CONTINUED [1] - 79:4
continues [1] - 75:7
continuing [1] - 75:15
contrary [1] - 33:11
control [2] - 61:19, 61:21
convenient [1] - 67:28
conversation [5] - 15:13, 16:17, 31:21, 57:12, 57:23
Cookstown [1] - 50:13
cooperate [1] - 55:26
cooperation [3] - 46:28, 47:5, 47:14
cooperative [1] - 77:17
coordinated [4] - 59:11, 65:1, 65:2, 65:3
coordination [2] - 65:6, 65:9
copy [3] - 9:17, 36:21, 43:13
Core [28] - 69:10, 69:14, 69:23, 70:6, 70:24, 71:6, 71:10, 71:19, 71:20, 71:24, 71:28, 72:1, 72:4, 72:9, 72:12, 72:27, 73:13, 73:23, 74:1, 74:5, 75:4, 75:11, 76:6, 76:9, 76:13, 76:22, 76:24, 77:16
core [1] - 47:8
corporate [1] - 33:22
correct [42] - 3:17, 3:28, 4:5, 6:23, 8:1, 8:6, 9:3, 9:26, 9:27, 10:1, 10:5, 10:11, 10:26, 11:5, 11:11, 11:15, 12:26, 14:5, 15:28, 23:22, 24:3, 24:8, 26:17, 27:24, 28:2, 31:6, 34:27, 35:2, 37:7, 38:9, 38:10, 38:22, 42:28, 43:11, 43:17, 43:25, 44:23, 46:5, 46:25, 46:27, 47:2, 63:3
correctly [2] - 28:14, 37:1
correlate [1] - 44:19
corresponding [1] - 39:2
corridor [2] - 16:18, 20:6
counsel [1] - 59:26
counterintelligence [1] - 7:21
counterpart [1] - 56:29
couple [2] - 31:8, 46:16
course [16] - 7:3, 9:23, 18:21, 25:23, 33:21, 40:3, 48:5, 55:6, 55:29, 56:25, 61:28, 66:19, 67:16, 67:18, 70:15, 73:29
court [1] - 3:14
covers [1] - 30:25
coy [1] - 48:2
crazy [1] - 65:8
create [1] - 50:4
created [1] - 42:24
creates [1] - 25:22
credibility [1] - 39:28
credible [1] - 40:3
crime [4] - 10:15, 10:18, 34:11, 40:12
Crime [1] - 10:19
criminal [1] - 26:10
criticism [1] - 3:19
criticisms [2] - 33:18, 33:22
crossed [2] - 54:25, 54:27
crossings [1] - 20:28
current [1] - 41:7
cut [2] - 41:23, 51:22

D

damage [2] - 29:19, 54:29
danger [1] - 50:26
dangerous [2] - 50:24, 53:12
dark [1] - 44:27
data [2] - 26:9, 69:16
database [1] - 34:3
DATE [1] - 78:9
date [5] - 35:14, 44:13, 60:23, 71:8, 78:3
dates [2] - 44:22
day" [1] - 11:25
day-to-day [1] - 54:13
days [3] - 11:10, 23:15, 61:26
DCI [1] - 7:13
de [1] - 52:26
de-escalation [1] - 52:26
deal [9] - 18:14, 23:25, 38:1, 38:11, 41:2, 48:9, 53:2, 64:16, 64:20
dealing [3] - 10:8, 15:14, 24:18
dealt [3] - 26:29, 27:2, 31:6
debrief [1] - 38:19
decided [1] - 38:28
deciding [1] - 18:13
decision [7] - 28:3, 28:13, 28:15, 31:27, 54:28, 60:9, 63:6
decision-making [1] - 31:27
decisions [3] - 38:27, 60:6, 60:8
dedication [1] - 52:23
deep [1] - 7:28
deepening [2] - 73:3, 73:4
deeply [1] - 61:2
deescalate [1] - 54:15
defecting [1] - 46:22
defective [1] - 34:13
Defence [2] - 4:20, 5:26
deficient [1] - 35:6
definitively [1] - 76:28
degrade [2] - 49:21, 51:15
degree [4] - 46:28, 47:14, 47:16, 76:5
deliberate [1] - 66:4
deliberately [1] - 23:2
deliver [1] - 74:28
delivered [1] - 72:3
delivering [1] - 57:11
delusional [1] - 39:19
departure [1] - 45:26
depicted [1] - 29:14
deploy [4] - 11:2, 21:4, 51:2, 53:2
deploy' [1] - 13:6
deployed [5] - 4:12, 4:15, 5:13, 5:18, 50:16
deployment [3] - 4:10, 5:15, 50:10
deputy [2] - 9:28, 10:14
Deputy [7] - 10:12, 10:13, 10:28, 11:23, 15:25, 33:1, 45:14
describe [3] - 7:1, 39:29, 55:16
described [12] - 3:11, 5:5, 15:17, 18:20, 23:6, 27:21, 40:10, 42:27, 46:19, 74:7, 75:13
describing [2] - 27:17, 74:3
description [1] - 12:27
descriptions [1] - 14:18
designed [1] - 73:24
destroy [1] - 6:1
destroyed [3] - 6:20, 29:24, 63:19
destruction [3] - 6:3, 6:10, 6:15
detail [5] - 4:2, 13:1, 13:26, 48:9, 56:22
detailed [1] - 30:17
details [3] - 14:6, 18:20, 43:26
detained [1] - 22:13
detect [1] - 19:18
detective [4] - 27:18, 27:19, 29:5, 40:12
Detective [10] - 3:3, 3:26, 5:28, 27:10, 45:9, 45:10, 46:1, 56:6, 65:24, 68:12
detectives [1] - 53:19
deter [2] - 19:19, 51:15
determination [1] - 70:28
determined [1] - 76:2
deterrent [2] - 18:26, 19:20
devastation [1] - 5:3
develop [1] - 43:3
developed [2] - 43:7, 72:18
device [1] - 17:15
devices [1] - 50:28
diesel [2] - 41:11, 41:14
difference [3] - 5:10, 66:26, 66:27
different [16] - 6:12, 8:3, 9:15, 23:12, 30:1, 31:16, 33:13, 37:4, 37:13, 47:4, 47:14, 48:27, 52:1, 52:2, 53:15, 66:3
difficult [2] - 35:9, 50:1
diminish [1] - 69:29
direct [8] - 3:1, 3:24, 8:19, 23:19, 26:2, 43:2, 43:9, 46:14
directed [1] - 70:11

direction [1] - 46:14
directly [3] - 12:23, 45:16, 56:2
disadvantages [3] - 69:22, 69:24, 70:5
disagree [2] - 31:14, 49:11
disclose [2] - 12:7, 42:2
disclosed [4] - 56:12, 58:17, 75:11, 76:6
disclosure [5] - 58:15, 75:4, 75:14, 75:16, 76:9
discourtesy [2] - 39:26, 61:14
discover [2] - 60:25, 65:14
discovered [1] - 65:12
discrete [1] - 25:27
discuss [4] - 10:3, 60:3, 62:14, 63:24
discussed [6] - 13:20, 13:27, 20:10, 28:8, 28:10, 62:22
discussing [2] - 11:12, 48:23
discussion [7] - 13:5, 13:16, 14:23, 14:28, 15:1, 15:4, 28:21
discussions [2] - 34:29, 64:14
dismissed [1] - 23:4
dismissive [1] - 22:16
disparate [1] - 69:16
dispute [2] - 29:21, 58:11
disputing [1] - 30:3
disrupt [1] - 49:20
disrupted [1] - 51:3
disseminate [1] - 53:8
disseminated [1] - 51:10
disseminating [1] - 53:19
dissemination [2] - 53:17, 57:29
dissident [1] - 46:23
dissimilar [1] - 33:22
distance [2] - 4:23, 69:12
distracted [1] - 31:24
divide [3] - 12:2, 12:3, 39:23
divided [1] - 53:15
division [3] - 4:16, 20:12, 20:14
Divisional [1] - 5:21
divisional [4] - 10:16, 55:19, 56:4, 56:6
divisions [2] - 10:17, 11:4
DNA [1] - 65:14
document [12] - 38:20, 44:26, 57:16, 57:18, 57:20, 58:2, 58:5, 58:12, 58:21, 71:13, 73:11, 73:12
documentation [2] - 8:21, 38:27
documents [7] - 6:24, 32:12, 32:17, 32:18, 35:12, 44:17, 75:19
domestic [2] - 7:26, 36:25
done [7] - 4:29, 21:16, 29:19, 30:17, 30:28, 31:1, 34:15
doubt [1] - 5:12
down [7] - 19:29, 28:29, 29:6, 30:9, 51:20, 57:24, 77:6
down' [1] - 29:11
downward [1] - 58:15
downwards [1] - 57:29
draw [1] - 69:15
drove [1] - 58:23
due [3] - 48:5, 67:18, 73:29
Dungannon [6] - 50:13, 59:17, 60:23, 61:20, 63:17, 65:7
during [12] - 20:27, 33:21, 40:14, 46:9, 55:6, 55:25, 55:29, 56:24, 59:9, 71:17, 71:29, 72:11
duty [1] - 5:19
dynamic [1] - 44:28

