THE INQUIRY RESUMED ON FRIDAY, 13TH NOVEMBER 2026 AS FOLLOWS:

CHAIRMAN: Mr. Greaney.

MR. GREANEY: Good morning, Sir. 10:02

MR. NORMAN BAXTER, HAVING ALREADY BEEN SWORN, CONTINUED TO BE QUESTIONED BY MR. GREANEY:

1 Q. MR. GREANEY: Now, Mr. Baxter, as I told you yesterday, we're going to move next to topic seven, and topic seven is prior incidents, and by that I mean previous attacks or attempted attacks -- 10:02

A. Yes.

2 Q. -- that are linked to those who carried out the Omagh bombing. I am going to deal with this topic with you at a high level at this stage, so really in summary, and that's for two reasons; in particular because you will be returning in Chapter 4 when we will be, I expect at any rate, when we will be focused on previous incidents and, in any event, you covered some of this yesterday in another part of my questioning. 10:03 10:03

So I am going to see if we can just deal with this in a series of points and by looking at some parts of your witness statement. 10:03

A. Yes.

3 Q. Now, point one, you, have I understood correctly, are satisfied, indeed entirely satisfied, that those who

carried out the Omagh bombing had carried out earlier attacks and attempted attacks?

A. Yes, in various combinations of groupings.

4 Q. But ultimately, in your own mind, you have a high degree of confidence that those who were involved in conspiring to bomb Omagh had been involved in a series of earlier terrorist attacks? 10:04

A. Yes, each one of them identified in the list of 19, had also been involved in prior attacks to the 15th August, if that helps clarify it? 10:04

5 Q. It does, and therefore, self-evidently that gives rise to the question; if these people had been active for a period of time before Omagh, were there opportunities to intervene and disrupt their activities before 15th August, and therefore prevent the Omagh bombing? 10:04

A. Yes. That's the question, isn't it?

6 Q. So that was point one. Point two takes us to paragraph 122, page 30 of your witness statement. It's one thing to know now, isn't it, that those who carried out the Omagh bombing carried out earlier attacks, but 10:05 the question is whether it was known or suspected, or should have been known or suspected, before the Omagh bombing that these people were doing those things, does that make sense?

A. That makes sense, yes. 10:05

7 Q. And your understanding is that intelligence about the activities of that group was held by the UK State authorities before the Omagh bombing?

A. I can't be certain all of these, some of these may be

on the list because of forensic connection.

8 Q. Yes.

A. But, I can confirm that there are quite a number on that list that there would have been intelligence prior to Omagh.

9 Q. Thank you, that was I believe clear but let's leave no doubt about it; you're not saying this is the position in relation to all of the 19 on the list that we considered yesterday, but certainly in relation to some on that list who are believed to have been involved in Omagh, you believe there was intelligence before Omagh that they had carried out other attacks?

A. Yes. And if I were to guide you to the Jones and Evans document, it sets out the intelligence relating to the incidents these people were involved in.

10 Q. And in fact you do help us with the issue in those paragraphs from 122, so let's just look, Mr. Baxter, at those?

A. Yes.

11 Q. You say:

"Whilst I did not see the original raw intelligence" --

And pausing, that's for the reason that you gave yesterday that there was a filter between you and the intelligence --

"it was my understanding through discussions with Detective Chief Superintendent Jones that RUC Special

Branch South Region had prior intelligence relating to some identified members of the Provisional IRA suspected of either having defected the emerging dissident groupings or who had remained in the Provisional IRA but lent support to the planning, preparation and execution of attacks attributed to dissident groups prior to the Omagh bomb"

A. Yes. And that's a very important point, I think, for the Inquiry, that although the Real IRA claimed responsibility, the organisation and components of the bombs came from a range of organisations, dissident and provisionals.

12 Q. And what do you mean by that, Mr. Baxter?

A. Well the detonator was Provisional IRA origin. Paul 'Jaws' Kelly was INLA who supplied the vehicle. And then some of the people who came to Omagh were either identified as CIRA or RIRA. So you had the four terrorist organisations co-operating in the Omagh bomb.

13 Q. And so by four, are you talking about the Real IRA? 10:08

A. Real IRA, Continuity IRA, the INLA and the Provisional IRA.

14 Q. And you go on to tell us in paragraph 123 that these incidents, in other words, the incidents in which those responsible for the Omagh bombing had been involved, included car bombs in Lisburn on 30th April 1998? 10:08

A. Yes.

15 Q. Newry in July 1998, Banbridge on 1st August 1998 - so the second Banbridge attack - and several others?

A. Yes. And I think a key element of that is that in Lisburn, some of them - I don't like using the word "key suspects" - but some of the suspects we focused on were also identified in Lisburn, after Lisburn.

16 Q. You say: 10:09

"It's also my understanding that the intelligence picture prior to the Omagh bomb was unclear in relation to the totality of Provisional IRA members who were shifting allegiance away from the leadership of 10:09 Sinn Féin and the Provisional IRA and engaging in terrorist activity organised by dissident groupings".

A. Yes.

17 Q. So what you tell us in those two paragraphs and what 10:09 you have told us about the origin of parts of the bomb and the vehicle, does that derive, at least in part from intelligence that you were told of by the Merseyside officers?

A. Yes, that's from the Jones and Evans report. There was 10:10 quite a lot of fluidity, sharing of knowledge and equipment between the provisionals, dissidents and --

18 Q. Yes.

A. -- the people who were still in officially, within the Provisional IRA, but willing to help, and then those 10:10 who had openly left.

19 Q. We know Michael McKevitt had left the Provisional IRA and that was well known, well before Omagh, was it not?

A. Yes.

20 Q. And he was a - I mean these people are all dangerous figures - but he was a dangerous figure because, as the former quartermaster of the Provisional IRA, he knew where the equipment that could be used to carry attacks was? 10:10

A. Yes, yes.

21 Q. And is a point that you're making that people like McKevitt and his wife, Bernadette McKevitt Sands, had openly distanced themselves from the Provisional IRA and Sinn Féin and created a new dissident republican organisation? 10:11

A. Yes.

22 Q. There were others who remained within the Provisional IRA but were providing support, as you understood it?

A. That's right. And the support is, not everyone can manufacture explosives, not everyone has experience in building and wiring bombs, so there was a sharing of knowledge as well as sharing people to scout and move bombs. It's quite a large operation to manufacture and deliver a car bomb, it takes a lot of people. 10:11

23 Q. I can't remember exactly the phrase that you used but you appear to be, you might have described it as "fluid", you appear to be describing quite a dynamic situation. So have I correctly understood that one could think of the Real IRA as a distinct terrorist grouping, and the Continuity IRA as a distinct terrorist grouping, and the INLA, and so on, but is what you're talking about a situation in which people moved between groups or helped each other within 10:12

groups?

A. Well they did move within groups periodically. I think Colm Murphy had been in the IRA, then he was in INLA, and then he was in CIRA.

24 Q. Yes. 10:12

A. But what I think Jones and Evans were explaining to me is RIRA and CIRA would get together, if they were doing an operation they would borrow members, they would go to the Provisionals to get knowledge or components. So it's a collective of people from that area who, I 10:12 suppose, years previously had all been Provisional IRA or INLA.

25 Q. And it seems like the right word to use, but that they would operate co-operatively with each other to carry out attacks pulling knowledge and/or equipment? 10:13

A. Yes. And I think if we look at the intelligence characterisation of the people who went to Omagh I think, I would need to check, but most of them would have been aligned with CIRA rather than RIRA, so that's a demonstration of the fluidity. 10:13

26 Q. The fluidity?

A. The sharing of the desire to bomb.

27 Q. And so, ultimately are we, should we be thinking about a group of violent dissident republican terrorists operating co-operatively, whatever actual labels they 10:13 were applying to themselves at whichever point in time?

A. Yes, and I think even using "dissident" is a bit restrictive because there would have been members of the Provisionals somewhere helping. So it's a group of

violent terrorists probably would be a better description.

28 Q. You go on to say:

"From information obtained during my investigation" -- 10:14

This is paragraph 124 --

"conversations and the final report produced by Detective Chief Superintendent Jones, I formed the view 10:14 that Special Branch, the Security Service and GCHQ knew prior to the 15th August 1998 the identities of some, if not most, of the suspects involved in the Omagh bomb."

10:14

A. Yes, that's correct.

29 Q. And by that do you mean that before 15th August 1998 you had formed the view that those organisations, part of the UK State, were aware of the identities of people who were carrying out attacks? 10:14

A. Yes. Sorry, the amount of information they knew I can't assess but, yes, they knew. They were intelligence targets, if I could describe it that way.

30 Q. Sorry, I didn't...

A. Sorry, because they had intelligence doesn't indicate 10:15 they had intelligence of what they were going do.

31 Q. No.

A. But they would have had intelligence of what they had done. Some of the plans that they may be going to do.

So they were on the radar from perhaps 1997 as dissidents.

32 Q. Well if you know that Man A, Man B and Man C have carried out attack one, two, and three, it isn't very difficult to come to the conclusion that in the future they will seek to carry out attacks four, five and six, is it? 10:15

A. Well that's the problem, even after attack one and two, very early on a pattern was emerging with these people.

33 Q. Isn't is obvious that unless something is done to stop them -- 10:16

A. Yes.

34 Q. -- they are going to carry on?

A. Absolutely.

35 Q. "It was also my belief" -- 10:16

You tell us in paragraph 125 --

"in 2003 that knowledge and awareness existed within Special Branch and the Security Service indicating that these suspects had been engaged in prior acts of terrorism in connection with a series of bombs leading up to Omagh which I had linked through forensic and telephone analysis. This view was based on telephone cell site analysis conducted with the investigation and the Tonge Report providing an intelligence overview." 10:16 10:16

A. Yes.

36 Q. So is another way of putting that, that there was

intelligence before the Omagh bombing about what these people were doing and subsequent work by your investigation of a scientific and telecommunications nature confirmed that that intelligence was accurate?

A. Yes, the evidence reflected the Jones and Evans' Report in respect of some of the suspects. 10:17

37 Q. "I also believed that there was knowledge of the specific roles some of the suspects had played in the previous linked incidents. This knowledge, if disseminated, would have been of significant assistance to detectives investigating each of the prior incidents in terms of providing knowledge to support the development of an effective investigative strategy relating to arrests based on reasonable suspicion and opportunities for the recovery of forensic evidence through planned searches." 10:17 10:17

A. That's correct.

38 Q. And does that mean that if I am a Senior Investigating Officer in relation to Newry Courthouse or whichever incident one chooses, and I had been told by those holding the intelligence 'these are the people that you need to be looking at', there would, for example, have been the opportunity to have gone into their homes and seen whether there was forensic evidence linking them to that crime? 10:18 10:18

A. Yes, if the intelligence was such that provided a reasonable grounds to suspect, then the individual could have been arrested and power to search the

property would have been obtained. The balance to that is, that once you disseminate that intelligence, you may lose intelligence-gaining opportunities in the future.

39 Q. Ys. 10:18

A. So that may be why it wasn't, but it's one of those issues that the seriousness of what was happening, the priority should have been towards disruption rather than developing future operations perhaps.

40 Q. You are pointing out that there is a balance and the State has an obvious interest in protecting tactics, techniques and sources because, by doing so, they may increase the chances of preventing future attacks? 10:19

A. Yes, but if I could explain, by August the policy of developing intelligence to prevent attacks clearly wasn't working because the attacks were following, or continuing. 10:19

41 Q. Well this is why there is a balance; you need to balance the public interest in protecting the secrecy of some information against the importance of protecting the public from murderous attacks by terrorists? 10:19

A. Yes, and the dynamic was changing as well because in Lisburn there was quite a lot of warnings: The colour of the car, the make of the car, the number plate and the exact location was given. And by the time we get to Banbridge the number of warnings are down, the time is down and the detail is down. So the attacks were getting more dangerous and more high risk as time goes 10:19

on. So the intervention early on would have been vital.

42 Q. And just to go back to something you've said earlier before we move this along: I gave the example of intelligence being provided to the Senior Investigating Officer affording an opportunity to, for example, arrest and search a home and you've said words to the effect of, 'yes, if it gave reasonable grounds to suspect an offence'. But reasonable grounds to suspect sufficient to carry out a search or carry out an arrest those reasonable grounds do not need to be based in open material, do they? 10:20 10:20

A. No.

43 Q. They could be based in intelligence material?

A. A simple statement 'Sean Hoey is involved in building the bomb in Lisburn' would be sufficient. 10:20

44 Q. Absolutely.

A. Historically, from memory, courts have held that to be sufficient justification to warrant reasonable cause in the mind of a constable. 10:21

45 Q. And in paragraph 127 you say, to move this away from the UK State authorities for a moment:

"Based on the information that I had, there was strong indications that the Garda in the Irish Republic had knowledge of dissident republican activity relevant to the investigation of several terrorists incidents in Northern Ireland prior to, and including, the Omagh bomb which was not shared with the RUC or the PSNI, 10:21

prior to or after 15th August."

A. That's correct. And I probably should apologise to the Inquiry for yesterday in relation to my statement where I said that I believed that a human intelligence source had driven the car to Omagh. I should have included that the assessment is that that source was a Garda MI5 source and that's part of the reasoning in relation to referring to the Irish Republic.

46 Q. Can I say in relation to that individual, you've been careful not to name the person -- 10:22

A. Yes.

47 Q. -- that you believe was a source, I have been careful not to name that person and I know everyone else will be careful not to name that person. There is a good reason why we're not identifying that person. 10:22

A. Yes, and I accept that. But in terms of that paragraph, that's part of the rationale behind it.

48 Q. And I know what your reasons are for believing that that person was a source, we're not going to be able to explore those reasons -- 10:22

A. Yes, that's right.

49 Q. -- today, as you know, but our aim is undoubtedly to explore your underlying reasoning for holding that belief in due course in a different chapter. 10:22

A. Yes.

50 Q. So where we've got to is you understood that intelligence was held about those who carried out the Omagh bombing in relation to earlier attacks that they

had carried out, that was your belief?

A. Yes.

51 Q. And I am just going to pause for a moment to look at what appears to have been known by the media about this group at the relevant time, because that might provide an indication of what the State knew. Because if the media knew about it then you might hope that the State would have known even more. 10:23

So I hope I have got the right reference INQ049566, and, Sir this is going to be part of the montage that Mr. de la Poer played on the final day of the fourth week of Chapter 3. We are going to be watching what the media was saying in the immediate aftermath of the Omagh bombing. 10:23 10:24

Thank you very much. We can play that?

[Video played].

10:24

"Q. Colm, any indication yet who was behind the explosion?
A. Not as yet, nobody has admitted responsibility but I think the finger of suspicion does point clearly at one of the dissident republican groups, probably the one that calls itself 'Real IRA', that is led by a former leading member of the Provisional IRA, or as we would know it as the main republican group within the main IRA. He left last November, he left the

organisation, he was unhappy about the ceasefires, he was unhappy about the strategy of Sinn Fein in the Peace Process and the talks process, and he has now led this organisation and heads it up. And certainly security forces were saying to me just a few days ago that they were a very small number, but they were becoming more and more concerned that people were moving across to this organisation, experienced people from the Provisional IRA, and obviously they have that experience, they've carried out a number of successful, in their terms, bomb attacks recently.

Q. Colm, thank you --
A. And (inaudible) today.

Q. Colm, thank you so much".

[video played]

"SPEAKER 1: This attack is the worst atrocity of the Troubles in the North. It's believed that the dissident republican group calling itself the Real IRA planted the bomb. The group which supports the 32-County Sovereignty Committee is believed to have less than 100 members.

Speaker 2: Well it seems clear tonight that responsibility for the atrocity lies with the dissident republican group, the Real IRA?

SPEAKER 3: Yes, it does. Certainly down here we haven't heard any claims, that there's been any made, but the modus operandi would lead one to believe that it was one of the dissident groups that carried this out. We've had, in fact just a fortnight ago, there was a similar car bomb in Banbridge in County Down, believed to be the work of the republican dissident, and no serious injury there of course. But in the past month there's been this pattern, there's Markethill, Newtownhamilton rather, where we've had the same type of bomb and there is a big suspicion shared, I have to say, by the RUC Chief Constable Ronnie Flanagan".

SPEAKER 4: It's even more devastating and from our point of view, we continue to work in dealing with this particular group with the RUC and the Gardaí, they have been monitoring them, as closely".

52 Q. MR. GREANEY: So those are just some examples, but what we can see is that the press knew that dissident republican terrorists were behind a series of attacks, they named those attacks, and they attributed Omagh to that grouping, the Real IRA was named, and they as good as named Michael McKevitt. And the point is that if the media knew all of those things, one would have expected the UK State authorities to have known even more? 10:27 10:27

A. Well they did know even more.

53 Q. And so this really takes us to a point that we will

need to explore in due course. If the State knew who was carrying out these attacks, why was that group, why were those individuals not disrupted before the 15th August 1998?

A. Well, I would agree with that and my evidence to the House of Commons I talked about intervention points prior to the Omagh bomb. I would share that view that, this is about risk management. All policing is about risk. And the risk was increasing from 1997, from the splits within republicanism and the risks increased over the summer and then Omagh happened. 10:28 10:28

So in my view there is a failure of risk management, there is a failure of addressing the risk. And the Inquiry may be looking at why that happened, but from a policing point of view, it was a failure; a failure to deal with the emerging and increasing threat. 10:28

54 Q. So, this is a vital topic for the Inquiry and one --

A. Yes. And it's very sad, I'm very proud of my time in the police but this was a failure at leadership, a failure at Government level. It just should not have happened, these people should have been intervened and the weight of two State intelligence organisations, the Republic and United Kingdom, with all the apparatus they had, all the technology, their source network, these people should have been stopped and there has to be a reason why that didn't happen. Because I am confident that the Chief Constable did not intend any of this to happen, but it did happen, but there has to 10:29 10:29

be a reason why effective policing was not put in place.

55 Q. Unless there is any doubt, when you say "these people should have been stopped" you mean they should have been stopped before they bombed Omagh? 10:30

A. They should have been stopped, yes. The intelligence indicated there were ample opportunities to arrest individuals, groups of individuals, across the 19 suspects that I identified prior to Omagh. And I do fully understand that you can arrest people, it goes 10:30 nowhere because there's no confessions, it's very difficult to link. But the whole purpose of counterterrorism policing is ultimately to get a prosecution but equally to degrade and to disrupt.

10:30

So if you can degrade an organisation by making an arrest, causing internal security inquiries, causing mistrust within organisations, you know, seizing their equipment, intercepting their finance, you damage their capability and their tempo to carry out operations. It 10:31 was an absolute failure, it saddens me to say that, but a total failure to do any of that leading up to Omagh.

56 Q. I am going to move on to the eighth topic, which is Sean Hoey and the trial, and I have just got a very small number of questions. 10:31

A. Yeah.

57 Q. Because we will be looking closely at the evidence against Sean Hoey in Chapter 4. It's apparent from what you said yesterday that, to say the least, you

considered that Sean Hoey was wrongly acquitted?

