OMAGH
BOMBING INQUIRY

INQUIRY LEGAL TEAM CHAPTER 3 SUMMARY

PART 7: PROCESSES SUBSEQUENT TO THE OMAGH BOMBING

1. This summary is intended to identify key processes (which phrase incorporates investigations, reviews and reports) which occurred following the Omagh Bombing and which may be relevant to the Inquiry's Terms of Reference and the Provisional List of Issues. Each of the processes may be referred to in the evidence that the Inquiry will receive.

2. The aim of this summary is to set out a neutral and focused account of each process. The purpose of this summary is to draw together, in one place, information which may be significant for Chapter 3 and the Chapters which follow. As this document is intended to provide an outline of these processes, inevitably it is not an exhaustive rehearsal of every aspect of each of them. This summary considers material and reports which may not have been made public, either when they were created or since, which the Inquiry has sought to address, where possible, through other available information in relation to such material and reports.

3. It is divided into the following sections:

    1) The Inquests (2000)

    2) Panorama (2000)

    3) McVicker Report (2000)

    4) Sunday People article (2001)

    5) PONI: Omagh 1 report (2001)

    6) PSNI response to PONI: Omagh 1 report (2002)

    7) NIPB: Tonge report, Blakey report, Crompton report (2002)

    8) Nally report (2003)

9) International Scientific Peer Review Panel (2003)

10) Review of Support Scientific Services in PSNI (2005)

11) Crompton/Blakey/Shaw report (2008)

12) Panorama and Sunday Telegraph (2008)

13) PONI: Omagh 2 report (2008)

14) Gibson report (2008)

15) PONI: Omagh 3 report (2009)

16) NIAC (2010)

17) Bridger report (2012)

18) BIRW report (2013)

19) PONI: Omagh 4 report (2014)

4. The first section summarises the process of the inquests into the deaths of those killed in the Omagh Bombing.

5. In the concluding section, key themes emerging from the Gallagher claim for judicial review will be identified.

6. This summary does not describe the other criminal and civil proceedings which followed the Omagh Bombing, which is a topic the Inquiry Legal Team will address in its Part 8 summary.

Section 1: Inquests (2000)

7. Inquests into the deaths of those killed in the Omagh Bombing opened on 6 September 2000. The last inquest closed on 5 October 2000. The Coroner who heard the inquests was Mr John Leckey, then Her Majesty's Coroner for Greater Belfast. Mr Leckey was appointed as the Coroner for the district of Fermanagh and Tyrone for purposes of the

inquests by the Lord Chancellor under section 6(2) of the Coroners Act (Northern Ireland) 1959.

8. The inquests were heard in Omagh Leisure Centre; which, as the Inquiry has heard from the testimony given at the Commemorative and Personal Statement hearings, was already a place of significance for the families of those killed and injured in the Omagh Bombing.

9. The Coroner called evidence from a number of individuals, including the next of kin of the deceased, members of the Royal Ulster Constabulary (RUC) and the Ministry of Defence (MOD), as well as forensics and medical experts.

10. Most, but not all, of the bereaved families were legally represented.

11. A Coroner in Northern Ireland was then, and still is, required by the Coroners (Practice and Procedure) Rules (Northern Ireland) 1963 to answer several statutory questions in inquest proceedings. Rule 15 requires an inquest to ascertain the following matters:

    a. Who the deceased was;

    b. How, when and where the deceased came by their death (sometimes referred to as "*the how question*");

    c. Any other particulars necessary to register a person's death.

12. Other relevant rules include Rule 16, which states that a Coroner shall not express any opinion on questions of criminal or civil liability.

13. The Coroner delivered findings that each of the deceased died as a result of injuries sustained in a bomb explosion. In his closing statement, the Coroner stated: "*The Real IRA claimed responsibility for the car bomb, though they sought to pass responsibility to the police for the casualties. As far as I am concerned they [the Real IRA] were responsible for all that happened*". The Coroner also said: "*I share the hope, expressed so forcibly by many of the families, that those responsible for the bomb explosion are brought before a court of law and punished*".

14. In these inquests, the Coroner interpreted the "*how*" question, for the purposes of Rule 15, by asking "by what means" the deceased came by their deaths (which is what is known as a *Jamieson* Inquest, a reference to R v North Humberside Coroner, ex parte Jamieson [1995] QB1). The Coroner said in his opening statement to the Inquest that "*the parameters of an inquest are limited and I must emphasise that the role of an inquest is a fact-finding one only*" and that the findings of an inquest should contain "*a concise statement of the facts surrounding the death or, to put it another way, a brief, neutral factual statement*".

15. The nature of these inquests was commented upon by Mr Justice Horner, as he then was, in the judicial review proceedings brought by Michael Gallagher [2021] NIQB 85 (the Gallagher judicial review application) which led to this Inquiry. At §103 the Judge said:

> *"This was an old style enquiry to consider the causes of the deaths of the 29 civilians. It did not consider the bigger picture and, in particular, "by what means and in what circumstances" the deaths had occurred."*

16. A *Jamieson* Inquest can be contrasted to what is called a *Middleton* Inquest (which is a reference to R v Her Majesty's Coroner for the Western District of Somerset and another, ex parte Middleton [2004] UKHL 10). A *Middleton* Inquest is one which considers the "*how*" question by asking the broader question of "*by what means and in what circumstances*" a person came by their death and relates to the procedural obligation to carry out an effective investigation into alleged breaches of Article 2 ECHR.

17. A particular issue in the inquests of those killed in the Omagh Bombing was whether, and to what extent, the Coroner could explore or make findings around the police response to the warning calls made in advance of the bomb exploding. The Northern Ireland Human Rights Commission, a body established by the Northern Ireland Act 1998, sought to intervene in the inquests in order to make written and oral submissions on the scope of the inquest; particularly on the issue of exploring the police response to warning calls. The Coroner declined to give NIHRC permission to make oral submissions on these issues on the basis that there was no statutory authority for it to intervene in the way it sought to do, although it should be noted that NIHRC had been

involved, at the Coroner's invitation, earlier in the inquest process in relation to disclosure and seeking transcripts of evidence.

18. On this issue, about whether and how it could intervene in proceedings, the NIHRC issued judicial review proceedings, which were dismissed by the High Court on 8 December 2000 and by the Court of Appeal on 6 April 2001.

Section 2: Panorama (October 2000)

19. On 9 October 2000, the BBC broadcast a television programme created by Panorama. Panorama was, and is, a long running investigative and current affairs documentary programme. The title of the programme was "*Who Bombed Omagh?*". It remains available to view on the BBC's iPlayer platform. Another Panorama programme related to the Omagh Bombing was published on 15 September 2008 entitled "*Omagh: What the police were never told*" and is referred to below.

20. The October 2000 programme was presented by a journalist called John Ware, who had extensive experience on reporting in Northern Ireland. Mr Ware has agreed to provide a statement to the Inquiry.

21. The programme interviewed the RUC Chief Constable, Sir Ronnie Flanagan, who stated that police had: *"a very detailed intelligence picture, we think we know who carried out this atrocity, we think we know how they carried it out*."

22. The programme told the story of the RUC police investigation through telephone information and named individuals said, at the time, to be the main suspects; those being Liam Campbell, Colm Murphy, Seamus Daly and Oliver Traynor.

23. The Inquiry has received disclosure which indicates that police had co-operated with Mr Ware in his research for the purposes of this programme; including that Mr Ware met with police and was briefed on the police investigation to date. This included who police believed to be suspects responsible for the bombing and that Mr Ware may have been taken on a tour of locations thought by police to be relevant.

24. The programme was aired after unsuccessful applications were brought before the Northern Ireland High Court to prevent it being broadcast on the grounds that it might prejudice a future criminal trial. The programme was met with a mixed response.

Section 3: McVicker Report (November 2000)

25. On 24 March 2000, the Assistant Chief Constable (Crime) in the RUC directed that the RUC should carry out an internal review of the investigation into the Omagh Bombing. The Inquiry understands that this was the first such review ever conducted by the RUC. It was led by Detective Chief Superintendent Brian McVicker, an experienced police officer within the RUC. Emerging findings were presented to the Chief Constable and ACC Crime Unit in May 2000 and a final report, often referred to as *'The McVicker Report'* was completed in November 2000; that process having been assisted by officers from the Metropolitan Police Service and quality assured by Her Majesty's Inspector of Constabulary (HMIC). The final report was not published in the public domain. At the Inquiry's request, the PSNI has disclosed to the Inquiry the full report with redactions of sensitive material applied.

26. The purpose of the review was to reconsider all of the evidence and information which was available to police at that point in time, potentially with a view to identifying additional evidential opportunities. The Terms of Reference of the review were:

> *"'To undertake a progress review of the investigation into the bomb explosion at Omagh on 15th August 1998'.*
>
> *The aims of this review are:*
>
> - *To identify further investigative leads and/or intelligence development opportunities in support of the enquiry;*
> - *To ensure the investigation is being undertaken in compliance with RUC instructions and has been conducted with integrity and objectivity;*
> - *To identify good practices; and*
> - *To identify issues requiring remedial actions as Regional/Force level."*

27. The McVicker report stated that the review should focus on several aspects of the police investigation, including the extent to which the investigation had utilised an intelligence led approach, including the evaluation of sources, suspect analysis and use of analysts/investigative researchers to maximise development opportunities; that all relevant lines of enquiry had been identified, pursued and completed and the effectiveness of liaison with An Garda Síochána.