E

earliest [1] - 77:12
early [4] - 23:23, 27:7, 45:27, 47:24
ease [1] - 26:29
easier [1] - 9:20
Easter [1] - 77:3
effect [6] - 19:20, 33:9, 51:16, 63:20, 64:2, 72:15
effective [1] - 17:20
effectiveness [1] - 69:29
eight [1] - 38:13
either [4] - 19:18, 19:23, 40:20, 56:2
elaborate [2] - 41:29, 49:27
electricity [3] - 30:13, 36:4, 36:5
elements [3] - 16:22, 42:25, 73:20
embark [1] - 71:22
emphasis [1] - 23:16
emphasised [1] - 23:23
en [1] - 17:16
end [4] - 39:3, 46:4, 53:15, 68:29
ended [1] - 16:17
endless [1] - 35:17
enforced [1] - 42:18
engage [1] - 73:23
engaged [1] - 77:18
engagement [2] - 3:24, 59:27
England [2] - 8:3, 62:1
Enniskillen [4] - 37:7, 37:10, 55:18, 56:1
Enniskillen' [1] - 58:24
ensure [3] - 27:12, 53:10, 61:4
enter [1] - 4:26
entirely [2] - 16:22, 43:1
entirety [1] - 69:27
environment [2] - 50:2, 54:9
equally [1] - 24:6
equation [1] - 52:19
equipment [1] - 54:5
equity [1] - 75:9
era [1] - 66:1
escalation [1] - 52:26
establish [6] - 6:2, 9:3, 10:6, 10:27, 57:5, 68:16
established [2] - 5:29, 8:6
et [1] - 44:4
Evans [15] - 3:4, 3:27, 6:13, 34:25, 43:4, 43:14, 44:15, 44:29, 45:4, 45:10, 45:26, 46:18, 52:21, 63:4, 64:13
event [4] - 4:7, 58:6, 72:9, 73:13
events [1] - 59:22
evidence [54] - 3:9, 3:14, 3:21, 4:11, 4:19, 4:28, 5:7, 7:5, 17:26, 17:27, 18:6, 23:13, 23:22, 29:13, 32:19, 39:10, 39:13, 40:17, 41:12, 46:18, 48:23, 53:5, 54:20, 58:29, 62:26, 65:20, 66:20, 67:10, 67:13, 68:11, 68:19, 68:24, 69:6, 69:14, 69:28, 70:1, 70:9, 70:16, 70:18, 71:5, 71:8, 71:17, 72:18, 73:4, 73:20, 73:25, 74:15, 74:28, 75:24, 76:7, 76:23, 76:26, 77:2, 77:10
evidential [1] - 58:28
exactly [3] - 4:29, 5:1, 16:16
example [5] - 3:13, 4:21, 56:8, 56:25, 67:12
excellent [2] - 31:1, 55:19
exception [1] - 8:8
exceptionally [1] - 53:7
exchange [1] - 39:13
exchanges [1] - 58:8
exchanging [1] - 55:22
exclusive [2] - 25:14, 41:16
exclusively [1] - 49:9
executed [1] - 57:7
exhaustive [1] - 29:18
exhibit [1] - 60:24
exhibits [4] - 59:17, 61:20, 64:21, 65:7
exist [2] - 8:27, 52:6
existed [1] - 6:21
existence [2] - 26:15, 41:9
expect [1] - 52:6
expectation [3] - 72:4, 72:14, 74:7
expected [1] - 72:27
experience [11] - 18:24, 18:28, 19:2, 20:23, 23:10, 26:14, 36:11, 49:29, 52:22, 55:11, 58:7
experienced [3] - 23:6, 23:7, 57:27
experts [2] - 76:13, 76:19
explain [4] - 35:5, 48:1, 50:23, 51:23
explained [6] - 3:9, 6:18, 8:17, 11:6, 51:28, 71:1
explaining [1] - 34:2
explains [1] - 53:13
explanation [3] - 25:18, 55:6, 59:15
explore [2] - 4:18, 48:2
explored [3] - 38:8, 62:9, 67:12
explosives [2] - 41:13, 41:15
expose [3] - 3:14, 3:17, 51:23
expressed [2] - 48:13, 68:22
expression [1] - 46:22
expressly [1] - 14:21
extent [7] - 20:9, 20:11, 33:28, 33:29, 42:8, 58:7, 61:9
external [1] - 42:22

F

face [1] - 50:25
facing [1] - 50:28
fact [15] - 4:28, 5:18, 6:20, 14:29, 17:5, 23:11, 23:18, 25:26,

29:26, 30:8, 30:25, 34:24, 59:26, 61:7, 73:21
facts [1] - 70:8
failed [2] - 29:23, 30:7
failing [2] - 72:10, 73:9
failings [5] - 72:5, 72:14, 72:29, 73:14, 73:19
failure [2] - 53:6, 53:10
fair [3] - 3:6, 5:14, 23:21
fairness [2] - 23:25, 23:27
fall [1] - 49:2
falling [2] - 49:9, 51:27
falls [1] - 75:27
falsity [1] - 8:24
familiar [2] - 11:7, 16:7
families [1] - 29:22
far [4] - 23:11, 47:13, 58:4, 73:20
far' [1] - 47:22
fashioned [1] - 35:27
fast [2] - 5:15, 5:22
fault [1] - 3:29
feature [1] - 47:7
February [3] - 27:9, 43:15, 44:26
Fee [1] - 42:7
FEE [1] - 79:7
felt [10] - 28:25, 28:28, 29:4, 29:15, 35:10, 39:16, 53:7, 58:13, 60:4, 64:15
few [3] - 22:11, 25:5, 60:27
fiction [1] - 40:16
fictitious [2] - 40:27, 40:28
fifth [1] - 19:11
final [3] - 22:27, 59:5
finalised [2] - 43:15, 77:8
finally [1] - 77:15
findings [2] - 31:22, 73:29
fine [1] - 56:12
finished [1] - 6:25
fire [1] - 3:11
firm [1] - 66:3
first [25] - 6:5, 9:16, 18:28, 19:21, 19:29, 23:28, 25:19, 27:19, 28:15, 36:13, 39:19, 47:12, 50:19, 53:1, 53:27, 60:16, 63:15, 69:1, 69:6, 69:8, 69:27, 70:25, 71:1, 77:1, 77:12
firstly [1] - 7:9
five [1] - 32:16
fix [1] - 78:3
fixed [1] - 34:26
FIXED [1] - 78:9
Flanagan [1] - 23:14
flaw [1] - 51:25
flawed [5] - 29:14, 29:28, 30:1, 30:8, 31:28
flow [1] - 31:21
flowed [2] - 31:29, 63:11
fluid [2] - 44:27, 46:16
fluidity [3] - 46:20, 46:26, 46:27
focus [3] - 20:8, 24:17, 71:18
focused [3] - 68:19, 74:12, 77:11
focusing [1] - 62:21
follow [1] - 75:8
followed [3] - 4:29, 5:3, 77:10
following [4] - 11:24, 14:3, 14:16, 69:6
FOLLOWS [4] - 9:10, 37:23, 68:3, 68:7
forces [4] - 18:12, 22:8, 52:6, 54:12
forensic [2] - 29:8, 41:12
forensics [2] - 32:15, 34:16
form [3] - 38:11, 69:3, 77:28
formal [4] - 55:22, 55:27, 56:20, 58:10
formally [1] - 71:21
format [1] - 51:3
formed [2] - 8:25, 32:6
former [1] - 17:25
forms [1] - 57:18
forth [2] - 16:4, 31:15
fortnight [1] - 50:29
forum [6] - 7:4, 26:10, 43:29, 59:19, 62:14, 63:24
forward [2] - 26:24, 67:21
four [3] - 10:16, 10:17, 17:5
frame [1] - 59:21
fresh [1] - 70:2
Friday [5] - 3:9, 7:5, 9:23, 59:27, 66:9
friends [2] - 20:21, 22:28
front [1] - 9:18
frustratingly [1] - 57:27
fuel [1] - 41:12
full [4] - 65:8, 65:20, 69:18, 74:2
fully [1] - 51:24
Fulton [7] - 31:14, 37:29, 38:20, 38:23, 38:26, 38:28, 42:5
Fulton's [2] - 39:28, 41:5
future [3] - 35:11, 69:13, 70:26
Féin [4] - 47:16, 47:19, 47:25, 47:28

G

Gallagher [1] - 25:9
Garda [10] - 11:23, 12:6, 12:15, 12:16, 12:28, 25:4, 60:9, 61:25, 65:18, 66:28
gather [1] - 5:12
gathering [2] - 7:21, 7:26
gauge [1] - 40:26
gender [1] - 14:18
general [5] - 7:2, 27:18, 35:15, 43:28, 48:19
generally [3] - 17:21, 25:13, 55:8
generally-recognised [1] - 25:13
gift [1] - 11:2
given [17] - 3:23, 5:29, 6:23, 25:24, 44:6, 58:1, 59:2, 60:7, 67:11, 67:13, 69:10, 69:25, 70:26, 73:11, 74:1, 75:23, 75:24
Government [6] - 39:4, 42:10, 47:21, 47:26, 54:14
grading [1] - 44:10
gradings [1] - 44:9
grateful [1] - 77:16
gravitated [1] - 36:2
Greaney [8] - 15:17, 17:18, 46:19, 48:24, 54:21, 68:5, 77:22, 78:6
GREANEY [13] - 9:6, 37:17, 66:8, 67:8, 67:26, 67:29, 68:7, 68:9, 77:25, 77:29, 78:5, 78:7, 79:11
great [2] - 4:23, 69:28
greater [2] - 21:26, 21:28
greatly [1] - 59:3
ground [3] - 4:28, 5:20, 56:24
grounds [1] - 58:26
group [2] - 47:8, 49:21
groups [3] - 46:29, 47:6, 47:15
guarantee [1] - 39:5
guard [1] - 61:29
Guards [12] - 10:4, 12:9, 12:13, 12:14, 12:24, 12:27, 13:2, 13:4, 13:28, 17:11, 23:8, 65:21
guessing [1] - 16:20
guidance [2] - 52:12, 58:19
guiding [1] - 44:29

H

half [2] - 6:27, 13:23
Hamilton [1] - 32:29
hampers [1] - 59:3
hand [1] - 37:6
handed [1] - 64:22
handled [1] - 7:27
handlers [1] - 50:25
hands [1] - 45:20
hands-on [1] - 45:20
handwritten [2] - 40:14, 41:8
happy [1] - 43:1
hard [5] - 5:15, 5:22, 33:12, 52:20, 55:7
hardcopy [1] - 35:27
head [1] - 40:11
Head [12] - 10:9, 10:18, 16:17, 23:20, 23:29, 24:3, 24:6, 24:11, 25:20, 25:21, 56:6
headlines [1] - 78:1
Headquarters [2] - 12:25, 27:10
hear [1] - 9:13
heard [13] - 4:19, 4:28, 26:22, 68:11, 68:24, 69:7, 69:14, 70:19, 71:8, 71:17, 72:1, 74:24, 77:5
hearing [11] - 4:7, 8:16, 11:14, 42:2, 42:3, 47:23, 48:3, 60:29, 74:16, 76:11, 77:9
hearings [8] - 69:9, 71:29, 74:29, 75:24, 76:8, 76:24, 76:26, 77:2
heart [2] - 61:25, 62:4
heavily [1] - 34:14
held [3] - 3:5, 7:14, 38:19
help [1] - 3:29
helped [1] - 31:1
helpful [8] - 13:7, 30:29, 44:8, 51:23, 55:2, 67:7, 73:18, 78:2
helpfully [4] - 11:6, 17:18, 42:27, 51:28
helps [3] - 34:11, 34:23, 35:5
HENRY [4] - 9:9, 9:12, 37:26, 79:8
Henry [3] - 9:6, 37:18, 37:25
high [2] - 46:21, 47:14
higher [2] - 21:27, 50:19
highest [1] - 76:5
highly [1] - 70:17
hit [1] - 34:8
hmm [3] - 49:24, 50:7, 57:6