A. I want to be careful that I don't second guess the judge but what I will say is that I believe the conduct of the judge during his deliberation period was such that he should have. 10:32

58 Q. I am going to ask you to pause for one moment, really what I am interested in, two things: First of all, your assessment of the evidence against Sean Hoey and, secondly, I want to ask you about one feature of the evidence that doesn't seem to have been before the 10:32 judge.

A. Yes. But I don't want to present as arrogant saying 'you are better than the judge', because my job was to present the evidence that would persuade the judge. The issue that I have with the processes that I think 10:32 the judge acted outside due process and during a period when he was meant to be deliberating as a jury, that's the point I have.

59 Q. So there isn't any mystery about this, since you have raised it. You had a concern that the judge had sought 10:32 information about the Low Copy Number technique once formally the evidenced finished?

A. Yes, and he was sitting as a jury under the court system. And, as an example, it was in the media last week in the current or the recent Noah Donohoe inquest, 10:33 a juror was doing research outside the evidence of court and the coroner dismissed them as a juror, and that's just an example of I think the judge acted outside and therefore, a fair trial is fair to the

accused but it also has to be fair to the victim. And I don't know what else the judge was seeking during his deliberation period.

60 Q. Can I --

A. Sorry. 10:33

61 Q. You don't need to be sorry.

A. That's the issue.

62 Q. I understand that you have an abiding concern about that issue and you have dealt with it in your statement. Really the question I want you to answer, 10:34 and you may be able to answer it yes or no, is this; first of all, did you believe that the evidential case against Sean Hoey was sound?

A. Very sound.

63 Q. And the second issue - and as I have said we will 10:34 undoubtedly return to Sean Hoey in Chapter 4 - there was telecommunications evidence that, well I will say, implicated Sean Hoey, that he was on the telecommunications for the 15th August, and the telecommunications evidence against Sean Hoey does not 10:34 appear to have featured in the prosecution case. Is this making sense so far?

A. It featured in the evidence we presented to the PPS but it was not presented to the judge.

64 Q. So, when I said does not appear to have featured in the 10:34 prosecution case, you rightly pointed out that it featured in the file that was prepared by the police but it was not, did not feature in the prosecution as presented at trial?

A. That's correct.

65 Q. And do you know why a decision was made, if it was, not to introduce that evidence at trial?

A. I do know the reason but I was told it third party by a member of the team who was at the meeting. If I can tell you what I was told? 10:35

66 Q. Well I don't know what you are going to say.

A. No, it's simply the reason.

67 Q. Tell me the reason why the telecommunications evidence was not adduced at trial? 10:35

A. The prosecution team didn't understand the evidence and didn't feel the judge would understand it.

68 Q. So...

A. But again that's a decision by prosecutors, it's not something the police can influence. 10:36

69 Q. But your understanding is that a decision was made that the telecommunications evidence would not be relied upon at trial?

A. And that the judge wouldn't understand it therefore.

70 Q. Because the judge, it was thought, wouldn't understand it? 10:36

A. Yes, that's right.

71 Q. Topic nine is Detective Sergeant John White of An Garda Síochána. And this takes us to paragraph 222 of your witness statement, page 56? 10:36

A. Yes.

72 Q. On the morning of the 9th May 2002 were you summoned to a meeting?

A. Yes, I was summoned by the Assistant Chief Constable to

go to his office as a matter of urgency.

73 Q. Was that Assistant Chief Constable Sam Kincaid?

A. It was.

74 Q. And did you therefore, go to his office at Headquarters? 10:37

A. I did.

75 Q. And what were you told at that meeting?

A. Yes, I was briefed about a Detective Sergeant John White from the Garda, who had gone to the Police Ombudsman to make a statement alleging -- sorry, I just want to check. 10:37

76 Q. Of course, you take a moment just to orientate yourself with this.

A. Yes, he had made some allegations about the Garda in connection with Omagh and had given evidence to the Police Ombudsman who had taken it in a report to Dublin. 10:37

77 Q. And in simple terms, did you understand at that meeting, or come to understand in due course, that Detective Sergeant John White had had an informant who had been commissioned to acquire a vehicle for use in a bombing attack in Northern Ireland? 10:38

A. That's correct.

78 Q. And in the result that the informant had not sourced a vehicle for that purpose because a vehicle had been sourced from elsewhere? 10:38

A. Yes, in simple terms that was the key issue that dissident republicans had been seeking a car for bombing mission in the week prior to Omagh.

79 Q. In the week prior to Omagh?
A. From a source who had provided cars that had been intercepted with explosives prior to the spring of 1998.
80 Q. And Detective Sergeant John White was also expressing the view that there had been a preparedness within the Republic of Ireland to allow vehicles containing bombs to travel north? 10:39
A. Yeah, one of his - and this was through a subsequent interview with him - one of his allegations was that the Head of Crime and Security had said that they would allow this bomb to go through. So there are a number of issues there: There was the sourcing of the bomb car before Omagh, there was the allegation that some devices were being allowed to travel into Northern Ireland, and then there was other devices which had come into Northern Ireland which the source had provided to dissidents and those devices had exploded. So there was a combination of issues there. 10:39 10:39
81 Q. Yes, a combination of issues, all, or at any rate most of which, were capable of being relevant to your investigation into the Omagh bombing? 10:40
A. Yes, in terms of identifying, but there was also an issue of, which we haven't addressed before, is the issue did Garda officers commit a criminal offence which could be prosecuted in the United Kingdom, and that is carrying out an act of terrorism by colluding with dissident republicans to facilitate the delivery of bombs. 10:40

82 Q. I have no doubt that what you learned before interviewing John White, and having interviewed John White gave rise to a number of distinct and serious concerns in your mind?

A. Yes. 10:40

83 Q. And the information that John White gave, it's reliability and credibility and its significance, or potential significance, will all need to be investigated in Chapter 7. But what I want to do at this stage is just to identify with you in summary form 10:41 the particular concerns that you have. And so, can I indicate what my understanding is of your concerns and then you can tell me if I am right or wrong.

First of all, are you concerned that the Government of 10:41 Ireland had information of relevance in the period before the Omagh bombing? So that is to say in the week before the Omagh bombing they had information that indicated that a bombing attack was imminent somewhere in Northern Ireland? 10:41

A. Yes. They were aware that a bomb was imminent.

84 Q. And does that develop into a concern about whether that relevant information was passed to UK State authorities before the bombing or was not?

A. It is a concern, without going any deeper into it, it 10:42 still remains a concern.

85 Q. And the way which you put it in your witness statement at paragraph 256, page 65, is this:

"Irrespective of what was or was not said to John White about letting the bomb go through" --

So, in other words, just leaving that to one side --

10:42

"the relevant question is, albeit a terrorist plot was believed to be at an early stage, did Mr. Jennings" --

Mr. Jennings being a senior officer within the Intelligence Section of the AGS --

10:43

A. Yes.

86 Q. -- "did Mr. Jennings notify RUC Special Branch or MI5 that Garda were aware of the potential for another vehicle bomb in the series by this subversive grouping following the meeting with John White on 11th August 1998."

10:43

And that remains a very live question in your mind, does it not?

A. It is a live question although Mr. Jennings, to the Nally Inquiry, I think indicated he didn't pass anything.

10:43

87 Q. And, in turn, if it wasn't passed that gives rise to the question of what were the systems for the exchange of information between the Republic of Ireland and Northern Ireland, would you agree?

10:43

A. Yeah, it becomes more relevant later in my investigation when I concluded from the sequence which is outlined in my statement, that identified a person

as a potential Garda source who was in Omagh on the day, that we have John White saying that he was told days before Omagh that there was going to be a bomb, we're going to let it go north. And then we have a person, who I believe was Garda source in the car, and those two can't be divorced in terms of enquiring into is there a relationship between the alleged comment and what I believed to be the case.

88 Q. So we're just going to remember what you have said about this first concern that you have and we will come back to it in due course, bearing in mind that what we are exploring today. 10:44

A. Yes, I understand that, but I just want to show the importance of the John White evidence.

89 Q. Well, it's very important that we should have an understanding from you, even at this early stage, of what you consider we need to be exploring in subsequent chapters. 10:44

I said there were a number of concerns, we can deal with the second briefly. As you indicated yesterday, your view was that as soon as the Police Ombudsman became aware of the John White information, the Omagh bombing investigation by the police ought to have been informed and the matter ought to have been left with them? 10:45 10:45

A. Yes, and it's a very important point that once John White was identified to the Ombudsman, he should have been referred immediately to the SIO in Omagh. I

don't think the Ombudsman had any role in it. I think her professional, Baroness O'Loan's professional advisors, failed to guide her properly in this. As investigators, they should have known this was very relevant to a live criminal investigation. It was outside the jurisdiction of Northern Ireland, it rested firmly within the Omagh Bomb Inquiry, and for months the investigation was not given access to a key witness.

10:46

10:46

10:46

10:46

10:47

90 Q. So, in simple terms, whilst as you have made clear that you have a high regard for Baroness O'Loan, you feel that the Ombudsman took a wrong turn in relation to the John White information, that that information ought to have been regarded as a matter for the police investigation?

A. Yes, and that was, I would put that down to a failure in the professional staff who had investigative experience, they should have been identifying to her, 'this is intelligence at this stage, and this could be a key witness', bearing in mind there is extraterritorial legislation which could enable individuals in the Republic to be prosecuted in connection with the bombing in Omagh. There was consequences of their actions which cannot be undone.

91 Q. That was the second point. And the third is this, and it takes us to page 63 of your statement, paragraph 249(e). And you are dealing here with the Nally Report and you are talking presumably about the open Nally Report, and you say at (e):

"A Detective Chief Superintendent from the PSNI confirmed to the Nally Group that in the period leading up to the Omagh bomb 'the RUC was already on very high alert at that stage for the likelihood that a stolen vehicle would be used in a car bombing in a town somewhere in Northern Ireland'."

And depending on which version of the open report you are looking at, that's either paragraph 2.45 or 2.107, and you have correctly quoted from that. 10:48

So I am going to be asking for your help and I am going to be careful in how I frame my questions and would you please be careful in how you answer them. 10:48

First of all, do you know the identity of the Detective Chief Superintendent from PSNI who gave that information to the Nally Group?

A. I would have known but I can't remember today who it was. I would have asked at the time, but it was the Headquarters, it may have been Special Branch Detective Chief Superintendent. 10:48

92 Q. So that's maybe something that we can come back to later. 10:48

The second question is; in your investigation into the Omagh bombing, did you see anything to support the proposition that the RUC was already on very high alert

at that stage, so the stage being prior to the Omagh bombing, for the likelihood that a stolen vehicle would be used in a car bombing in a town somewhere in Northern Ireland?

A. Within the investigation I didn't particularly look for that. From my experience serving at the time I can't remember a general warning, but it may be something that the Inquiry can establish. But I don't, I know what this means, I don't believe it to be true. I think this was someone helping the Garda resolve a problem with the Nally Inquiry. You could argue that the RUC was on high alert at all times for threat which would be true. But to specifically say that they were on alert for a stolen car I think is untrue. 10:49 10:49

93 Q. Not only untrue, your view is that it was designed to, as you put it, help the Garda resolve a problem with the Nally Inquiry? 10:50

A. Absolutely.

94 Q. Now that's all I want to ask you about John White, obviously an important topic for us to come back to. 10:50

Just two final topics, and I'll aim to complete my questioning and then suggest to Lord Turnbull that we take a break. And topic 10 is Nissan Bluebird.

A. Yes. 10:50

95 Q. And I am going to just explore with you the extent to which you can help, either now in your oral evidence or subsequently by going away and thinking about it and may be reviewing further material.

This takes us to page 73, paragraph 285. Page 73 paragraph 285.

A. Yes.

96 Q. You tell us in that paragraph: 10:51

"On reviewing Seamus McKenna as a person of significant interest, the vehicle he was using prior to the Omagh bombing was identified as a Nissan Bluebird. On 15th July 2002 I was briefed by Detective Sergeant 10:51 McClure" --

Was he a member of your team?

A. Yes, he had a task of checking the military records.

97 Q. So you were briefed by him -- 10:51

"[redacted] It then re-emerged on 10:52 the system on 12th August and was recorded crossing the Border at Aughnacloy on 14th August at approximately 13:30 hours".

A. Yes. 10:52

98 Q. "This was day prior to the Omagh bomb with proximity to the time the actual bomb car crossed on the 15th August".

And that's a reported sighting which was of significant interest. So it is 14th August that I want to ask you about. So, what you are telling us in that statement is that you received information that a vehicle associated with Seamus McKenna, a Nissan Bluebird, had been recorded on the VENGEFUL system crossing the Border at Aughnacloy the day before the Omagh bombing at about 1:30 p.m.?

A. Yes, which is a very significant time the day before.

99 Q. And it was a significant time because that was about the time that you understood the actual bomb car had crossed on the 15th August? 10:52 10:53

A. Yes.

100 Q. And was the thinking therefore, that this might have been Seamus McKenna, or someone using his vehicle, testing what security measures were in place at the border? 10:53

A. Yes, that's correct.

101 Q. Ahead of the bomb run the next day?

A. Yes, and if I could set that in context, because of security de-escalation, the military at Aughnacloy had been instructed not to stop vehicles. There was still a presence at the checkpoint but they weren't stopping vehicles. So this would have been a test run I think, to just confirm that the Army weren't checking. And it might have been also a test run in terms of timing how long it took to get from the origins of the bomb to the target site. 10:53 10:53

102 Q. So I need to refresh my memory from evidence that

Col. Peter MacMullen gave, but I think my memory is that Aughnacloy for some considerable time had not had soldiers stationed at it. But we can check that back. Forgive me --

A. No, I do think they were there that day because I have a recollection of the soldiers stopping or freezing the camera, but I could be corrected on that. 10:54

103 Q. I think you probably are wrong about that, but it doesn't effect your fundamental point, which was that if Seamus McKenna's vehicle was going through that checkpoint at 1:30 p.m., that that could be interpreted as being stress testing of the measures that were in place at the border? 10:54

A. Yes.

104 Q. And the running time? 10:54

A. You would expect that in a terrorist operation that they would check the routes to and from a bomb in preparation.

105 Q. Yes.

A. The terrorist didn't get up on the 15th morning and decide do this. 10:55

106 Q. No.

A. This was planned with some considerable effort.

107 Q. So one would expect their trade craft, if that was the right word, to involve my words, stress testing the route they proposed to take on the day of the bomb run? 10:55

A. Yes.

108 Q. So seeing what measures are in place and to use that to inform their decision about whether that particular

route is a good one or a bad one?

A. That's correct.

109 Q. And I'm going to get to the Bluebird in a moment. But, that issue, the Bluebird, would be interesting in itself, but it may be even more interesting, because another vehicle had crossed south to north earlier that day, the 14th August at 1:00 p.m. And I don't know if I'm telling you something you didn't know, but the vehicle I am talking about is a white Vauxhall Golf with a registration mark 91 MN 432, and that, the evidence indicates, was a vehicle associated with the family of Liam Campbell. So were you aware of that? 10:55 10:56

A. I wasn't aware of that prior to the Inquiry. I think it was referred to in evidence recently.

110 Q. It was referred to in the opening statement on 21st of September. 10:56

A. Yes.

111 Q. So if it's right that the Bluebird associated with Seamus McKenna crossed the Border at 1:30 p.m., it was following on behind, half an hour behind, a Volkswagen Golf associated with Liam Campbell? 10:56

A. And that would be extremely significant to known dissidents travelling in sequence.

112 Q. Yes, it would, on the face of it, at least arguably, increase the probability that what was taking place was a dry run or stress testing, wouldn't it? 10:57

A. Yes.

113 Q. And, in turn, increase the probability that the working hypothesis of the Inquiry that Seamus McKenna and a

Campbell or Campbells were involved in the bombing?

A. Yes, and I probably could assist you in that analysis by referring you to the evidence relating to Vincent McKenna who indicated he had been asked to check the Aughnacloy Border crossing and informed his Garda handlers that he had been so done. So, yes, that's a very viable process.

114 Q. Yes. Well, if Seamus McKenna's car and the Campbells' car are on a dry run on 14th August then, as a matter of logic, that implicates them in the conspiracy to carry out the bomb? 10:57 10:58

A. I suppose the question arises from that, and I know the answer in relation to Seamus McKenna, his car was not flagged as a car to be...

115 Q. I am going to help you in relation to the Bluebird in this way; so the Bluebird that you were interested in had the registration mark ADZ 5026, from memory, and the information you were provided with was correct, a Nissan Bluebird, ADZ 5026, did cross the Border at Aughnacloy on the 14th August 1998, and it did so at 1:34 p.m., and I think we are in a position to show the footage of that. I am afraid I don't have the INQ. 10:58 10:58

[Video played].

10:59

There it is. So that Nissan Bluebird crossed at 134 p.m.

A. Okay.

116 Q. I am reminded the evidence of Col. Peter MacMullen was

that Aughnacloy had been unmanned since October 1995. And the point you made about the camera stopping, and so on, was not definitive on the evidence that we heard, or at least in the opinion of Col. MacMullen about whether someone was actually operating it at the time. But, in all events, none of that undermines the value or potential value of the point we are exploring about vehicles associated with persons connected with the Real IRA crossing the Border on the 14th. So I hope that we are developing this in a way that people understand. The information you had was correct, that that Nissan Bluebird, ADZ 5026, crossed the Border south to north at 1:34 p.m. 11:00 11:00

So the next question becomes, how is that vehicle associated with Seamus McKenna? And I am just going to see how far I can take this with you. So we have identified two documents that have been disclosed to us and we won't put them on the screen but I will give the INQ references. And the first reference is INQ004308. INQ004308. And it is an officer's report dated 12th November 2002, so during the period of your investigation, and it is a police document, a PSNI document. It might still just have been -- no, it was a PSNI document by that stage. And the relevant part of it is on page 4 and it reads: 11:00 11:01 11:01

"2nd September 2002. Fifth Garda spoken to. Recalls matter regarding entry 1906/180699".

So that appears to be a reference to another document that we haven't located yet.

So fifth Garda spoken to. He recalls the matter regarding a particular entry, that: 11:02

"The vehicle was abandoned at the bottom of lane in Carlingford area. Car reported to Garda at 10:58 a.m. that date. Further, Garda still on annual leave to be spoken to, stated; 'Off the record, I think 11:02 Seamus McKenna and Derek 'Shanty' Brady'" --

another person within the working hypothesis of the Inquiry was involved in the bombing --

11:02

"'Off the record I think Seamus McKenna and Derek 'Shanty' Brady were using that car around the time of Omagh bombing. Can't go to paper at the moment. I have two fellas going through all the card requests to Detective Sergeant Sheridan to identify the names and 11:03 ranks/position of Garda men concerned."

And it's clear from the document overall that the vehicle that the Garda officer has said he thinks was associated with Seamus McKenna and Derek 'Shanty' 11:03 Brady, was ADZ 5026, does that make sense?

A. Yes, I can recall that Garda Inquiry, yes.

117 Q. And then there is another document, I've been saying ADZ, it is ABZ; ABZ 5026.

The second document is INQ004309 and this is another officer's report, a PSNI officer's report, dated 9th July 2003. And at page 2 it reads, as follows:

"It is known by Garda that Nissan Bluebird ABZ 5026 was being used by Seamus McKenna and Derek 'Shanty' Brady around the time of the Omagh bomb."