28. The review process took five months to complete and was carried out in accordance with ACPO (Association of Chief Police Officers) guidelines. The McVicker Report commented that *"ACPO guidelines on major crime reviews specifically relate to 28 day reviews. The investigation into the bombing atrocity had been ongoing for 1 year and 7 months prior to the commencement of the review. The complexity, magnitude and timespan of the investigation posed a somewhat unusual situation for the Reviewing Officer."* Following consultation with the Metropolitan Police Service and Her Majesty's Inspectorate of Constabulary ("HMIC"), it was determined that the review would divide the investigation into the following categories:

- Major Incident Room and Disclosure;
- The Scene;
- History of Bomb Car;
- House to House;
- Reconstruction;
- Video/CCTV;
- Forensic;
- Intelligence;
- Linked Incidents;
- Telephone Analysis;
- An Garda Síochána (Issues/Liaison);
- Arrest/Search and Interview Strategy;
- Media Strategy;
- Family Liaison; and
- Management Structure/SIO Policy.

29. The McVicker Report noted that at the commencement of its review the HOLMES database contained 10,751 documents. At the conclusion of its work, 9,113 documents, or 84% of the database, had been scrutinised, along with a number of original documents not on the HOLMES database.

30. The McVicker Report's conclusions, which it said were reached *"after a thorough examination of the investigation into the Omagh incident and highlight areas of practice which the organisation needs to address if it is to enhance the way in which it navigates incidence of murder"* included:

a. There was a lack of awareness at Senior Detective Officer level as to the capabilities of the HOLMES database, contributing in a major way to the development of the investigation. The use of untrained staff in some respects led to the SIO being deprived of relevant information and of intelligence to use to advance the investigation.

b. The review identified new lines of enquiry and highlighted existing enquiries for further action, with several areas requiring priority by the SIO:

i. Reassessment and re-interview of all key witnesses;
ii. Reassessment of suspicious persons/suspects in Omagh and including 15 August 1998;
iii. Reassessment of the video viewing strategy and the establishment of a vehicle database;
iv. Introduction of an intelligence/research cell within the MIR [Major Incident Room];
v. Reassessment of all potential bomb car sightings; and
vi. Development of an effective elimination strategy for persons/vehicles within the scene.

c. It was established that there were a number of terrorist offences committed by the Real IRA linked to the Omagh bombing. Within these, there were significant opportunities to progress and secure evidence against known suspects. The

Chief Officer's Group should address this, without delay, and appoint an Officer in Overall Charge to co-ordinate a linked crime investigation.

d. In general terms, An Garda Síochána ("AGS") carried out its own investigation, independent of RUC despite AGS having arrested some 70 individuals in connection with the Omagh incident. The McVicker Report said that *"the potential for success would have been enhanced if an open and joint enquiry had been pursued. The introduction of joint force protocols to facilitate such activity in the future is, therefore, essential."*

e. The McVicker Report said that *"never before had Senior Detectives in the RUC been faced with such a massive murder investigation"* and that the linking of suspects through telephone analysis and identifying the apparent connection of the Omagh bombers to a number of incidents was good investigative practice, these being examples of what could have been established if sufficient resource had been available for all main lines of enquiry.

f. The Mc Vicker Report concluded:

"16.14 The Reviewing Officer concludes that many of the identified opportunities within the original investigation have not been realised through a combination of the following factors:

- *Lack of resources;*
- *Lack of suitable MIR accommodations;*
- *Untrained staff;*
- *Lack of a corporate approach to the investigation;*
- *Lack of awareness as to the capabilities of the HOLMES database;*
- *Lack of shared information/activity with An Garda Siochana;*
- *Absence of co-ordinated approach to intelligence analysis; and*
- *A confused command structure.*

16.15 The Reviewing Officer is of the opinion that the above issues need to be addressed without delay.

16.16 Finally, the Reviewing Officer is of the view that the RUC should now take the opportunity to re-examine and develop its approach to murder investigations, in order to achieve the highest possible standards. The ACPO Manual of Murder investigation issued to all United Kingdom Forces in 1998 and the MIRSAP Manual should be used as a framework on which to build an effective investigative strategy for all major crimes."

g. The McVicker Report contained 274 recommendations for action, 134 of which provided evidential opportunities.

31. According to the Police Ombudsman, in a statement issued on 12 December 2001, the McVicker Report identified the following issues:

a. Significant and fundamental errors in the Investigation;

b. That other terrorist incidents which had occurred prior to the Omagh Bomb, including incidents at Moira, Lisburn, Belleek, Newry and Banbridge, should have been linked for investigative purposes, or at least such linkage should have been considered;

c. Errors in the management of the HOLMES database;

d. That many important evidential opportunities were missed;

e. Many failures in the management and leadership of the Omagh Bomb Investigation which were compounded by the lack of review of senior officer intervention;

f. That recovered parts of the "*bomb car*" were deposited in a car park with a tarpaulin over them and had rusted when discovered by the Omagh Bomb Review Team;

g. That the Senior Investigating Officer was refused access to Army and Special Branch videos from South Armagh which hampered lines of enquiry.

32. According to PONI, the McVicker Report also found that *"all the intelligence held by the RUC which may have been relevant to the investigation of the Omagh Bomb has not been revealed to the Omagh Bomb Investigation Team. Evidential opportunities, which the intelligence and the findings of the Omagh Bomb Review Report offered, have not been exploited."*

33. PONI concluded that: *"there is no doubt that the possibility of a successful investigation could have been enhanced even after the Omagh Bomb Review Report was received in November 2000, had all the Recommendations of that Report been expeditiously implemented. The delay in implementing the Omagh Bomb Review Report is likely to have reduced the possibilities of bringing those responsible to justice."*

34. In the Gallagher judicial review application, Mr Justice Horner stated that the McVicker Report was the product of *"an internal RUC review carried out as part of the investigation process. The report itself was not published and its purpose was to consider all of the evidence and information which was available to the police at that time. It was hoped that this would lead to the identification of additional evidential opportunities. Subsequently, it was described in a report to the Northern Ireland Policing Board as "a quality assurance mechanism for the investigative process"*. Mr Justice Horner also stated that: *"The McVicker Report was acted upon following recommendations contained in the first PONI Report. It did not consider measures which might have prevented the Omagh bomb."*

Section 4: Sunday People article (July 2001)

35. On 29 July 2001 the journalist Greg Harkin wrote an article which was published in the Sunday People newspaper. The headline of the article was: *"I told cops about Omagh"* and suggested that the Omagh Bomb could have been prevented had the RUC acted on information provided by an informant who as identified in the article under the pseudonym 'Kevin Fulton'. The article also made allegations around Fulton's management as an agent by the RUC.

36. A man called Peter Keeley has provided a witness statement to the Inquiry, dated 15 October 2025, identifying as 'Kevin Fulton'. Peter Keeley gave evidence to the

Smithwick Tribunal in the Republic of Ireland under the name of Kevin Fulton and Judge Smithwick found, as a fact, that Peter Keeley was Kevin Fulton. In judicial review proceedings issued by Mr Keeley against this Inquiry, he averred that the name 'Kevin Fulton' was an alias attributed to him by journalists and that he was the person whose name of Kevin Fulton appeared in the Inquiry's Terms of Reference.

37. According to both 'Kevin Fulton' and PONI, which subsequently investigated the contents of the Sunday People article, 'Kevin Fulton' had previously provided information to a different newspaper, but this had not been published.

38. The core allegation made in the Sunday People article was that 'Kevin Fulton' had provided information to RUC Special Branch handlers about the bomb three days before the explosion and that the police failed to stop the attack to protect an informer.

Section 5: the report of the Police Ombudsman for Northern Ireland: Omagh 1 (December 2001)

39. The Inquiry has received an open corporate witness statement from the then Police Ombudsman for Northern Ireland, Mrs Marie Anderson, dated 16 June 2025. That statement says that PONI *"provides a free and impartial service for accepting, assessing and investigating complaints about the conduct of former and serving police officers in Northern Ireland."*

40. The corporate witness statement for PONI sets out that complaints can be made to PONI by members of the public. PONI can also, pursuant to section 55(6) of the Police (Northern Ireland) Act 1998, investigate of its own motion matters where it appears that a member of the police force may have committed a criminal offence or have behaved in a way which would justify disciplinary proceedings; and it appears to PONI that it is desirable and in the public interest to do so. The Chief Constable is obliged to refer to PONI any matter which appears to the Chief Constable to indicate that conduct of a member of the police force may have resulted in a person's death and that they may also do so where it appears a criminal offence may have been committed, or where a member of a police force has acted in a way which would justify

criminal proceedings and it is in the public interest to do so. PONI can then investigate if it appears that it is desirable in the public interest to do so.

41. Following the Sunday People article of 29 July 2001, the then Police Ombudsman, Nuala O'Loan, determined that it was desirable and in the public interest to investigate the allegations made by 'Kevin Fulton' and any other relevant circumstances. The investigation was pursuant to section 55(6) of the 1998 Act or, in other words, was an "*own motion*" investigation. The Police Ombudsman's investigation revealed to her that the review by Detective Chief Superintendent McVicker had taken place. It also revealed to her the fact that anonymous information had been given to the RUC on 4 August 1998 which indicated that *"an unspecified attack would be made on police in Omagh on 15 August 1998"*. In response, the Ombudsman amended her terms of reference so that she could properly consider these matters.

