

PATRICK FINUCANE INQUIRY

HELD AT BRADFORD COURT CENTRE, BELFAST

ON TUESDAY, 15TH SEPTEMBER 2026

Gwen Malone Stenography
services certifies the
following to be a verbatim
transcript of their
stenographic notes
in the above-named
inquiry

GWEN MALONE STENOGRAPHY
SERVICES

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1 THE INQUIRY RESUMED ON TUESDAY, 15TH SEPTEMBER 2026 AS
2 FOLLOWS:

3
4 INTRODUCTION BY THE CHAIR, SIR GARY HICKINBOTTOM

5
6 CHAIR: Please be seated everyone. Good morning,
7 Mr. Hill, good morning everyone. Welcome to the second
8 hearing of the Patrick Finucane Inquiry. In June, the
9 Inquiry was formally opened. Over the next two days,
10 Counsel to the Inquiry will deliver an opening
11 statement which will lay the evidential foundation for
12 the Inquiry. In giving this statement, Counsel will
13 rely on and refer to only open materials - those are
14 materials which are already publicly available.
15 Notably, the de Silva report, but also the published
16 reports of Lord Stevens and Justice Cory following
17 their previous reviews. Counsel will also refer to
18 other openly available publications by journalists and
19 other authors, so nothing Counsel say will be new.

20
21 However, I well understand that not all of what they
22 say will be uncontroversial. Some things which have
23 been written about the murder of Mr. Finucane, will not
24 be accepted by all of the Core Participants, parts of
25 what they say will be vigorously rejected. At the end
26 of tomorrow's hearing I'll say something about the
27 course of the Inquiry over the next six months or so,
28 as I see it. But I can say now that at the next
29 hearing, which will take place later this year, each of

1 the Core Participants will have the opportunity to make
2 an opening statement and, in particular, on the basis
3 of currently available material to make clear which
4 parts of the descriptive narrative that we will hear
5 this week they accept and which parts they do not. 10:32
6 That is something I will encourage them to do.

7
8 That will, I hope, identify what is agreed common
9 ground in relation to the murder and those aspects of
10 it which are controversial so that the Inquiry can 10:32
11 focus on the latter. That approach will, I believe, be
12 true to the Terms of Reference which require the
13 Inquiry to build on the work done and the findings made
14 in the previous reviews, whilst giving the Core
15 Participants every opportunity fully to engage with the 10:32
16 Inquiry process.

17
18 Before I hand over to Mr. Hill and his team, just a
19 couple of administrative matters.

20 10:33
21 First, this session will last until about one o'clock
22 and there will be a mid-morning break. The afternoon
23 session will then take place were about two o'clock
24 until about quarter to five, again with a mid-afternoon
25 break. 10:33
26

27 Second, this hearing is being live-streamed with a
28 ten-minute delay. I remind people here at the Inquiry
29 that there is a Restriction Order in place prohibiting

1 disclosure of anything said in the hearing until it has
2 been screened on the live-stream.

3
4 Third, in addition to the live-stream, there will, in
5 due course, be made available on the Inquiry website 10:33
6 both a transcript of the hearing and a paper giving
7 some further details of what has been said.

8
9 Fourth, I'm pleased to have with me today my two
10 assessors, Baroness O'Loan and Francesca De'l Mese whom 10:34
11 I introduced at the June hearing. Unfortunately, due
12 to a commitment which she cannot avoid, Baroness O'Loan
13 will not be with us tomorrow afternoon, but she will
14 view the footage of the afternoon sessions after the
15 event and will, of course, have the benefit of the 10:34
16 transcript. She will not, therefore, miss anything
17 that is said.

18
19 Finally, today's proceedings will touch on sensitive
20 and potentially upsetting matters relating to 10:34
21 Mr. Finucane's murder, as well other victims of the
22 Troubles in Northern Ireland. With that in mind, I
23 would like to remind everyone here that they're free to
24 leave the hearing at any stage if they feel that that
25 is necessary. For anyone wishing to access support, 10:35
26 Wave Trauma Centre are available in the hearing venue
27 and contactable through the Inquiry's website.

28
29 With that, I now hand over to Mr. Hill. Thank you.

1
2
3 ADDRESS BY MR HILL:
4

5 MR. HILL: Thank you, Sir. Patrick Finucane was 10:35
6 murdered just after 7:00 on a Sunday evening, 12th
7 February 1989. Moments before, he had been sitting at
8 dinner with his wife, Geraldine and his three children,
9 Michael was 17, Katherine was 12, and John was eight.
10 Fourteen shots were fired by two masked gunmen. Six 10:35
11 were fired into Patrick Finucane's head, at least one
12 of which was fired from a range of less than 15 inches.
13 Geraldine Finucane was injured by another of the
14 bullets.