A. Okay.

118 Q. So that vehicle that we've seen passed at 1:34, we can see in two documents there is a reference to information emanating from the Republic of Ireland that Seamus McKenna and Derek 'Shanty' Brady were users of that vehicle at the relevant time. And, as you sit there now, is it your memory that the association between that vehicle and those two men or either of them, emanated entirely from information provided by the Garda or was there other information available to you or your team that confirmed it?

A. My recollection is that the vehicle was registered to Seamus Daly.

119 Q. Seamus Daly or Seamus McKenna.

A. Sorry, Seamus McKenna, sorry. The vehicle licensing records indicate that he's the owner. That's my recollection.

120 Q. That's very, very helpful. Where we've got to so far we have information coming from the Republic of Ireland but you believe that it was firmed up to an even

greater extent?

A. After we identified the sighting, which was in July, then there were further inquiries carried out. I could be wrong from memory but I am fairly convinced that there is a registration in the DVLA linking him to that vehicle.

121 Q. So on any view there was information available to the investigation that that vehicle was associated with two people, including Seamus McKenna?

A. Yes. 11:05

122 Q. And you believe that, if I can put it this way, the point was absolutely nailed by a formal registration document?

A. Yes.

123 Q. And that's what we'll need to look at. But you have, I believe, agreed already, that if the position is that vehicles associated, not only with the Campbells, but also with Seamus McKenna, and perhaps also Derek 'Shanty' Brady, if those two vehicles at relevant times were crossing the Border, south to north, at Aughnacloy on 14th August, that that would increase the likelihood that they were carrying out a dry run? 11:06

A. Yes.

124 Q. And in turn increase the likelihood that they were involved in the Omagh bombing? 11:06

A. Well historically, and I'm going back to my operational days, if they had been flagged as suspects, obviously Liam Campbell's is southern vehicle, so the UK authorities would have no input in it. But

historically if a suspect had been flagged within the police computer system, if it had crossed the checkpoint, there would have been an immediate notification to the police, which would then have alerted them to the question; why are they here, and why is he here? Is he normally in Aughnacloy? Does he cross everyday? Is this totally unusual? So the standalone sighting on that day, if it had been flagged, would say 'this man has crossed, he hasn't been here before, what's he doing and where's he going'? 11:07 11:07

125 Q. So this is one piece of the jigsaw, the Nissan Bluebird, but an interesting one, particularly when placed alongside the Volkswagen Golf?

A. Yes. 11:07

126 Q. I am going to turn then to the final topic that I want to ask you about, which is your evidence at the Northern Ireland Affairs Committee. And I am just going to remind you of some of the things that you said, not everything, and ask you whether you stand by them. And this takes us to page 94, paragraph 367 where you have set out some of the things that you said? 11:08

A. Yes.

127 Q. And the Committee, to remind ourselves, was exploring the Gibson Report, but as part of a broader consideration of, as it put it, Omagh, 10 years on. You said at 367(a): 11:08

"I think the Committee should address a wider issue and that is the series of bombs which had been carried out which were being detonated from 1997. We had Markethill, I think it was October 1997, we had Moira in January 1998, we had Portadown, we had Lisburn in April 1998, and at each one of those terrorist incidents there was a point of intervention which could have disrupted this terror gang."

11:08

You went on to say:

11:09

"When I say disrupt post-incident investigation, there could have been opportunities to arrest this gang after Lisburn, after bombs in May, July and even after Banbridge? This bomb team had free rein" --

11:09

You added --

"from the middle of 1997 and the authorities, wherever they were, allowed that to continue."

11:09

And ultimately you said, as I reminded you at the very beginning of my questioning:

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

11:09

And do you stand by all of those things?

A. I do. I would clarify the issue about Omagh; once the mission had started on the day it could not have been prevented.

128 Q. Yes.

A. The uniformed police officers in Omagh could not have prevented it. They did an excellent job. The issue is could the preparation of it have been disrupted? So that's the only clarification I would make. I'm not saying the Omagh bomb couldn't have been prevented. What I was trying to convey was in the context of Sir Peter Gibson's saying intelligence on the day, you know, wouldn't have helped.

11:10

129 Q. So that is entirely, as I understood your view to be, that you are drawing a distinction between the 15th August and the capability of the UK State to prevent the attack on that day, and earlier opportunities. And your view is that from a standing start on the 15th August the bombing could not have been prevented but that there were multiple points upon which intervention at an earlier stage in relation to earlier attacks could, and you believe, would have prevented the Omagh bombing?

11:10

11:11

A. Yes, and just to clarify. When the bomb warning came in on Omagh, it could not have been prevented. Prior to that, what was known by the Guards in the days leading up, it could have potentially have been prevented. But that's a matter for the Inquiry to look

11:11

at.

130 Q. Yes.

A. But in my view, it is absolute, to reassure the uniformed officers, the emergency services, that it couldn't have been prevented. 11:12

131 Q. Your view, which if I may say so, you have clearly expressed, is that better strategic leadership before the 15th August, better coordination between those responsible for intelligence and those responsible for investigation, would have generated opportunities to 11:12 disrupt the gang who carried out the Omagh bombing?

A. Yes, and I would add to that list the political leadership. The responsibility of the Secretary of State who had a responsibility for security oversaw a period whereby the citizens of this country were 11:12 exposed to increasing risk from bombing. And if I could refer back to Sir Ronnie's evidence on Monday, where he said the de-escalation didn't put the community at risk, but put his officers at risk, and I think I am quoting him correct, to put his officers at 11:12 risk. The officers in Omagh who responded were put at unbelievable risk because of security failures, because of political failures and because there was a failure to coordinate the intelligence and investigations in the months leading up to Omagh. 11:13

And I think it is shocking that we are where we are today, that people who had responsibility to ensure the safety of the public and the police took steps to

deescalate and failed in their statutory duty to protect life. And that's where I stand today and I feel very, very strongly about it.

132 Q. Mr. Baxter, thank you very much indeed for answering my questions over the course of well over a day now. What I am going to, as you will appreciate some of the Core Participants have their own questions for you, what I am going to suggest is that before those questions start that we should take, Sir, our morning break between now and 25 to midday please? 11:13 11:14

CHAIRMAN: Very well.

THE INQUIRY ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

CHAIRMAN: Mr. Greaney. 11:34

MR. GREANEY: Sir, Mr. Toal will ask his questions first.

MR. NORMAN BAXTER WAS QUESTIONED BY MR. TOAL AS FOLLOWS: 11:38

133 Q. MR. TOAL: Good morning, Inspector.

A. Good morning.

134 Q. I had some questions on behalf of the large group of victims and their families that we represent. And like myself, you're from the Omagh area, and I think it's fair to say that you have carried a huge burden on behalf of the victims for the past 25 years? 11:38

A. Yes, I have... yes, is all I can say.

135 Q. I would just like to say thank you, Sir, at the very outset for all that you have done on their behalf.

A. What I would like to say is the legal constraints, and I feel guilty about this, I sat for many meetings with various victims groups and I listened to what they were saying about Garda collusion, I listened to what they were saying about Garda knowledge, about Irish Government cover-ups, about everything in the North, and I knew they were telling the truth but legally I couldn't tell them. And I have to pay great respect to the effort that has brought the victims to this place where there is a legal forum where the truth can be told without fear of prosecution. 11:38 11:39

136 Q. Well, can I just make something clear to you at the outset; that the victims that we represent do not criticise any RUC officer who was on the ground in Omagh or any RUC officer investigating what happened in Omagh. In fact, they have nothing but admiration for all of those RUC officers, so if I can clarify that at the very outset. 11:39 11:39

A. Thank you. Because that will be a great encouragement, to the many officers who, on the day - and I am not equating their loss to the untold misery and affliction that the family suffered - but many of them are suffering and struggling with the mental health issues because of this. 11:40

137 Q. Yes.

A. It is such a tragedy that we are here today when this could have been resolved, if the bomb had gone off that

it could have been resolved properly at the time.

138 Q. Yes. So I can just assure you that any criticisms we have are directed at the corporate level, do you follow?

A. Yes, yes. 11:40

139 Q. Now, you had extensive experience investigating serious terrorist crime, both as an operational detective and also subsequently in senior intelligence roles, correct?

A. Correct. 11:40

140 Q. I wish to draw on that experience to explore a particular difficulty confronting this Inquiry and that is the absence of some important records. Because one of the most significant aspects of your evidence concerns the meeting at Mahon Road on 14th August 1998 11:41 and the intelligence that you heard that afternoon, okay?

A. Yes.

141 Q. Now, as matters stand, there appears to be no surviving official Special Branch record of the information that 11:41 you describe and you are aware of that?

A. Yes.

142 Q. And you appreciate that the Chair must assess your recollection against the absence of documentary evidence? 11:41

A. I absolutely understand that.

143 Q. And I hope that we can assist him in that task by exploring whether there may be an explanation for that absence, okay?

A. Yes.

144 Q. First, if senior Special Branch officers knew on the 14th August that a car bomb was expected to travel north the following day, the failure to prevent the subsequent atrocity would have been matter of very considerable concern to the organisation, yes? 11:41

A. It would be of major concern to the individuals within the organisation who were aware on the day, and I don't know at what level within the organisation that went, it may just have been a limited number of individuals. 11:42

145 Q. And potentially very embarrassing for those people that you describe?

A. Very difficult.

146 Q. Now you have described a culture within Special Branch in which important intelligence was not always disclosed to investigating detectives? 11:42

A. Yes.

147 Q. And that culture was particularly pronounced in South Region for the reasons that you have explained?

A. Yes, but there were oftentimes that there were legitimate reasons why but... 11:42

148 Q. And I fully appreciate that.

A. But the pendulum went to non-disclosure by and large.

149 Q. Yes.

A. And I think Mr. Kincaid, in his meeting with the Ombudsman, has said that similarly, and he was quite an experienced in the Belfast Region as an investigator. 11:43

150 Q. Yes.

A. And in Rosemary Nelson, as he said. So the issue was,

and it has been rectified under the RIPA legislation 2000, lack of accountability.

151 Q. Yes.

A. Lack of oversight.

152 Q. And you also encountered difficulties obtaining information from other intelligence organisations including military intelligence, is that fair? 11:43

A. Sorry, I missed the beginning of your question, Sir?

153 Q. You also encountered difficulties obtaining information of that type from other intelligence organisations, including military intelligence? 11:43

A. In relation to Omagh?

154 Q. Yes.

A. But the intelligence, when I was in Omagh, was directed through Mr. Evans and Mr. Jones so... 11:44

155 Q. And also in respect of other investigations, there was not this free flow of intelligence information to investigating teams, is that fair?

A. Yes, and that would have continued under the jurisdiction of the -- when MI5 took over in 2007, prior to retiring, there was a hesitancy to share intelligence. 11:44

156 Q. Okay.

A. And for reasons that weren't for law enforcement.

157 Q. And I want to go one stage further and ask about the destruction of records themselves. 11:44

A. Yes.

158 Q. Now in your statement you describe the military attempting to immediately burn any records of a

suspected agent entering Thiepval Barracks, yes?

A. Yes.

159 Q. And you encountered further destruction of evidence at Dungannon Police Station, yes?

A. Yes. 11:45

160 Q. Now those incidents were not the only examples of important records being destroyed --

A. Yes.

161 Q. -- within the context of Northern Ireland, is that fair? 11:45

A. No, well I want to bring it down to the Omagh Inquiry, the Omagh bombing. The other material was also disposed of. The observation towers, the videos, that's gone. There is issues which would be raised in closed hearing that are gone. So it's not limited to 11:45 the documents in Thiepval or the exhibits in Dungannon.

162 Q. Yes, and if I may please just ask you in a more general sense about the destruction of records so that we can point this Inquiry towards other precedent, do you understand? 11:45

A. Yes, but I think the bigger issue, it is a major issue documents missing, but nothing was done in relation to the destruction in Lisburn and the disposal of records in Dungannon. The information was passed upwards and no investigation or nothing was done. 11:46

163 Q. Yes.

A. So it's a bigger issue than just it happening, it was what the organisation did at a senior level in relation to addressing what happened.

164 Q. Well can I deal with another example of the way in which senior level dealt with important intelligence documents and the destruction of same, and I am referring to 1998, and specifically July 1998. So a few months after the signing of the Good Friday Agreement, and we are in South Region, Gough Barracks and the asbestos contamination? 11:46

A. Yes.

165 Q. Now you were there one month later at this meeting on 14th August? 11:46

A. Yes.

166 Q. And my understanding is that it took three months to dispose of all of the documentation that was contaminated. So whilst you were sitting in that meeting, on 14th August in Gough Barracks, people were literally destroying intelligence records around you, is that a fair way to put it? 11:47

A. Yes. From I think I went there in February to Gough Barracks transferred, February or March, and I was in a building. There are a number of buildings in Gough Barracks. 11:47

167 Q. Yes.

A. But I was unaware of the asbestos. If that's the question, I was totally unaware I was sitting in an asbestos environment. 11:47

168 Q. Yes. And whilst you were sitting there literally people in connected buildings were getting rid of these intelligence records?

A. I have no knowledge of the destruction but I am aware

from my later experience that records were disposed of.

169 Q. And from your later knowledge you know that there was no attempt to save those records by, for example, cleaning them?

A. No, they were all destroyed. 11:48

170 Q. They were all destroyed.

A. Whatever was there. So but I have no knowledge at the time when I was working in Gough that, first of all, there was an asbestos problem and, secondly, that anything was being destroyed. 11:48

171 Q. Yes.

A. We were in a building, the upstairs of a building close to the entrance gate. There's quite a lot of buildings in the old military compound.

172 Q. Yes. And further to the theme of your concern about the military issuing an order within hours of your direction to obtain the log books from Thiepval. 11:48

A. Yes.

173 Q. And the order to burn those records, we also had another example of John Stevens on the night before he intended to arrest FRU agent, Brian Nelson, his office and the records therein set on fire in a suspected arson attack, isn't that correct? 11:48

A. Yes, I'm not personally aware of it, but I've read about it. 11:49

174 Q. Yes. And that of course happened within the confines of a high security RUC Station at Seapark?

A. That's correct.

175 Q. And are you aware that he, Sir John Stevens, alleged

that the military was responsible for that?

A. Yes.

176 Q. And you are also alleged that, as an investigator, he further alleged he was obstructed by the intelligence agencies from the moment he arrived in Northern Ireland until the moment he left in 2003? 11:49

A. Yes, I'm aware of that, I read part of his report.

177 Q. So in your experience as an investigator, do those incidents, including what you encountered personally, suggest that there was a culture within parts of the security and intelligence establishment of destroying records which might prove embarrassing or damaging? 11:49

A. The issue at Thiepval was the first time I engaged that type of activity. So in terms of a culture, I think I it would be wrong for me to comment on that. But what I can say is that someone was behind that, and felt capable of doing that, and did it with immunity. So, you could take that into your equation but I wouldn't have the firsthand knowledge to say there was a "culture". 11:50 11:50

178 Q. Well perhaps if I said to you --

A. A "trend" might be better word.

179 Q. Okay. Well, it may be that the trend that we are talking about might explain why no record has been found of the critically important intelligence that you witnessed on 14th August 1998? 11:50

A. Well I suspect, but I'm not sure I can go here, there are a number of ways that could have came, which may not have had a record, you know, a written record.

180 Q. Okay. Well can I tell you --
A. But I think if you look at Mr. Jennings' evidence to the Nally Inquiry it may help, where he states no records, you know, he was passing stuff, conversations, no records. And that is evidence of no records, no responsibility. No record, no accountability. If that helps you. 11:51
181 Q. It does.
A. If you don't record it, you're not accountable.
182 Q. Yes, thank you. 11:51
A. And there is a policy, under RIPA everything is recorded or should be recorded. But back then, I suspect there's very few records of interactions. And this is the problem as investigators, you know, finding exactly what people did because it just wasn't recorded. 11:52
183 Q. Yes, and that was done deliberately so?
A. That would have been a policy probably where you don't keep records, within that. Now, intelligence was debriefed and recorded and stuff but a phone call from the Guards, if it was a phone call from the Guards or wherever it came from, may not have been documented. And certainly once the bomb went off there would be little incentive to record it. 11:52
184 Q. Well, can I just ask you more about something you raised yesterday, and that is South Region. It covered South Armagh, I take it? 11:52
A. Yes.
185 Q. And would they also have held information on dissidents

in the north Louth area as well?

A. I'm not sure I can answer this question in this hearing.

186 Q. Okay, well please don't answer anything that you may not be permitted to. 11:53

A. The reason I don't feel comfortable is it may lead to something that would be closed.

187 Q. No, that's fine. I'm referring yesterday to what you noticed in Sir Ronnie's evidence about the phone calls?

A. Yes. 11:53

188 Q. And his first call to the regions was to South Region?

A. Yes.

189 Q. And logically that should have been to North Region, because that's where Omagh was based?

A. Yes. 11:53

190 Q. Now, there seemed to be two possible explanations for that: Either it was an extraordinary coincidence that Sir Ronnie's call was to the very region from where the bombers had travelled, or he and the Head of Special Branch already knew where the bomb came from; which do you think is most likely? 11:54

A. There could be a third option, which is basically your second option, but they knew that this group of suspects had been responsible for similar bombs. But equally, there was a bomb in Enniskillen, I think it was early 1998, which emanated from the southeast Fermanagh area. So it was not conclusive, as an outsider looking at it, it wouldn't be conclusive that the bomb in Omagh came from South Armagh. 11:54

191 Q. Yes. Logically you would still have gone to North Region first?

A. Organisationally you would, but that's why I thought it was quite interesting that the focus immediately, now there may be reasons, for instance, the telephone boxes were identified quite early where the bomb calls came from, were in South Armagh. So, depending on what time the call was made, I think it was probably several hours had passed before the phone boxes were identified. 11:54 11:55

192 Q. Now I am going to turn to a different topic, and I am going to ask you about a matter you raised in your evidence yesterday, and that's the possible involvement of an agent in the team that planted the bomb, okay?

A. Yes. 11:55

193 Q. Now the victims have long suspected that an agent was involved and that is why the investigation team was obstructed and under-resourced, and you share those concerns?

A. As I went through the investigation it became very apparent that an individual was a Garda agent. It became apparent that in one operation there was a high potential that he was jointly handled by the Security Service. 11:55

194 Q. Could I perhaps turn to that potential incident, and I'm not going to give details about that. 11:56

A. Yes.

195 Q. This bomber's property was searched in 1998, correct?

A. Correct.

196 Q. When the Guards searched this man's property they found bomb components, including LEDs, and plastic boxes with holes bored in them to enable toggle switches to be attached later, correct?

A. Correct, and those plastic boxes were identical to the Mk 19 TPU used in Lisburn and Moira and parts of Omagh. So they are a part of the same gang, clearly. 11:56

197 Q. Two firearms were also recovered from the property?

A. Two firearms were found in the stairwell going up to the property, the flat above. 11:56

198 Q. And despite the discovery of those components and firearms, this man was not even arrested or questioned in connection with the finds, isn't that correct?