42. The investigation is sometimes referred to as *'Omagh 1'* and led to a report being provided to the Secretary of Statement for Northern Ireland pursuant to Section 56(6) of the 1998 Act, which was not made public at the time it was completed. At the Inquiry's request, PONI has disclosed to the Inquiry the Section 56(6) report for the purposes of disclosure to Core Participants, with redactions of sensitive material applied. The Police Ombudsman issued a public statement on 12 December 2001 pursuant to Section 62 of the 1998 Act, often referred to as the *'PONI: Omagh 1 Report'*, and a press statement.

43. Among the matters which those public statements addressed, comment was made by the Police Ombudsman about 'Kevin Fulton's' relationship with the RUC and his reliability as an informant. Comment was also made by the Police Ombudsman about steps which might have been taken by the RUC following receipt of the information provided by 'Kevin Fulton', although the Ombudman was satisfied that 'Kevin Fulton' never claimed that a bomb was destined for Omagh. Reference was made by the Police Ombudsman to an individual 'A'. It was recorded that 'Kevin Fulton' had provided information to the RUC about 'A' over the course of a number of meetings in the months prior to the Omagh Bombing, including that 'A' had requested an item useful to a bomb maker and had smelt of fertiliser.

44. The information it was reported that 'Kevin Fulton' had provided on 12 August 1998 was that the Real IRA "*was about to move something North over the next few days*." At the time 'Kevin Fulton' had reportedly provided his information about 'A', it is also recorded in the Police Ombudsman's public statements that 'A' was suspected by the RUC as being an active dissident republican terrorist. Another matter commented upon in one of the public statements was the assertion that 'A' made a 59 second telephone call on 15 August 1998 to an individual who had been identified by the investigators as being responsible for the Omagh Bombing.

45. Mr Justice Horner stated the following in respect of the conclusions of the Police Ombudsman, as recorded in the statement published pursuant to Section 62 of the 1998 Act in the course of the Gallagher judicial review application:

> *[106] On 12 December 2001 PONI published a report which included the following recommendations:*
>
> *(a) Recommendation 1 - An Investigation Team led by a Senior Investigating Officer, independent of PSNI, should be asked to conduct the Omagh Bomb investigation.*
>
> *(b) Recommendation 2 -* ***An officer in an Overall Command from an outside police force be appointed to carry out the investigation of the potentially linked terrorist incidents identified in the Omagh Bomb Review Report.*** *(Emphasis added)*
>
> *(c) Recommendation 3 - That senior investigating officers in the Omagh Bomb Investigation, and all other investigations, must be given appropriate access to <u>all</u> relevant intelligence.*
>
> *(d) Recommendation 5 - That a review takes place into the role and function of Special Branch with a view to ensuring that, in future, there are clear structures and procedures for the management and dissemination of intelligence between Special Branch and other parts of the Police Service of Northern Ireland and that Special*

Branch will be fully and professionally integrated into the Police Service of Northern Ireland.

[107] The Report was critical of:

(a) The handling of the Fulton information although PONI accepted that even if reasonable action had been taken in respect of that intelligence alone it is unlikely the Omagh bomb could have been prevented. She stated that Fulton had never claimed that a bomb was destined for Omagh. PONI concluded that:

> *"Taking into account all the information provided by Kevin Fulton, which has become available during the course of the investigation, the objective conclusion of the Police Ombudsman is that even if reasonable action had been taken in respect of the intelligence above it is unlikely that the Omagh bombing could have been prevented." See paragraph 6.4 of the statement by the Police Ombudsman.*

(b) She was critical of the handling of information provided during an anonymous phone of 4 August 1998 when the caller had informed police that AK47s and rocket launchers would be moved to a location outside Omagh on 15 August 1998 and used in an attack on the police. She said at paragraph 6.6:

> *"The Police Ombudsman is firmly of the view that this significant information was not handled correctly. It is not possible to say what impact other action between 4 August 1998 and 15 August 1998 would have had, or what action other than that taken by Special Branch could have prevented the Omagh bomb."*

(b) She was critical of the structure and internal operation of the PSNI. In particular, she complained that intelligence had been held by Special

Branch which had not been shared with the investigating officers until 9 September 1998.

46. The Inquiry understands that the Police Association for Northern Ireland (subsequently the Police Federation for Northern Ireland) issued judicial review proceedings against the Police Ombudsman in connection with *Omagh 1*; with those proceedings subsequently being withdrawn following an agreement between the parties.

Section 6: the PSNI response to the PONI: Omagh 1 report of December 2001 (January 2002)

47. The Police Service of Northern Ireland (PSNI) did not accept many of the conclusions reached by PONI, or the methodology used by PONI in arriving at its conclusions. The disagreement between PONI and the Chief Constable of the PSNI in and about the contents of the report is something which the Inquiry has already received information about.

48. Mr Justice Horner summarised the PSNI's view of the Ombudsman's conclusions in the Gallagher judicial review application:

> *[108] This Report provoked a statement in response from the Chief Constable which joined issue with PONI on many issues and in particular made it clear that Fulton's information would not have prevented the Omagh Bomb and that the information provided by Fulton between June and August 1998 was not relevant to the Omagh Bomb. The Chief Constable denied that the information received on 4 August 1998 had not been handled correctly and if the police had responded, then the nature of the response would not have prevented the bombing. Finally, the Chief Constable complained that PONI had failed to acknowledge the resources devoted to the investigation and, more importantly, had failed to interview the Special Branch officers who originally received and analysed the information back in August 1998.*

49. The statement from the PSNI, which is referred to by Mr Justice Horner, is dated 22 January 2002 and has been disclosed in this Inquiry. This statement sets out that the PSNI took issue with the Ombudsman's public statements on the following basis:

    a. Material omissions;

    b. Misunderstanding;

    c. Unwarranted assumptions; and

    d. Significant factual inaccuracies.

Section 7: Northern Ireland Policing Board (2002)

50. The Northern Ireland Policing Board (NIPB) was established by the Police (Northern Ireland) Act 2000 following the recommendations contained in the Report of the Independent Commission on Policing for Northern Ireland, otherwise known as the '*Patten Report'*. The aim of the NIPB is to ensure accountability and transparency in policing oversight.

51. In an open corporate witness statement provided to the Inquiry, dated 16 May 2025, its Chief Executive said that: "*NIPB is responsible for ensuring for all of the people of Northern Ireland an effective, efficient, impartial, representative and accountable police service which will secure the confidence of the whole community, by reducing crime and the fear of crime."* It has important statutory duties and functions, including the duty to hold the Chief Constable to account and monitoring compliance with the Human Rights Act 1998.

52. The NIPB corporate witness statement says that following consideration of the public statement from the Police Ombudsman in relation to its Omagh 1 investigation, and the PSNI's challenge to the Ombudsman's conclusions, the NIPB held a special meeting over three days in February 2002. The NIPB set out several commitments after those meetings:

a. The NIPB appointed the Deputy Chief Constable, Michael Tonge, and Detective Chief Superintendent, Philip Jones, both of Merseyside Police, to provide independent scrutiny of the Omagh Bombing investigation. This work focussed on the recommendations of the McVicker Report and particularly where it presented outstanding lines of inquiry. A report of their work was presented to the Board in April 2003. It is often referred to as the *'Tonge Report'* and was not disclosed in the public domain, although the NIPB did release a public statement following the delivery of the Report.

b. The Chief Constable requested Her Majesty's Inspectorate of Constabulary (HMIC) to conduct a full review of murder enquiries, addressing concerns raised by the Police Ombudsman following Omagh 1 in relation to police resources, strategies and processes in handling murder enquiries. This process was not specific to the Omagh Bombing investigation. The Chief Constable commissioned David Blakey CBE, QPM, DL, a former Chief Constable and ex-HMI for Central England and Wales (as well as President of the Association of Chief Police Officers and Secretary of the Association of Chief Police Officers (ACPO) Crime Committee), with experience in wide ranging inspection of policies and practices in the London Metropolitan Police relating to homicide investigation, to carry out this review. The subsequent report was published in May 2003 with ten recommendations. HMIC continued to oversee its implementation. This report is often referred to as the '*Blakey Report'* and was not disclosed publicly.

c. The NIPB commissioned a review of RUC Special Branch by Sir Dan Crompton CBE, QPM. Sir Dan Crompton was a former Chief Constable and HMI for the North of England and Northern Ireland, with a long-term knowledge of the RUC and the PSNI, and who had conducted reviews and inspections within the UK and abroad. This process arose from the concern raised by the Police Ombudsman following Omagh 1 about intelligence handling between the RUC Special Branch and CID. This was presented to the Board in November 2002, which made several recommendations. It is often referred to as the '*Crompton Report*'. The NIPB witness statement provided to the Inquiry refers

to a public statement issued jointly with Sir Dan Crompton which refers to recommendations, including that there should be:

i. Early consultation by Special Branch with a senior CID officer for all proactive Special Branch type operations, to ensure the future evidential requirements for a successful prosecution are considered as part of the decision-making process within the operational plan;

ii. Greater involvement of regional police chiefs in decisions about deployment on intelligence led operations;

iii. Better evaluation of intelligence looking at its reliability, the source and who needs to get it (using a national model);

iv. An introduction of joint IT systems to share intelligence with adequate safeguards; and

v. Better career planning, more training and service-wide experience for detectives.

d. Finally, the NIPB established a monitoring system for the implementation of any recommendations arising from the above processes. HMIC was requested to monitor the implementation of the Blakey and Crompton reports (and the Stevens 3 report, unrelated to the Omagh Bombing). According to the NIPB, HMIC's monitoring work continued until August 2007, when it presented a final report to the Board. At that stage, only four recommendations from the Blakey, Crompton and Stevens 3 reports remained outstanding: three would be subsumed in a later Criminal Justice Inspectorate for Northern Ireland (CJINI)/HMIC review of scientific support services, referred to further below in this summary; and the fourth, related to staffing in the PSNI's Crime Operations Department, was to be addressed by the NIPB's Human Resources Committee.