15 10:36
16 Chief superintendent Alan, Simpson who attended the
17 scene and who by then had seen more than 200 murders
18 and sudden deaths, recalled;

19
20 "What laid before me was a picture of ferocity the 10:36
21 likes of which I had encountered few times before."
22

23 The gunmen ran to a car and were driven away by their
24 accomplice.

25 10:36
26 11 of the bullets were fired from a Browning pistol.
27 That pistol had been stolen by a British soldier from
28 his own Army base and sold to loyalist paramilitaries
29 in the Ulster Defence Association, the UDA. Kenneth

1 Barrett was one of the UDA team involved in this
2 transaction and indeed he later claimed to have
3 instigated it.

4
5 The Browning pistol found its way into the possession 10:37
6 of William Stobie, a quartermaster for the UDA in West
7 Belfast. William Stobie was an agent for Special
8 Branch of the Royal Ulster Constabulary.

9
10 Patrick Finucane had been selected or reselected as a 10:37
11 target by the UDA in late 1988. At or around that time
12 a prominent figure in the West Belfast UDA was detained
13 by the RUC at the Castlereagh Holding Centre. During
14 his questioning it is likely that an RUC officer or
15 officers proposed to him that Patrick Finucane and at 10:37
16 least one other individual should be targeted by the
17 UDA.

18
19 Brian Nelson played an important role in the process of
20 targeting Patrick Finucane. He passed Kenneth Barrett 10:37
21 a photograph showing Patrick Finucane with a client.
22 He may also have carried out reconnaissance on the
23 Finucane family home and produced a P card, an
24 intelligence record of personal details relating to
25 Patrick Finucane. 10:38

26
27 Brian Nelson was an agent of the British Army's Force
28 Research Unit or FRU.
29

1 Following the murder the RUC failed to carry out an
2 effective investigation. Indeed, there was evidence
3 that suspected paramilitaries arrested in connection to
4 the crime were congratulated by RUC officers. One
5 reported;

10:38

6
7 "The RUC congratulated them on a fine job but said that
8 it should not have been done in such a fashion i.e. in
9 front of Finucane's wife and children."

10:38

10
11 It seems, Sir, that was too much even for those who
12 coldly applauded murder.

13
14 In 1991, Kenneth Barrett told three police officers
15 that he was hypothetically - his word - one of the
16 killers of Patrick Finucane. That admission was not
17 admissible in court so the RUC had to determine what
18 they were going to do with that information. The
19 choice, to the reported dismay of two of those police
20 officers, was to recruit Kenneth Barrett as a Special
21 Branch agent. The murder investigation against him was
22 effectively dropped.

10:39

10:39

23
24 The sequence of events that I've just given is based on
25 the findings of the late Sir Desmond de Silva QC. Sir
26 Desmond, an eminent criminal barrister and war crimes
27 prosecutor, was instructed by the UK Government to
28 undertake a review of Patrick Finucane's murder and to
29 produce a public account of the involvement of State

10:39

1 bodies in it. He was given full access to top secret
2 materials for his work and his report from which those
3 findings are taken was published by the UK Government.
4

5 Sir Desmond's degree of certainty over the matters that 10:40
6 I have just described varied. For some he said he was
7 sure, other conclusions were expressed with less
8 confidence, but all were, at least, on Sir Desmond's
9 view, likely or what he believed to have happened.
10

11 In summary, then, he found that a police officer or
12 police officers suggested to a loyalist paramilitary
13 that his group should murder Patrick Finucane. One of
14 the murder weapons was a pistol taken by a British
15 soldier and sold to the group. The gun was harboured 10:40
16 and provided by an RUC agent. Targeting information
17 was provided by an Army agent. And when, finally, one
18 of the killers apparently admitted his involvement to
19 police officers, he was recruited as an agent rather
20 than being pursued for his crimes. 10:41
21

22 Sir Desmond's findings did not end there. As we shall
23 see, he also described many other instances of the
24 security forces providing information and assistance to
25 UDA paramilitaries. He described failures to act on 10:41
26 intelligence about UDA murders and attempted murders.
27 He described failures to protect Patrick Finucane and
28 other solicitors when intelligence was received that
29 they were under threat. The environment described in

1 his report is one in which information passed freely
2 between the security forces and the UDA, in both
3 directions, with little interrupting the flow.
4

5 On the publication of Sir Desmond's report, the then 10:42
6 Prime Minister, David Cameron, referred to it showing:-
7

8 "frankly shocking levels of collusion."
9

10 That, we suggest, Sir, is an inescapable conclusion. 10:42
11

12 For those reasons, Patrick Finucane's murder is an
13 event of public importance yet it is also a private
14 tragedy. This Inquiry concerns the brutal murder of a
15 father, a husband, a son and a brother. 10:42
16

17 Patrick Finucane was also a ground-breaking lawyer who
18 developed law and the role of law in time of conflict.
19 He did so in the knowledge that this placed him at risk
20 of violence. This Inquiry will hear about him, about 10:42
21 his work. That work was not incidental to his murder.
22 On Sir Desmond's analysis, it was what led others to
23 kill him.
24

25 The Inquiry will hear about the effect of his murder on 10:43
26 his family, on his friends, on his colleagues and the
27 effect that it had on those who continued to practise
28 law in the Troubles. These are matters about which we
29 have heard something of the family's eloquent statement

1 on 10th June this year. You will understand, Sir, that
2 I do not wish to pre-empt what others may say in
3 evidence. I do note, however, that one of our roles as
4 Counsel to the Inquiry is to ensure that
5 Patrick Finucane, the man, is not forgotten in our 10:43
6 analysis of the events of his murder. His life is not
7 defined by the way it was so brutally cut short.