A. That's correct. And I should also add the components found the LEDs and wiring, from recollection, matched the components in Lisburn and Banbridge, although Banbridge was after that but... 11:57

199 Q. And from the perspective of a highly experienced officer, does all of that strike you as unusual?

A. It is not unusual if the individual is one of your people. So you're telling the Metropolitan Police you've carried out a search but you don't arrest the person because you need him on the ground. That's an assessment. And this is the huge problem if I could say; that the Irish Government have, and in particular the Minister for Justice, have failed to investigate the Garda operations in the period leading up to Omagh. There has been, in my view, significant effort by the Garda to prevent their activities being uncovered. 11:57 11:57

200 Q. Yes. Well just on that theme, Mr. Baxter, can I then turn to John White and An Garda Síochána.

A. Yes.

201 Q. You were briefed about allegations made by John White concerning Garda knowledge of dissident republican activities before Omagh, correct? 11:58

A. Yes.

202 Q. And you regarded those allegations as sufficiently serious as to warrant further investigation?

A. Yes. 11:58

203 Q. Now, despite your respect for Baroness O'Loan, you were also critical about the Police Ombudsman's Office having disclosed information concerning White's allegations to the Irish Government, correct?

A. Deeply troubled. 11:58

204 Q. Yes. Because if those allegations were correct, you were concerned that senior Garda officers implicated would have an opportunity to deflect the allegations, cause evidence to disappear, or agree an alternative version of events with other witnesses, and they are 11:59 your words and you stand by them?

A. Absolutely.

205 Q. And this might compromise the investigation from the very outset?

A. Yes, and it did. 11:59

206 Q. And indeed you were concerned that John White himself was vulnerable because he was a serving Garda officer at that time?

A. He was, and it's on record the processes that he went

through in the prosecution. And not having sight of all the evidence but, on a personal level, he -- and I can explain that a bit further, if you want.

207 Q. Yes, please do.

A. But, on a personal level, he went through very difficult times because of Garda senior management trying to discredit him. 11:59

208 Q. Yes.

A. There was no evidence that, he wasn't convicted of anything, but they put huge effort into discrediting him. 12:00

209 Q. Well can I deal with the --

A. But yet -- sorry, the point I wanted to develop is John White in his evidence, I had him for three days in a secure location on the mainland, and I did that deliberately to get him away. I took him away - and the families will not know this - my Assistant Chief Constable was not informed, the Chief Constable was not informed, because I did not want him to be arrested the day before I got him. And I was uncertain as to the reliability of the people I worked with in telling the Guards that this interview was imminent. So I want to put that on record. I took him away, none of my management knew where he was, and to this day they do not know. He was interviewed. He, in his statement, provided very detailed evidence, he identified serious Garda corruption, he identified corruption involving drugs, corruption involving collusion with criminality of senior officers. John White was arrested and 12:00 12:00 12:00

charged with something but not one of those officers ever was investigated.

210 Q. Yes.

A. Not one of them. And yet he openly admitted that he was involved in some criminality. He was open about that and I would state that John White was involved in criminality. But a criminal - I don't want to call him a criminal - but a person involved in criminality can still be a witness against other criminals. 12:01

211 Q. Yes. 12:01

A. The Department of Justice chose to set up a three-man inquiry, and I'm sure Senator McDowell acted very honourably, but they were misled by the Garda. There was no internal investigation into the Garda and these senior officers, including someone who could be, who is alleged to have said, "well let this bomb go". And we have to take that in context that I am now stating to this Inquiry - and the Inquiry will determine whether I am right or not - that one of their agents took the device into Omagh. But John White, I am going to use the word "persecuted" in a prosecutorial way, to discredit him and therefore discredit my investigation into their activities. And to this day the Irish Government has not addressed John White's key allegations in that there was deep corruption within the Garda and collusion with terrorism. 12:02 12:02 12:02

212 Q. Yes.

A. I want to put that clearly, that is my belief and I think the evidence shows that.

213 Q. It is very clear from the actions that you took and also from your tone here today if I may say, that you took this manner extremely seriously. And, for that reason, can I ask you about a rather troubling exchange that took place when a senior Garda officer in Letterkenny phoned RUC concerning your intention to interview John White? 12:03

A. Yes.

214 Q. Can you remember that?

A. Scandalous. 12:03

215 Q. And she described him as "a rascal who was trying to create divisions between the two police forces", yes?

A. Yes.

216 Q. So just so that we all understand this correctly, Mr. Baxter, in the context of the investigation into the mass murder of 29 people and two unborn children, the Guards were deflecting you from an important witness by essentially saying, 'don't be worrying about that rascal'? 12:03

A. It's probably worse than that, it was corruption in that they were trying to use another officer to effectively, because of friendship, you know, come alongside me, and, you know, say 'adopt my friend', but the gentleman that she rang is a very, very honourable man. And he said to her, 'no, you ring him'. And I never got the call. But it didn't stop there, because you will see in my statement, a gentleman from Dublin came to see me, basically passing on threats. And I have to say and I am not going to go into it today, 12:03

that was the first of many issues.

217 Q. Yes.

A. It was solely to... It didn't stop in the Republic, the efforts people made to get me out of the Omagh Inquiry. And Baroness O'Loan could give evidence on that. But I would prefer not to go into it. 12:04

218 Q. Yes.

A. But there was an effort to discredit me from within, that she fully investigated and I'm happy for her to disclose to the Inquiry. 12:04

219 Q. Yes. And earlier you talked about John White, and it is correct that one week after you interviewed him at a secure location, he was in fact arrested, isn't that correct?

A. He was. I took great precaution to get him out of the country and he said he was going to be arrested. Now I also want to say here, that he was alleging, this source who was stealing cars and getting cars in England, and I want to explain why it is so relevant to the actions of senior Garda; they were bringing wrecked cars from England, insurance write-offs, bringing them into the Republic. They were ringing, going out and stealing matching cars, changing number plates and removing chassis numbers, but they were doing it to order for senior Garda officers. 12:05 12:05

220 Q. Yes.

A. So senior Garda people were speaking to John White, asking him to get a stolen car, and then they charge him with criminality.

221 Q. Yes. And you touched upon that earlier when you said that, investigations often rely upon evidence from witnesses who have themselves been involved in criminality, isn't that correct?

A. Yes. 12:06

222 Q. And the proper approach is to exercise caution and to examine their allegations objectively and by seeking independent evidence for verification purposes, is that fair?

A. That's correct, yes. 12:06

223 Q. And you did that with Mr. White?

A. I did.

224 Q. Because one of his most serious allegations was the meeting on 11th August with Dermot Jennings, isn't that correct? 12:06

A. That's correct.

225 Q. And what you then did, as an experienced investigator, was to look for other evidence to support his credibility or to refute it?

A. Yes. 12:06

226 Q. And what you found was an e-mail sent by David Rupert to his MI5 handler in 1998, and therein he described Jennings as being "indifferent to terrorism in Northern Ireland and concerned principally with illegal activity in the Republic of Ireland"? 12:07

A. Yes. And I interviewed, I met David Rupert several times, and I spoke to him about that, and it was I think - the Inquiry could speak to Mr. Rupert - but I think that is a summary of what maybe Mr. Jennings

said, it was "I don't care if bombs go north", I think that's basically what he was telling me. So that to me, was well, here's a totally independent person from the United States who is operating there, and he is telling that. But he also told about Garda corruption --

227 Q. Yes.

A. -- which may not be in any of the statements. And he was described in court as a "very reliable witness" --

228 Q. Yes. 12:08

A. -- by Garda senior people. So we have one person described as very, very reliable witness staying Mr. Jennings didn't care. And we have John White saying, 'we're going to let this go'. And I have concluded - and the Inquiry will establish if that's correct - that a Garda source took the device to Omagh. So if you're asking me did I believe John White, I think on the balance of probability it is extremely high that when he says 'I am going to let this go', that's what he meant. 12:08

229 Q. So if I could summarise it by perhaps saying, although there were plainly questions about John White's own conduct, you had identified independent material which in your professional assessment offered some support for an important part of his allegations? 12:08

A. Yes. I mean John White, and I think we are going into this in another chapter, but he is a key part of this, and because not his agent got the car, but because of the system that the Guards used and the fact that it

tells us they knew, on the Friday at the latest, that a bomb, a car for a bomb, had been obtained.

I can't get away from this, and it baffles me why no one in the Republic is looking at this. If they knew on the Friday a car was coming, they may have notified the RUC about the stolen maroon car, but according to the Nally evidence, they didn't inform the RUC that these people have a stolen car in a gang that have built bombs that have went to England to be intercepted, that have taken a bomb to Moira, and blown Moira up, that have sent to Belleek, mortars to Belleek. They did not tell, there is no record that, you know, I'm saying no official record, that this has ever been passed to the Northern Ireland police. 12:09 12:10 12:10

230 Q. Yes. Mr. Baxter, can I please by finish by asking you about the bigger picture. You have described a sustained campaign of dissident bombings before Omagh and intelligence which, in your opinion, could have identified suspects and helped disrupt that campaign, yes? 12:10

A. Yes.

231 Q. You have described information held by intelligence agencies which did not reach criminal investigators, yes? 12:10

A. Yes.

232 Q. And missed opportunities involving suspects, vehicles, forensic evidence and cooperation with An Garda Síochána, yes?

A. Yes.

233 Q. And when you look at the separate investigative opportunities you have identified, is your concern that no single officer or investigative organisation was ever in possession of the complete picture? 12:11

A. I do believe that the only organisation that will have complete picture will be this Inquiry.

234 Q. And the problem, you will agree, was never the quality of the detectives but the quality of the information that they were given? 12:11

A. You asked was that the problem?

235 Q. No, I'm saying I'm sure you would agree with me that the problem was never the quality of the detectives but the quality of the information that they were given?

A. The absence of information they were given. 12:11

236 Q. Yes.

A. I would agree with that.

237 Q. So that same information that we are talking about, it plainly existed?

A. And more that probably hasn't been, because of redaction issues, probably haven't been made available yet. 12:11

238 Q. But would you agree with me, that the systems for bringing it together, and acting upon it, were woefully inadequate? 12:12

A. Yes, inadequate. May be absent.

239 Q. Yes, thank you, Sir.

MR. GREANEY: Thank you Mr. Toal. Sir, we'll turn next to Mr. Mansfield please.

CHAIRMAN: Just before we do, Mr. Greaney, would you mind if I just asked something before it goes out of my mind.
MR. GREANEY: Of course not, sir.
CHAIRMAN: Mr. Baxter I wonder if you could just help me with literally one thing: I have been listening to you explain the concern that you had about the possibility that the Guards knew on the Friday before the Omagh bombing, that there had been a stolen car and that it was likely to be making its way as a bomb car to the North, and you were concerned that that information hadn't been passed on. Have I followed that correctly? 12:12 12:12
THE WITNESS: Yes, they were aware of a car that was going to be used by terrorists.
CHAIRMAN: Yes. 12:13
THE WITNESS: Obviously it would be an assessment that it was going to Omagh, but the very fact that they knew that this group had a bomb, it may have been a bomb for somewhere else.
CHAIRMAN: Of course. But what I am just not following is, if you have the concern that the Garda had information but didn't pass it on, how does that square with the meeting you've told us about, on the 14th at Mahon Road, where it appears that a senior Special Branch Officer was relaying information that had been passed on? 12:13
THE WITNESS: Yes, and I appreciate that. And what I did say was, there was no record of that being passed

on, but there are issues which we would have to address that question maybe in a closed session.

CHAIRMAN: Yes.

THE WITNESS: There are other scenarios where that information could have reached. 12:14

CHAIRMAN: Can we just be clear about one thing; you're telling us that on 14th August you heard an account of the fact that the information had been passed by the Garda to Special Branch that a car bomb was on its way to the North? 12:14

THE WITNESS: I think what, my recollection the term was "believed", "the Guards believed", now that may be they were told, the individual was told by the Guards or it may be an issue that I can address in a closed hearing, if that helps you, Sir. 12:14

CHAIRMAN: But that's what was said in your presence anyway?

THE WITNESS: Absolutely. And the issue is that Dermot Jennings in his evidence to Nally confirms that on the Friday morning of the 14th, they were aware 12:14 there was a car, that they got an alternative car. And on the Friday afternoon I was at that meeting and, so there is, on the same day, morning and afternoon. I don't know how that individual was told, there are a number of scenarios, one of which is that 12:15 Dermot Jennings may have rang and passed verbal information, but there are other options that that officer could have gained the knowledge and that could be addressed in a closed hearing, Sir, if that's okay.

CHAIRMAN: Thank you.

MR. GREANEY: So Mr. Mansfield please.

MR. NORMAN BAXTER WAS QUESTIONED BY MR. MANSFIELD AS FOLLOWS: 12:15

240 Q. MR. MANSFIELD: Yes, thank you. Good morning. Please excuse me for sitting down, it is no disrespect to you.

A. Okay, thank you.

241 Q. I represent the Rush family in these matters. Can I pick up where we have just left off. There is the important briefing on 14th August, which obviously you weren't expecting at that particular time. Now what I want to do, if you wouldn't mind, is tap your experience in relation to this briefing. And what you might have expected to have happened, do you understand? 12:15 12:16

A. Yes.

242 Q. And this is preparatory, because we understand you are coming back, thank you very much, at a later stage. So I am not going to develop every point or dig deep such that there will be any compromise. However, would you have expected that the material being discussed in that briefing around 3 o'clock on the afternoon of the 14th, which led, in the end, to an operation being mounted on the 15th, didn't it? 12:16 12:16

A. Yes.

243 Q. And this is in the context of a situation that is in one sense deteriorating, more violence, reckless

violence, more casualties, that's the context in the August of 1998, isn't it?

A. Yes.

244 Q. And I'll come to what might be expected in just one second, but these are all contextual matters. And at the heart of the RUC then, it goes without saying, is a building where the Headquarters of the RUC is located, correct? 12:17

A. In Belfast? Yes.

245 Q. Yes. And in that one building, or very close by, all the major threads of RUC activity are represented, aren't they? 12:17

A. Yes.

246 Q. Right. So, in the days that lead up, in August, the weeks that lead up to the 15th, it would have been relatively easy for the Chief Constable, within that building, to occasionally ask the question; who on earth is responsible for this violence? That's a simple question, isn't it? 12:18

A. Yes. 12:18

247 Q. Not necessarily are you sure about who is, but can you give me a clue, would be a reasonable approach, wouldn't it?

A. He should have known in advance who these suspects were, from the previous bombs, you know, the groupings, so, yes, he should have been asking is it this group that has done this? 12:19

248 Q. Yes.

A. So it's not a question in isolation, he should have

been briefed on the suspects in Lisburn, Banbridge, previously.

249 Q. Right.

A. And therefore, the question should be: 'Well, this isn't North Region, speak to North Region, do you have any knowledge'? And then South. I suppose if we reverse back, the Assistant Chief Constable, Special Branch, would have been the first point of contact, 'do you know is this the same people'? 12:19

250 Q. It is especially in the context, which you are describing in your statement and a bit today as well, I don't repeat it, but you're describing a situation whereby this could have been, could have been disrupted, this group of individuals could have been disrupted, if sufficient attention had been paid to the detail. So that's another contextual matter. So within the weeks that lead up to the 15th it would have been easy for him to ask in the building he is not going to be precluded from any information, is he? 12:19 12:19

A. Well... 12:20

251 Q. Or is he?

A. Possibly.

252 Q. Do you follow what I'm saying? Sorry, is there a ring-fence around the Chief Constable that he isn't told things? 12:20

A. I suspect there are many things he wouldn't be told. But the question, if I could take your logic back, go back to the 1st of August, the question that should have been asked after 1st August is, first of all, 'who

did this'? And then, 'what progress are you making? You know, what are you doing to catch the people' in August.

253 Q. Yes.

A. So the questions you are asking are almost redundant in the argument about preventability in the sense that two weeks have passed since the last bomb and there was sufficient intelligence there to notify the investigators as to who, some of whom were involved. 12:21

254 Q. Now if, if I can reverse the coin slightly, in the weeks leading up to the 15th, if the Chief Constable is just a bit tardy and slow about asking that question, would you have expected Special Branch South, Special Branch South having a link to GCHQ, don't they? 12:21

A. As have Headquarters. 12:21

255 Q. That the person in charge of Special Branch South would have wanted to inform the Chief Constable that they did have a name and a telephone number, that would be quite important, wouldn't it?

A. Well, let me help you a little further: The director of, the person known as the DCI, the Head of MI5, would probably be one of the first calls that should have been made, what does -- 'does your organisation know'? And probably after contacting his own ACC, the next question would be, what do you know? 12:22 12:22

256 Q. Right?

A. So at that level there would almost immediately have been interaction. Now, bearing in mind it is a Saturday afternoon and some of these senior people may

not have been there but there would have been people manning the offices. So it's not a focus on what RUC Special Branch knew but there would also be a focus on what do the Security Service know.

257 Q. And does this tie in with your suggestion yesterday that there was a lack of correlation and combination at that level, in other words, regular meetings at which people exchanged ideas and information about the present emergency situation, as it was then? 12:23

A. Well I'm quite confident that there would have been meetings, security meetings, discussing the security situation, but what it is referring to as the actual meetings between intelligence and investigators to ensure that the investigators explain what they are investigating and intelligence people say, 'what are your intelligence requirements and what can we help you with'? 12:23

258 Q. Right.

A. At a very high level I'm sure there is may be daily briefings between both organisations in terms of intelligence. But, at an operational level, I couldn't see any evidence whereby... 12:23

259 Q. You didn't see any evidence?

A. Whereby there was an organisational gathering of senior intelligence and investigators after Banbridge for instance. 12:24

260 Q. Would this be fair, physically it wouldn't have been too difficult to organise because most of them are all in the same building, right?

A. Well, it wouldn't be difficult to organise because he is the Chief Constable and if he said it was to happen, it would happen.