Hoey [3] - 46:4, 54:4, 62:12
Hoey's [1] - 54:3
holders [1] - 75:9
HOLMES [24] - 30:12, 30:13, 31:11, 32:5, 33:16, 33:19, 33:25, 34:2, 34:5, 34:10, 34:26, 35:5, 35:10, 35:13, 35:22, 35:26, 36:3, 36:10, 36:11, 36:14, 36:19, 36:20, 36:25, 36:28
home [1] - 54:5
hope [3] - 35:5, 53:12, 66:3
hoped [1] - 75:26
hopeful [1] - 35:12
hopefully [1] - 59:5
Horner's [1] - 25:8
hotel [1] - 56:8
house [3] - 34:16, 54:3
Houston [1] - 30:9
huge [4] - 8:21, 19:20, 21:6, 22:6
human [3] - 34:21, 44:4, 67:6
hurt [1] - 29:22
hypothesis [4] - 8:29, 9:3, 68:17, 68:22

I

icing [1] - 41:20
idea [3] - 13:3, 18:24, 48:17
identified [9] - 6:4, 17:26, 36:24, 48:11, 62:5, 71:7, 72:9, 72:15, 73:14
identifies [1] - 30:20
identify [3] - 32:11, 50:5, 71:6
identifying [1] - 53:3
ignored [1] - 64:24
immediate [1] - 56:9
immediately [1] - 30:15
impact [3] - 30:22, 34:19, 35:22
impacted [1] - 35:7
impartial [1] - 40:26
importance [2] - 72:23, 74:8
important [3] - 70:15, 75:7, 76:5
impossibility [1] - 20:25
impossible [2] - 20:29, 21:4
inaccurate [1] - 23:1
inappropriate [1] - 74:4
Incident [2] - 36:22, 36:24
incident [7] - 37:11, 48:18, 52:16, 53:9, 53:20, 53:27, 56:26
incident' [1] - 60:21
incidents [21] - 24:23, 25:6, 32:6, 32:12, 32:14, 33:3, 33:8, 35:24, 43:19, 43:27, 48:8, 48:10, 48:11, 48:13, 51:18, 51:19, 64:29, 74:18, 74:19, 74:25, 76:17
included [2] - 3:13, 26:3
including [4] - 3:21, 8:22, 67:12, 70:20
incorrect [2] - 5:2, 29:29
increase [1] - 52:9
increased [2] - 50:21, 51:19
increasing [2] - 52:7, 53:12
indeed [4] - 4:6, 9:14, 30:20, 76:25
INDEX [1] - 79:1
indicate [1] - 77:15
indicated [6] - 4:11, 4:14, 28:19, 31:28, 66:8, 74:12
indicates [2] - 57:17, 58:23
indication [3] - 25:24, 58:26, 71:12
indications [1] - 44:6
individual [3] - 6:23, 8:29, 18:7
individuals [3] - 8:14, 64:8, 66:21
ineffectual [1] - 58:19
inevitable [2] - 70:1, 71:16
infiltrate [1] - 52:11
influence [1] - 64:2
inform [1] - 13:11
informant [1] - 62:5
information [42] - 4:2, 4:6, 5:2, 5:11, 5:12, 8:26, 10:4, 12:6, 12:9, 12:21, 12:29, 13:12, 13:25, 13:26, 14:14, 16:28, 17:10, 22:21, 23:1, 24:9, 24:12, 29:16, 34:5, 34:8, 34:19, 38:12, 44:13, 44:14, 44:16, 51:9, 51:28, 53:17, 53:19, 55:22, 56:19, 57:10, 57:22, 58:3, 59:2, 65:4, 75:21, 76:1
informed [2] - 11:23, 44:14
informer [1] - 39:18
ingenuity [2] - 52:23, 55:7
inherent [1] - 21:21
inherited [2] - 32:24, 33:20
inheriting [1] - 33:26
inhibit [2] - 33:28, 34:1
initial [3] - 43:6, 57:11, 57:13
injured [1] - 47:28
input [2] - 34:29, 35:15
inputting [1] - 34:12
inquest [1] - 34:17
inquiries [1] - 29:8
INQUIRY [3] - 37:23, 68:3, 78:9
Inquiry [48] - 4:17, 4:19, 4:27, 5:11, 6:12, 8:15, 8:17, 8:20, 9:3, 13:17, 18:1, 18:5, 26:3, 26:8, 27:11, 27:12, 28:18, 28:29, 32:20, 32:23, 33:23, 35:21, 40:25, 41:9, 44:25, 48:9, 48:11, 50:23, 54:18, 58:7, 66:2, 68:21, 69:26, 70:21, 71:8, 71:16, 71:19, 72:21, 72:23, 74:23, 74:27, 74:29, 75:7, 75:15, 75:23, 76:5, 76:14, 76:22
inquiry [3] - 29:20, 59:26, 72:24
Inquiry's [7] - 36:10, 69:9, 69:11, 69:17, 69:18, 69:28, 74:24
insofar [2] - 17:11, 47:5
Inspector [8] - 3:4, 3:27, 45:11, 46:1, 55:20, 56:5, 56:6, 65:24
instance [3] - 28:15, 54:2, 56:7
instances [1] - 57:22
instead [1] - 31:22
instructed [2] - 6:2, 76:14
instruction [1] - 63:18
instructions [1] - 60:8
integrity [1] - 65:27
intelligence [47] - 3:1, 3:2, 3:12, 3:15, 3:18, 3:21, 3:22, 3:25, 4:3, 7:12, 7:23, 7:26, 8:19, 8:20, 8:22, 8:26, 42:12, 43:10, 43:19, 43:23, 44:4, 44:9, 44:17, 44:20, 45:17, 45:27, 45:28, 46:5, 46:9, 46:13, 50:4, 50:22, 50:26, 51:12, 53:24, 53:25, 54:11, 56:15, 57:18, 58:22, 58:23, 58:29, 61:6, 62:18, 63:9, 67:6
intelligence' [1] - 57:5
intelligence-gathering [1] - 7:26
intended [1] - 73:24
intending [1] - 12:19
intensive [3] - 36:20, 37:2
intention [1] - 28:20
interaction [1] - 58:8
interchangeable [1] - 66:28
interest [3] - 33:2, 36:10, 45:21
interested [3] - 26:8, 28:24, 35:21
interests [3] - 13:9, 14:13, 40:25
interfaced [1] - 56:4
interfere [1] - 62:29
interference [1] - 62:24
interject [1] - 17:16
internally [1] - 65:2
interrupting [1] - 39:22
intervene [1] - 58:10
intervening [1] - 48:15
intervention [3] - 48:22, 48:26, 49:22
interview [5] - 38:23, 38:29, 40:14, 60:10, 65:22
interviewed [1] - 40:13
introduce [1] - 38:5
investigate [3] - 40:13, 56:10, 64:26
investigating [1] - 53:20
investigation [55] - 3:3, 16:8, 23:24, 25:26, 26:27, 27:27, 29:2, 29:3, 29:13, 29:18, 29:24, 29:25, 29:27, 29:29, 30:7, 31:9, 31:18, 32:3, 32:7, 32:23, 33:1, 33:25, 34:1, 34:24, 35:23, 35:27, 36:6, 36:12, 36:17, 37:4, 37:16, 38:19, 40:5, 41:2, 42:13, 42:23, 46:7, 56:25, 57:15, 58:6, 59:4, 59:7, 59:8, 59:13, 60:1, 61:24, 62:26, 62:29, 63:10, 65:28, 66:5, 68:26, 71:12, 72:6
investigations [11] - 31:29, 34:16, 35:23, 36:14, 36:16, 36:28, 37:5, 56:1, 75:26, 76:16, 76:18
investigative [2] - 8:29, 26:16

investigator [2] - 3:11, 34:10
investigators [3] - 52:24, 53:8, 53:18
invitation [3] - 70:10, 77:23, 77:26
invited [2] - 70:7, 71:24
involve [2] - 69:9, 77:9
involved [12] - 25:5, 27:12, 32:8, 32:9, 36:16, 45:16, 50:5, 52:13, 62:13, 63:5, 63:13, 64:8
involvement [1] - 40:11
involving [1] - 20:4
IRA [1] - 47:28
Ireland [9] - 7:8, 7:12, 7:15, 7:22, 7:26, 8:9, 9:7, 24:27, 52:27
irrespective [1] - 21:18
irvinestown [1] - 56:9
Irvinestown [1] - 56:26
isolated [1] - 51:16
issue [37] - 10:4, 16:12, 22:6, 23:13, 23:26, 25:13, 25:27, 29:26, 30:16, 31:11, 31:13, 31:17, 32:6, 33:16, 35:22, 36:3, 36:10, 37:29, 38:6, 38:7, 39:24, 41:5, 41:10, 42:7, 42:10, 47:26, 48:5, 48:8, 51:10, 51:20, 53:9, 59:26, 60:24, 61:15, 64:11, 64:20, 73:25
issued [2] - 31:6, 77:24
issues [18] - 9:16, 22:7, 30:24, 30:25, 30:26, 31:5, 41:6, 41:7, 60:3, 66:1, 67:11, 68:18, 70:17, 71:9, 72:7, 72:24, 74:8, 74:23
itself [1] - 58:29

J

job [3] - 28:26, 28:28, 50:24
John [14] - 59:16, 60:2, 60:5, 60:10, 60:15, 61:6, 61:15, 61:23, 61:29, 62:9, 65:18, 65:19, 65:23, 65:27
joint [1] - 62:2
jointly [1] - 62:7
Jones [15] - 3:3, 3:26, 6:13, 34:25, 43:4, 43:14, 44:15, 44:28, 45:3, 45:8, 45:9, 45:26, 46:18, 63:4, 64:13
journal [1] - 60:4
journals [1] - 64:14
judge [1] - 70:6
judgment [1] - 25:8
judicial [2] - 25:9, 31:23
July [6] - 6:1, 16:4, 60:13, 60:25, 62:6, 64:7
June [5] - 59:29, 60:16, 61:2, 64:7, 67:14
just.. [1] - 15:3
Justice [1] - 25:8
justice [1] - 26:10
justified [1] - 58:14

K

keen [1] - 33:2
kept [3] - 20:26, 26:25, 44:26
Kevin [3] - 37:29, 38:26, 38:28
key [3] - 64:10, 70:8, 71:5
Kincaid [2] - 64:19, 64:22
kind [6] - 27:16, 27:21, 33:5, 48:25, 63:20, 64:7
kinds [2] - 18:29, 48:27
Kingdom [1] - 51:13
know.. [1] - 17:2
knowing [2] - 50:8, 65:24
knowledge [9] - 3:24, 7:28, 14:28, 14:29, 15:2, 21:8, 26:1, 26:20, 34:14
known [5] - 7:13, 14:24, 22:10, 24:16, 44:10