Section 8: the Nally Report (June 2003)

53. On 22 March 2002, PONI presented a report to the Minister for Foreign Affairs in the Republic of Ireland. The Minister for Justice, Equality and Law Reform appointed a group in April 2002, involving Dermot Nally (former Secretary to the Government), Joseph Brosnan (former Secretary to the Department of Justice) and Eamonn Barnes (former Director of Public Prosecutions), with the following terms of reference:

    a. To examine the matters arising from the "*Report raising concerns of the activity of An Garda Síochána Officers ("AGS") during 1998*", dated 22 March 2002 and prepared by PONI; and

    b. On the basis of this examination to report to the Minister for Justice, Equality and Law Reform and, if considered appropriate, to make recommendations.

54. The PONI report from March 2002 concerned allegations made by an AGS officer, Detective Sergeant John White, concerning drug-related matters in 1995/1996 and the handling of intelligence in 1998 and whether intelligence had been properly acted on. Mr Justice Horner, in the Gallagher judicial review application, said the PONI report *"included intelligence relating to a group of republican terrorists and concerned the activities of an AGS source, namely one Paddy Dixon, who was involved in the theft of cars which had been used by the group. He also made specific allegations concerning the availability of intelligence to the AGS about the car which was used in the Omagh bomb."*

55. What is often called the '*Nally Report'* was presented to the Minister in June 2003. An abridged, non-sensitive version of the Nally Report was made available publicly at the time. At the Inquiry's request the Government of Ireland has disclosed to the Inquiry the full report with redactions of sensitive material applied.

56. The Nally Report states that it was not a court or a tribunal of inquiry and had no powers of compellability. It said: *"The focus of the Group's report is the alleged activity of the Garda Síochána officers, not the Omagh bombing or any of the other terrorist incidents referred to in the Ombudsman's report."*

57. The Nally Report acknowledged the PONI report from March 2002 but also that it had received a further report and supporting documentation from PONI as well as material from PSNI relating to Detective Sergeant White and from Mr White personally. The Report states that information was sought from an informant of Mr White, and an interview with him, but was not provided.

58. The Nally Report considered that DS White's allegations fell into three main categories:

    a. Allegations that action was not taken by named senior AGS officers that could and should have been taken and might have prevented, or helped to prevent, three serious incidents in Northern Ireland, including the Omagh Bombing.

    b. Allegations of a ceasefire deal between the Irish Government and the Real IRA after the Omagh bombing and as a result of Ministerial interference in the prosecution process.

    c. Allegations of encouragement of or complicity in the commission of criminal offences or other improper conduct on the part of senior Garda officers.

59. DS White alleged, in particular, that an informant of his had been told by an individual they were closely associated with, who was a member of a "*subversive organisation*" (the phrase used by the Nally Report), that a vehicle was required for a bombing in Northern Ireland. It is alleged the informant was told of this on 24 July 1998 and that Detective Chief Superintendent Jennings was informed immediately. DS White further alleged that his informant contacted him on 14 August 1998 to tell him that they [the informant] had just been contacted and told the operation to steal a car was off as a car had been obtained elsewhere. This was a matter DS White asserted he had informed DCS Jennings about.

60. DS White alleged DCS Jennings told him in a meeting on 11 or 12 August 1998 that he had decided not to monitor or control the vehicle in question, and to let it go into Northern Ireland, on the basis that it was unlikely anyone would be killed or injured, which would be conducive to the safety of the informant, an allegation denied by DCS Jennings.

61. The Nally Report found that the central allegations made by DS White in respect of the availability of information about the car used in the Omagh bomb were untrue. It was found that no vehicle was stolen for the Real IRA by the team of DS White's informant in the days preceding the Omagh bombing, although an attempt had been made to do so. The only information about the bomb car available to AGS, and which was passed to the RUC, was that it has been stolen. The Nally Report stated that *"while a fax containing particulars of the red Vauxhall Cavalier stolen at Carrickmacross were sent at 1.00pm on Thursday, 13 August 1998 to the RUC as one of a list of 15 vehicles that had recently been stolen in the South, no intelligence relating to the stolen Cavalier being destined for the RIRA was ever received by the Garda Síochána prior to the bombing"* and, in its overall conclusion, that there is *"no foundation"* for the allegations made by DS White to PONI, or for additional allegations which he made to the Senior Investigating Officer of the Omagh Bomb investigation.

62. Mr Justice Horner stated in the Gallagher judicial review application: *"... there was no information linking the agent to the theft of the car nor linking the use of the car to either the terrorist group or to the Omagh bomb itself."*

63. The Nally Report found that DS White's later allegations were a direct consequence of his own difficulties with his superiors in AGS and encounters with the criminal law, finding that his assertion that his motivation for making allegations was his sense of personal guilt and responsibility for the Omagh Bombing to be inherently incredible. The Nally Report sets out details of DS White's arrest and prosecution in the Republic of Ireland. The Inquiry understands that DS White was acquitted of all charges which he faced but that he was dismissed from AGS in 2006 following the publication of findings by the Morris Tribunal in the Republic of Ireland.

64. The Nally Report also commented upon information it received from AGS Assistant Commissioner Carty, stating that he *"described the closeness of the co-operation between the RUC investigation team and the Garda team of which he was the head following the Omagh atrocity. The Assistant Commissioner told the Group that "never before in the history of the two organisations had there been closer co-operation on an investigation which he had said had been conducted with as much energy and as many resources as if the bomb had gone off in the South". The officer overseeing the RUC*

investigation team which was responsible for liaison with the Garda investigation team emphatically confirmed this view of the level of Garda/RUC co-operation at the time which he said was quite outstanding."

65. In a statement by Michael McDowell, then Minister for Justice, Equality and Law Reform, to Dáil Éireann on the Nally Report on 16 December 2003, it was stated that:

> *"...The Group also made some recommendations. In doing so it stated:*
>
> > *"The Group's only recommendations relate to the desirability, while preserving confidentiality and security, of keeping better records of North/South contacts and exchanges in intelligence matters, and a written code of instructions and guidelines on intelligence-gathering and agent-handling.*
> >
> > *The Group understands that action has now been taken on both of these matters but recommends that the arrangements should be reviewed in light of its report. The Group also recommends that consideration should be given to whether legislation covering intelligence-gathering and agent-handling would be desirable."*
>
> *I can assure the House that these recommendations are receiving the necessary attention from myself and the Garda Commissioner..."*

Section 9: International Scientific Peer Review Panel (December 2003)

66. An International Scientific Peer Review Panel (the Review Panel) was established by the then Senior Investigating Officer of the Omagh Bomb investigation in December 2003. The Review Panel was made up of experts from Canada, the United States, the United Kingdom and Switzerland. This was convened on the basis that scientific evidence, and the quality of that evidence, would be crucial in any trial relating to the Omagh Bombing. The Review Panel's role was to review and validate the recovery of exhibits, scientific examinations and conclusions of the Omagh Bombing investigation.

67. The Review Panel provided the PSNI with an interim report on 11 December 2004 and a final report, dated 30 November 2005. The final report sets out the Review Panel's instructions stating, among other things:

> *"... To help ensure that the scientific examinations were as thorough as possible, that everything feasible was being done, and that the quality of the results met the highest standards, Dr. John Davison, a Specialist Advisor in Major Crimes with the Forensic Science Service (FSS), was invited to serve as a specialist advisor to the Omagh Enquiry Team and to complement the normal quality assurance activities of FSNI [Forensic Science Northern Ireland].*
>
> *In addition because of the importance of this overall investigation, an established protocol of the UK National Crime and Operations Faculty (NCOF) was invoked and an international Peer Review Panel [PRP] was appointed to offer independent advice to the investigation. The general role of the PRP as envisaged by NCOF is to:*
>
> *1) Assess the overall forensic science approach and the significance of the conclusions drawn in the context of the circumstances of the investigation.*
>
> *2) Verify the validity of the methodology employed and evaluate its strengths and weaknesses.*
>
> *3) Suggest possible additional examinations that might elicit supplementary information or provide an independent perspective on the significance of the information provided to the investigation and to any subsequent court proceedings.*
>
> *4) Consider any reasonable alternative hypotheses to those proposed by the Enquiry Team.*
>
> *The formal instructions to the PRP were provided by the PSNI Omagh Bomb Enquiry Team in a letter dated March 15, 2004. They are:*

"a) To review investigative techniques from exhibit recovery to laboratory examination.

b) Review interpretation and synthesis of the evidence as a whole and comment on the appropriateness of conclusions reported.

c) To suggest any further lines of enquiry which may prove beneficial."