261 Q. Right.

A. No one has a choice in a hierarchical organisation. So if the Chief Constable said 'I want' -- 'what's your investigation strategy in relation to Banbridge, why have you not got a joint team, get a joint team', it would have happened. It's not a democracy. 12:24

262 Q. I am going full circle, one comes therefore, to the 14th, and the Head of Special Branch South is there indicating what information he's got. Would you have expected him, either - because we don't know when he got the information he is talking about - would you have expected him to have told the Chief Constable, in whatever words he would use, 'hey, look, I have got some hot information here, hot intelligence, and we're going to set up an operation tomorrow', the Chief Constable ought to have known all that, oughtn't he? 12:24 12:25

A. Not necessarily. The Regional Head may have thought he can deal with it within South Region. But the intelligence should have been recorded on the system. There has to be a record. If it's an official operation or perhaps some in the South, given 'this is unofficial here, I'm just telling you, we're working on something'. It may not have been his operation, it may have been a Security Service operation, and what they are doing is just managing the risk. Because ultimately if you follow the pattern, you have the 12:25 12:25

evidence in my statement in relation to the gentleman, the journalist from Dublin, who indicates that the Guards were with the bomb car the night before, that might have been something they were doing that I can't discuss in this hearing. And so there may have been a belief that this wasn't going to explode. 12:26

263 Q. Right.

A. So I don't know that. So I can't assess the risk. And therefore what he would have done.

264 Q. I appreciate that. 12:26

A. So I'm not sure I can help you beyond that. But if things were working according to the doctrine of keeping records, there should have been a record of intelligence inputted and sent to Headquarters to the central desks in Belfast, there should have been an action sheet issued to sub-divisional commanders warning them of the imminent probability of a bomb attack, the Army should have been formally informed and the Assistant Chief Constable, if he felt it was such a high risk he would notify the Chief Constable. 12:27

So it's not the Chief Constable being informed of every risk or every threat, because there are multiple threats. So I wouldn't say I would have expected the Chief Constable to be informed. But what I don't know is what was behind the information; was it a controlled operation? I want to use that carefully, a controlled operation that has gone wrong, or is that something nothing at all to do with Omagh? 12:27

265 Q. Well you might not have expected him to be informed then but when he rings up the next day, on the 15th, asking apparently, then he would have been told, wouldn't he?

A. I found parts of Sir Ronnie's evidence, it probably needs more exploration, if I could put it in that way. 12:28

266 Q. Are you saying you can give it but in other circumstances, is that what you're saying?

A. Sorry, I didn't pick that up?

267 Q. Are you saying there is an explanation that you could give for that or not? 12:28

A. No, I just think that --

268 Q. All right.

A. -- more exploring as to what knowledge he had prior to... 12:28

269 Q. Have you since ever seen any record of any kind that relates to this briefing?

A. No.

270 Q. And you've saved me a series of questions, what would you expect to find, you have already given illustrations. 12:28

A. No, there is absolutely no, it is invisible.

271 Q. Right.

A. But then there are other things that are invisible as well which are connected to it. 12:29

272 Q. Now, you mentioned the military, in the middle of the briefing that was taking place in your presence, did one of the two, presumably the officer or the person in charge of Special Branch South, went off to contact

3 Brigade, is that right?

A. No. The Deputy Chief Constable has the telephone on his table.

273 Q. Yes.

A. So if you imagine the room being this square, where Mr. Greaney is sitting, the Deputy ACC, I was sitting in a chair facing him, and there was some chairs to the right and a door and the wall. So the Head of South Region is sitting over there, he is talking to Deputy ACC. There is a phone on his desk which he lifts and he calls -- 12:29 12:30

274 Q. He calls him?

A. Yes. And then there is conversation and I have to go because the time is coming towards my 3 o'clock meeting. 12:30

275 Q. Right.

A. But he was ringing the brigade to initiate an operation, preplanned operation.

276 Q. And as far as you could tell he was talking to the Brigadier? 12:30

A. I can't say he was talking to the Brigadier, it may have been his staff, it may have been the Ops Room, but he wanted to speak to the Brigadier.

277 Q. Right.

A. And that would be normally, Brigadier to Deputy Assistant Chief Constable. And then if the Brigadier wasn't there, the next senior officer, it's just a respect of rank issue. 12:30

278 Q. Now if you can't answer this please say, but you would

expect there to be a record there?

A. Yes, absolutely, there should be a record in the military of the deployment.

279 Q. Right.

A. Of that there's no doubt, there should be. There should be police records, if there was police involved as well. 12:30

280 Q. So --

A. I would say if any police officer who is listening to this was involved in that, they should come forward. 12:31

281 Q. Now the object of the briefing plainly was in fact to trigger a preplanned operation?

A. Yes.

282 Q. Right.

A. And that would have been an operation to thwart or cause them to abandon plan. 12:31

283 Q. Can I just reflect for a moment upon your experience before that day because you were hands-on in one sense --

A. Yes. 12:31

284 Q. -- of dealing with anti-terrorist actions that could be taken, if you like, contingency plans, you are very familiar with those?

A. Yes.

285 Q. Right. Now I don't want to incur any difficulty for you but I just like categories, would it be, looking back over the years before August 1998, contingency plans can cover a lot of different situations. Now, first of all, as a category, one of the actions would 12:31

be of the kind you have already discussed which might be to arrest somebody. The second one - I am going to list them it's quicker - to search premises. Third might be to keep surveillance. These are all actions that can be taken on a suspect-led basis, you have somebody in mind, and you've got premises in mind and you have mobile units who can go into action, is that fair?

A. Yes.

286 Q. Right. But there is more to it than that, that is one aspect, and I want to ask you about another aspect; is it also right that you have to be ready to act very quickly, don't you? 12:32

A. Yes. And there was Army units always on standby to be deployed, from memory. 12:33

287 Q. I mean sometimes it's called "rapid response" because there is no use having information and intelligence if you can't act quickly, do you follow?

A. Yes, but what we were speaking about on this occasion, it wasn't that 'Seamus Daly is bringing a car to Portadown tomorrow at 3 o'clock up the A1', this was just general. So the only response to that is to put out uniform military to -- 12:33

288 Q. Right.

A. -- or police, to stop on the main routes you think they are going to travel. 12:33

289 Q. Now I want to just follow that --

A. As a disruptive.

290 Q. Thank you. It's another category, in other words,

besides doing the searches and arrests, you can have roadblocks, which don't necessarily involve actually searching a vehicle at a checkpoint. You can have checkpoints on top of that, so those are two -- you block the routes from South to North, that's one of the things that you engaged in? 12:34

A. Yes.

291 Q. Right. And if you are going to block a route, you need to be able to do that quickly, don't you?

A. Yes. 12:34

292 Q. And over the years that had gone before August 1998 - I am not asking you for numbers - you must have been involved in hundreds of these exercises, is that fair?

A. Yes, and there was what was known as a Quick Reaction Force based in various locations to be deployed. Now whether that had been scaled back a bit in 1998, I don't know, but there would have been, because from my own experience having got into some difficulty on a patrol a QRF came within minutes to extract the problem some years earlier. So, yes, there would have been, or should have been, a Quick Reaction Force. 12:34 12:35

293 Q. And in relation to this aspect, a quick reaction or rapid response, however you call it, to intelligence, whichever it happens to be --

A. I'm sorry, could I add that was normally be helicopter. 12:35

294 Q. Yes, certainly.

A. Sorry, If it was outside close proximity it would have been by helicopter.

295 Q. Well, funnily enough, that's exactly the question I was

going to put to you.

A. Okay.

296 Q. Is that one of the ways of really being quick is the use of a helicopter. Would it be a police helicopter or a military one? 12:35

A. It would be military.

297 Q. Military. And of course they can be pretty handy as a deterrent alone, can't they, if there is a car travelling and they're alive to the fact that it is a military helicopter above, that could be pretty 12:36 deterring, couldn't it?

A. It has been used as a deterrent in the past.

298 Q. It has been used?

A. Yes.

299 Q. Thank you. So in relation to the one that was set up 12:36 the next day - the consequence being a plan was set up the next day - I don't want the details of it, but it's plain it must have been put in place pretty quickly, whatever it was?

A. I think the plan was or discussion was that it would be 12:36 put in on the next morning.

300 Q. The next morning. And I'm sorry, I just want to clarify that answer. It was put in the next, yes, you mean the actual operation was put in the next morning, not the discussion? 12:37

A. Not the discussion, no, the...

301 Q. No, sorry.

A. I think that, I'll come back in my memory, 'we need to deploy this tomorrow'.

302 Q. Yes. So once the operation is starting this is an operation, if you have the intelligence obviously, which you can put in place across the Border. Now I want to ask you about the Border Liaison Officer. Could you help us what was the role of the Border Liaison Officer? 12:37

A. The role of the Border Liaison Officer was to liaise with his counterpart in the Guards in relation to normal policing matters.

303 Q. Would it involve this kind of thing? In other words, sealing off the Border or blocking roads, would the Border Liaison Officer have to be told about that? 12:37

A. I don't think so, I think that would have been done by the Border divisions would have had direct connection. From experience in Fermanagh, there was a confidential and secure line between the Guards and police. So you would have -- and it could have been done by telephone. 12:38

304 Q. Right. Now in these months leading up to August and the types of measure that was being taken to intercept, was there a plan to intercept a car, other than through roadblocks and checkpoints? Was there any plan and the use of helicopter? 12:38

A. In general terms?

305 Q. Yes, in general terms.

A. Mobile patrols would often be briefed to go out and look for suspects. 12:38

306 Q. And if again can't answer, because I think you finished in April 1898 in terms of dealing with these things, but whilst you were familiar with what were being put

in place, over this period, 1998, was there a reduction of any kind in resources being deployed on all these various categories of anti-terrorist action?

A. Well there was certainly direction to minimise the use of military in some areas. For instance, I can remember meeting -- having quite a heated debate between the Assistant Chief Constable and the Commander in Dungannon, arguing over the reduction of troops in certain areas of the town, he was being directed not to allow. 12:39

307 Q. Where was the direction coming from?

A. That was coming down from Headquarters from NIO, Chief Constable level, saying they need to reduce the footprint of the military. And I mean there should be a record of that, I was at that meeting. And he was refusing, saying 'I am not exposing my officers to danger, I am deploying the soldiers'. So at that level there was a -- and in fact in Omagh, I understand from within the Omagh investigation, the Army were not allowed to be deployed within Omagh. So there was clear de-escalation. 12:40

308 Q. And was there opposition to the de-escalation?

A. Well certainly in my experience some of the commanders refused in the early stages of de-escalation. The Assistant Chief Constable saying, 'well, this is the policy, NIO want this reduction, you know, as part of the Sinn Féin demands, we've got to reduce'. And that's why I said about the risk assessment, and the standard that Sir Ronnie seems to have applied, and 12:40

it's clear I don't think it was right, that it was okay for his officers to be at risk but not the community. I mean that's the implication of it. So they were taking decisions at Headquarters, you know, 'take a risk here'. 12:41

309 Q. One final question on this particular topic of categories of anti-terrorist activity: During the time that you were involved was there ever any discussion, besides sealing off borders and closing roads, was there any contingency plan for sealing off a market 12:41
town? Because that can be done in many different ways with vehicles, hydraulic bollards, anything?

A. Well if you wanted a complete descriptive of what could be done. You seal off towns. You saturate the area that the suspect is coming from, as a tactic, if you 12:42
know that your suspect bombers are from West Belfast, you seal off West Belfast. You obviously put up helicopters. You make pre-emptive arrests. If you knew that Seamus Daly was a suspect going to be carrying out a bombing over the weekend, one of the 12:42
tactics would be to arrest him, bring him in, question him. Put in area searches where you think there may be having logistics. So there is a whole range of tools that can be used.

310 Q. Right. 12:42

A. And providing you have knowledge of the group, it's within your territory, you have resources and obviously there's an operational understanding of protecting the intelligence and making sure you achieve the objective

of disrupting. So there is a complete spectrum. But in 1998 there was significant political issues around doing that.

311 Q. Now, two more matters and I am going to pass from those particular measures, and this concerns a gentleman called David Rupert. 12:43

A. Yes.

312 Q. Is he familiar to you as a name?

A. Yes, and I have met him I think three times.

313 Q. And the only question I am going to ask at this stage, and it may be it will come up later in more detail, and I am quoting from your own statement on this matter. Namely the way you describe it - it's page 350 should anybody want to look it up - this is how you put it in relation to David Rupert: 12:43 12:43

"On 16th August" --

That's the very day after the bombing --

12:43

"David Rupert was evacuated" --

that's the word you use --

"from Ireland back to the USA." 12:44

Now do you stand by that?

A. That's absolutely true. I mean I spoke to him about it. To me the explanation he gave made a lot of sense

but I heard the evidence in relation to Finner Camp and I started to wonder, you know, if I had been aware of that back then, you know, had Mr. Rupert had any input in that. So that would have been a line of inquiry in relation to that. But, yes, he was moved out immediately. But the explanation is that there was a fear that internment would be introduced and that he could be caught up in that arrest operation.

314 Q. I'm not going into the reasons, other than one other matter in relation to him, he was an agent being operated by the FBI and also by the security services in the United Kingdom, wasn't he? 12:44

A. Without the knowledge of the RUC.

315 Q. Now finally this: You deal in some detail, and I am not going through it, about why you indicate the possibility of disrupting what had happened by the arrests and searches in the weeks that went before the 15th. I'm not going through that. But you have said today that you didn't think that there was a possibility on the day of preventing? 12:45

A. Yes, but I was trying to explain that I meant that once the call came in - it may not have been clear at the Inquiry, sorry, the Committee - but once that car crossed the Border and moved towards Omagh, there was less and less opportunity to stop it. 12:46

316 Q. But there was an opportunity to stop, that you don't deny?

A. As in?

317 Q. It could have been stopped on the day?

A. I think it depends how you assess, and this is what the Inquiry is going to have to look at, material that's ongoing, which let's say John Ware referred to, how that could have been communicated to the ground at the time. It may have enabled to be stopped if it was -- 12:46
first of all, if it exists and, secondly, at what time people became aware of it. There is a period when the telephones become active from the telephone billing until they got to the Border.

318 Q. Yes. 12:47

A. Which would have provided enough notice to put pre-emptive measures in between Ballygawley and Omagh. But I think once it's crossed the Border going towards Omagh it becomes very difficult. The restriction on deploying the Army in Omagh then would come in place, 12:47
would have been a consideration, they couldn't have been available to the commander. So you are probably talking about hypotheticals but it's something that the Inquiry will probably have to decide on.

12:47

But there are many police officers in Omagh who were former police officers who are very guilty and feel that they could have done something to stop it. And what I am trying to explain is by the time the warnings come in and they were there, without any other 12:47
intelligence or knowledge, it was impossible to stop.

319 Q. Yes. And the postscript to this is, I just want to clarify from you, you've not seen, is this correct, any of the intelligence that may have been derived from

GCHQ, is that right?

A. That is not correct at this point in time.

320 Q. I'm sorry?

A. That's not -- it was correct when I was in SIO, when I was serving. 12:48

321 Q. Right.

A. In preparation for this, making this statement, I had access to a document, which I am not going to refer to because it's redacted.

322 Q. Right that's, what I wanted to clarify. 12:48

A. That document had been recorded within the Inquiry but had gone by the time I became SIO, I wasn't shown it. But I now know of one document that is related to the issue.

323 Q. Yes, thank you very much. That's all I ask. Thank you. 12:49

MR. GREANEY: Sir, I am in your hands but it may make more sense to break early for lunch and return early after lunch to hear from other counsel.

CHAIRMAN: Yes, I think so. So perhaps 1:50? 12:49

MR. GREANEY: Yes, please, Sir.

THE INQUIRY ADJOURNED FOR LUNCH AND RESUMED AS FOLLOWS:

CHAIRMAN: Mr. Greaney. 13:51

MR. GREANEY: Sir, as you can see Mr. Southey is on his feet and we'll ask him to pose his questions next.

MR. NORMAN BAXTER WAS QUESTIONED BY MR. SOUTHEY AS FOLLOWS:

324 Q. MR. SOUTHEY: Thank you, Mr. Baxter, I am Hugh Southey I represent also a large number of victims and survivors from the bombing. Can I on behalf of my clients say thank you as well, they I think wanted me to make clear they appreciate the efforts you've made over the years to get to the truth of Omagh. I am not going to repeat what Mr. Toal said but they would echo what Mr. Toal said. 13:51

A. Thank you.

325 Q. Can I start by dealing with a couple of things really, a number of things that arose from your evidence yesterday. Now, one of the important things you talked about yesterday, and indeed this morning, was how in your view there had been a failure to disrupt the individuals involved in the run up to the Omagh bomb. Another thing you talked about was how, in your view, there was an informer involved in the actual bombing operation. Are those two things in any way linked, the presence of an informer in the gang and also the failure to disrupt? 13:51 13:52

A. There's possibly two different scenarios here. 13:52

The individual that I have identified as an informer may have been blind, and probably was blind, to the RUC in that. I found no indication within the RUC prior to 1998 that that person was identified as an informer.

So, at that point, on that point he would not have been an influence on the failure to act.

The other thing I would say is, it's probably not safe to assume it was just one informer in the context of this bomb. There may well be a second. 13:53

326 Q. And so, is it possible, do you know, or do you have a view on this, that in one sense the desire to permit an informer to carry on their operation was a factor in the failure to disrupt? 13:53

A. In the South of Ireland it clearly was and that is the evidence of John White, within his very extensive statement they were concerned about exposing the informant and his suggestion, from recollection, was that some bombs were allowed to go into the North in order to protect their source. 13:53

327 Q. But more generally in terms of, in one sense ignoring for the reason you indicated the informer who was in the car, ignoring them for a moment, the RUC's response in the North in terms of disruption, do you think in any way that was influenced by a concern about protecting informers? 13:54

A. If I'm correct, and I strongly suspect I am in relation to the person I've identified as a source, he would have been blind to Special Branch in Northern Ireland, is so therefore, it didn't. 13:54

328 Q. Sorry, I wasn't clear probably in my question, I'm asking whether a desire to protect any other informer influenced the failure to protect?

A. Probably protection of methodology, and I think we need to understand that South Armagh is a very difficult area to conduct covert operations and, therefore, any asset, be it technical, human or whatever, very hard to establish and, therefore, very, very prized and there needs to be a lot of care in protecting. But I think that there was methods could have been used to disseminate intelligence that didn't expose.

329 Q. But implicit perhaps, am I right in understanding that implicit in what you've said is that those sorts of concerns about undermining assets, may have influenced a response before the bomb? 13:55

A. Yes, and I think you could get confirmation of that from Sir Peter Gibson when he talks about Special Branch acting cautiously, I think that's something that could be reflected in the period prior to Omagh, cautious in terms of what could be disseminated in order to protect very valuable assets. So, yes, your proposition is probably correct. 13:55

330 Q. Moving on, but sort of a linked topic, obviously I want to ask a little bit about the cars and what you know who was involved in the cars, I am not going to ask you, I don't want you to say anything that identifies the individual who is a suspect, I am going to ask a couple of questions. 13:56 13:56

A. Yes.

331 Q. But I am not asking you to identify the role any individual played in the cars. The first question I am going to ask you though is; do you have a clear idea as

to who was involved, who was in the cars, the group who were in the cars?

A. Yes. The Inquiry identified who they very strongly believed to be in each car.

332 Q. And you've heard what the Inquiry's identified, would you agree with that identification? 13:56

A. Yes, I have been following the evidence and, yes, that's correct.

333 Q. Okay. I now want to look at how the investigation progressed and I assume - some of the questions are going to be about the period before you were SIO - but I presume you are able to talk about that period because obviously you picked up what the investigation and the product of what happened before you were involved? 13:57

A. Yes.

334 Q. Now, earlier in this chapter there's been several references to what I think has been described at times as the golden hour?

A. Yes. 13:57

335 Q. The idea that there is a really critical period in an investigation where you have the maximum chance of success, which is very shortly after an incident?

A. Yes.

336 Q. Would you agree that that is an important concept? 13:57

A. It is the foundation stone of any investigation, that the sooner you react to the crime the better the evidence will be.