L

label [1] - 53:16
labour [1] - 36:20
lack [3] - 36:4, 36:5
laid [1] - 9:1
land [1] - 22:5
landlord [1] - 45:21
landmine [1] - 22:2
language [3] - 31:29, 59:10, 72:29
large [1] - 47:28
largely [1] - 7:27
last [6] - 8:10, 9:23, 20:13, 37:14, 37:15, 68:13
lead [11] - 7:1, 7:4, 7:9, 7:11, 7:15, 7:17, 7:19, 7:21, 8:4, 13:8, 53:25
lead' [1] - 7:10
leadership [3] - 30:1, 47:20, 47:29
leading [6] - 16:9, 25:19, 26:11, 30:19, 35:24, 61:26
learned [2] - 20:21, 22:28
least [2] - 29:8, 69:22
leave [2] - 18:3, 54:16
leaving [1] - 6:25
led [2] - 13:21, 28:21
left [10] - 6:27, 17:1, 22:15, 22:18, 30:28, 35:13, 54:24, 64:20, 64:23, 66:11
legal [3] - 30:5, 31:23, 39:3
Legal [11] - 68:21, 70:21, 71:9, 71:16, 71:19, 72:21, 74:23, 74:28, 74:29, 76:6, 76:22
legislation [1] - 8:6
length [1] - 69:26
less [4] - 22:3, 46:6, 70:2
level [11] - 10:22, 33:23, 40:20, 47:16, 50:18, 53:27, 53:29, 54:6, 54:9, 55:24, 56:4
liaised [3] - 3:6, 56:5, 56:10
liaising [1] - 56:2
liaison [1] - 3:27
library [1] - 34:4
life [3] - 9:20, 39:15, 40:10
life-long [1] - 39:15
likelihood [1] - 48:14
likely [10] - 16:15, 16:19, 18:23, 19:2, 20:17, 22:3, 70:17, 71:22, 75:28, 77:9
likewise [2] - 12:4, 33:20
limitation [2] - 70:15, 70:21
limited [2] - 7:3, 50:27
line [1] - 11:20
lines [4] - 15:18, 19:29, 30:14, 36:6
link [5] - 32:13, 33:4, 33:10, 61:28
linked [4] - 32:11, 33:4, 61:1, 62:17
linking [2] - 32:15, 33:8
links [1] - 62:1
Lisburn [8] - 15:1, 15:5, 15:19, 16:18, 16:25, 41:19, 65:7
list [3] - 48:11, 71:9, 74:23
lists [1] - 74:24
live [2] - 52:13, 68:11
lives [2] - 50:25, 52:28
living [1] - 66:4
local [6] - 7:28, 10:22, 10:23, 11:3, 55:25, 56:5
location [2] - 14:27, 65:26
locations [2] - 5:14, 18:18
log [1] - 38:28
logical [1] - 17:1
logistics [3] - 18:14, 20:29, 47:10
London [1] - 62:7
look [9] - 19:28, 38:15, 46:11, 51:17, 54:9, 54:18, 58:27, 61:9, 67:21
looking [12] - 6:27, 11:20, 17:7, 19:6, 32:15, 39:4, 39:13, 39:15, 44:2, 64:29, 65:4
Lord [1] - 37:26
lost [1] - 41:25
Louth [2] - 24:22, 25:2
lower [1] - 24:9
lying [3] - 40:20, 40:21

M

Mahon [3] - 9:17, 9:25, 22:18
Mahon's [1] - 56:8
main [4] - 19:9, 19:13, 20:26, 50:15
mainland [1] - 65:23
maintain [1] - 46:10
maintained [1] - 46:3
maintenance [2] - 29:1, 29:2
Majesty's [1] - 42:10
Major [2] - 36:21, 36:24
major [3] - 36:27, 37:11, 51:7
make/model [1] - 18:19
maker [2] - 54:3, 62:13
maker' [1] - 54:4
managed [1] - 55:24
management [5] - 29:4, 29:27, 42:25, 51:10, 60:7
manager [3] - 45:28, 46:10, 46:13
manifested [1] - 62:25
manual [1] - 36:22
manufacturing [1] - 41:15
Martin [1] - 38:20
match [1] - 50:20
Material [1] - 75:19
material [23] - 3:5, 4:16, 26:16, 38:18, 43:10, 45:1, 47:19, 61:23, 63:2, 63:14, 69:17, 73:5, 73:6, 75:1, 75:4, 75:6, 75:8, 75:15, 75:20, 75:27, 75:29, 76:7, 76:10
materials [4] - 11:12, 42:12,

43:10, 46:12
matter [3] - 3:10, 30:1, 51:13
matters [3] - 3:21, 13:22, 71:23
Maydown [2] - 27:9, 36:8
McArthur [8] - 27:10, 27:17, 28:6, 28:19, 28:25, 30:9, 33:2, 33:11
McArthur's [1] - 32:29
McClure [1] - 5:28
McCreesh [10] - 9:29, 11:8, 12:8, 13:12, 14:29, 15:8, 15:11, 15:24, 16:14, 23:1
McCreesh's [2] - 10:21, 23:3
McGOWAN [1] - 79:6
McKevitt [1] - 47:17
McVicker [4] - 30:20, 32:27, 32:28, 33:17
mean [15] - 7:11, 14:26, 17:9, 22:16, 26:28, 30:24, 39:26, 48:17, 48:29, 53:18, 55:28, 56:28, 59:8, 61:14, 74:19
means [6] - 7:11, 7:20, 34:21, 38:5, 43:13, 75:14
meant [3] - 7:25, 30:6, 34:13
meantime [1] - 67:20
measure [1] - 51:1
mechanism [1] - 54:26
media [1] - 29:15
meet [2] - 57:8, 63:8
meeting [8] - 9:16, 9:24, 9:28, 22:23, 27:9, 61:8, 63:9, 67:14
meetings [4] - 43:4, 45:19, 45:22, 60:7
members [4] - 48:2, 56:3, 74:27, 74:29
memory [6] - 15:9, 16:23, 34:21, 36:7, 57:3, 57:7
mention [2] - 23:27, 41:6
mentioned [17] - 13:15, 13:19, 15:5, 15:7, 15:10, 15:29, 41:5, 46:16, 46:20, 46:26, 49:19, 55:6, 57:20, 61:15, 61:16, 61:20, 77:22
mentor [1] - 27:22
Merseyside [3] - 33:20, 45:10, 45:12
message [1] - 17:25
met [2] - 56:28, 60:2
methodology [1] - 58:18
MI5 [7] - 7:6, 7:7, 7:16, 7:22, 8:2, 8:4, 8:6
MI5/Garda [1] - 62:8
Michael [1] - 47:17
middle [2] - 14:22, 64:5
might [15] - 4:6, 8:14, 19:4, 25:17, 25:25, 28:1, 30:28, 31:1, 45:15, 49:14, 49:20, 51:28, 53:14, 72:18, 73:26
military [4] - 5:19, 20:4, 21:15, 51:14
mind [10] - 7:13, 20:11, 36:10, 43:28, 44:19, 51:23, 54:24, 59:19, 70:21, 76:3
minds [1] - 70:2
mines [1] - 22:5
Ministry [2] - 4:19, 5:26
minor [1] - 19:8
minutes [3] - 46:17, 66:13, 68:1
MIRIAM [4] - 36:1, 36:2, 37:8, 37:12
mis [1] - 42:28
mis-summarised [1] - 42:28
missing [3] - 30:25, 51:5, 52:19
mistake [2] - 72:10, 73:9
mistakes [5] - 72:5, 72:14, 72:29, 73:14, 73:19
misunderstand [1] - 24:25
misunderstood [1] - 5:7
mitigate [2] - 21:22, 21:23
MoD [1] - 4:19
model [2] - 14:7, 45:23
modern [1] - 41:1
moment [10] - 13:15, 13:19, 13:26, 19:28, 32:5, 38:3, 55:13, 59:10, 61:13, 62:21
money [1] - 39:7
monitored [1] - 65:5
month [1] - 60:12
months [3] - 44:27, 60:27, 75:6
Mooney's [1] - 62:9
morale [1] - 29:24
morning [4] - 5:20, 8:18, 42:9, 63:8
mortars [2] - 51:1, 54:10
most [3] - 10:24, 16:19, 18:23
mounting [1] - 46:29
move [12] - 5:5, 6:29, 22:4, 22:14, 23:12, 25:25, 32:2, 37:13, 37:28, 41:16, 48:7, 60:13
moved [2] - 13:5, 26:25
moving [3] - 16:4, 37:18, 46:23
MR [20] - 9:6, 9:9, 9:12, 37:17, 37:26, 66:8, 67:8, 67:26, 67:29, 68:7, 68:9, 77:25, 77:29, 78:5, 78:7, 79:4, 79:6, 79:8, 79:11
MS [1] - 79:7
multiple [1] - 20:28
murder [1] - 36:16
murdered [1] - 22:12
murders [2] - 36:25, 40:11
must [1] - 22:24

N

name [10] - 6:4, 6:6, 6:9, 6:11, 17:26, 18:7, 28:22, 28:23, 40:27
namely [1] - 70:12
names [1] - 14:18
narrow [1] - 72:7
narrowing [2] - 72:24, 74:8
national [11] - 7:1, 7:4, 7:9, 7:12, 7:14, 7:16, 7:18, 7:23, 8:4, 8:7, 36:22
natural [2] - 25:18, 52:8
nature [4] - 22:19, 28:17, 29:20, 44:12
necessarily [5] - 37:6, 43:22, 49:8, 53:18, 63:1
necessary [2] - 53:8, 70:16
need [12] - 4:27, 13:6, 18:12, 22:4, 37:3, 38:4, 54:11, 54:27, 67:12, 69:1, 73:18, 75:22
needed [2] - 5:16, 35:12
negative [1] - 30:22
negotiations [1] - 47:25
networks [1] - 7:28
never [3] - 17:5, 22:23, 35:18
nevertheless [1] - 70:20
new [1] - 37:28
Newry [8] - 16:4, 20:5, 20:9, 20:11, 20:12, 20:14, 20:18, 21:10
newspapers [1] - 40:21
next [8] - 4:9, 6:26, 9:6, 48:8, 55:10, 74:11, 74:15, 77:3
nitrate [1] - 41:19
non [2] - 53:11, 77:17
non-predictable [1] - 53:11
non-State [1] - 77:17
none [1] - 36:19
nonetheless [2] - 5:3, 43:9
nonsense [1] - 40:29
normal [1] - 22:22
normalisation [2] - 4:13, 5:4
normally [1] - 19:7
NORMAN [2] - 9:9, 79:4
NormanBaxter.com [1] - 40:28
north [2] - 11:24, 14:2
North [5] - 23:26, 24:3, 24:24, 55:18, 66:29
north' [1] - 13:4
Northern [9] - 7:8, 7:12, 7:15, 7:22, 7:26, 8:8, 9:7, 24:27, 52:27
note [2] - 18:1, 41:8
nothing [9] - 14:8, 14:10, 14:11, 14:17, 14:18, 14:20, 32:13, 41:14, 57:23
November [1] - 32:28
number [15] - 11:19, 13:23, 14:7, 16:12, 19:29, 20:25, 21:23, 24:23, 31:25, 37:4, 41:27, 47:27, 55:12, 57:27, 64:7
numbers [3] - 19:13, 21:5, 50:15