The PRP review process is designed specifically to provide demonstrably independent and impartial advice and scientific validation to the investigation by making available to it many combined years of forensic science experience from countries with differing investigative and judicial systems. The PRP brings to the review a broad external generalist perspective rather than the more focused view of the various deeply involved specialists. It must be emphasized that the review is not intended to "second guess" or in any way undermine the work already performed but rather to attempt to bring added value to it.

This review has not involved detailed examination of the FSNI case files but rather has been limited to study of reports and witness statements supplemented by discussions with the scientists and investigators involved. Validation of the analytical results and observations in those reports has been left to the normal quality assurance procedures in place at FSNI and to Dr. Davison's detailed reviews of the files.

68. The final Review Panel report made fourteen recommendations, including in relation to potential scientific and technical investigative avenues which had been suggested in its interim report. The work and recommendations of the panel was a feature of the questioning of Dennis McAuley, a witness from the Forensic Science Agency for Northern Ireland, in evidence given at the criminal trial of Sean Hoey in 2006.

69. A review commissioned by the NIPB in 2008 following the trial of Sean Hoey was authored by Sir Dan Crompton and David Blakey – both referred to earlier - and Graham Shaw. Mr Shaw was a retired Detective Superintendent of the West Yorkshire Police with experience as a Head of Murder Review, Senior Investigating Officer and Head of the Scenes of Crime Department. He was also a trainer on national courses

for Detective Inspectors and SIOs. This report commented upon the work of the International Scientific Peer Review Panel. It said the following:

> *"Examination of the peer review papers provided to the PSNI shows concentration on scientific examination of exhibits, and professional opinion emerging from that examination, leading to conclusions about the reliability of such evidence. Certainly the PSNI assembled a comprehensive array of scientific skills and the report in its entirety was impressive. However, the panel acknowledged that they could not comment on the recovery of exhibits in the cases linked to Omagh as they had not reviewed the documentation. By inference, as opposed to specific comment, they indicated satisfaction with the recovery of the exhibits in the Omagh case since they had reviewed the continuity of those exhibits. This certainly had value, but the continuity of exhibits is only one side of a 'two sided coin'. The other side is represented by scientific evidence only being as good as the purity of exhibit collection, transmission and, particularly, storage. We are left wondering therefore if in the deliberations of these specialists the quality of the sample collection and storage was more or less taken for granted, whilst in the course of the trial it became a major feature".*

Section 10: Review of Scientific Support Services in PSNI (December 2005)

70. The 2008 report from Crompton, Blakey and Shaw, which was mentioned above and is discussed below, stated that, given the emergence of Forensic Science issues in reports which had already been published, it was "*timely*" that the CJINI and HMIC published a joint report entitled "*A Review of Scientific Support Services in the PSNI*" in December 2005.

71. The review related to scientific submissions for all criminal offences and published 25 recommendations designed to improve the performance of the PSNI in terms of how its scientific support function was supporting crime investigation and detection in Northern Ireland. All of the recommendations were accepted by the PSNI and there was a process of review and revisiting of recommendations to ensure progress was being made. CJINI/HMIC acknowledged improvement in the PSNI since 2005 but, as it

was reported by Crompton, Blakey and Shaw in 2008, had some ongoing concern around the priority given to some crucial recommendations which had been made.

72. In the context of the PSNI progressing recommendations arising from other reports (including the Tongue, Crompton and Blakey Reports already set out), the joint inspectorate review noted that the PSNI had proved effective in reducing non-compliance with the issue of quality control around exhibit submission. It was noted that, if there was some weakness, it was around exhibit collection, labelling and storage; which was a strand running through several reports and culminating in the comments of Mr Justice Weir, as he then was, in the Hoey criminal trial. The final report of the CJINI/HMIC was issued in October 2009.

Section 11: The report of Crompton/Blakey/Shaw (May 2008)

73. Following the outcome of the Sean Hoey trial in December 2007, the NIPB held a special Board meeting on 3 January 2008 and decided unanimously to commission an independent external review of issues arising from the Court's judgment. As indicated earlier, this review was carried out by Sir Dan Crompton and David Blakey, as well as Graham Shaw. The review report was completed in May 2008 and presented to, and adopted by, the NIPB in July 2008. The conclusions of the report indicate that the authors examined a number of issues, and that the PSNI was now well placed to perform with credit, but that the main residual matter was the preparedness of the PSNI to deal with such an incident, or other major incident of a different type in the future.

74. Mr Justice Horner, in the Gallagher judicial review application, said that the review:

> *"…was to consider all of the evidence available to police in relation to the Omagh bomb, both used and unused during the Hoey trial and to consider whether any further action was justified by way of prosecution process. It also looked at the institutional changes which had been made within PSNI in light of the recommendations made during the previous reviews. This review was published in July 2008. It acknowledges that the police investigation was ongoing and that there were approximately 70 "actions" which were still to complete, some of which had experienced delay with AGS. It was however*

acknowledged that the prospects of future prosecutions were unlikely in the absence of fresh evidence. It did make the following comment about the prospect of future prosecutions:

> *"However, in the absence of good scientific evidence, a confession, or a reliable witness, we conclude, as did the Chief Constable, that it is unlikely that a new prosecution could be launched at present.""*

Section 12: Panorama and Sunday Telegraph (September 2008)

75. On 14 September 2008 the Sunday Telegraph newspaper published an article with the headline "*The Words that might have saved Omagh*". This article, written by the journalist John Ware, suggested that intelligence which may have been gathered by covert means had, if acted upon, the potential to prevent the Omagh Bombing and to identify the offenders but that this information was not passed on to the RUC either before or after the explosion.

76. The article was followed by a BBC Panorama broadcast on 15 September 2008, presented by John Ware, entitled: "*Omagh – What the police were never told*". It featured contributions from individuals such as former PSNI Assistant Chief Constable Raymond White and Nuala O'Loan, former Police Ombudsman. The programme made allegations that at the relevant time vital intercept intelligence had not been passed on to the police promptly to prevent the bombing or to assist the police investigating the bombing to bring the perpetrators to justice. The assertions in large part related to what GCHQ did and did not do.

Section 13: the report of the Police Ombudsman for Northern Ireland: Omagh 2 (October 2008)

77. This report followed a referral from the Chief Constable on 7 November 2006 which related to the origins of the anonymous telephone call received by Omagh RUC station on 4 August 1998. The contents of this report are described by PONI as being sensitive. It has been referred to as the '*PONI: Omagh 2 Report*'.

Section 14: the Gibson report (December 2008)

78. On 17 September 2008 the then Prime Minister, Gordon Brown, provided Sir Peter Gibson, the Intelligence Services Commissioner, with terms of reference to "*Review any intercepted intelligence material available to the security and intelligence agencies in relation to the Omagh bombing and how this intelligence was shared*." Sir Peter presented a full report to the Prime Minister on 18 December 2008 (the sensitive Gibson Report). A shorter version of that report is dated 16 January 2009 and is entitled *"Review of intercepted intelligence in relation to the Omagh Bombing of 15 August 1998"* (the public Gibson Report). In the introduction to the public Gibson Report, Sir Peter stated that *"...very serious and damaging allegations have been made publicly, as a result of which expectations may have been raised among the families of the victims of the bombing..."*

79. In the public Gibson Report, Sir Peter considered the background to the Omagh Bombing, investigations after the explosion and the roles and relationships between the RUC, the Security Service and GCHQ. All three organisations contributed to the work Sir Peter carried out. The conclusions of the report were as follows:

> *26. By 1998 dissident republicans were well aware that telephone communications were not secure. It was normal for the dissidents to use guarded language and code words in their conversations by phone. They rarely identified themselves or those to whom they spoke or named clearly those about whom they spoke. Voice identification of those participating in a telephone call was imprecise. There was never complete certainty in the identification of a voice by listening to it or as to the real nature of the matters under discussion; for example smuggling activity by dissident republicans was commonplace.*
>
> *27. Throughout 1998, before, on and after 15 August, GCHQ ensured that intelligence from any interception that might have been relevant to RUC Special Branch for its operational purposes was promptly being made available to them; this included near real time provision of information by telephone (that is almost immediately after a call had been listened to itself in near real time) in accordance with pre-agreed criteria. In addition, written intelligence reports were issued within hours of*

interception again in broad accordance with procedures agreed between GCHQ and Special Branch South. I am satisfied that in the days surrounding August, and on the day itself, to the extent that any relevant intelligence was derived from interception, it was shared with RUC HQ and Special Branch South promptly and fully, and done so with the latter in accordance with procedures agreed with Special Branch South.

28. The evidence that I have reviewed is consistent and clear to the effect that there was nothing to suggest either that a bomb attack was going to take place on 15 August or that the town of Omagh was to be the target of any bomb attack. There is no evidence whatever before me to make good the assertion in the Sunday Telegraph and the Panorama programme that, on 14 August, the Garda had warned the police of a likely attack. Special Branch did not identify to GCHQ any particular phone number as being of particular importance or relevance to a potential bombing (in Omagh or elsewhere) nor is there any evidence that Special Branch believed that GCHQ could pinpoint the location of a particular mobile phone.