337 Q. Yes. Now that's presumably why your evidence yesterday

was that it was of critical importance that there was an early, there was early strategic coordination, I think was the language you used --

A. Yes.

338 Q. -- between Special Branch and CID, it's presumably because of that golden hour concept, would that be fair? 13:58

A. Absolutely right, and it doesn't have to be -- wait until there's a formal meeting. There shouldn't be a delay in 'oh, we can't all meet together for several hours', it should initially be by telephone, an exchange. 13:58

339 Q. Was that lack of coordination common in the North at the relevant time or was it unique to Omagh?

A. Well, in terms of normal crime it would happen within divisional or sub-division in my experience, you know a Detective Inspector or Chief Inspector of sub-division would apply the principle of immediate response at the scene, identify our witnesses, identify your scene, what are the immediate actions. I mean that is standard everyday CID practice. 13:58 13:59

340 Q. Yeah. But here I'm talking about, what I understood -- sorry I didn't want to interrupt --

A. So the logic is if you scale it up to the scale of Omagh. 13:59

341 Q. Yeah.

A. That it's a different rank but it is the same investigative principles should apply.

342 Q. Yeah. When you are talking about investigative

principles, that's presumably why Special Branch was important because they had relevant information to feed into that, is that right?

A. Yes.

343 Q. Coordination? 13:59

A. So you're dealing with, even the very basic, a bomb has gone off in Omagh, so you know it's terrorism, therefore that's a Special Branch national security issue. So that's where you would gear your attention to try and get some of your golden hour material. 13:59

344 Q. Yeah.

A. So if it had been domestic murder Special Branch would have no involvement, so it is the crime, and then you go to where you believe your assistance and help could be. 14:00

345 Q. But I think what I was asking, obviously it was about in one sense terrorism investigations generally, at around the time we're talking about, in general would there have been early coordination, if another terrorist event had occurred would there generally have 14:00 been coordination between Special Branch and CID?

A. Yes, from experience, at a divisional level, for example, an explosion in Irvinestown at one time I went to at night, and immediate contact with Special Branch in Enniskillen Town Hall bomb, within half an hour 14:00 Special Branch had been providing details of suspects. So, yes, that's, you go to where, 'who can help me here. Bomb has gone off, tell me who your suspects are as quick as possible'. And on those two occasions

Special Branch provided, not 'we believe these are the people who did it', but 'these are the group from whence they came, it will be one of these people'.

346 Q. So, that doesn't appear to obviously have happened in Omagh, do you believe that was deliberate or accidental? 14:01

A. I can't answer that because, first of all, I'm not sure the questions were asked.

347 Q. Yeah.

A. But certainly the Head of Special Branch, Assistant Chief Constable of Special Branch would have access to information that, 'this group of people in this region, it has to be some of them or their associates'. And North Region would have been looking, and North Region did this, they looked and said, 'here are people in the 14:01 14:02 Omagh area capable, we believe, of doing this', so they provided names. So I think you have got to look at what North Region did, they proactively went and, as it turned out, the people they identified were not connected. But on the same principle if you could 14:02 arrest suspects identified in North Region on the basis that their historic links gave a reasonable grounds to suspect, then South Region could have given names, although they may not have known that X, Y and Z were in the bomb cars, they could have said 'these are the 14:02 group of 12'14 people' and then the investigator would have decided, let's go and arrest them.

I think in relation to North Region on the Monday

morning, the 17th, those five people were arrested. So I think you don't have to go far to what was actually happening in North Region to judge what should have been happening in South Region. Does that help you?

348 Q. Yes, thank you. Another management issue you identified in your evidence yesterday was about the absence of a standardised policy regarding forensic exhibits. Do you know why there was no policy at all? 14:03

A. I think there was a meeting in relation to the stories and I just think the thing drifted. The responsibility was delegated down to local stations to look after. Exhibits were sent to the laboratory, they were examined, reports were sent to the investigating officer, and then the exhibits went back to stations, by and large, and it was the duty of the local police. So there was no due diligence force wide to ensure that exhibit stores were maintained. 14:03

349 Q. Linked to that possibly, I don't know, maybe it's not, and I can give you the reference, we can put the reference up if it would assist you, but you are probably aware of this. Prof. Gallop has identified in her work some gaps in relation to the fingerprint evidence that was obtained in relation to Omagh, are you aware of that? 14:04

A. I did read through both versions of the report but if you could be, she did talk about fingerprints but if you could remind me of the points? 14:04

350 Q. It might be worth then having it up on the screen, I think it's on the list. It's INQ048905, and it's page

48. I think that's been made available for today?
MR. GREANEY: Yes, we have.
351 Q. MR. SOUTHEY: Yes, thank you. It's really the second half of the page where she comments on further steps that essentially could be taken in relation to it? 14:05
A. Yes.
352 Q. I think it goes over to the next page which we can probably put up as well, if need be. This is by implication if there are things still to be done.
A. Yes. 14:05
353 Q. The question really I was asking is; firstly, do you accept there is that further work that could have been done?
A. I'm not, could you remind me what TAC stands for please? 14:05
354 Q. It's terrorism and Counterterrorism, I can't remember, it is an abbreviation for?
MR. GREANEY: It just stands for Terrorism Act.
A. Yes.
355 Q. MR. SOUTHEY: Sorry, I couldn't remember. 14:06

Elsewhere in her report she describes how effectively historically when people have been suspected of Terrorism Act offences they have been subject to a more rigorous form of fingerprinting basically? 14:06
A. Yes. I would need to just probably take time to check what the standard was back then.
356 Q. Yes.
A. But if the standard has changed then, yes, this work

should be done.

357 Q. It was more, I was asking - and by the sound of it, I am not sure you are necessarily in a position to comment on it - I was more asking about whether you have any idea why it wasn't done at the time, the work she is talking about? 14:06

A. We, as an inquiry brought in a world-leading expert from Geneva who reviewed the fingerprints so maybe this is something that has emerged since. But I was satisfied based on his knowledge, that all had been done. But again, if this has been identified as an issue that can be addressed, it should be addressed. 14:07

358 Q. Thank you. Can I move on to a different topic then.

A. Yes.

359 Q. I am going back in one sense to Special Branch, and I have already touched on Special Branch and information from Special Branch. You obviously were, you've given evidence, you gave evidence in your statement and you have given evidence yesterday, about how the role of DCS Anderson was essentially control of information, and that in particular was the information from Special Branch. You are, I'm sure, aware that Dame O'Loan made findings about the flow or the delay in information being provided from Special Branch during the golden hour effectively, during the early days of the investigation. 14:07 14:07 14:08

Firstly, just the first question I need to ask you about that is; as far as you are aware was Dame O'Loan

correct to find that Special Branch had delayed the provision of information during the golden hour?

A. Yes, not only within the golden hour but the golden years perhaps.

360 Q. Yes. But her particular findings were relating to the golden, she was talking, I think about a delay of 25 days and that's particularly, I was asking about partly because Sir Ronnie Flanagan earlier this week was unclear about whether that had occurred? 14:08

A. Yeah, the delay, that 25 days I presume is between the event and the suspects being arrested. 14:08

361 Q. Yeah.

A. But actually what was released in September were names, not intelligence, if you know what I mean?

362 Q. Yes. 14:09

A. The list of suspects. It was not, for instance, who made the bomb calls, who was in the car, there is absolutely none of that intelligence/guidance given.

363 Q. Right.

A. So it may be wrong to say that in September intelligence was given. 14:09

364 Q. Right.

A. I think it should be classified as names identified through intelligence, but the actual intelligence that would help the detectives to interview those people was held back. So, I'm not sure if that helps with the answer. Yes, there was a delay, but there was other material that the Ombudsman didn't refer to in her report that they were aware of, that wasn't 14:09

disseminated.

365 Q. Was that, the next question I've got about that; is that an example of effectively the role of Mr. Anderson?

A. It was the role of Mr. Anderson, it seems to be he was to interface. 14:10

366 Q. So was it he who caused that delay effectively?

A. No, he can't ask for what he didn't know about, I'm sure.

367 Q. Right. 14:10

A. I do know he went to Mahon Road and spoke to the Regional Head, it's documented. It is one of the limited number of documents in relation to Mr. Anderson. So he did go, but he clearly wasn't told. 14:10

368 Q. And did that delay, the one that Dame O'Loan has talked about and you've expanded on and given further information about, did that impact on the effectiveness of the investigation, was she correct to find it did?

A. Yes, it did. If I give you, I suppose it's a point of interest to me, that in September 1998 it was reported in the media that the Provisional IRA had visited the members of the Real IRA bomb gang and warned them to stop. The Secretary of State at that stage said that was internal republican housekeeping. So that happened before the investigators in Omagh were given names. So a terrorist organisation, the Provisional IRA, had the identification of the terrorists involved in Omagh before the investigators. And, you know, so something 14:10 14:11

can't be right when you have knowledge that a terrorist organisation could go and warn other terrorists about a bombing before the investigators have the information. And that's on record. And I thought myself that was strange; how did the Provisional IRA know who the suspects were when the Senior Investigating Officer didn't? So someone knew who they were much earlier than the SIO was informed. 14:11

369 Q. Another practice that Dame O'Loan describes in her evidence is the practice of Special Branch effectively being able to veto arrests and searches. Firstly, are you aware of that practice? 14:12

A. That was force policy.

370 Q. And was that, as far as you were aware, applied in Omagh, in the Omagh investigation? 14:12

A. Yes, it would have been, I'm fairly certain that all arrests would have been cleared.

371 Q. Did it, as far as you are aware, impact on the Omagh investigation?

A. Not during my time, no. 14:12

372 Q. Can I put up another document, which is INQ002465. Sorry, it will come up on the screen in a moment. I don't know whether you've seen this, this is a, it appears to be a record of a decision by Detective Superintendent Anderson and you will see that in that he identifies a number of people, and I am going to focus on one name in particular, Colm Murphy. So he identifies a number of people, including Colm Murphy, as being suspects. If you go to -- and this by the 14:13

way, just so you've got the date of it, this is pretty early on in the investigation, it appears to be 22nd August 1998.

Can we go to the next page please? You see there at the bottom, on the next page it seems to say: 14:13

"Action required: 'No'.
No further action required: 'No'."

14:14

A. Mm-hmm, yeah.

373 Q. I want to check is this an example of what you're describing where --

A. That is the classic example of what I'm talking about. There's no background documents as to who told him. 14:14

374 Q. Yes.

A. What's the grade or assessment, but I presume it was the Guards.

375 Q. But also is it an example in a sense that what appears to have been is DC Anderson said, 'we're not going to take any action in relation to this'? 14:14

A. Yeah, but he completed that form and these people we believe but don't do anything about it.

376 Q. And I understand Colm Murphy was first arrested on 21st February 1999, is that delay likely to have harmed the investigation potentially? 14:14

A. Any delay harms the investigation. But in terms of a delay in arrests, some arrests it is beneficial not to arrest immediately until you have the entire case that

you can put to someone in interview.

377 Q. Yeah.

A. Other people you need to arrest fairly quickly because they may have explosive residues or wounds. So without knowing what was behind that. In this case it was telephones, so it would have been helpful to have him arrested immediately so you could have recovered any telephone. But not all arrests should be done immediately. But certainly the suspects in this should have been arrested because of the forensic opportunities were being lost. 14:15

378 Q. Yeah. Now, you've mentioned that would appear to be information from AGS, so am I correct to understand that AGS, AGS information also went through DCS Anderson? 14:15

A. It was meant to.

379 Q. Yeah.

A. But I think the next entry after that from Mr. Anderson is October.

380 Q. I can't remember. 14:16

A. I think from memory. I could look in my statement, because I specifically asked in preparation of my statement for, I think, October.

381 Q. Okay.

A. But that's an example of a piece of information and then nothing. 14:16

382 Q. Yeah.

A. From a person who was supposed to be providing the SIO with the intelligence. Now he may have been verbally

briefing but Mr. Houston was a very, very efficient gentleman, and certainly Superintendent McArthur exceptionally efficient, and they would have recorded any messages, verbal things.

383 Q. Yes. 14:16

A. So I would say with some confidence that anything Mr. Houston or Mr. McArthur had been told would have been recorded by them as a message. So really, what I'm saying in my statement, is there is this void by this person who was sent to relieve Mr. Houston of some 14:16 duties but, in effect, in my view it created this block.

384 Q. Yeah. Am I also correct in understanding that, just to put this in context to get the full scope of it, any MI5 or GCHQ material would go through Special Branch so 14:17 that it would also go through this route?

A. Yes, but it would be cleared by Headquarters and then decided whether it could be disseminated into wording.

385 Q. Yes. So it would have gone to DCS Anderson again before getting to the investigators? 14:17

A. Yes, if there was any, he should have been getting it and passing it in as an intelligence document. But then another point which I discovered was, there wasn't a sensitive intelligence log within the inquiry.

386 Q. Yes. 14:17

A. Which is a requirement to record intelligence and secret, intelligence-related decisions. So there's no record at that time of intelligence-related information which came in which may indicate there wasn't any or it

may indicate they didn't bother.

387 Q. Yes.

A. But that was another issue that didn't happen.

388 Q. Now, all of this in one sense, starting with the point I was raising about the coordination between Special Branch and CID, is all of this an example of what was said in the HOLMES Review, which is that at this time effectively intelligence ran ahead of murder investigations. One of the criticisms, which I'm sure you may remember this, that was made was that in principle murder investigations should run in parallel with intelligence but that wasn't happening? 14:18 14:18

A. It wasn't happening. In normal circumstances, if Special Branch were asked for intelligence they would do research and make sure that what they were delivering was properly checked and assessed. So there may be a short time delay in slow time investigations, but one shouldn't form the other. 14:19

389 Q. Yes.

A. So in Omagh, the bomb had detonated, there should have been a scene examination, where investigators, forensic people go in, but in parallel there should then have been an intelligence. 14:19

390 Q. Yes.

A. Which would then have driven the investigators towards who to arrest, where to search, and so that should have been continuing in step. And then the scene examination and interview of witnesses should have been a separate piece of work. 14:19

391 Q. But, which I think is what you are saying but I just want to be clear, the criticism, as I understand it, was made in the HOLMES Review was effectively a culture had developed where murder investigations went behind intelligence, or lagged behind intelligence gathering, whereas in fact I think, as you are describing they should have been parallel. Do you accept that criticism that that culture had developed? 14:20

A. In terms of intelligence, you mean intelligence holding investigations back, is that...? 14:20

392 Q. Another way of putting it is that gathering intelligence was treated as a priority over the effectiveness of an investigation?

A. The protection of sources I think would probably be a better way of putting it. 14:20

393 Q. Yeah.

A. It took a priority. And in some respects that's important but there would be very few occasions whereby some intelligence couldn't be disseminated, and still protect your assets, unless your assets are involved, 14:21 which would create a huge problem.

394 Q. I have already asked you about the role of DCS Anderson, you've indicated that by the time you took over as SIO, effectively intelligence was being controlled by or access to intelligence was being 14:21 controlled by the two Merseyside officers, Mr. Evans and Mr. Jones, and you've made it clear you had a good relation with them?

A. Yes.

395 Q. However, do you think, as a matter of principle, even if they didn't cause problems in practice because of that relationship, do you think as a matter of principle they should have been in place?

A. I think as matter of principle there should be a fire wall between investigator and the intelligence people for a number of reasons. Their role was specific to the circumstances of Omagh where there was a lack of confidence. So normally in an investigation there will be an Intelligence Officer or manager appointed to interface. 14:21 14:22

396 Q. Right.

A. You put your intelligence requirement to the intelligence manager who would go to speak to intelligence and come back, and therefore if I were in court giving evidence I couldn't expose by accident the origins of intelligence. That only works if the system is providing the intelligence. Now Jones and Evans were there at a period that the investigation wasn't, I don't mean not important, but going at a slower pace than it would have been on day one. So therefore they had times to go and spend months going around the various intelligence agencies putting in requirements. They were doing an intelligence review rather than an active investigation intelligence function. But their role was important to satisfy the Policing Board and public that all intelligence at that point had been supplied. 14:22 14:22 14:23

397 Q. When you are talking about Intelligence Officer,

because I want to understand that difference between that and DCS Anderson, that is presumably someone who is junior to the SIO?

A. Yes.

398 Q. And so reporting to the SIO? 14:23

A. Yes. So, for instance, when Mr. Jones and Evans left in 2003 there was an Intelligence Officer appointed, I think he was a Detective Inspector in CID intelligence, his identity is in the papers. And then his intelligence requirements went to him and then he 14:23 liaised with the intelligence branch. It's to do with vetting and security of intelligence information. So the function, that's the way it should function.

So, instead of Mr. Anderson being sent down to 14:23 interface with the Garda intelligence, there should have been, in the scale of this operation, probably a Superintendent sent down and your role is to service the SIO as Intelligence Officer. So it could have been Superintendent from CID intelligence. 14:24

399 Q. Yeah.

A. So, what I was trying to explain the other day is that the structure was dysfunctional, if that makes sense. Not only to does it sit outside CPIA regulations but functionally it couldn't work. 14:24

400 Q. Thank you. Moving on to, if you like, the end of this process almost in terms of intelligence gathering, you mentioned this morning I think that there was, in the course of preparing for the Inquiry, you have seen GCHQ

material that you haven't seen before. Is the implication of that, that even when you finished, came to the end of your role, looking back knowing what you know now, you hadn't had all relevant intelligence?

A. What I would say is that I know that Mr. Jones and Mr. Evans went to GCHQ and reviewed material, and therefore I assume and I do believe that their report would have reflected in a disseminated form what was in that. The document I saw was not the transcripts of anything but an intelligence summary of what it could be GCHQ material. 14:25 14:25

401 Q. But the critical point is you would believe, although you hadn't seen that before, it had fed into the Omagh Inquiry by the time you left?

A. I am basing that assumption on the fact that I know they went to GCHQ. 14:25

402 Q. But you can't --

A. I can't be definite, but I do know that the material that I did see is reflected in some of the suspects that are in their report. I think I can say that in this hearing. In fact, there was nothing new in relation to suspects in what I read in that document that was not in their report but obviously I am not going to disclose in this hearing, in this forum today, what was. 14:25 14:26

403 Q. I am not asking you to, I am just trying to work out --

A. But I would be satisfied in what I, in terms of suspects, that what was in that document is reflected in the Jones Report of 2003.

404 Q. Okay. And so by the time you finished were you confident you had all relevant intelligence or do you still have doubts about that?

A. No, I'm not confident. I can't, I'm not in a position to be confident. 14:26

405 Q. Right. And in terms of AGS, were you confident, I mean put this in context -- actually I'll start again in fact. In terms of the AGS material there's obviously been, in this chapter, a number of references to the Finner Camp material, when you finished as SIO, were 14:27 you aware of that?