O

O'Loan [3] - 60:3, 61:8, 67:14
objectives [3] - 70:12, 70:19, 71:5
obstructed [2] - 59:8, 61:4
obstructing [1] - 62:28
obstruction [4] - 59:12, 59:22, 60:1, 66:5
obtain [3] - 62:26, 63:2, 63:14
obtained [2] - 13:2, 38:12
obtaining [1] - 76:15
obvious [3] - 44:12, 67:11, 69:11
obviously [3] - 22:10, 26:12, 65:13
occasions [1] - 7:6
occupant [1] - 14:15
occupants [2] -

14:14, 14:15
occurred [1] - 74:20
off-the-shelf [1] - 17:20
office [4] - 9:29, 10:2, 36:6, 63:7
Office [2] - 52:28, 64:15
Officer [25] - 10:2, 10:23, 10:24, 10:29, 11:16, 11:17, 11:23, 12:7, 12:20, 13:10, 14:29, 15:7, 15:10, 15:18, 15:25, 15:26, 15:27, 16:14, 16:28, 22:29, 23:6, 23:7, 23:8, 23:10, 56:29
officer [9] - 10:9, 10:23, 11:10, 23:7, 33:17, 42:22, 58:11, 58:21, 65:24
officers [12] - 10:8, 11:7, 20:3, 21:15, 33:20, 34:14, 50:24, 51:11, 53:20, 55:8, 55:21, 56:3
oil [3] - 41:11, 41:12, 41:14
old [1] - 35:27
old-fashioned [1] - 35:27
Omagh [43] - 3:2, 3:28, 4:4, 4:10, 4:12, 4:15, 4:24, 4:26, 5:6, 5:9, 5:14, 5:20, 5:24, 8:20, 16:8, 16:9, 25:26, 27:11, 27:12, 27:27, 28:18, 33:25, 35:22, 35:24, 36:2, 36:7, 36:12, 36:17, 36:28, 41:13, 41:15, 41:17, 42:13, 43:20, 50:13, 58:6, 59:9, 61:1, 61:26, 63:11, 68:17, 74:20
Ombudsman [8] - 29:22, 33:7, 40:18, 40:21, 44:18, 59:28, 61:3, 61:24
Ombudsman's [8] - 30:3, 30:21, 30:24, 31:2, 31:4, 42:21, 45:1, 64:15
once [6] - 33:28, 50:29, 66:11, 69:24, 75:18
one [36] - 3:15, 6:27, 10:6, 13:21, 18:9, 19:28, 20:20, 20:21, 22:12, 22:28, 25:27, 26:8, 28:24, 29:5, 29:12, 31:10, 32:5, 34:23, 36:28, 37:9, 37:14, 38:12, 39:11, 40:20, 48:18, 53:16, 53:24, 58:11, 59:10, 65:15, 65:25, 66:15, 66:21, 69:25, 72:12, 72:21
one-off [1] - 39:11
ones [2] - 19:4, 24:24
ongoing [3] - 29:8, 37:5, 75:13
onwards [1] - 38:13
open [7] - 7:3, 12:1, 20:26, 39:23, 60:28, 73:12, 75:28
open/closed [1] - 12:3
opening [7] - 68:15, 72:1, 72:2, 72:11, 72:13, 73:8, 74:26
operated [1] - 8:7
operating [3] - 19:7, 55:11, 59:9
operation [22] - 17:18, 17:20, 17:21, 17:24, 17:26, 18:8, 18:10, 19:24, 20:4, 21:6, 21:12, 33:19, 49:1, 49:5, 49:16, 50:9, 50:16, 51:14, 51:26, 52:26, 53:25, 62:8
operational [1] - 51:2
Operational [1] - 52:11
operations [9] - 18:29, 47:1, 50:5, 50:6, 50:21, 61:29, 62:2, 62:10, 62:18
operator [1] - 19:15
operators [1] - 19:12
opinion [3] - 48:14, 55:4, 76:15
opportunities [2] - 29:17, 51:21
opportunity [9] - 55:3, 70:25, 71:21, 72:27, 73:23, 73:26, 74:1, 74:4, 74:6
opposite [1] - 60:8
Ops [1] - 54:23
oral [15] - 3:9, 4:11, 7:5, 29:12, 69:9, 69:14, 71:29, 72:12, 74:15, 74:28, 76:7, 76:23, 76:26, 77:2, 78:1
Order [1] - 75:20
order [5] - 5:29, 6:6, 39:7, 70:5, 77:12
ordered [3] - 6:3, 6:10, 6:14
organisation [2] - 7:14, 63:25
organisations [4] - 3:6, 30:6, 31:22, 46:24
originate [1] - 51:29
originated [1] - 13:28
origins [2] - 3:15, 3:17
ought [2] - 24:10, 67:8
outcome [1] - 64:25
outset [4] - 9:13, 10:7, 11:29, 30:15
outside [2] - 5:20, 39:21
outstanding [2] - 29:5, 29:7
outstandingly [1] - 51:8
outworking [3] - 34:20, 35:7, 42:20
overall [2] - 31:27, 32:22
overshadowed [2] - 30:23, 30:24
oversight [1] - 30:12
oversimplify [1] - 10:21
overstated [1] - 72:25
overt [3] - 74:17, 75:25, 76:15
overview [1] - 77:10
own [5] - 4:1, 26:14, 52:22, 55:11, 73:5

P

p.m [1] - 9:25
page [9] - 6:18, 9:21, 11:19, 26:6, 38:2, 38:13, 55:12
PAGE [1] - 79:2
papers [2] - 33:4, 35:9
paragraph [19] - 6:17, 9:21, 11:18, 13:23, 14:22, 19:29, 25:9, 25:29, 26:5, 27:1, 33:7, 38:2, 38:12, 38:24, 41:4, 41:28, 55:10, 55:13, 55:16
paragraphs [1] - 27:3
pardon [1] - 12:12
parlance [1] - 41:1
part [15] - 8:22, 18:29, 23:23, 32:7, 32:19, 36:3, 40:16, 40:17, 45:15, 45:27, 51:20, 52:27, 71:12, 73:11, 74:11
partially [1] - 16:20
Participant [1] - 72:9
Participants [27] - 69:10, 69:15, 69:23, 70:7, 70:24, 71:6, 71:10, 71:19, 71:20, 71:24, 71:28, 72:2, 72:4, 72:13, 72:27, 73:13, 73:23, 74:1, 74:5, 75:4, 75:11, 76:6, 76:10, 76:13, 76:22, 76:25, 77:16
participate [1] - 76:8
particular [14] - 21:9, 23:16, 24:17, 25:11, 25:14, 30:13, 48:18, 55:9, 58:11, 61:16, 71:18, 73:25, 75:25, 77:11
particularly [5] - 4:23, 25:1, 33:2, 54:20, 72:24
parts [5] - 22:6, 24:27, 24:28, 30:14, 31:14
party [1] - 55:1
passed [3] - 18:5, 64:24, 65:4
patrol [2] - 5:19, 50:17
patrolling [3] - 5:9, 5:18, 5:23
patrols [2] - 50:11, 52:9
pattern [2] - 21:13, 21:24
payment [1] - 39:12
payments [1] - 39:14
Peace [1] - 55:1
pension [4] - 39:4, 39:9, 39:16, 39:18
people [19] - 3:12, 19:22, 21:4, 22:11, 31:24, 34:15, 34:17, 36:23, 47:27, 50:5, 50:16, 51:12, 52:28, 53:7, 53:12, 53:26, 62:13, 63:9, 64:10
people' [2] - 54:2, 56:17
perception [1] - 59:14
perhaps [9] - 5:7, 6:25, 11:28, 30:17, 31:16, 49:14, 49:26, 50:19, 54:11
period [14] - 6:19, 15:15, 24:19, 26:11, 27:23, 45:25, 46:9, 46:28, 47:7, 50:1, 55:17, 55:25, 59:23, 64:7
person [6] - 6:4, 6:9, 7:13, 39:20, 58:25, 58:27
personal [2] - 26:14, 55:11
personally [3] - 3:23, 57:8, 64:22
personnel [3] - 20:4, 36:27, 55:26
perspective [1] - 21:3
persuade [1] - 73:24
phase [4] - 29:1, 29:2, 74:15, 77:9
phases [3] - 77:7, 77:9, 77:10
phone [3] - 23:28, 25:19, 25:21
phrase [3] - 7:10, 15:17, 20:21
pick [1] - 24:29
piece [1] - 44:14
PIRA [1] - 46:23
place [8] - 3:21, 4:2, 18:15, 42:19, 49:16, 49:23, 53:21, 69:12
placed [1] - 8:24
plain [1] - 72:29
plainly [2] - 42:15, 69:19
plan [1] - 18:15
planned [3] - 17:20, 20:3, 27:13
planning [1] - 54:1