8
9 Patrick Finucane's murder cannot be considered in
10 isolation. In this opening statement we will refer to 10:44
11 other killings that are relevant to the question of the
12 State's role in his death. Those too saw the loss of
13 sons, husbands, fathers, brothers. They too, involved
14 unimaginable private tragedy and grief, as did the
15 thousands of other deaths in the Troubles. 10:44

16
17 It is valid to ask why there is a public inquiry into
18 Patrick Finucane's murder and not others. There are
19 two elements that answer that question.

20 10:44
21 The first is that in 2001 during the Weston Park
22 negotiations the British and Irish Governments agreed
23 to appoint an international judge to consider six cases
24 in which there were allegations of collusion against
25 the security forces of either the British or the Irish 10:44
26 states. Patrick Finucane's murder was one of those
27 cases. Justice Peter Cory, a former Canadian Supreme
28 Court judge, was appointed to this task. He
29 recommended there be inquiries into five of the cases

1 he considered. Four of those inquiries have been
2 completed. The one that is not is this inquiry into
3 the murder of Patrick Finucane.
4

5 The second element is that the Supreme Court held in 10:45
6 2019 that the United Kingdom had not discharged its
7 procedural duties under Article 2 of the European
8 Convention on Human Rights. Previous investigations,
9 including the de Silva Review, had not done all that
10 the State was required by law to do to investigate the 10:45
11 murder of Patrick Finucane. That was a decision
12 reached following a lengthy and indefatigable campaign
13 led by Patrick Finucane's family. This inquiry must be
14 seen in that context. It is a consequence of a
15 political agreement that furthered the Peace Process 10:46
16 and legal requirements intended to ensure proper
17 scrutiny of State involvements in killing. Both
18 reflect the core concern at the heart of
19 Patrick Finucane's murder, to what extent were his
20 killers encouraged, assisted, protected or directed by 10:46
21 the State? There is no more serious question in a
22 democratic society governed by the rule of law.
23

24 That is why we are here and why there is such focus on
25 Patrick Finucane's murder. It is right, though, to 10:46
26 acknowledge that such concerns are not unique, nor are
27 the grief and loss that his family have endured.
28

29 I will say a few words now, Sir, on the approach we

1 will take to this opening statement. It is made by us,
2 the Counsel to the Inquiry, and I have explained our
3 role in the previous hearing on 10th June. We are
4 independent barristers instructed to exercise our
5 independent judgment to help you in ensuring that this 10:47
6 inquiry is conducted fairly, thoroughly and
7 efficiently.

8
9 As we foreshadowed in June this first opening statement
10 is based solely on publicly available materials. Its 10:47
11 purpose is to describe what those materials contain,
12 not to invite you to draw conclusions. There will be
13 no point doing that at this stage. There is a large
14 volume of unpublished materials that this inquiry must
15 consider before you reach your findings. Counsel to 10:47
16 the Inquiry have not yet looked at that material and
17 that has been a deliberate decision to ensure that all
18 that we say to you today, and in the written document
19 that will follow, is based entirely on material that is
20 in the public domain. 10:48

21
22 That material is voluminous. The de Silva report
23 contains 500 pages of analysis and 300 pages of
24 documents. Numerous other reports, books, articles,
25 television documentaries and academic papers have been 10:48
26 written about Patrick Finucane's murder and topics
27 pertinent to that murder. There is no shortage of open
28 material.
29

1 we do not pretend that our review is comprehensive, and
2 we know that it is not. The Core Participants will be
3 invited to make their own opening statements based on
4 public material in response, and we anticipate = and
5 welcome - other material being cited.

10:48

6
7 we have paid close attention in our opening statement
8 to the de Silva report. That is because of material on
9 which it is based and the detail that it contains. It
10 is the product of a lengthy forensic review of tens of
11 thousands of pages of documents that others have not
12 seen. It is a formidable undertaking and is worthy of
13 respect. It is one of the investigations that this
14 inquiry is required, by its Terms of Reference, to take
15 into consideration. It is, by far, the most
16 comprehensive and detailed published source concerning
17 Patrick Finucane's murder. However, we make the
18 following points with no discourtesy intended to Sir
19 Desmond or his team;

10:49

10:49

20
21 First, the de Silva report is not binding on this
22 inquiry. You, as Chair, will come to your own
23 conclusions. You will be informed by the work of Sir
24 Desmond, but you are not dependent upon it.