A. No.

406 Q. In light of that are you confident you'd had full material from AGS?

A. No, absolutely. I can 100% tell you today that I did 14:27 not get all the intelligence from the Garda.

407 Q. Moving on to another topic, you will have heard because I think you get the impression - I'm not sure if you expressly were asked about this - but I think you were aware of the evidence of Sir Ronnie Flanagan and he was 14:27 asked about records of a meeting where it was suggested that he had expressed concerns about, he was asked several questions in fact about resourcing. As far as you're concerned was the investigation at all times properly resourced? 14:27

A. I wouldn't be in a position to comment before my time but I certainly had sufficient people. There were one or two times when I had to maybe go and seek more people, it was a balancing act at times with different

commanders who were looking for particular people back. But, yes, I think Sir Hugh Orde fully supported the Inquiry and the resources were given and the budget was, I was never once questioned about expenditure, as long as I could justify the need for a peer review panel or DNA samples, and they were quite expensive, and I used up quite a bit of the allocated budget for DNA. So ordinary domestic murders were losing out because I was using a lot of the allocated budget.

408 Q. Okay, thank you. Moving on to the subject of your list of suspects, and there is a couple of suspects I am going to ask you about in a moment. As I understood your evidence yesterday was that 19 names were on a list of people who were, putting it shorthand, my shorthand, ready for arrest, if I can put it that way, is that a fair way of putting it? 14:28 14:29

A. I think that is, yes.

409 Q. Some of them weren't arrested and one, to give an example, was Kevin Tumelty. Why were some not arrested? 14:29

A. He wasn't arrested because he had died.

410 Q. Had he?

A. I do believe he died in 2003, certainly I was led to believe.

MR. GREANEY: We'll need to check the dates. 14:29

411 Q. MR. SOUTHEY: Yeah, and there was nothing on the lists of suspects that suggested that, that was why I was asking.

A. No, there would be a record of that. I could be...

CHAIRMAN: I think that's what you told us yesterday.

THE WITNESS: Yes, I did.

412 Q. MR. SOUTHEY: I think I thought it was an assumption, I wasn't sure do you know actually whether he...?

A. I'm fairly certain. 14:30

413 Q. Okay, fine.

A. I think he died of leukaemia.

MR. GREANEY: The indications are that that is correct.

MR. SOUTHEY: Okay, I'm sorry, I mis --

THE WITNESS: I am so clear in my mind it was leukaemia and he died. 14:30

414 Q. MR. SOUTHEY: I wasn't clear from yesterday whether -- I mean but some of the others weren't arrested, were they?

A. Well McKevitt wasn't arrested because he was in prison. 14:30

415 Q. Right.

A. Some of them didn't cross into Northern Ireland. So I mean Donegan took years to get him. Daly took 2014 before he was, so there are reasons.

416 Q. But then as far as the North was concerned, as far as PSNI were concerned you were actively seeking to arrest that list? 14:30

A. Yes.

417 Q. And was that list shared with the South with the Garda being invited to arrest those individuals? 14:30

A. It may have been shared with them but we wanted them arrested here.

418 Q. And why was that?

A. Because you have them here to charge. I mean if you

want an absolute honest answer, which I am here to give, is I cannot be certain that the interviews of the Garda would be conducted properly to the standard of PACE.

419 Q. Thank you. Moving on to just a couple of details I suppose about suspects. In your statement you talk about the intelligence regarding the GAA club at Cullaville? 14:31

A. Yes.

420 Q. Are you aware of a man called Bernard Hughes? 14:31

A. Yes.

421 Q. Who I think runs a scrap yard relatively close to that?

A. Yes, I believe so, yes.

422 Q. And who has been mentioned in intelligence as being potentially involved in ringing cars for terrorists? 14:32

A. Yes.

423 Q. Was any consideration given to whether those two matters were linked, whether he was potential source of the workshop effectively needed to prepare the bomb car? 14:32

A. The only alteration to the bomb car I think was a number plate. But the individuals in the car I think had been identified, were identified. So from the point of view it was the number plate and I think the origin of the number plate was identified. 14:32

424 Q. Well, somewhere it needed to be presumably somewhere the number plate needed to be fitted, also, as I understood it, there were adaptations made because of the weight or there may have been adaptation made

because of the weight of the explosion, is that right?

A. Yes, but that is very basic, I'll may be not disclose in this hearing. It's very basic that anyone in this room could do.

425 Q. So it wouldn't necessarily have needed a yard? 14:33

A. No.

426 Q. The second person I just want to ask about whether you have any views on whether they are a suspect, was there has been reference to Gary Jones, do you know that name? 14:33

A. Yes, Gary Jones, yes.

427 Q. Would you regard him as a suspect even though he wasn't arrestable?

A. I think one of the things we did achieve was passing evidence that we recovered to another detective team 14:33 that resulted in him being charged with a mortar attack. But, no, he wouldn't have been linked to -- that's not to say he wasn't, it is just there's nothing there, from recollection, that would actually tie him to it. 14:33

428 Q. Was there reason to believe he might have been part of the same group?

A. He was part of the association, associates, yes. And he was a terrorist because his blood was on DNA in relation to mortar, and he was convicted but I think 14:34 the appeal was successful.

429 Q. Can I then put up - actually, I don't know whether we need it - Paul McCaugherty, are you aware of that name?

A. I am very aware of his case, yes.

430 Q. He, I think it's fair to say, was recorded making admissions about having provided - appearing to make admissions perhaps is a better way of putting it - about having provided expertise for Omagh?

A. Yes. 14:34

431 Q. Should he be regarded as being a suspect in light of that?

A. No. And I know a lot about the case because I was involved in it, his comments were boasting in relation to activities but he wasn't involved. 14:34

432 Q. He wasn't involved.

Finally, perhaps inevitably, I have a few questions about Mahon Road?

A. About, sorry? 14:35

433 Q. Sorry, the meeting that took place.

A. Oh, in Mahon Road.

434 Q. Yes, sorry. As I understand it, your answer, and I don't want to, I'm not trying to get you to answer anything you feel uncomfortable with. So if you feel 14:35 anything needs to be asked and closed, I completely understand. But, as I understand it, when you were asked effectively about sort of a potential contradiction in your evidence --

A. Sorry, I didn't pick that up? 14:35

435 Q. When you were asked about potential contradiction in your evidence about the sort of supply of information from the Guards, as I understand it, you were indicating - and again don't answer if you feel

uncomfortable answering it - but the information that was given on the -- during that meeting may not have come from, at least, directly from the Guards, is that a correct understanding of what you were saying?

A. There are a number of ways in which that information could have been received by Officer 1. 14:36

436 Q. Yes. And they might not have been effectively simply a message coming from the Guards, is that?

A. It may not have been a direct telephone call from a person in the Guards, there are other methods. 14:36

437 Q. So there may have been another agency that, for example, passed information?

A. It's not to be answered in this. I'm sorry.

438 Q. No, I understand.

A. I'm trying to walk a very straight path in terms of what should be closed and open. 14:36

439 Q. Yes. Second question about that meeting: When you reported it to ACC Kincaid, as I understand it, his response essentially was to say, 'give me a second and I'll hold onto it and make a decision as to whether deploy this'. I don't think you were ever expressly asked this, but I assume from that, as far as you are aware, ACC Kincaid never said 'we can now deploy this, we should now use that statement', is that correct? 14:37

A. Well my expectation was ACC Kincaid would take it forward. 14:37

440 Q. Yes.

A. I am fairly confident I had the conversation with Mr. Jones and Evans, and then what could I do but go to

Mr. Kincaid? He asked for the statement, he didn't want it put in the inquiry, I recorded that.

441 Q. So far as you're aware, that's never formally been investigated, that information?

A. No. 14:38

442 Q. Okay.

A. One of many things that have not been investigated.

443 Q. And presumably also because of that, because you weren't certainly involved in investigating it, you've got no real way of knowing whether, for example, the 14:38 response to that information was satisfactory?

A. Well I would have expected if it was being investigated that I would have been interviewed.

444 Q. Sorry, I don't mean -- I mean the response to the initial information. I should have been clearer, the 14:38 response to the alert. Because the alert, as far as you're aware there was never any investigation, as I understand it, of that information you heard on 14th August?

A. No, it hadn't made its way to the investigation. 14:38

445 Q. Exactly, so presumably because of that, you are unclear what happened, you don't know whether the response to that was adequate or not?

A. No, I don't, no.

446 Q. Nothing else, Sir. 14:38

MR. GREANEY: So, next Mr. Smyth please.

MR. NORMAN BAXTER WAS QUESTIONED BY MR. SMYTH AS FOLLOWS:

447 Q. MR. SMYTH: Good afternoon, Mr. Baxter. I appear on behalf of the John McBurney Core Participant bereaved families and survivors, and I echo the words that were expressed by Mr. Toal before he began his questioning when he spoke about how the officers on the ground on the day of the bombing, and your investigation as SIO, are held in high esteem by the families. Can I also say that on behalf of the families whom I represent that they have greatly appreciated the sincerity and candour of your evidence over the past two days. 14:39 14:39

A. Thank you.

448 Q. Can I start by asking you Mr. Baxter, in your evidence yesterday you said that there were stones -- I think your expression was that there were stones that were deliberately hidden and that there was coordinated obstruction of your investigation to the point of both removing and destroying exhibits. Can you say who you believe's hand was at play in doing this? 14:39 14:40

A. I would have to suspect the Security Service.

449 Q. And do you feel that that was being done due to a political imperative?

A. I don't know their motive. 14:40

450 Q. You don't know their motivation?

A. No.

451 Q. Touching on something that Mr. Southey has just dealt with, you made a statement about 14th August meeting

and gave it to ACC Kincaid. And you, I understand, also gave him a report about the destruction of material in Lisburn in connection with Thiepval?

A. That's correct, and the disposal of exhibits in Dungannon into a skip. 14:40

452 Q. In Dungannon. And am I correct, I understand neither of those documents were ever added to the Omagh investigation file, to your knowledge?

A. The Lisburn one, no, neither of those two would have been -- one was being dealt by Mr. Jones and Evans and 14:41 the ACC on the other, and it was not to be put in the papers.

453 Q. Can I ask, do you have any concern regarding ACC Kincaid's involvement or his role in the investigation as regards, to be frank, regards the hiding or 14:41 deliberate moving of stones?

A. I think he's a very honourable man, I don't think he would be proactively doing anything, but I think he may have taken the information forward so it would be unfair. It may be blocked higher up. 14:41

454 Q. Am I correct that the only officers more senior at that time to ACC Kincaid would have been the Chief Constable and Deputy Chief Constable?

A. That's correct, yes.

455 Q. You are now aware, through the work of the Inquiry, of 14:42 the Finner Camp telephone call?

A. Yes.

456 Q. And I think you have already expressed that you were never aware of it during your time as SIO, is that

right?

A. That's right.

457 Q. Would you have expected that the An Garda Síochána would have disclosed the existence of that information to the RUC or PSNI, if not before Omagh, certainly after they discovered it in the aftermath of Omagh? 14:42

A. Yes, because there are, and I am not involved in the investigation now, but when I saw that appearing I thought, you know, this is very significant piece of information. There is a number of things arise out of it: 14:42

First of all, it happened on the day before Omagh. So that's the first flag.

14:43

The second is, and I alluded to it yesterday, David Rupert was an agent run with the Guards very close to Bundoran. He frequented Bundoran, he frequented public houses there, very well connected with CIRA. I would have wanted to speak to David Rupert and say, 'David, did you make that call? David, did you organise for that call to be made?' That's the first. 14:43

The second relates to part of my statement that is redacted in relation to another individual who operated out of Bundoran, who actively planted one of the linked incident bombs, and therefore I would want to say, 'did you make that call? Were you trying to make that?' So the Garda closed that down without actually thinking, 14:43

what's on the other side of the Border that may actually open lines of inquiry here?

So looking at it now at a distance, it's very, very significant. So somebody in Bundoran was thinking about Omagh. Bundoran was historically a place where terrorist suspects were. It's an area that we know that dissidents are and there were two people linked to the intelligence service who had close associations to Bundoran. In fact, the PSNI should now be seeking to establish that either of those two were involved in communicating that. And David Rupert had friends built up there. So one of those could have made it. I'm not saying it is linked but it's something that needed, and does need, to be looked at. 14:44 14:44 14:45

458 Q. So setting aside its importance to the issue of preventability, certainly it would have been a piece of the intelligence jigsaw you would have appreciated in having in attempts to bring perpetrators to justice?

A. It was an important piece, not only that, it raises the question; what else is floating in there, that has been looked at and thought is not relevant. And you'll not achieve that unless I think an independent overview is conducted because people who have made mistakes generally don't volunteer, 'look, what I have done wrong here, I forgot or I didn't deliberate -- I deliberately didn't do this'. 14:45 14:45

459 Q. If the Finner Camp information had been in the possession of the RUC before the Omagh bomb might have

turned their eye towards the Town of Omagh, you have spoken about an off-the-shelf operation being in place really to be triggered in respect of the Banbridge/Newry corridor?

A. Yes. 14:45

460 Q. Was there an Omagh corridor and was there an off-the-shelf operation ready to be activated in relation to Omagh as quickly there was for the Banbridge corridor?

A. There was the same type of operation, there was the same... 14:46

461 Q. So there could have been the same rapid response that was anticipated for Banbridge?

A. Yes.

462 Q. Had the word Omagh been known to those in charge of the operation? 14:46

A. Yes, and probably been activated out of Enniskillen.

463 Q. Can I then turn, Mr. Baxter, to the MoD Army records?

A. Sorry, before you leave, what's not clear from the Finner document is; did they identify who made the call? 14:46

464 Q. Are you asking me a question?

A. I am posing this as an investigative question, which goes to the heart of this; did they identify who it was? 14:46

465 Q. Did you wonder did the AGS identify who it is?

A. Yes, was there CCTV cameras in the pub, who were the witnesses who were in there? What level of investigation did they carry out? Those are all things

that would have been emanating from receipt of that information.

466 Q. Can I turn then to the Army records, if you have been following the evidence of the Inquiry, you will have heard the discussions in Chapter 3 about the general media warning? 14:47

A. Yes.

467 Q. In the Daily Occurrence Book and the evidence of now retired Lance Corporal Errol Thompson.

A. Yes. 14:47

468 Q. Do you know whether either of your predecessor SIOs or yourself ever request from the MoD any relevant documents that they would have held in Omagh in relation relating to the day of the Omagh bomb?

A. I didn't, but I would need probably time to check. 14:47

469 Q. Your evidence I think this morning was from your own experience serving at the time you couldn't remember a general warning being put out. I think that was in respect of discussions about Banbridge, Newry, Lisburn. If there had been a last-minute general warning put out 14:48 on radio by the RUC, and that had come to light immediately after the Omagh bomb, would that have been likely to have been subject to further scrutiny from the SIO to the point of asking specifically for those records from Lisanelly Barracks? 14:48

A. It would but inherent in your question is if it went out by radio. If it went by radio it would be recorded, so there would be recording somewhere. And that may be something that could be checked, radio

transmissions on the day. And certainly the other issue is that general warnings often went out through, what is known as old MHS, it was a precursor to computers, so there would have been a printout of threats coming out of a teleprinter. So I'm not sure if it graduated from the teleprinter to the computer, but there would be a footprint somewhere of the general warning either in a computer or in database of a telex system.

470 Q. But if I take you back to your reference to the potential for hidden stones, is it possible that there was a radio warning was put out and that the only residual evidence for that, because it is a hidden stone, lay in a handwritten book in a Daily Occurrence Book? 14:49

A. In the Station Occurrence Book or?

471 Q. In the Daily Occurrence Book in Lisanelly Barracks?

A. Oh, sorry, yes.

472 Q. Is it possible that all trace of the RUC general warning has been erased in the hiding of a stone -- 14:49

A. Yes.

473 Q. -- except for the handwritten note that survived?

A. It is unlikely because you need a massive conspiracy to remove all records of it, but...

CHAIRMAN: How would you dispose of a recording of a radio message, Mr. Baxter? 14:50

THE WITNESS: You can't.

CHAIRMAN: You can't?

THE WITNESS: No, they are kept, I'm not sure if 1998

there were the old digital tapes, or tapes, or whether they moved to digital, but they are stored, so the tapes of 1998 should still be there.

474 Q. MR. SMYTH: The tapes from RUC Headquarters?

A. The tapes of all radio transmissions should be retained. 14:50

475 Q. There are tapes and transcripts of the radio transmissions from the station to the call signs on the ground.

A. Yes. 14:50

476 Q. This is referring to potentially a different level of radio transmission?

A. Mm-hmm. No, I don't believe there was a province wide radio, each division or sub-division had, each sub-division had their own radio frequency from recollection. So Omagh had a different frequency from Enniskillen. So the normal way would be a message would come down into the Communications Room and then the Communications Room broadcast the message. 14:50

477 Q. If there had been such a message would one expect it to have been recorded in the Threat Book in Omagh Station? 14:51

A. Yes.

478 Q. Okay. You mentioned in your evidence about members of the Provisional IRA who had assisted, or possibly assisted, the dissidents who had left to carry on a terrorist campaign during 1997/1998. Do you believe that the dissidents on their own, without assistance from within the Provisional IRA, could have carried on and sustained that bombing attack that lasted from 1997 14:51

well into the latter half of 1998?

A. I think they would have struggled. It's a very difficult question to answer without getting back into the papers and looking at who was helping who in the individual bombs, but if you take the TPU, the Coupatan timer, it was provisional. I think they were purchased in 1996 before the split. The detonators, I think the detonator in Lisburn was from Arizona stolen by the provisionals and an expertise. So they had the support of members. All members of the team would have been trained by the Provisionals to start with, the history was in that organisation. 14:52 14:52

479 Q. Well, I suppose what I'm asking Mr. Baxter, is; do you think would the Omagh bomb have occurred if the Provisional IRA members, who were supposedly on ceasefire, had not assisted the dissidents in any way with what they were doing? 14:52

A. You are taking it into an area that I am going to tread very carefully with. Because the answer to your question is, yes, but the reason I come to that conclusion I have to be careful about. The night before the Omagh bombing, the bomb car was in Cullaville. There was a number of people who saw the bomb car, including senior members of the republican movement I think - I am trying to stay within the open session - and that, Sir, that gathering on the Friday night, and I think it's six or eight people saw the two people in the car. The bomb was in the car. The bomb was in the maroon... There was issue at the club and 14:53 14:53

then they moved to the public house. So there were members of the Provisional IRA present with the bomb the night before. That is the only definitive point that I know that the bomb could have been stopped in Northern Ireland. If one of those people had called the security forces and said 'X and X', both are identified, 'have a bomb', because they knew there was a bomb, there was a discussion about the bomb, and they could have stopped it. They could have saved the lives in Omagh. 14:54

So the answer to your question is, yes, they had in their possession, or their power that night, members of that community, to stop the bomb. And it's the only point in the whole cycle that I can say 'this bomb could have been stopped'. If those people -- and to this day no one has come forward. And it may be, it will be explored probably in later chapters but, probably difficult for the families to hear this, but that was the major missed opportunity that senior republican figures were with the bomb the night before and they did nothing. 14:54 14:55

480 Q. And you say they could have contacted the security forces?

A. Yeah. 14:55

481 Q. Is it not fair to also say they could have contacted members within their own organisation to carry out the housekeeping that they carried out after the Omagh bomb prior to it being moved into...