plans [1] - 60:10
planted [1] - 56:14
played [3] - 10:7, 20:24, 62:14
point [12] - 10:27, 21:14, 22:27, 36:29, 41:27, 62:17, 63:29, 70:26, 72:12, 72:16, 72:21, 72:28
pointed [1] - 51:24
points [2] - 31:9, 69:16
poison [1] - 30:6
police [24] - 4:27, 4:28, 7:8, 7:16, 7:22, 10:23, 11:3, 20:4, 20:12, 20:14, 21:2, 22:20, 50:10, 51:14, 52:1, 58:21, 61:21, 61:22, 63:20, 64:3, 65:23, 75:26, 76:16
Police [8] - 9:7, 33:7, 33:21, 42:20, 44:18, 59:28, 61:3, 61:24
policing [4] - 26:20, 39:21, 74:17, 76:14
Policing [2] - 42:26, 45:22
policy [6] - 5:8, 5:17, 5:23, 52:27, 53:10, 54:15
political [2] - 21:1, 47:25
PONI [5] - 31:12, 31:18, 32:2, 38:7, 61:16
populate [2] - 34:3, 36:23
populations [1] - 52:10
Portadown [5] - 15:2, 15:5, 15:19, 16:18, 16:25
position [6] - 8:3, 21:23, 42:13, 46:11, 68:21, 76:28
positions [3] - 7:7, 33:12, 36:24
positive [3] - 30:29, 34:24, 77:17
possession [2] - 12:21, 24:12
possibility [4] - 20:24, 22:29, 23:4, 23:5
possible [2] - 49:19, 76:23
possibly [3] - 15:1, 48:1, 49:12
potential [6] - 21:1, 23:18, 26:9, 26:16, 35:22, 46:22
potentially [3] - 21:22, 49:17, 59:12
practical [1] - 7:25
practically [1] - 56:23
preappointed [1] - 18:17
prearranged [1] - 9:25
preclude [1] - 34:23
predictable [1] - 53:11
predominant [1] - 24:23
prefer [2] - 38:14, 67:26
prepared [1] - 39:5
preparing [1] - 35:9
preplanned [3] - 17:24, 18:11, 21:12
presence [1] - 63:7
presented [1] - 30:21
presumed [1] - 28:8
prevent [4] - 49:1, 50:11, 53:24, 65:11
preventability [5] - 54:7, 71:7, 71:18, 73:26, 74:3
preventative [3] - 50:4, 51:1, 51:26
previous [19] - 5:29, 16:3, 18:27, 22:7, 25:6, 32:6, 33:3, 35:23, 35:24, 36:13, 43:19, 48:8, 48:10, 48:13, 53:21, 74:18, 74:25, 76:16
previously [2] - 20:22, 21:24
primacy [1] - 8:7
primarily [1] - 18:26
primary [1] - 51:6
principle [1] - 3:10
prison [2] - 49:18
privy [2] - 16:27, 44:16
proactive [7] - 20:4, 34:24, 49:1, 49:5, 51:14, 51:26, 63:14
probe [2] - 43:12, 48:15
probed [1] - 17:18
problem [3] - 25:22, 54:14, 61:1
procedures [1] - 5:1
proceed [3] - 8:12, 38:16, 38:17
proceedings [1] - 48:12
process [5] - 27:8, 32:20, 39:2, 56:20, 75:13
Process' [1] - 55:1
processes [2] - 55:22, 75:8
produce [2] - 35:11, 52:29
produced [1] - 43:14
producing [1] - 45:17
product [3] - 44:2, 52:29, 57:21
profile [1] - 52:14
progresses [1] - 68:26
progressing [1] - 34:1
project [1] - 25:10
promotion [1] - 27:7
proper [2] - 36:24, 67:5
properly [1] - 34:5
prosecution [4] - 35:8, 35:9, 35:12, 46:4
protect [3] - 20:6, 52:9, 65:27
protecting [1] - 58:18
protocol [3] - 71:29, 72:3, 73:8
provide [2] - 18:1, 71:24
provided [7] - 5:2, 6:6, 23:1, 25:18, 32:19, 39:20, 57:22
provides [2] - 34:11, 68:25
providing [3] - 57:9, 58:18
provisional [3] - 68:25, 71:9, 74:23
provisionally [1] - 75:20
PSNI [3] - 7:18, 33:22, 42:24
public [1] - 76:25
publication [1] - 31:7
publish [1] - 31:19
published [4] - 40:9, 40:29, 71:9, 72:2
purpose [4] - 19:18, 33:23, 45:17, 68:16
purposes [1] - 32:18
pursued [1] - 61:6
push [1] - 47:22
put [10] - 34:4, 34:7, 49:13, 49:18, 50:25, 52:5, 52:14, 54:27, 58:12

Q

QUESTIONED [4] - 9:9, 79:6, 79:7, 79:8
questions [11] - 9:5, 20:22, 25:26, 46:19, 48:18, 48:24, 59:21, 66:6, 67:9, 67:17, 67:19
quicker [1] - 18:16
quite [16] - 4:25, 15:14, 16:21, 22:11, 25:5, 27:15, 33:3, 34:14, 39:19, 41:27, 45:23, 49:5, 54:21, 62:8, 62:28, 63:28

R

radio [2] - 19:12, 19:15
radioing [1] - 19:12
raised [8] - 6:2, 31:6, 31:10, 38:6, 59:26, 64:12, 64:21, 65:3
random [1] - 19:10
randomly [1] - 19:17
range [1] - 9:15
rank [2] - 27:8, 46:1
ranks [2] - 24:9, 45:7
rather [5] - 4:15, 7:16, 7:22, 35:15, 77:6
rationale [1] - 9:2
raw [1] - 3:17
re [1] - 35:15
re-input [1] - 35:15
react [1] - 18:15
reaction [2] - 17:10, 18:10
read [2] - 40:2, 58:12
reading [1] - 47:19
ready [2] - 4:26, 5:5
real [1] - 71:22
really [5] - 10:27, 28:14, 29:3, 57:20, 58:19
reason [9] - 6:11, 22:18, 23:9, 27:25, 33:10, 35:21, 40:9, 59:21, 60:28
reasonable [2] - 16:26, 58:25
reasons [4] - 3:12, 3:16, 40:7, 42:2
reassured [2] - 70:24, 71:11
receive [2] - 39:18, 75:15
received [4] - 12:23, 13:13, 22:20, 38:19
recent [1] - 33:23
recently [1] - 67:13
recognise [1] - 42:15
recognised [3] - 25:13, 30:19, 73:9
recollection [3] - 5:19, 15:12, 20:15
recommendation [1] - 42:22
reconcile [1] - 33:12
record [6] - 32:10, 34:6, 34:11, 34:12, 60:3
recorded [4] - 5:28, 33:13, 38:28, 60:6
records [11] - 5:27, 6:1, 6:16, 6:19, 6:21, 26:24, 35:8, 61:16, 63:19, 63:22, 64:13
recover [1] - 63:6
recovered [1] - 44:18
recovering [1] - 35:8
redacted [1] - 75:10
refer [6] - 13:22,

29:1, 41:28, 51:18, 60:20, 66:29
reference [10] - 6:17, 13:7, 15:29, 16:3, 20:8, 25:29, 26:29, 34:4, 64:17, 69:18
Reference [4] - 72:6, 72:10, 73:2, 73:15
references [1] - 43:23
referred [5] - 7:5, 16:19, 32:17, 36:1, 66:25
referring [5] - 5:8, 13:16, 13:17, 37:9, 48:12
refers [1] - 25:10
reflect [2] - 22:26, 55:13
reflected [1] - 54:21
regardless [1] - 5:4
Region [16] - 10:10, 10:14, 10:17, 12:24, 17:13, 17:14, 23:20, 23:23, 23:26, 24:3, 24:6, 24:18, 24:24, 25:4, 55:18
region [11] - 10:13, 10:25, 11:4, 15:25, 16:11, 22:9, 23:17, 24:21, 24:22, 25:2, 25:15
Region/South [1] - 23:26
regional [2] - 23:19, 27:9
Regional [7] - 10:9, 10:17, 10:18, 16:17, 24:3, 24:6, 25:21
regions [1] - 24:16
registration [2] - 14:7, 19:13
regret [1] - 76:27
regular [1] - 43:4
related [1] - 38:27
relates [2] - 59:22, 73:6
relating [4] - 35:22, 38:20, 38:27, 70:1
relation [34] - 4:2, 8:11, 10:12, 11:28, 12:6, 14:6, 15:4, 16:25, 22:27, 23:2, 24:17, 27:16, 31:11, 33:19, 33:24, 37:15, 43:19, 43:20, 43:27, 44:13, 46:17, 48:14, 49:15, 59:6, 59:27, 60:2, 60:5, 60:29, 61:6, 64:12, 65:18, 72:13, 75:5, 75:18
relationship [9] - 43:3, 43:8, 44:6, 44:28, 55:19, 55:21, 62:4, 62:6
relationships [1] - 55:23
relatively [1] - 59:20
relayed [1] - 63:18
relevance [1] - 75:8
relevant [10] - 9:20, 70:18, 75:1, 75:4, 75:9, 75:21, 75:28, 76:1, 76:7, 76:11
reliable [1] - 58:22
relied [2] - 40:23, 40:24
relying [2] - 34:14, 34:21
remain [2] - 41:7, 66:2
remaining [3] - 11:13, 13:25, 42:23
remains [2] - 76:2, 76:21
remarkable [1] - 63:28
remarks [7] - 66:10, 66:14, 68:15, 74:12, 74:26, 77:14, 77:20
REMARKS [2] - 68:7, 79:11
remember [2] - 16:16, 18:6
remembers [1] - 46:21
remind [2] - 9:24, 45:7
repeat [2] - 20:13, 26:5
repetition [1] - 72:22
repetitive [1] - 39:14
replace [1] - 28:21
report [16] - 30:3, 30:20, 30:21, 30:25, 31:2, 31:4, 31:27, 32:27, 34:25, 42:21, 43:14, 43:18, 44:5, 45:18, 52:21, 64:22
Report [3] - 31:12, 32:28, 38:7
reported [3] - 10:19, 24:4, 24:7
reports [1] - 64:26
republican [5] - 24:20, 25:17, 46:23, 46:29, 47:15
reputation [1] - 27:18
request [4] - 5:6, 28:1, 57:10, 71:11
requested [2] - 27:11, 71:6
requests [1] - 55:27
require [1] - 4:6
required [1] - 75:10
requirements [1] - 46:5
research [4] - 34:9, 56:21, 57:14, 58:27
reservations [1] - 43:6
resolution [1] - 58:16
resolve [1] - 58:16
resolved [1] - 65:22
resource [4] - 36:20, 37:1, 37:6, 53:2
resources [8] - 11:3, 18:13, 51:2, 51:29, 53:11, 53:26, 54:18, 54:28
respect [3] - 3:28, 5:8, 12:3
respectful [1] - 18:3
respective [5] - 7:7, 10:7, 15:16, 15:24, 45:7
respond [1] - 39:1
responded [1] - 55:26
response [8] - 22:20, 26:2, 33:6, 46:19, 48:23, 54:4, 56:9, 57:13
responses [1] - 53:16
responsibilities [1] - 7:23
responsibility [1] - 7:11
responsible [5] - 3:25, 49:17, 61:12, 64:1
rest [1] - 6:26
restart [1] - 54:29
rested [1] - 7:22
Restriction [1] - 75:19
result [4] - 3:20, 6:4, 42:17, 71:8
RESUMED [2] - 37:23, 68:3
retained [1] - 7:18
retire [1] - 28:20
retired [2] - 64:9, 68:12
retirement [2] - 27:13, 27:23
retrospect [1] - 40:4
retrospectively [1] - 26:19
return [2] - 48:5, 66:13
returning [1] - 67:16
review [5] - 8:22, 25:9, 31:23, 33:21, 42:26
reviewed [4] - 3:5, 32:18, 33:18, 38:26
reviewing [2] - 32:29, 45:16
rise [1] - 67:11
risk [11] - 21:13, 21:21, 21:22, 21:25, 21:26, 21:27, 21:28, 21:29, 22:1, 22:2, 69:26
risking [1] - 52:28
risks [1] - 21:9
road [4] - 18:17, 19:3, 19:8, 21:6
Road [3] - 9:17, 9:25, 22:18
roads [5] - 18:22, 20:17, 20:18, 20:26
role [16] - 3:27, 8:20, 10:22, 15:27, 18:27, 29:5, 40:11, 45:27, 46:3, 46:12, 49:13, 51:6, 51:7, 51:8, 52:15, 62:14
roles [5] - 10:7, 15:16, 15:24, 20:23, 53:22
Ronnie [2] - 23:14, 23:27
Room [3] - 36:22, 36:25, 54:23
room [12] - 10:3, 10:8, 11:14, 13:20, 13:27, 16:24, 17:1, 20:10, 22:15, 22:19, 23:3, 74:16
round [1] - 19:19
route [3] - 17:16, 19:14, 19:24
routes [3] - 19:9, 20:10, 21:5
routinely [1] - 5:23
rubber [1] - 28:16
rubber-stamped [1] - 28:16
RUC [7] - 7:18, 7:24, 7:27, 12:25, 12:29, 33:17, 63:22
rule [2] - 5:15, 5:22
ruled [1] - 75:18
ruling [1] - 75:23
run [3] - 36:24, 37:7, 62:7