29. The conclusion reached by Special Branch, even immediately after the bombing, was that there was no locational material such as would have enabled the RUC to direct any response by the security forces or prevent the bombing. Any intelligence derived from interception as might have existed could not have prevented the bombing.

30. An allegation was made in the Panorama programme that GCHQ had intercepted a call in relation to the Banbridge bombing on 1 August from which, and from what was known to GCHQ on 15 August, it could have been deduced that a further attack was under way that day. My conclusion is that there was no information on or before 15 August that could reasonably indicate by reference to the events of Banbridge that a further bombing attack was about to take place.

31. *The portrayal in the Panorama programme of the tracking on a screen of the movement of two cars, a scout car and a car carrying a bomb, by reference to two "blobs" moving on a road map has no correspondence whatever with what intercepting agencies were able to do or did on 15 August 1998. On the basis of evidence from an independent expert witness from a mobile communications service provider I am satisfied that, in 1998 it was neither possible to track mobile phones in real time nor to visualise the location and movement of mobile phones in the way that was shown in the Panorama programme. Information on the location of a mobile telephone only existed within the mobile phone network in respect of "communications events" – when a phone was switched on or off, or during a call, for instance – and even then would have been limited to information about the cell (the area covered by a particular mast) in which the phone was active. It is clear therefore that no intelligence or security agency or law enforcement agency did see or could have seen what was suggested by the Panorama programme in its representation. On the basis of this, and other material received by me, assertions in the programme that, if live monitoring was taking place, from 1250 hours the picture of a bomb run in progress should have begun to materialise, that those monitoring were seeing two cars, just like a bomb run heading towards Omagh, and that by 1420 hours on 15 August those monitoring should have been in little doubt about what was going to happen, are incorrect and unsupported by any evidence.*

32. *Assertions were made in the Panorama programme that GCHQ did not pass its intercepted intelligence to the Investigation Team to help the enquiry. I would repeat my conclusion in paragraph 27 as to the timely passing of any relevant material to RUC HQ and Special Branch South. As described in paragraph 23 above, the arrangements in place at the time allowed for RUC Special Branch to make requests in respect of further dissemination of any GCHQ material that might have existed. The records show that no such request was made. No police witness before me was aware of any request to GCHQ being refused and there*

was warm praise from the Head of Special Branch and the Regional Head of Special Branch South for the work done by GCHQ in Northern Ireland.

33. In addition to the provision of intelligence by Special Branch to the Investigation Team to which reference is made in the second sentence of paragraph 12 and which took place on 16 August, Special Branch South briefed the Investigation Team on the basis of an all-source intelligence picture on only two occasions. They were: on 20 August, when it identified to the Investigation Team those persons it believed to have been involved in the bombing, and on 9 September when it provided further details of those persons to the Investigation Team. The Garda was also similarly briefed by Special Branch South on 21 August. It was not part of the terms of my review that I should investigate, nor have I investigated, the reasons why Special Branch South acted in the cautious way it did, nor have I investigated the soundness of those reasons, although I do not doubt that Special Branch South took the actions it did for what it considered to be good operational reasons.

80. In the Gallagher judicial review application, Mr Justice Horner said the following of Sir Peter's work:

"This was a non-statutory review, which accessed documents and personnel from GCHQ, MI5, RUC and PSNI. While Sir Peter Gibson provided a full report to the Prime Minister, a shorter version of his report was published which did not contain any sensitive security information. The full report contained all the relevant information, whether highly sensitive or not, and was classified. Again, this report will be considered in full along with the other CLOSED material. Sir Peter concluded that to the extent that any relevant intelligence was derived from interception, this was shared with RUC Special Branch South promptly and fully and in accordance with the procedures agreed with Special Branch South. He also concluded that any intelligence derived from interception as might have existed could not have prevented the bombing in Omagh. His conclusion was that there was no information on or before 15

August that could reasonably indicate by reference to the events of Banbridge that a further bombing attack was about to take place. Sir Peter also looked at the issue of how the intelligence from GCHQ was dealt with by Special Branch. This was because onward transmission beyond those authorised to receive it, required- permission from GCHQ. Sir Peter described Special Branch's actions in sharing the information as "cautious" but that it was beyond the remit of his review to investigate why Special Branch had acted as it did."

Section 15: the report of the Police Ombudsman for Northern Ireland: Omagh 3 (February 2009)

81. On 23 November 2006, the then Police Ombudsman received a referral from the Chief Constable of the PSNI concerning the evidence of two individuals, one a Scenes of Crime Officer and the other a Detective Chief Inspector, during the trial of Sean Hoey. According to the PONI corporate witness statement provided to the Inquiry, the investigation focused on why they provided different statements and why, in the terms used by those representing Sean Hoey, their evidence was "*beefed up" or whether there was an attempted "deliberate and calculated deception*". One issue was that the individuals gave evidence to say they were aware of the risk of DNA contamination and had worn protective clothing at the scene of an incident prior to the Omagh Bomb, where they were responsible for transporting a Timer Power Unit (TPU) for forensic analysis. Photographic evidence indicated that it was not correct that they were wearing protective clothing.

82. PONI's public statement following the investigation, made in February 2009, said that details had been added to statements but concluded that the statements "*did not contain any inaccuracies or embellishments of the facts*" and there was "*no evidence to support a deliberate and calculated deception by any of the police officers involved*". This investigation has been referred to as *'Omagh 3'* or the '*PONI: Omagh 3 Report*'.

Section 16: Northern Ireland Affairs Committee (March 2010)

83. The Northern Ireland Affairs Committee (NIAC), which is a House of Commons Select Committee, commenced an inquiry in October 2008 following the Sunday Telegraph article and Panorama programme the previous month. It published a report on 16

March 2010 entitled: "*The Omagh bombing, some remaining questions*". NIAC stated that it could be the single most important report it had produced during that Parliament.

84. Mr Justice Horner said the following in the Gallagher judicial review application:

> *[114] The Panorama programme and the Sunday Telegraph article by John Ware led to an investigation by NIAC. The investigation of NIAC touched upon four separate areas, namely:*
>
> *(i) Whether there was intelligence which could have prevented the bomb;*
>
> *(ii) Whether GCHQ had monitored the phones of the bombers on the day of the bomb;*
>
> *(iii) If so, whether this had been carried out **live**; and*
>
> *(iv) Why materials given to RUC Special Branch never reached the detectives in the Murder Investigation Team.*
>
> *[115] NIAC was critical of the fact that they had not had access to the full Gibson Report. It did reach conclusions on the issue of whether intelligence was available which could have prevented the bombing. They were as follows:*
>
> > *"... we are therefore left to take the word of those who had read the full report that no intelligence was available which might have prevented the bombing. We see no reason to doubt Sir Peter, the Secretary of State, Sir Hugh, or the Chairman of the Intelligence and Security Committee ... we are able to say only that nothing we have seen leads us to challenge Sir Peter Gibson's conclusion that any available intelligence could have been used immediately prior to the Omagh bombing to prevent it."*
>
> *[116] NIAC recorded that John Ware denied that his article asserted that the bombing and consequent loss of life and injury could have been*

*prevented. NIAC did not feel that it could challenge Sir Peter's conclusion that "**any intelligence derived from interception as might have existed could not have prevented the bombing."** It further went on to say that the broader question of whether "it could have been prevented by taking action against the gang believed to have carried out bombings from mid 1997 onwards is one that remains to be addressed." It noted that the narrow terms of Sir Peter Gibson's inquiry had left that question unanswered.*

[117] NIAC did concentrate on whether or not the intelligence shared by GCHQ with Special Branch had then been further shared with CID. NIAC noted that Sir Peter Gibson did not investigate how intelligence which was passed to Special Branch was used. It did note that Sir Peter had used the description that Special Branch had acted "cautiously" as I have already observed.

[118] NIAC stated at paragraph [48]:

> *"[48] ... Further inquiry on the Omagh bombing is required, not because enquiries lead to further inquiries, as the Secretary of State puts it, but because one substantial question outlined in this report remains unanswered: what public interest justification there can be, if any, for withholding of intelligence, information or evidence from the team of the detectives who investigated the Omagh bombing."*

[119] The Government rejected the call by NIAC for a further inquiry and claimed that the issues had been examined by previous investigations. NIAC was not prescriptive about what further investigation should take place and it did not support the request for a public inquiry but said that whether a full scale public inquiry is required "is less clear." It said it would defer any final judgment and the need for a public inquiry until after it had received the Government's response to its report.