10:49

25
26 Second, Sir Desmond's report has been subject to
27 criticism both in its methodology and in its findings.
28 The Supreme Court considered that it did not fulfil the
29 requirements of Article 2, one of the reasons that we

10:50

1 are here. Others, including the Finucane family, have
2 criticised specific conclusions that were made or were
3 not made.

4
5 Among the strands of criticism is one summarised by the 10:50
6 journalist the late Ed Moloney:

7
8 "As with so much of Sir Desmond De Silva's report there
9 are more questions than answers, more what's, where's
10 and when's than why's." 10:50

11
12 The suggestion Mr. Moloney was making is that the
13 report is heavy on factual description and lighter on
14 analysis of underlying motivations.

15 10:51
16 Third, there is unquestionably evidence relevant to
17 Patrick Finucane's murder that is not covered in the de
18 Silva report and may not have been considered by Sir
19 Desmond and his team. This is evident in some of the
20 books and articles published since the report. It is 10:51
21 also evident in the reports of Operation Kenova, which
22 examined the activities of British agent within the
23 Provisional IRA known as Stakeknife. Stakeknife was
24 active at the same time as Nelson and Stobie. He was
25 run by the FRU, as was Nelson. Operation Kenova, which 10:51
26 began in 2016, four years after Sir Desmond's report
27 was published, may well have uncovered material
28 relevant to Patrick Finucane's death.

1 we have, sir, consulted a large amount of other
2 open-source material in preparing our opening
3 statement, a full bibliography will accompany the
4 written version of the document. We have focused on
5 where this material adds evidence, contents or
6 perspective to the de Silva report. We have placed
7 particular emphasis on reported accounts of individuals
8 with potentially relevant evidence about how and why
9 Patrick Finucane was murdered.

10:52

10
11 We acknowledge that there are many competing theories,
12 many competing opinions and we have not sought to
13 capture them all. They are, of course, available for
14 others to read.

10:52

15
16 Some of the books, articles and documentaries published
17 about Patrick Finucane's murder contain names that are
18 not present in the de Silva report. Some expressly
19 link those names with particular ciphers. Others
20 provide detail that would allow for what is termed
21 jigsaw identification. Nothing that is said in this
22 opening statement, both the oral statement and the
23 written statement that follows, should be taken in any
24 way to confirm or support the accuracy of any of the
25 names given in the published materials. We say nothing
26 whatsoever, about whether any of those names are
27 correct. Indeed, we would advise all to exercise
28 extreme caution in this respect for reasons of both
29 security and accuracy. We are aware, for example, of

10:52

10:52

10:53

1 an individual who has been confidently stated by one
2 writer to be X and by another to be Y.

3
4 Similarly, the fact that we cite a source does not mean
5 that we endorse it as accurate. This opening statement 10:53
6 describes what has been published, it does not seek to
7 determine whether that is correct.

8
9 Over the next two days, Sir, we will provide an
10 overview of the publicly available material. As you 10:54
11 have said, much of what we cover will be known to those
12 who have campaigned for this inquiry and others with an
13 interest in this case. Our intention is to help
14 establish the foundations of the Inquiry in line with
15 the Terms of Reference which require us to take into 10:54
16 account previous investigations.

17
18 I will introduce the agencies involved and some of the
19 evidence in the public domain about how they
20 interacted. I will then turn to evidence relating to 10:54
21 the provision of information and assistance to the UDA
22 by members of the security forces.

23
24 Ms. Townshend will then explore the role of FRU, the
25 intelligence produced by Brian Nelson concerning 10:55
26 murders, attempted murders and conspiracies to murder
27 other than Mr. Finucane, and the use that was and was
28 not made of that intelligence.

1 Ms. Millar will discuss the role of the RUC, its
2 failure to take action against the West Belfast UDA and
3 the role of RUC officers in encouraging the UDA to
4 target Patrick Finucane.

5
6 I will then discuss the specific roles for individuals
7 William Stobie, Thomas 'Tucker' Lyttle and Brian
8 Nelson. Tomorrow, Mr. Jamieson will discuss the
9 involvement or otherwise of the security service in
10 matters relevant to the murder and Mr. Mills will do 10:55
11 the same in respect of elements of UK Government.

12
13 Ms. Millar will discuss the initial RUC investigation
14 into the murder and Mr. Mills the later police
15 investigations led by Sir John Stevens and the 10:56
16 prosecution of Brian Nelson.

17
18 This oral opening will be supplemented by a written
19 document, that will be provided first to the Core
20 Participants and later published on the Inquiry's 10:56
21 website. We envisage that that process will be
22 completed within a few weeks.