S

sample [2] - 65:15, 75:19
sat [1] - 10:16
saw [1] - 45:6
say' [1] - 54:26
scale [6] - 30:27, 52:21, 55:7, 69:11, 69:25, 75:6
scene [1] - 57:3
scope [2] - 63:25, 63:27
scout [1] - 19:21
scouting [1] - 47:10
scratch [1] - 18:12
Sean [3] - 54:3, 54:4, 62:12
search [3] - 54:5, 72:23, 74:9
second [17] - 11:20, 11:21, 13:23, 23:27, 24:25, 47:11, 47:13, 49:15, 53:29, 54:6, 63:17, 69:2, 70:27, 71:4, 71:23, 74:11, 77:4
secondly [3] - 39:21, 53:1, 53:9
section [1] - 9:20
secure [2] - 21:6, 65:26
Security [2] - 62:1, 62:18
security [27] - 4:12, 5:4, 7:1, 7:4, 7:9, 7:10, 7:12, 7:15, 7:17, 7:19, 7:23, 8:4, 8:8, 18:12, 21:3, 21:9, 21:16, 21:18, 21:21, 22:8, 50:9, 50:18, 50:21, 51:19, 52:6, 52:27, 53:10
see [8] - 18:25,

23:5, 32:9, 33:9, 44:3, 52:21, 59:15, 64:11
seeing [1] - 67:21
seek [1] - 38:29
seeking [3] - 33:4, 62:25, 63:1
seem [3] - 37:19, 54:19, 54:26
sees [2] - 33:8, 70:21
selected [1] - 28:27
selection [2] - 19:4, 20:18
send [1] - 56:9
senior [4] - 10:22, 10:24, 47:16, 55:24
sense [2] - 27:27, 28:29
sensible [1] - 17:3
sensitive [3] - 8:21, 11:12, 13:22
sensitivities [1] - 44:7
sensitivity [1] - 75:10
sent [1] - 18:7
sentence [1] - 11:21
separate [2] - 26:4, 37:18
September [8] - 6:20, 27:13, 60:26, 66:9, 68:10, 68:15, 68:23, 74:26
sequence [1] - 60:15
Sergeant [1] - 5:28
series [3] - 16:3, 16:10, 39:13
serious [2] - 59:29, 66:1
seriously [1] - 62:28
serve [1] - 49:20
served [1] - 49:29
Service [3] - 9:7, 62:1, 62:19
serving [2] - 39:16, 39:17
set [12] - 14:21, 18:15, 18:21, 25:10, 30:15, 40:26, 40:27, 71:13, 72:3, 72:5, 77:27, 77:29
setting [6] - 20:5, 21:9, 21:14, 21:20, 21:24, 22:4
several [4] - 7:6, 9:22, 27:2, 45:19
share [1] - 71:21
shared [1] - 53:1
sheet [1] - 30:25
shelf [1] - 17:20
shift [1] - 6:25
short [6] - 15:1, 40:15, 66:9, 66:12, 67:27, 69:1
shortcomings [2] - 33:24, 33:29
shorthand [1] - 60:20
shortly [2] - 37:20, 62:25
shown [2] - 43:13, 58:12
side [5] - 24:28, 52:26, 74:17, 75:26, 76:15
sight [2] - 44:17, 44:29
signal [1] - 26:24
significance [1] - 23:18
significant [5] - 24:20, 25:1, 47:27, 50:8, 70:6
significantly [1] - 8:1
similar [1] - 17:15
simple [2] - 34:7, 49:27
simply [7] - 4:1, 12:12, 35:8, 35:11, 39:11, 78:3
single [2] - 37:3, 77:6
Sinn [4] - 47:16, 47:19, 47:25, 47:28
SIO [22] - 3:13, 8:20, 17:6, 22:26, 25:23, 27:11, 32:11, 32:13, 33:1, 33:8, 33:9, 33:29, 34:13, 34:20, 35:6, 36:12, 38:8, 38:28, 42:13, 43:2, 59:9, 60:12
sit [2] - 10:15, 12:20
site [3] - 26:1, 26:9, 26:23
sites [1] - 26:22
sitting [3] - 17:13, 31:2, 42:12
situation [1] - 46:17
size [1] - 72:25
slightly [1] - 47:4
small [3] - 19:8, 52:8, 66:18
smelling [2] - 41:11, 41:14
Smyth [1] - 22:28
sniper [4] - 22:2, 22:3, 22:8, 22:11
snipers [1] - 22:12
soldier [1] - 39:17
soldiers [4] - 5:4, 5:13, 54:15, 54:22
solve [1] - 34:11
someone [7] - 9:25, 12:24, 28:7, 59:12, 62:28, 64:26, 65:3
somewhere [2] - 54:14, 59:16
soon [1] - 13:6
sorry [13] - 14:28, 37:10, 39:22, 39:27, 41:23, 41:25, 47:24, 49:4, 58:7, 61:13, 62:7, 67:1, 67:8
sort [2] - 45:21, 58:18
sought [4] - 6:16, 6:19, 8:21, 38:23
sound [1] - 34:7
source [7] - 8:26, 9:1, 12:8, 44:3, 44:10, 44:12, 61:29
source' [1] - 67:6
sources [4] - 3:22, 8:11, 8:15, 56:18
sources' [1] - 67:1
South [22] - 10:10, 10:14, 10:17, 12:24, 17:13, 17:14, 21:5, 22:6, 22:9, 23:20, 23:23, 24:17, 24:21, 24:23, 25:2, 25:4, 25:10, 25:21, 48:2, 50:18, 52:29, 53:11
south [7] - 20:18, 24:6, 24:21, 25:2, 52:8, 61:27, 66:28
spanning [1] - 69:27
speaking [1] - 31:28
special [1] - 54:13
Special [57] - 7:27, 10:9, 10:15, 10:18, 10:19, 10:24, 10:25, 10:29, 11:17, 15:26, 16:28, 22:22, 23:7, 23:20, 23:28, 23:29, 24:4, 24:7, 24:10, 24:11, 25:20, 25:21, 49:2, 49:9, 50:3, 50:21, 50:24, 51:7, 51:11, 51:27, 52:5, 52:10, 52:15, 52:16, 52:20, 53:3, 53:6, 53:22, 55:8, 55:11, 55:20, 55:24, 55:25, 56:3, 56:7, 56:10, 56:28, 56:29, 57:4, 57:8, 58:9, 58:22, 62:7
specialist [1] - 53:26
specific [2] - 20:10, 43:26
specifically [2] - 11:20, 37:2
specifics [1] - 44:24
speculating [1] - 63:26
speed [1] - 63:27
spell [1] - 70:16
spiralled [1] - 31:23
spoken [2] - 27:15, 42:8
spun [1] - 30:4
staff [3] - 11:10, 24:15, 37:3
stage [22] - 24:14, 28:9, 28:11, 29:7, 51:22, 60:5, 60:11, 66:12, 67:19, 67:27, 69:13, 69:24, 70:2, 70:29, 71:14, 71:21, 71:25, 72:19, 72:28, 73:15, 73:19, 78:3
stamped [1] - 28:16
standard [1] - 36:22
standby [1] - 41:10
standing [2] - 4:21, 76:27
start [13] - 18:12, 34:2, 34:29, 35:18, 37:9, 48:23, 59:3, 61:23, 76:23, 77:2, 77:3, 77:7, 77:10
started [5] - 10:3, 15:12, 17:6, 36:2, 68:10
starting [1] - 45:8
State [9] - 71:28, 72:4, 72:9, 72:26, 73:13, 73:23, 74:5, 77:16, 77:17
statement [29] - 5:27, 6:18, 8:28, 9:1, 9:18, 11:18, 19:27, 25:28, 26:4, 27:1, 38:1, 39:6, 39:8, 39:10, 39:24, 40:1, 40:14, 40:15, 41:4, 48:25, 51:18, 55:9, 61:7, 62:20, 70:8, 71:25, 72:11, 72:28, 73:8
statements [16] - 34:17, 69:2, 69:6, 69:10, 69:23, 69:27, 70:11, 70:22, 70:25, 70:27, 71:2, 72:1, 72:3, 72:13, 73:22, 77:23
static [4] - 18:21, 20:5, 21:9, 21:20
station [1] - 61:21
status [1] - 66:24
statute [1] - 75:10
steps [3] - 38:11, 62:26, 63:14
still [6] - 6:21, 39:17, 41:9, 41:10, 43:9, 77:8
stolen [2] - 14:9
stop [8] - 17:16, 18:17, 18:24, 19:8, 19:9, 19:14, 21:5, 49:6
stopped [3] - 19:3, 19:16, 20:27
stopping [1] - 19:11
stops [1] - 21:7
store [1] - 65:7
story [1] - 40:10
Strabane [1] - 36:7
straightforward [1] - 28:27
strayed [1] - 58:4
stress [1] - 8:15
structure [1] - 3:20
structured [2] - 29:15, 75:24
structures [1] - 4:1
stuff [1] - 41:1
Sub [1] - 5:21
sub [4] - 4:16, 11:4, 20:12, 20:14
sub-division [3] - 4:16, 20:12, 20:14
Sub-Divisional [1] - 5:21
sub-divisions