85. The Committee acknowledged in its report that security considerations require the full report to be restricted. NIAC noted the following quotation from the Secretary of State for Northern Ireland:

> *"GCHQ ensured intelligence from any interception that might have been relevant to those operations being conducted by Special Branch was made promptly available to them. This included "near real time" provision of information: that is, almost immediately after a call had been listened to itself in near real time."*

86. The NIAC report's conclusions and recommendations included the following:

> *4. Nothing we have seen leads us to challenge Sir Peter Gibson's conclusion that any available intelligence could have been used immediately prior to the Omagh bombing to prevent it. We repeat our bitter disappointment, however, that, in spite of repeated requests, the Prime Minister has refused to allow our Chairman to read the full report, even under supervision. It is thoroughly reprehensible that the Government should seek to prevent the parliamentary Committee charged with oversight of the affairs of Northern Ireland such access, and we believe that the Government's attitude in that respect has done more damage than good. (Paragraph15).*
>
> *5. While there may be good security reasons for not disclosing the content of transcripts, we are not persuaded that confirming or denying their existence should present problems. We invite the Government to do so. The case for or against the use of intercept evidence being admissible in UK courts has been argued for many years. We invite the Government to justify the argument that the public interest is better served by withholding such evidence, rather than by using it to bring murderers to justice. (Paragraph 28)*
>
> *7. We are disturbed by the suggestion that arrests could have been made quickly, and forensic evidence obtained, had there been an earlier exchange of information. We are particularly concerned by the*

suggestion that the names of individuals who owned telephones, thought to have been used in the bombing, were known to the intelligence services or the police. We seek a definitive statement from the police of whether such names were known. If they were, we seek an explanation of why no action was taken to arrest or question the owners of those telephones. (Paragraph 39)

10. Further inquiry on the Omagh bombing is required not because inquiries naturally lead to further inquiries, as the Secretary of State puts it, but because one substantial question outlined in this Report remains unanswered: what public interest justification there can be, if any, for the withholding of intelligence, information or evidence from the team of detectives who investigated the Omagh bombing. (Paragraph 48)

11. It is unclear to us precisely what Sir Peter Gibson did investigate. His terms of reference state that he was asked to investigate how intelligence was shared. He did not investigate Special Branch's caution in not sharing relevant intelligence, however. We seek an explanation of why Sir Peter's published terms of reference did not stretch as far as appeared when his review was announced. We find all this obfuscation very frustrating. (Paragraph 53)

13. In an inquiry as important as Sir Peter Gibson's into the uses of intelligence relating to Omagh, it is of considerable regret that he was unable to interview all the witnesses whom he considered relevant. This underlines the limitations and, therefore, the unsatisfactory nature of his inquiry and subsequent report. (Paragraph 57)

Section 17: the report of Martin Bridger (June 2012)

87. Often referred to as the '*Bridger Report*', this document was compiled by Martin Bridger QPM, who was part of an organisation called Sambei, Bridger and Polaine (describing itself as a legal and law enforcement specialist consultancy organisation). The report is entitled "*Report compiled for the British and Irish Governments in support of a full*

public inquiry into the Omagh Bombing 15th August 1998". The Bridger report was commissioned by the Omagh Support and Self Help Group.

88. Martin Bridger was a former investigator for PONI and is recorded by Mr Justice Horner in the Gallagher judicial review application, as having worked on the PONI: Omagh 1 investigation. Mr Justice Horner said that the Bridger Report:

> *"...raised a number of key issues which remained unanswered and offered his opinion that the most effective way of addressing all of these and potentially other issues was "through the establishment of a full cross-border public inquiry.""*

89. The Bridger Report stated that underpinning its commentary were three broad considerations:

a. Whether there was material giving rise to such public disquiet/loss of public confidence as to the actions and/or omissions of state agencies (in Northern Ireland or the Republic of Ireland) that a full and thorough examination of such actions/omissions is required by way of public inquiry or other means;

b. Whether there is material demonstrating that the state may have breached its duty under Article 2 ECHR by failing to take reasonable steps to prevent loss of life in the bombing; and

c. In the event there was such material, whether there has been, to date, an independent and effective investigation of the state's failings in respect of deaths occasioned by the bombing.

90. The Bridger Report considered whether it could have been concluded that Omagh was a likely target for a terrorist attack on 15 August 1998, using the detail of the anonymous telephone call made to the RUC on 4 August 1998 and information related to 'Kevin Fulton' and David Rupert. It also considered suspects and intelligence known prior to the bomb, including that from: DS White from the AGS, the Nally Report, David Rupert, the Gibson Report, and the NIAC inquiry. It stated: *"It is the firm view of the Group that there are significant unanswered questions that are only capable of being*

addressed through a public inquiry into the actions of the various state agencies on each side of the border, however challenging that might be…"

Section 18: the report of British and Irish Rights Watch (May 2013)

91. British and Irish Rights Watch (BIRW), now called the Rights & Security International, is an independent non-governmental organisation that has monitored human rights in Northern Ireland since 1990. It published a final report in May 2013 in relation to the Omagh Bombing. It also had been approached by the Omagh Support and Self Help Group and its report concentrated on identifying what was known prior to the Omagh bomb by state agencies of the United Kingdom, Republic of Ireland and the United States of America. The report concluded that there needs to be an "*independent cross-border inquiry into the Omagh bomb*", having set out what it considered to be remaining questions and potential strategic interventions.

Section 19: the report of the Police Ombudsman for Northern Ireland: Omagh 4 (October 2014)

92. Following the NIAC report, in May 2010 PONI received a further referral from the Chief Constable in relation to the manner in which RUC Special Branch handled intelligence and its relationship with GCHQ in relation to the Omagh Bombing. In 2013 the Chief Constable made a further referral based on the contents of the Bridger Report, which is acknowledged in the subsequent report following the NIAC report. This PONI investigation has been referred to as *'Omagh 4'* or the '*PONI: Omagh 4 Report'*.

93. PONI obtained access to the sensitive Gibson Report and commenced a full investigation in September 2012. The final report from PONI was published in October 2014 and is entitled "*The RUC Handling of Certain Intelligence and its Relationship with Government Communications Headquarters in Relation to the Omagh Bomb on 15 August 1998*". The PONI: Omagh 4 Report's terms of reference included:

"(1) Assess the previous Police Ombudsman investigations relating to Omagh to determine whether information is available to address any of the issues raised by NIAC.

(2) To research the previous OPONI ("Office of Police Ombudsman for Northern Ireland") investigations, investigative reviews and reports available to OPONI, relating to previous attacks referred to in the NIAC report which may link to Omagh (NIAC paragraph 17) and advise the Police Ombudsman on the need to widen the scope of the inquiry to examine the police response and investigation of those attacks.

(3) Consider the content of the NIAC report and develop lines of enquiry to address the issues raised with particular emphasis on paragraphs 35-39, 45-48 and 49-56."

94. The PONI: Omagh 4 Report set out a number of questions raised within the NIAC Report:

a. Could action have been taken in respect of earlier bomb attacks?

b. Could arrests have been made earlier?

c. Why did Special Branch act in a cautious way?

d. Why were investigators not passed the details of relevant telephone numbers?

e. Why was intelligence withheld by Special Branch?

f. What was given to the investigation by Special Branch?

g. Assurances that police practice has changed?

95. The PONI: Omagh 4 Report also stated that: *"My investigation has been specifically concerned with certain intelligence obtained between 15 August 1998 and 9 September 1998 held by the police. It did not involve an audit of all intelligence material held by the PSNI, or any other agency, in relation to the Omagh Bomb. All other*

intelligence held by the PSNI has been subject of review by my Office in previous investigations."

96. According to the open corporate witness statement provided by PONI to the Inquiry, investigation of the question of whether action could have been taken by police in respect of earlier bomb attacks, preceding the Omagh Bombing, included consideration as to whether the existence of intelligence arising from these bomb attacks, if acted on by the RUC, could have prevented the bombing. The PONI report concluded:

> *"Neither the investigation subject of report by my predecessor in 2001, nor my current inquiry, identified intelligence held by the PSNI in relation to previous bomb attacks which, if acted upon, would have prevented the Omagh bomb."*

97. Having considered the assertion by Sir Peter Gibson that RUC Special Branch acted cautiously, PONI said:

> *"Sir Peter Gibson told my investigation that his use of this language had been intended to reflect the significant legal restrictions placed upon the dissemination of the intelligence material involved, rather than to imply criticism. I am satisfied, having received independent expert legal advice, that the view held by the relevant police officers was a reasonable one in the circumstances."*

98. Police officers told PONI that they were in possession of material which was the subject of legal and procedural restrictions and that this intelligence was disseminated following "*sanitisation*" in accordance with the police interpretation of the relevant legislation and in line with an agreement with GCHQ.

99. PONI also addressed the questions of telephone numbers not being passed to RUC CID investigators and why intelligence was withheld. The PONI: Omagh 4 Report stated:

> *"I am satisfied that this action was a result of the interpretation by Special Branch of both the "strict conditions imposed by GCHQ" on the RUC and the legislative framework that prevailed at that time...the consequence of not disclosing information such as the telephone numbers was that the police*

investigation was required to invest substantial resources in analysing related records, resources that might well have been better utilised at that early stage of the Inquiry."

And

"My investigation examined police activity in relation to the development of intelligence between 20 August and 19 September 1998 when intelligence was provided to Police Officer 3 and did not identify any unexplained or unreasonable delays in the provision of that specific intelligence. This should not be confused with the wider issue of intelligence discussed in Baroness O'Loan's public statement."

100. On the final question examined by PONI, which was whether it was assured that police practice had changed, PONI noted NIAC's concern that intelligence gathered through operations relating to national security would be shared with police officers investigating crime and then concluded:

"The legislative position is now governed by the Regulation of Investigatory Powers Act 2000 rather than the Interception of Communications Act 1985. It is my understanding that the constraints on the use of such intelligence are arguably even more restrictive, although there are different views on this."

Conclusion

101. As has been set out above, many of the processes which followed the Omagh Bombing were referred to in the judgment of Mr Justice Horner (as he then was) in the Gallagher judicial review application. That application was issued by Michael Gallagher, the father of Aiden Gallagher who was killed in the bombing. In the Court's judgment, it was noted that Mr Gallagher was instrumental in setting up the Omagh Support Self Help Group, a group which had long campaigned for a public inquiry to consider whether the Omagh Bombing could have been prevented.