23
24 The story is a complex one, to help tell it I will
25 first provide an overview of some of the key issues and 10:56
26 some of the key questions that arise. We will come
27 back to this in more detail over the next couple of
28 days and, of course, in the far more detailed written
29 document that will be made available to Core

1 Participants and the public.

2
3 I will do this by looking first, at the immediate
4 circumstances of Patrick Finucane's murder and then the
5 wider factors that may be relevant to it. 10:57

6
7 The immediate cause of Patrick Finucane's death was the
8 attack at his home on the night of 12th February 1989.
9 Sir Desmond de Silva found that three people carried
10 out that attack, Kenneth Barrett, an individual who was 10:57
11 given the cipher L/25 and L/29. There was conflicting
12 evidence in the secondary sources about Barrett's role,
13 whether he was a gunman or whether he was the driver.
14 Barrett remains the only person convicted of Patrick
15 Finucane's murder. 10:57

16
17 Sir Desmond identified other members of the West
18 Belfast UDA who were involved in the attack. On Sir
19 Desmond's analysis, based on the extensive intelligence
20 he reviewed, the two most prominent instigators of the 10:58
21 attack were L/20 and L/28. A further leading figure
22 was L/03, the man who Sir Desmond found was encouraged
23 to kill Patrick Finucane by RUC officers while he was
24 being held at Castlereagh. Other individuals were
25 found also to have played some role in the murder. 10:58

26
27 Sir Desmond considered the specific roles of three
28 named individuals, Tommy 'Tucker' Lyttle, William
29 Stobie and Brian Nelson. All had died by the time of

1 Sir Desmond's report. I will look at each briefly in
2 turn. As I say, more detail on this will follow later,
3 in this oral statement, and in the written document.
4

5 Beginning with 'Tucker' Lyttle. He was the 10:59
6 longstanding brigadier of the west Belfast brigade and,
7 at the time of Patrick Finucane's murder, the Chairman
8 of the UDA's Inner Council. Sir Desmond found that
9 Lyttle had full knowledge of the murder plan but may
10 not have known the operational details. One matter for 10:59
11 the Inquiry to consider will be how the UDA operated
12 and the extent to which it had a meaningful 'chain of
13 command'. Was it, as one book suggests, "an Army
14 largely without an officer class,"?
15

16 Another important consideration is the extent and 10:59
17 nature of Lyttle's contacts with RUC Special Branch.
18 At the time of his death in 1995, Lyttle was widely
19 considered by journalists to have been a Special Branch
20 agent. Sir Desmond found that there was "no sound 11:00
21 evidential basis for those reports." However, he
22 recognised that there was, in his words:
23

24 "A broad spectrum of possible relationships between
25 paramilitary figures and members of the security 11:00
26 forces."
27

28 Sir Desmond considered that Lyttle had contacts within
29 the RUC and that these provided him with, what he

1 described as, "an entirely improper degree of
2 protection and assistance."

3
4 The journalist, Ed Moloney writing after the
5 publication of the de Silva report, has reported that 11:00
6 Lyttle told him more about these arrangements.
7 Mr. Moloney thought that they amounted to what he
8 called;

9
10 "A clearly collusive alliance from which both parties, 11:01
11 UDA and RUC gained."

12
13 The Inquiry will consider this relationship and the
14 other evidence provided by another journalist, John
15 Ware, who interviewed Tommy Lyttle in 1994. According 11:01
16 to Mr. Ware, and on Lyttle's account, he had contacted
17 his Special Branch source to ask about the rumours that
18 RUC officers had suggested to L/03 that
19 Patrick Finucane should be targeted. When asked about
20 the Special Branch source's response, Lyttle reportedly 11:01
21 replied;

22
23 "Put it this way, the officer didn't discourage the
24 idea that Finucane should be shot and if a man in his
25 position doesn't discourage it, then that amounts to 11:01
26 approval."

27
28 Turning to William Stobie. I have touched on his role
29 in the murder already. He was the quartermaster that

1 provided one of the weapons used.

2
3 Sir Desmond found that he was a "comparatively minor"
4 figure in the UDA but his role as a source of
5 information is important. I will return shortly to the 11:02
6 question of what he told his handlers in Special Branch
7 about the murder plot and what they did and did not do
8 in response and why they acted in the way that they
9 did.

10 11:02
11 Brian Nelson: The details of the role played by Brian
12 Nelson in Patrick Finucane's murder are opaque. He
13 gave various versions of his actions to his handlers at
14 the time in a journal that he prepared and to the
15 Stevens investigators. Those accounts are marked by 11:02
16 contradictions, half-truths and finally a refusal to
17 cooperate.

18
19 In a conversation in February 1993, Chief Constable
20 Stevens suggested to Nelson that he had only told his 11:03
21 investigators about two-thirds of the truth. It is
22 recorded:

23
24 "Nelson nodded his head in an almost agreeable form."

25 11:03
26 By that time, Sir Desmond found - and again I quote:

27
28 "The Army had consciously and comprehensively bought
29 Nelson's silence by linking it to their continuing care

1 and support of his family."

2
3 Sir Desmond was, nonetheless, able to draw some
4 conclusions about Nelson's role. He found that he was
5 knowingly and actively involved in targeting 11:03
6 Patrick Finucane despite his protestations to the
7 contrary. His role was, Sir Desmond said, "direct and
8 important."