[1] - 11:4
subheading [1] - 26:4
subject [2] - 70:28, 77:20
submissions [5] - 69:1, 69:17, 70:27, 74:2, 77:28
submit [1] - 70:8
subsequent [2] - 23:15, 68:27
subsequently [2] - 7:18, 38:8
substantial [3] - 64:7, 68:23, 75:7
subtopic [1] - 37:29
succeed [1] - 59:13
successful [2] - 27:7, 53:7
successfully [1] - 48:14
succession [1] - 27:12
successor [1] - 28:6
sufficient [2] - 63:18, 76:9
sugar [1] - 41:20
suggest [3] - 32:7, 48:27, 73:20
suggested [1] - 49:8
suggesting [1] - 24:26
suggestion [1] - 18:4
summarised [1] - 42:28
summary [3] - 3:7, 27:17, 38:11
Superintendent [7] - 3:3, 3:26, 27:8, 27:10, 40:12, 45:9, 68:13
superior [1] - 45:12
support [3] - 53:26, 55:27, 68:23
supported [2] - 8:1, 41:11
suppose [3] - 40:24, 47:22, 53:22
surrounding [1] - 28:18
surveillance [2] - 50:25, 52:29
suspect [6] - 8:14, 28:12, 41:29, 42:1, 52:13, 62:5
suspect's [1] - 65:12
suspects [4] - 18:25, 25:5, 54:25, 56:11
suspicions [2] - 8:13, 8:25
sway [3] - 63:18, 63:20, 63:22
system [7] - 34:10, 34:12, 34:26, 35:2, 36:14, 36:19, 37:8
systematic [1] - 50:20
systematically [1] - 40:18

T

tactics [1] - 52:4
tailbacks [1] - 19:10
target [3] - 14:23, 16:15, 21:25
task [2] - 6:23, 50:3
team [10] - 26:3, 29:17, 29:25, 30:9, 33:14, 39:3, 45:15, 53:19, 56:3, 56:10
Team [12] - 18:1, 18:5, 68:21, 70:21, 71:9, 71:16, 71:19, 72:21, 74:28, 74:29, 76:6, 76:22
Team's [1] - 74:23
technical [1] - 44:4
technique [1] - 35:28
telephone [6] - 23:14, 30:14, 31:15, 36:5, 36:6, 57:1
telephones [1] - 65:5
tempo [2] - 51:19, 53:12
ten [2] - 66:13, 67:29
tenth [1] - 19:11
term [1] - 67:5
terminology [1] - 66:26
terms [31] - 6:16, 7:2, 7:8, 7:10, 7:14, 7:25, 13:25, 15:16, 15:24, 18:13, 20:29, 27:16, 31:12, 31:26, 35:15, 36:21, 37:2, 43:28, 46:1, 46:21, 46:27, 47:17, 48:20, 48:22, 55:22, 60:15, 62:20, 64:17, 73:16, 75:14
Terms [4] - 72:5, 72:10, 73:1, 73:14
terrible [1] - 30:8
terrorism [1] - 62:6
terrorist [8] - 36:17, 46:29, 47:15, 50:1, 50:3, 51:15, 53:27, 74:19
terrorists [5] - 24:20, 25:17, 49:21, 51:3, 54:27
testing [1] - 15:9
text [2] - 17:25, 18:7
that' [1] - 33:14
that.. [1] - 15:13
THE [9] - 37:23, 66:17, 66:23, 66:27, 67:5, 67:22, 67:24, 68:3, 78:9
themes [1] - 69:15
THEN [1] - 9:9
then-Deputy [1] - 33:1
there' [1] - 54:28
therefore [7] - 21:14, 39:18, 40:23, 43:22, 58:15, 64:24, 68:24
Thiepval [12] - 5:27, 59:17, 60:14, 60:20, 61:17, 62:4, 62:21, 63:7, 63:15, 63:23, 65:14
thinking [3] - 17:1, 48:28, 63:12
third [4] - 54:9, 71:27, 73:22
Threat [1] - 30:26
threat [15] - 17:4, 18:10, 18:11, 22:23, 24:20, 25:1, 25:11, 25:14, 50:8, 50:19, 50:28, 51:15, 52:7, 53:2
threats [2] - 24:26, 31:24
three [9] - 15:4, 15:10, 19:29, 24:16, 32:15, 48:19, 62:22, 69:7, 71:1
thrust [1] - 50:15
Thursday [3] - 9:23, 27:15, 59:11
timeframe [1] - 60:27
timeline [1] - 44:20
TO [1] - 78:9
today [10] - 12:20, 18:3, 30:18, 32:19, 39:10, 62:15, 66:2, 74:25, 76:27, 77:1
together [1] - 69:16
tomorrow' [1] - 12:16
Tonge [1] - 45:14
took [7] - 32:16, 33:28, 34:17, 34:28, 38:8, 38:11, 63:6
took.. [1] - 57:2
tool [1] - 34:9
top [2] - 35:6, 38:13
topic [11] - 5:26, 6:29, 8:10, 8:12, 23:12, 37:13, 37:19, 37:29, 48:7, 59:5, 69:2
topics [1] - 68:29
total [4] - 20:25, 32:26, 68:11, 74:25
totally [4] - 29:29, 30:21, 33:10, 33:13
touch [2] - 31:9, 42:7
touched [1] - 9:22
touching [1] - 26:27
towards [4] - 46:23, 50:13, 52:14, 70:11
Town [2] - 4:15, 5:6
town [1] - 14:27
towns [3] - 15:5, 15:7, 15:10
TPU [1] - 65:16
TPUs [1] - 33:5
track [1] - 41:25
tragedy [1] - 5:3
trained [2] - 36:27, 37:3
transparency [1] - 40:25
transport [1] - 18:23
trap [1] - 22:2
traps [1] - 22:5
travelled [1] - 66:21
treat [1] - 74:5
tremendous [1] - 52:23
trial [1] - 49:18
tried [1] - 65:27
trolling [1] - 41:1
troops [1] - 50:10
Troubles [1] - 20:27
true [1] - 40:16
trust [1] - 63:4
truth [3] - 8:24, 72:23, 74:9
truthful [2] - 40:2, 40:6
truthfully [1] - 22:23
try [11] - 12:3, 17:16, 34:18, 35:16, 49:1, 49:5, 49:16, 50:4, 52:11, 58:28, 59:1
trying [6] - 10:27, 34:27, 39:6, 41:2, 62:29, 63:29
tune [1] - 15:26
tuned [1] - 11:29
turn [3] - 20:21, 38:3, 74:11
turns [1] - 19:19
two [24] - 10:8, 30:5, 31:16, 31:22, 33:12, 40:11, 41:21, 45:2, 48:18, 48:27, 48:29, 53:15, 53:22, 54:26, 62:22, 68:29, 69:22, 69:29, 70:5, 70:19, 70:24, 76:13, 76:18, 77:1
type [7] - 26:15, 31:29, 44:3, 48:22, 49:15, 51:26, 56:13
types [1] - 31:24

U

UKIC [1] - 3:5
ultimately [5] - 6:21, 9:2, 61:11, 68:22, 75:11
unacceptable [1] - 74:5
unauthorised [1] - 20:28
unaware [3] - 26:14, 26:19, 55:23
under [2] - 8:7, 37:12
underlying [2] - 43:10, 46:11
undermined [1] - 60:5
understood [1] - 36:29
undertaken [1] - 6:12
underway [3] - 74:27, 75:5, 76:19
undoubted [1] -

69:25
unexplained [1] - 33:15
unfair [1] - 74:4
unfortunately [2] - 36:26, 53:21
unfounded [1] - 43:7
uniform [1] - 52:1
uniformed [2] - 50:16, 51:2
United [1] - 51:12
units [1] - 52:2
unknown [1] - 65:26
unless [2] - 51:13, 65:8
unpleasant [1] - 41:3
unresolved [1] - 66:2
unstable [1] - 36:5
UNTIL [1] - 78:9
untouched [1] - 30:28
untrue [1] - 40:20
unusual [1] - 43:2
up [31] - 6:13, 8:9, 10:25, 16:9, 16:17, 18:21, 20:5, 21:9, 21:20, 22:4, 24:4, 24:7, 24:11, 24:29, 25:10, 26:11, 27:23, 28:22, 28:23, 28:28, 30:15, 35:14, 35:24, 38:3, 40:27, 54:14, 57:4, 61:26, 64:24, 64:26
up-to-date [1] - 35:14
update [2] - 63:10, 70:25
updated [1] - 71:10
upshot [1] - 44:21
useful [2] - 17:29, 43:29
utility [1] - 70:21

V

valuable [1] - 51:8
value [4] - 18:26, 26:16, 33:8, 71:23
various [8] - 5:13, 11:3, 11:4, 20:23, 24:26, 24:27, 24:28, 47:6
vast [1] - 30:27
VCP [1] - 21:14
vehicle [4] - 18:22, 20:5, 21:10, 21:20
vehicles [3] - 5:5, 19:15, 19:17
verbal [4] - 57:23, 58:2, 58:3, 60:8
verbally [1] - 44:7
via [1] - 25:20
victims [1] - 29:23
videos [1] - 40:29
view [6] - 33:13, 34:28, 40:23, 41:7, 73:18, 76:15
views [1] - 71:21
violate [1] - 8:16
visit [1] - 45:19
volume [1] - 8:21
vulnerable [2] - 54:16, 54:24

W

wall [1] - 3:11
warning [2] - 4:20, 5:2
WAS [1] - 9:9
was.. [1] - 60:24
waste [1] - 35:17
ways [2] - 21:21, 49:20
weapons [1] - 22:5
website [2] - 40:28, 74:24
week [5] - 9:23, 50:29, 70:6, 70:10, 77:24
weekend [2] - 54:22, 59:28
weeks [1] - 68:10
well-known [1] - 22:10
whatsoever [1] - 15:3
whichever [1] - 73:6
whilst [7] - 10:2, 11:12, 35:5, 42:27, 42:29, 45:15, 50:21
White [11] - 59:16, 60:2, 60:5, 60:10, 60:15, 61:6, 61:15, 61:23, 65:18, 65:23, 65:27
White's [1] - 65:19
white's [1] - 61:29
whole [1] - 54:16
widely [1] - 62:9
wind [1] - 50:17
wish [3] - 41:29, 77:14, 77:20
wished [1] - 5:22
withdraw [1] - 54:15
WITHDREW [1] - 67:24
witness [4] - 40:3, 40:6, 48:24, 66:11
WITNESS [7] - 66:17, 66:23, 66:27, 67:5, 67:22, 67:24, 79:2
witnesses [1] - 68:12
wonder [1] - 55:27
word [6] - 28:1, 28:2, 39:9, 42:18, 46:16, 46:27
words [4] - 27:21, 33:5, 33:8, 73:21
world [2] - 30:19, 65:8
worry [1] - 29:10
writing [3] - 40:3, 57:4, 60:6
written [13] - 57:24, 58:1, 69:2, 69:6, 70:7, 70:22, 71:2, 71:25, 72:12, 72:28, 73:22, 77:23, 77:28
wrote [1] - 40:14

Y

year [3] - 14:7, 60:18, 77:3
years [5] - 17:5, 18:28, 22:7, 36:11, 50:17
yesterday [1] - 22:25
you' [1] - 28:21
yourself [4] - 3:1, 8:18, 51:23, 56:2