102. The Court provided an open and closed judgment in the Gallagher judicial review application. Only the open judgment is referred to in this summary.

103. By way of background, Mr Justice Horner said as follows:

> *"[15] OSSHG is bitterly disappointed at the performance of the authorities in ensuring that those responsible for the Omagh atrocity were arrested, prosecuted and held responsible for their actions. It feels that more could and should have been done to hold those responsible to account for their murderous actions.*
>
> *[16] The OSSHG has other complaints which are the sole subject of this application. Firstly, it seeks, and has been granted, leave to judicially review the decision of the Secretary of State for Northern Ireland ("the respondent") who in a letter dated 12 September 2013 refused to hold a public inquiry (or any inquiry that complied with Article 2 of the European Convention on Human Rights) ("ECHR") into whether there had been a failure to investigate whether the Omagh bomb could have been prevented. Secondly, and leave has not been granted for this, whether the decision of the respondent not to establish a public inquiry was irrational. The court will need to consider this issue in due course."*

104. The central issue in the Gallagher judicial review application was the request to have a public inquiry, in both Northern Ireland and the Republic of Ireland, to consider whether the Omagh Bombing could have been prevented. These grounds of preventability were set out at §144 of the judgment as follows:

> *"[144] As Maguire J observed at paragraph [10] of his judgment in Re Gallagher's Application for Judicial Review [2016] NIQB 95**, the allegations relating to the issue of the preventability of the explosion are wide-ranging. They are:***
>
> *1. An anonymous phone call of 4 August 1998, in which it was indicated that an attack would be made on police on 15 August 1998, and the disappearance of the **'threat book'** at Omagh police*

station, which should have recorded all such threats as received in the anonymous phone call of 4 August 1998. ["Ground 1"]

2. *Information passed to police between June and August 1998 by the former British security force agent known by the name of Kevin Fulton relating to dissident Republican activity. ["Ground 2"]*

3. *Information provided by David Rupert, an agent being jointly operated and managed by the FBI and MI5 at the time of the Omagh bomb, who had established and developed links with dissident Republicans; in particular, through e-mails he provided information on dissident Republican activity including identifying Omagh as a potential target. ["Ground 3"]*

4. *Information sent to the RUC by An Garda Síochána on Thursday 13 August 1998, relating to the particulars of the red Vauxhall Cavalier that was used in the Omagh bomb. ["Ground 4"]*

5. *A briefing to the Senior Operational Commander South Region on 14 August 1998 indicating that information had been received from An Garda Síochána in connection with potential borne improvised explosive device on 15 August, resulting in a military operation being deployed in the South Armagh/South Down area on the morning of 15 August 1998. ["Ground 5"]*

6. *Surveillance operations relating to events surrounding the Omagh bomb that were reported on in the BBC television programme, Panorama; in particular, telephone and vehicle monitoring carried out by the Government's Communication Headquarters. ["Ground 6"]*

7. *The tracking and pattern of telephone usage by dissident Republicans and the connections arising between different bomb attacks, including the same mobile telephone being used in the*

Omagh bomb and the Banbridge bomb on 1 August 1998. ["Ground 7"]

8. *Information shared by An Garda Síochána with the RUC relating to intelligence obtained by Detective John White from the agent known by the name of Paddy Dixon, relating to dissident Republican activity; in 2002 Detective White made statements to the PSNI regarding information that had been obtained. ["Ground 8"]*

9. *Norman Baxter's evidence to the Northern Ireland Affairs Committee to the effect that investigators into previous attacks in Moira (20 February), Portadown (9 May) and Banbridge (1 August) and Lisburn (30 April) did not have access to intelligence which may have enabled them to disrupt the dissident gang by way of arrest or house searches prior to the Omagh bomb. ["Ground 9"]*

10. *Information relating to the possibility that there was a surveillance operation taking place on 15 August 1998, which may have involved methods of surveillance employed by the FBI. ["Ground 10"]"*

105. Mr Justice Horner's judgment provided details about dissident republican activity in Northern Ireland in the 1990s, the powers available to state authorities and how such authorities were organised. He then went on to describe many of the processes which followed the Omagh Bombing, including as have been summarised earlier in this note. The Court said:

"[126] It is important to consider carefully what these investigations and inquiries sought to achieve. Many were primarily concerned with the efforts made by the authorities to apprehend and punish the perpetrators of the Omagh outrage. The search for an answer to the question whether the Omagh bomb could have been prevented was only considered by some of the investigations. For example, it was looked at on a narrow front by the Police Ombudsman e.g. the information provided by the anonymous phone call on 4 August 1998.

So it is important to appreciate that while there were many investigations and inquiries and reports published into the Omagh bombing, the focus of most of them was not to see whether the Omagh bombing could have been prevented, but to try and find out who the perpetrators were, and whether those perpetrators could be held to account.

[129] The inquiries and investigations I have outlined above were largely reactive to various issues as and when they arose. Further criticisms have been made of these inquiries and investigations. They include the following:

(a) There was insufficient involvement of the families;

(b) There was insufficient public scrutiny;

(c) There was no oral testimony and challenge to such testimony; or

(d) Although there was some overlap between the issues it was not complete and accordingly there was a failure to consider various allegations of preventability in their proper context."

106. While the judgment merits its own careful analysis, several specific aspects deserve attention in this summary. For example at, §§55-56 of the Court's judgment, and having made reference to evidence before, and the findings of Morgan J in the civil action which can be cited as Breslin and others v McKenna and others [2009] NIQB 50, Horner J said:

"[55] The same cell site analysis provides prima facie evidence of the involvement of not just Murphy and Daly but of many others in the bombings that so disfigured 1998 in the months leading up to Omagh:

(i) There is evidence that Oliver Treanor (Traynor), Liam Campbell and Thomas Hoey were all involved in the Newry railway line hoax.

(ii) There is evidence that Sean Hoey, Liam Campbell, Thomas Hoey, Oliver Treanor, Michael Brennan Snr, Joe Fee, Jim Fee and Seamus McKenna were involved in the Lisburn bomb and the dress rehearsal for it the day before.

(iii) There is evidence of the involvement of Peter Campbell, Gerald McMullan and Oliver Treanor in the Newry Courthouse bomb.

(iv) Colm Murphy, Joe Fee, Michael Brennan Jnr, Anthony Cunnane, Seamus Daly, Seamus McKenna, Peter Campbell, Jim Fee and Micky Brennan Snr were strongly suspected of being involved in the activity leading up to the Banbridge bomb.

(v) Seamus Daly, Peter Campbell, Joe Fee, Colm Murphy, Liam Campbell, Oliver Treanor, Michael Brennan Snr and Jnr, Shanty Brady were among those the authorities strongly suspected of being involved in the car theft which facilitated the transport of the bomb over the next few days to Omagh.

(vi) Colm Murphy, Seamus Daly, Oliver Treanor, Shanty Brady, Paul Kelly, Liam Campbell, Joe Fee, Anthony Donegan, John Fee and Peter Campbell are all strongly suspected of being involved in the events leading up to the Omagh bomb.

[56] As can be demonstrated from the cell site analysis there is clear evidence that many of those suspected of being involved in the Omagh bomb and the theft of the car for the Omagh bomb were also suspected of being involved in these prior incidents such as Liam Campbell, Peter Campbell, Colm Murphy, Oliver Treanor, Seamus Daly, Seamus McKenna, Sean Hoey, Joe Fee and others. It also appears that despite the evidence of their involvement in early terrorist activity, no effective steps were taken to disrupt their future activities."

107. Mr Justice Horner discussed each ground advanced on behalf of Mr Gallagher in the context of relevant legal principles, including the Human Rights Act 1998 and the European Convention on Human Rights.

108. At §§310-311 Mr Justice Horner concluded:

> *"[310] I am satisfied that grounds 2, 6, 7 and 9 when considered separately or together give rise to plausible arguments that there was a real prospect of preventing the Omagh bombing. These grounds involve, inter alia, the consideration of terrorist activity on both sides of the border by prominent dissident terrorist republicans leading up to the Omagh bomb. It will necessarily involve the scrutiny of both OPEN and CLOSED material obtained on both sides of the border. It is not within my power to order any type of investigation to take place in the Republic of Ireland but there is a real advantage in an Article 2 compliant investigation proceeding in the Republic of Ireland simultaneously with one in Northern Ireland. Any investigation will have to look specifically at the issue of whether a more proactive campaign of disruption, especially if co-ordinated north and south of the border, had a real prospect of preventing the Omagh bombing, and whether, without the benefit of hindsight, the potential advantages of taking a much more aggressive approach towards the suspected terrorists outweighed the potential disadvantages inherent in such an approach.*
>
> *[311] I am not going to order a public inquiry to look at the arguable grounds of preventability. I do not intend to be prescriptive. However, it is for the government(s) to hold an investigation that is Article 2 compliant and which can receive both OPEN and CLOSED materials on grounds 2, 6, 7 and 9."*

109. The importance of the Gallagher judicial review application to this Inquiry cannot be overstated. It is reflected in the Inquiry's Terms of Reference and Provisional List of Issues.

The Inquiry Legal Team, 09 November 2026.