9
10 He also found that he concealed this from his FRU 11:04
11 handlers. That, of course, is a matter that this
12 inquiry will consider for itself and will do so with
13 anxious scrutiny.

14
15 All of the individuals that I have just mentioned were 11:04
16 members of the UDA, a group that remained a legal
17 organisation throughout this period. There is an
18 extensive and fraught debate about the extent to which
19 the UDA should be seen as a surrogate for the security
20 forces, used as part of a counter-insurgency strategy 11:04
21 that had been institutionalised. However, even if that
22 view were to be accepted it does not absolve those
23 involved of agency.

24
25 On Sir Desmond's accounts all that I have spoken about 11:04
26 were involved to some degree in the murder of
27 Patrick Finucane in front of his family. If that is
28 right, they bear that stigma and that responsibility,
29 but they do not do so alone.

1
2 I turn now, Sir, to the wider causes of Patrick
3 Finucane's murder.

4
5 Sir Desmond concluded that there was culpability in the 11:05
6 acts and omissions of the RUC, the British Army, the
7 Security Service and the UK Government. I will address
8 each in turn and do so in summary, giving only an
9 outline of Sir Desmond's principal findings and
10 allegations from others at this stage. 11:05

11
12 The RUC:

13
14 The role of the RUC can be divided into, first,
15 encouragement; second, a failure to act before the 11:05
16 murder; third, a failure to investigate after the
17 murder; and fourth, a wider role in facilitating the
18 terrorism of the UDA.

19
20 On encouragement: 11:06

21
22 I have already referred to the evidence that RUC
23 officers actively encouraged UDA paramilitaries to
24 murder Patrick Finucane. On some accounts they also
25 encouraged the targeting of two other lawyers, Oliver 11:06
26 Kelly and PJ McGrory.

27
28 In 2001, Kenneth Barrett told reports from BBC Panorama
29 that:

1
2 "Finucane would have been alive today if the Peelers
3 hadn't interfered."

4
5 He also claimed that;

11:06

6
7 "The Peelers wanted him whacked, we whacked him and
8 that's the end of the story as far as I'm concerned."

9
10 The alleged direct culpability of an RUC officer or RUC 11:07
11 officers in the decision to murder Patrick Finucane is
12 a matter that this inquiry will examine and will
13 examine thoroughly.

14
15 On the failure to act before the murder:

11:07

16
17 Sir Desmond published RUC intelligence records that
18 showed William Stobie provided his handler with
19 information about a forthcoming operation in the week
20 before Patrick Finucane's murder. By the evening of 11:07
21 9th February, the Thursday before that murder, Special
22 Branch knew, first, that an imminent hit was planned on
23 what was described as "a top PIRA man." (2) L/20 was a
24 key figure in that operation; (3) Stobie was storing
25 weapons for the UDA, including Browning pistols; (4) 11:08
26 Stobie had already provided one weapon for the planned
27 hit and had been asked to hand over a Browning pistol;
28 (5) Stobie had contacted Special Branch and wanted his
29 handler to call him back by midnight that Thursday

1 night.

2
3 On Sir Desmond's analysis, the RUC took no action to
4 frustrate the planned attack. He concurred with the
5 view reached by Sir John Stevens:

11:08

6
7 "Proper exploitation of William Stobie's intelligence
8 prior to the attack could have prevented the murder of
9 Patrick Finucane on 12th February."

11:09

10
11 The Inquiry will examine this evidence and those
12 conclusions. If they are correct, it will also ask why
13 no action was taken.

14
15 Sir Desmond found it likely that Stobie did not know
16 that the operation was directed at Patrick Finucane.
17 However, as with almost everything in this inquiry,
18 there is conflicting evidence on this point including
19 from Stobie himself. This, too, will be explored as
20 will the question of whether Special Branch could have
21 used other material to identify the possible or likely
22 target.

11:09

11:09

23
24 On the failure to investigate, the European Court of
25 Human Rights and Sir Desmond found numerous structural
26 and operational failings within the RUC investigation,
27 including failures by Special Branch to share critical
28 intelligence with their colleagues in the Criminal
29 Investigation Department, CID. Key suspects, including

11:09

1 L/20 and L/28 were not investigated or arrested until
2 the Stevens III investigation, a decade after the
3 murder.

4 As we have heard, Kenneth Barrett was recruited rather
5 than investigated. The question, again, arises as to 11:10
6 why this was so.

7
8 On the question of the wider facilitation of the UDA by
9 the RUC. The Inquiry will consider the extensive
10 sharing of information and assistance between the RUC 11:10
11 and the UDA and the attitude of RUC officers to lawyers
12 who represented republicans. It will also consider the
13 failure to act on intelligence provided to RUC Special
14 Branch by FRU about the West Belfast brigade of the UDA
15 in the months and years before Patrick Finucane's 11:11
16 murder. Sir Desmond found that such information was
17 provided, which begs the question of why it didn't
18 result in action. Was too great a premium placed on
19 building the intelligence picture and too little on
20 acting on it? Was source protection prioritised over 11:11
21 preventative acts or were there more nefarious motives
22 at play?