A. Well they could have seized the car off them, they could have physically surrounded the car and said, 'right, we are taking this car' but instead 'we don't want this here, move off'. So I think I have stayed within what I can say.

482 Q. But if I could take you then to 14th August and your recollection of events at Mahon Road and you have said in your statement that you were present during a conversation which information was discussed which you were led to believe had come from the Garda? 14:56

A. Yes. I was led to believe the Garda believed. I gave a lot of thought to that over the years, that could mean a number of scenarios.

483 Q. Is it possible that that information that you heard discussed may have actually come from the intelligence supplied by Kevin Fulton? Before you answer -- 14:56

A. I don't know. The answer to that is, yes or no, I don't know.

484 Q. It could have been?

A. It could have been, I don't know. 14:56

485 Q. Because the reason why I say that, is it possible that the two officers who were discussing it in your presence may have said Garda as a cover to hide the existence of an informant that they didn't want you to know about? 14:56

A. I don't know, but I don't see why they would do that but...

CHAIRMAN: Surely, surely, we are not going to examine this on the basis of pure speculation, are we?

MR. SMYTH: I am only asking, Chairman, if it's a possibility.

CHAIRMAN: Well anything is a possibility.

THE WITNESS: Yeah, I think it is most unlikely for various reasons about Mr. Fulton. But the Regional Head of South Region, very experienced man, he is not going to tell the Deputy ACC something when it's not that. 14:57

486 Q. MR. SMYTH: If I move on then to Task Force Commander Mr. Anderson was given, a document was put up on screen a short time ago, and I will ask for it to be brought up again, it was INQ002465. It listed a number of names that were given to the Task Force Commander on 22nd August 1998, one of whom was Joe Fee. You might recall Mr. Southey questioned you about Mr. Murphy who was on the list. But Joe Fee was on the list and he lived in Newry, so he was within the RUC jurisdictional reach? 14:57 14:58

A. Yes.

487 Q. But he wasn't arrested until June 1999 even though that information was available in August 1998. Do you agree with the suggestion that if an SIO of one of the previously linked incidents -- 14:58

A. Yes.

488 Q. -- now this is before Omagh -- 14:58

A. Yes.

489 Q. -- if one of those SIOs had been told about Joe Fee earlier in 1998, that they would have acted quickly and arrested him at that stage? And who do you think would

be in a position to give that name Joe Fee to those SIOs?

A. Well, it depends what - and again I'd need to go back and look at the intelligence documents to see exactly what Joe Fee was involved in prior to - but the fact that he was arrested in 1999 is probably on the basis of the telephone evidence, from memory. Why he wasn't arrested after Mr. Anderson's document, he clearly marked wasn't to be arrested. There needs to be, behind that, you know, what did Joe Fee do? 14:58 14:59

490 Q. Some basis for the arrest?

A. Yes, I mean if you arrest Joe Fee and what do you talk to him about? What is the offence you are looking at? What are you taking samples to compare against? And so that's where that document of Mr. Anderson is fairly, not helpful to the investigation because it doesn't help. 14:59

491 Q. Well that takes me on to my next question. You spoke yesterday about your inability to interview Mr. Anderson about his role due to his ill-health and you said at the time that you gave some thought to acquiring his notebooks and journals? 14:59

A. Yes.

492 Q. Can you clarify whether or not those documents were ever acquired by the PSNI or where they might be now? Are they still in the estate of Mr. Anderson? 15:00

A. I don't know where they are or if they still exist.

493 Q. On 20th November 1998 an RUC press release was put out by Mr. Anderson, and the reference number for that for

the record is INQ048908, and in that press release he stated that the smallest piece of information could help us to make a major advance in our inquiries. And that was an appeal to the public for the smallest piece of information.

A. Yes.

494 Q. And this was the Task Force Commander saying this at the same time as you say crucial intelligence, even small pieces of crucial intelligence, were being withheld from the SIOs, is that right?

A. That's right.

495 Q. At paragraph 181 of your statement you indicated that you were, and I assume still are, concerned that the Omagh investigation was hampered by political considerations?

A. Yes.

496 Q. We touched on that earlier. Do you believe that the protection of the IRA ceasefire was given more political priority than giving the SIOs of all of each of the previous incidents free rein to go where the evidence led them at the time of those incidents?

A. Again I want to be careful how I answer this. I have seen material which should be in the presence, possession of the Inquiry, that indicates representation was made to the Northern Ireland Office the day after the bombing, indicating there would be consequences to the ceasefire if certain actions were taken in terms of an investigative response in a particular area. So the answer to your question is,

yes.

497 Q. Thank you. You said in your statement at paragraph - I am going to turn to the An Garda Síochána as a topic now - you said in your statement at paragraph 127 that:

15:02

"The AGS had knowledge of dissident republican activity relevant to the investigation of several terrorist incidents in Northern Ireland, prior to and including the Omagh bomb, which was not shared with the RUC prior to or after 15th August 1998".

15:02

Now do you believe that An Garda Síochána had that information about the previous incidents in real-time at the time of the previous incidents or that they came into possession of it after Omagh?

15:02

A. Well, again John White talks about his source taking possession of the vehicle for [redacted], and the bomb exploded [redacted] - sorry, the source - denied that, his involvement in that, and that the Guards official position is that they learned about

15:03

it after, and the same with Belleek.

498 Q. But you suspect they may have known about it at the time or at least, if not before, shortly after each of the previous incidents that those vehicles were involved in?

15:03

A. Certainly, they certainly knew at some point. John White is quite clear that he, he was aware of it and he was the handler, so he says he knew that he had possession, so that would indicate they knew before.

499 Q. Well do you think that the An Garda Síochána did not tell the RUC at the time of the incidents in real-time as they occurred, because if they did tell the RUC they would then come under pressure do something about it or to be seen to do something about it? 15:04

A. It's not that clear cut because the source was working very closely on operations in England, which linked them to the Security Service. So the question really is; did the Security Service know that their source was delivering bombs to Northern Ireland, not did the RUC know. 15:04

MR. GREANEY: Sir, we are going to have to have a break, a short break at this stage, I am afraid, for -- well, it will need to be for 15 minutes please.

15:05

THE INQUIRY ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

CHAIRMAN: Are we ready to proceed, Mr. Greaney?

MR. GREANEY: We are, sir, yes, thank you.

CHAIRMAN: Mr. Smyth. 15:21

500 Q. MR. SMYTH: Thank you, Chairman.

If I can take you back, Mr. Baxter, to what we were discussing, the information that the An Garda Síochána would have had in real time of previous incidents 15:21 during the course of 1997 into the summer of 1998, and we were discussing that the RUC didn't know, but you said that the Security Service would have known some of the information that the AGS knew, is that...?

A. I think the issue is the source, John White's source was providing intelligence relating to incidents in England. So I would suspect that the management of that source would be of interest to the Security Service. Therefore, if he was stealing cars that were ending up in Northern Ireland, I would expect that to be within the scope or knowledge of the Security Service.

501 Q. Okay.

A. The RUC at the time knew nothing about this gentleman. 15:22

502 Q. In terms though, of even if the Security Service did know, they had no jurisdictional reach within the Republic of Ireland. The only agency really that could have intervened with the majority of those suspects who lived in the Republic of Ireland would surely have been primarily the AGS, is that not right? 15:22

A. That's correct, yes.

503 Q. There was some conversation yesterday and some evidence in relation to Patrick 'Mooch' Blair, I don't intend to go into him in too much detail, a lot of my questions were answered yesterday in the form of your evidence. But can you say, as SIO, did the RUC or PSNI ever receive from the An Garda Síochána the phone records that the An Garda Síochána requested from the Republic of Ireland phone company in February 1999 in relation to Patrick 'Mooch' Blair? 15:23 15:23

A. I would need to check the records because I can't remember.

504 Q. The Inquiry now has those records but I just wanted to

see if the investigation had them?

A. I...

505 Q. I'll not put you on the spot.

A. No, it's 20 years ago so...

506 Q. There is a document which suggests, and the INQ number is INQ043909, and that document would tend to suggest that Mr. Blair was under surveillance by An Garda Síochána in the middle of 1998. Did the Guards ever explain to you, or one of your predecessor SIOs, why he was under surveillance in the middle of 1998? 15:24

A. Em...

507 Q. If you feel you can't say?

A. No, I think that that's may be for a different...

508 Q. If I could leave Mr. Blair aside and go back to the senior levels of layers of management within An Garda Síochána. In your addendum statement at paragraph 4 you stated that: 15:24

"There were occasions when I felt that senior Garda officers did not provide an adequate level of support and obstructed my investigation". 15:24

That, Mr. Baxter is a significant statement?

A. Yes.

509 Q. You go on at paragraphs 5 to 18 of that statement to discuss an incident regarding the disrupted RUC arrest of the suspect Seamus Daly? 15:25

A. Yes.

510 Q. Can I ask you firstly, to your mind, was that

disruption of his RUC arrest accidental or deliberate?

A. The timing would indicate it was coordinated to prevent us arresting him.

511 Q. And were suspects effectively placed out by the RUC's reach by this type of pre-emptive interview in the Republic? 15:25

A. I haven't gone into detail in the statement but I do recall that Anthony Donegan was, we were in a position maybe to move on him, he was imprisoned for four years.

512 Q. And is it the case that once a suspect was arrested and interviewed by An Garda Síochána that it was difficult legally to then mount a second arrest in Northern Ireland, should that suspect ever come into Northern Ireland? 15:25

A. Sorry, once he has been arrested and charged? 15:26

513 Q. Once he had been arrested and interviewed, but not charged, was there not a requirement for additional or new evidence?

A. Yes, but I think it was a legal query that I suppose that has never been tested, but it certainly was an issue in the Paul 'Jaws' Kelly's case, because after the collapse of the Donegan - or not the collapse - but the decision to withdraw the charge in Donegan, that had a knock-on effect on Kelly because he had already been interviewed and the evidence put to him. And we couldn't investigate simply a theft of a car in the Republic. 15:26 15:26

514 Q. And if I then move on to Seamus McKenna's Nissan Bluebird, which was a vehicle of interest to the Omagh

investigation because of the crossing of Aughnacloy border checkpoint in a possible dry run manoeuvre. Is it right that, despite knowing that the RUC were interested in locating that vehicle, that the An Garda Síochána failed to notify the Omagh investigation of the discovery of it in June 1999 in the Republic of Ireland?

A. I have vague recollection that, yes, that would be correct.

515 Q. There is an INQ004309 which was referred to a little earlier today, and that document would tend to suggest that it was found as a result of a tip-off from a member of the public in the Republic of Ireland? 15:27

A. Yes.

516 Q. But that information wasn't shared with the RUC? 15:27

A. I have a recollection there was an issue around that.

517 Q. One thing that your statement appears to imply, and this view is shared by the Core Participant families whom I represent, you appear to have formed the view that the An Garda Síochána had a different cooperation policy regarding Mainland UK policing authorities to that which they had with the RUC. Did the AGS' management of their information contribute to your belief that there was a different policy? 15:27

A. There is, on the face of it, that incidents that were planned for Mainland England were intercepted but devices coming north from the same sources exploded. 15:28

518 Q. Is that what gives you cause to believe there was a different policy?

A. It would raise a concern that the priority was stopping devices going to England and the source protection meant that some of the devices came to the North. The evidence, on the face of it, from [redacted] -- sorry, the source's involvement, is the ones that he provided information to was detected going to England but the ones coming up here happened and then there was deniability that the Garda knew in advance that they had them. So all of that would need to probably be independently examined to establish the truth. 15:28 15:29

519 Q. Something that you said to the Northern Ireland Affairs Committee in November 2009 was that this bomb team had free rein from the middle of 1997 and the authorities, wherever they were, allowed that to continue. Now the majority of those involved in the previous incidents, and indeed in the Omagh bomb, were resident in the Republic of Ireland was that An Garda Síochána one of the authorities that you had in mind when you said that those people were allowed to continue in your words? 15:29

A. Yes. 15:29

520 Q. Yes.

A. Yes.

521 Q. And you referred in your evidence?

A. Sorry, can I give you an example? [redacted] explosive material discovered in his flat, two firearms, not arrested. 15:30

522 Q. That was in July 1998?

A. July, that's one example.

523 Q. You also referred in your evidence to a failure at

Government level to disrupt this dissident terrorist group, and would you include the Republic of Ireland Government in that statement?

A. I would, because, the Government's function is to protect its population and part of that protection is to ensure that the rule of law and the organisations charged with public safety are effective. And I know from the Nally Report that it was ineffective, probably set up with the best of intentions but no independent investigation into the role of the Garda, no disciplinary investigation. But a report, a team that had no powers to compel, no powers to ensure that what they were being told was true, no powers to ensure that everything they needed was told to them. And so there was a failure on their part, even at that stage after the Omagh bomb, to ensure that there was accountability. 15:30 15:30 15:31

524 Q. And from everything you --

MR. GREANEY: We are going to need to take a break, I am afraid, Sir. It's not the fault of Mr. Smyth or of anyone but I am afraid we do need a break. 15:31

THE INQUIRY ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

MR. GREANEY: We are now in a position to resume, Sir. 15:37

CHAIRMAN: Thank you.

525 Q. MR. SMYTH: Thank you, Chairman.

Mr. Baxter, just in light of the things that you have

said, about your concerns about the sharing of information et cetera, involving An Garda Síochána, was the much heralded precedented cooperation that's being spoken to between the RUC and An Garda Síochána real or is it merely an image which others sought to promote to the public and to the family?

A. It's part of both. At a local level, it's very good, on a one-to-one level between detectives here and with the Garda team, it's good. But at a strategic level there would be mistrust. 15:38

526 Q. You have said in your statement at paragraph 227 that the John White, as we now know, sought to reveal a greater degree of collusive conduct by An Garda Síochána officers, that's at paragraph 227 of your statement. Do you believe that there was An Garda Síochána collusion in both the series of previous incidents and the Omagh bomb? 15:38

A. Sorry, just --

527 Q. It is paragraph 227 you spoke of collusive conduct. And I will give you a definition that was used by Judge Peter Smithwick -- 15:39

A. Yes.

528 Q. -- in his inquiry report at paragraph 1.7.7, and the INQ reference for that is INQ000258 at page 31.

A. Sorry, I think I have got the wrong paragraph number. 15:39

529 Q. I'm speaking now about judge --

A. No, but in relation to my statement.

530 Q. I think it's paragraph 227, if I'm not wrong?

A. Oh, 227, sorry.

531 Q. 227.
MR. GREANEY: At page 57.
THE WITNESS: Yes, I am aware of the definition.
532 Q. MR. SMYTH: Do you know of Judge Smithwicks' where it can be either active or it can deliberately ignoring a matter or turning a blind eye, that definition? 15:39
A. Yes.
533 Q. And based on that definition of what you know, do you believe the An Garda Síochána was involved in collusion in either the series of previous incidents or in the Omagh bomb, or in both? 15:39
A. I believe that some members of the Garda Síochána did collude with dissident republicans.
534 Q. Thank you. Mr. Greaney referred earlier today to the systems for the exchange of intelligence that might have been in place between An Garda Síochána and the RUC, or ideally might have been in place, but do you agree that such systems for the exchange of intelligence information simply could not deal or would not have been set up to deal with senior An Garda Síochána officers who might simply decide not to share what they held? 15:40
A. Well it's not as straightforward as that, there is a tri-party relationship here. You have the RUC - which is now the PSNI - and then you have the Garda, and then you have the Security Service. And you have RUC/Garda relations, and you have RUC/Security Service, and then you have Security Service. 15:41
535 Q. Okay.

A. And you should not assume that all three know, cooperate on the same things. So the Republic may be co-operating with the Security Service, and we know through David Rupert and John White's source, that they were operating their activities without the knowledge of the RUC. And then you have activities that the RUC is conducting and they are not telling the Garda because they don't trust the Garda. And then you have activities between the RUC and Security Service that impact on the Republic but the Republic would not be told. So there is no absolute circle of trust. So it's a very complex and difficult arrangement. 15:41 15:41

536 Q. Thank you.

A. But the commonality of this is the Security Service because they have sight of everything. 15:42

537 Q. Okay. And finally, you have referred a few times in your evidence and in response to the questions from the Core Participants representatives, you have referred a few times for the need for an independent investigation in the Republic of Ireland for the issues that you have raised, and you are aware that the families whom I represent have an interest in a parallel inquiry in the Republic of Ireland, do you agree with that call or what's your position? 15:42

A. I don't want to get involved in... 15:42

CHAIRMAN: What's that got to do with us, Mr. Smyth? It is not within our Terms of Reference by any stretch of the imagination.

MR. SMYTH: I'll withdraw.

CHAIRMAN: We are not here attempting to use these proceedings as some form of lever into other proceedings.

MR. SMYTH: I withdraw the question, Chairman, apologies. I have nothing else, Mr. Greaney. 15:43

MR. GREANEY: Sir, what now remains is questioning by Mr. Henry on behalf of Police Service of Northern Ireland, possibly some limited final questioning by counsel for the Inquiry. You, Sir, of course may also have questions. And we also have the closing remarks 15:43 of Counsel to the Inquiry which we promised on Monday of this week. It is impossible that we would complete all of that in the time remaining today.

Sir, we saw this as a possibility at lunchtime and, in 15:43 the short time available, the Inquiry Secretary has put in place a contingency to enable the Inquiry to sit into Monday, 16th November. And can I say we are very grateful to her and to her team for their efforts in that regard. 15:44

Mr. Baxter has been good enough to explain that he can, and will, return on Monday, and we are grateful to him too. And Mr. Henry has made arrangements to be here at, I am bound to say some inconvenience to himself, 15:44 and to him thanks as well. Sir, I will be here. We hope that you can make arrangements to be here too. And in all of the circumstances the contingency that has been put in place needs to become, we suggest the

reality.

We suggest that we draw stumps now and that we hear from Mr. Henry at 10:00 a.m. on Monday morning. Can we add that we know that not all Core Participant lawyers can return on Monday so I know, for example, Mr. Southey and Mr. Fox cannot be here in person but will follow the proceedings on the link. But that should not, in our view, stand in the way of proceeding as we suggest and we know, Sir, that you will not regard anyone's non-attendance on Monday morning in the circumstances that have eventuated as being a discourtesy to you

15:44

15:44

CHAIRMAN: No, of course not. So, Mr. Baxter, you've assisted us for longer than you had expected and longer than we had expected. Can we prevail upon you to come back on Monday?

15:45

THE WITNESS: Yes, indeed, Sir.

CHAIRMAN: Thank you. Well, we'll rise now and sit again at 10:00 a.m. on Monday.

15:45

MR. GREANEY: Thank you, Sir.

THE INQUIRY ADJOURNED UNTIL MONDAY, 16TH NOVEMBER 2026 AT 10:00 A.M.

INDEX

WITNESS PAGE

MR. NORMAN BAXTER (CONTINUED)

QUESTIONED BY MR. GREANEY 1
QUESTIONED BY MR. TOAL 43
QUESTIONED BY MR. MANSFIELD 67
QUESTIONED BY MR. SOUTHEY 87
QUESTIONED BY MR. SMYTH 116