23
24 Turning to the British Army:

25 11:11
26 Sir Desmond dismissed some of the most serious
27 allegations that were made against the British Army and
28 against FRU. He found that Brian Nelson did not inform
29 his FRU handlers in advance of the plan to murder

1 Patrick Finucane. It follows that he did not consider
2 that FRU directed Brian Nelson to instigate the murder.
3 He also found that FRU, in general, provided relevant
4 information from Nelson to the RUC Special Branch about
5 murders and attempted murders and that it was for the 11:12
6 Special Branch to determine how that intelligence
7 should be exploited to prevent or disrupt the UDA's
8 activities.

9
10 However, despite these findings, Sir Desmond expressly 11:12
11 stated that he had not absolved FRU of any criticism in
12 respect of Patrick Finucane's murder. Most
13 fundamentally, he found that Nelson was, and I quote
14 his words:

15 11:12
16 "To all intents and purposes a direct State employee."
17

18 That is, a direct State employee who was also the
19 intelligence officer for the UDA.

20 11:13
21 Nelson had been re-recruited despite a conviction for
22 kidnapping and torture for the purpose of infiltrating
23 the UDA. FRU knew that his actions were leading to
24 people being attacked and murdered. Sir Desmond found
25 that Nelsons actions materially increased the targeting 11:13
26 capacity of the UDA, and that after his re-recruitment
27 Nelson played some part in at least four murders and
28 ten attempted murders; others put the figure higher.
29

1 FRU also knew that the information that they were
2 providing to the RUC was not generally being exploited
3 to prevent attacks. Further, from at least June 1988,
4 FRU knew that Nelson was concealing information from
5 them.

11:14

6
7 FRU's stated rationale for running Nelson in the UDA
8 was for him to encourage the group to focus on what the
9 commanding officer of FRU described as Provisional IRA
10 activists. These, the reasoning went, would be more
11 difficult to attack, reducing the level of killing and
12 making it easier to take counter measures to disrupt
13 operations. Sir Desmond found that this rationale was
14 undermined by the failings that I have just summarised.

11:14

15
16 There was also a wider lack of clarity in the approach
17 taken to Nelson. On occasion, he was given
18 reassurance. For example, when the UDA murdered the
19 wrong person, he was told that the victim was also a
20 member of the Provisionals. On, occasion, Nelson's FRU
21 handlers provided him with information that he used in
22 targeting.

11:14

23
24 An interview conducted by Peter Taylor of the BBC with
25 one of Nelson's handlers given the pseudonym "Geoff",
26 reflects these ambiguities. Could we have on screen
27 please, document 5A? This, Sir, is taken from
28 Mr. Taylor's book, "Brits - The War Against The IRA"
29 which itself was a written-up version of a documentary

11:15

11:15

1 that he produced, part of a trilogy of documentaries.
2 what Mr. Taylor wrote is this:

3
4 "Did Geoff..."

5
6 That is the pseudonym given to Nelson's (sic) handler:

7
8 "Did Geoff personally ever supply [Nelson] with
9 information? [Geoff says], 'no, not directly but if he
10 said, 'Is that so-and-so's registration?' I would say 11:16
11 to him, 'you don't have that wrong.' If that was the
12 case, I asked, and the car owner was killed, weren't he
13 and the FRU complicit in murder? 'Geoff' was matter of
14 fact. 'Well, it's a fine line you walk,' he said. I
15 pointed out that in the end Nelson went to gaol for 11:16
16 conspiracies to murder. 'Yes,' he replied, at our
17 request.' Encouraged by him and his colleagues?
18 'Yes.' And by the FRU? 'Yes.' And by British
19 intelligence? 'Yes.' Geoff was astonishingly candid."

20
21 Can we have the next page please? Document 5B. It's
22 just the opening quotation there at the top of the page
23 please. Perhaps we can just leave it as it is. Thank
24 you. what Geoff said in response to Mr. Taylor is
25 quoted here: 11:18

26
27 "I'm ashamed of it. He..."

28
29 That is, Nelson:

1
2 "...strayed outside the law at our behest. We
3 instructed him to carry on his job of targeting these
4 people. There were certain risks but it was loosely
5 seen by my hierarchy that if he carried out an action 11:18
6 and then reported it, it would negate his guilt. In
7 other words, he was doing his job under our direction
8 and once he had informed us of what he had done it
9 would not be illegal. Brian believed, not that he was
10 bulletproof, but that he had protection from us, that 11:18
11 what he was doing he was doing at our request and,
12 therefore, he had immunity. And he didn't."

13
14 Thank you, that can be taken down.

15
16 Sir Desmond found, and I quote:

17
18 "Given the nature of the tasking Nelson received from
19 FRU, he was unlikely to have believed there was any
20 distinction between his objective of targeting 11:19
21 supposedly legitimate republican targets on the one
22 hand and the objectives of FRU on the other."

23
24 Sir Desmond considered that accountability for what
25 went wrong with the way in which Nelson was handled did 11:19
26 not rest solely with FRU but also with the chain of
27 command which did not exercise sufficient supervision.
28 As I will come to, he also identified failings by the
29 UK Government to put in place an adequate system of

1 guidance and direction for how agents in Northern
2 Ireland should be run.

3
4 It is possible, therefore, to summarise Sir Desmond's
5 view as being that FRU did not intend for Brian Nelson 11:20
6 to target Patrick Finucane but were responsible for
7 creating an environment in which he was able to do so
8 without there being sufficient oversight to control and
9 stop him. This inquiry will consider all aspects of
10 that judgment and all aspects of these matters. 11:20

11
12 Turning Sir, to the Security Service or MI5. There are
13 three principal issues concerning the role of the
14 Security Service. The first is the extent to which it
15 oversaw or should have overseen the work of FRU and 11:20
16 there is a stark dispute here between the witnesses.

17
18 The Commanding Officer of FRU in essence stated that
19 the Security Service knew how FRU were running Nelson
20 and they raised no concerns about it. The director and 11:21
21 coordinator of intelligence for DCI, the most senior
22 Security Service officer in Northern Ireland and whose
23 role I will consider shortly, he accepted that he was
24 told some of what Nelson produced but not how he was
25 handled. In his view, the CO of FRU was: 11:21

26
27 "Not a man who sought our advice or that of anyone
28 else."
29

1 The Inquiry will evaluate the plausibility of these
2 different perspectives.

3
4 The second issue concerns intelligence received by the
5 Security Service in late 1988 about a threat to three 11:21
6 solicitors, including one described as the
7 'shoot-to-kill' solicitor. Sir Desmond found that this
8 was a reference to Patrick Finucane and that the
9 Security Service should have recognised it as such. He
10 found no record that the Security Service shared this 11:22
11 intelligence with the RUC. He would have expected such
12 records to exist had this been done. He concluded that
13 there had been a failure to act and that the
14 responsibility lay with the Security Service. This is
15 a matter that the Inquiry will again examine. 11:22

16
17 The third issue is the so-called propaganda initiative
18 run by officers within the Security Service in the late
19 1980s. Sir Desmond was guarded in his report and
20 provided little detail of what the initiative involved. 11:22
21 what he did say was that Security Service officers
22 disseminated information within the loyalist community
23 and did so in such a way that republicans would become
24 aware of it. Some officers felt that an important
25 purpose of the initiative was, in Sir Desmond's words; 11:23

26
27 "To unnerve and expose republican players."

28
29 The initiative, however, was not particularly focused

1 or controlled and came to include not just
2 paramilitaries, but prominent figures in the broader
3 nationalist and republican communities. One of those
4 was Patrick Finucane. The information circulated in
5 Sir Desmond's words,

11:23

6
7 "effectively involved fanning the rumours and
8 speculation linking him to the IRA and to the
9 activities of his clients."

10
11 Sir Desmond found that the propaganda initiative
12 breached the basic principles by which the State should
13 approach lawyers, as later formalised by the United
14 Nations. He was restrained in his further conclusions
15 finding only that the initiative

11:23

16
17 "could have served to further legitimise
18 Patrick Finucane as a target."

19
20 And that this consequence should have been
21 "foreseeable."

11:24

22
23 The Inquiry will consider the cause and the effect of
24 the propaganda initiative and the conclusions that
25 should be drawn about it.

11:24

26
27 Turning to the United Kingdom Government. Sir Desmond
28 found no evidence to suggest that political leaders
29 knew in advance of a plot to murder Patrick Finucane.

1 He also rejected the notion that the murder was a
2 consequence of an overarching State conspiracy. Those
3 are conclusions that some have questioned, sometimes in
4 vehement terms and they are matters that this inquiry
5 will revisit.

11:24

6
7 It is, however, clear from Sir Desmond's report that
8 the UK Government did have knowledge of other matters
9 pertinent to the murder. It knew, at Cabinet level,
10 that there was no clear guidance and no legal basis on 11:25
11 how the security forces should run agents in
12 paramilitary organisations in Northern Ireland. The
13 guidance that was in place was developed in the late
14 1960s and was directed to East End gangs, not West
15 Belfast terrorists. It applied only to the police. 11:25
16 The vacuum created was discussed at the most senior
17 levels of Government. It was the subject of
18 departmental working Groups and Cabinet committees, yet
19 throughout the Troubles, no new guidance was formally
20 approved. No legislation was passed. This was, 11:25
21 Sir Desmond found,

22
23 "a wilful and abject failure by successive
24 Governments."

11:26

25
26 what more Ministers and civil servants knew and did not
27 know of the approach that FRU, Special Branch and the
28 Security Service were taking to running agents in
29 paramilitary organisations is a matter for further

1 examination. Sir Desmond suggests that too little was
2 shared and too little was authorised. If that is
3 right, how did that situation arise and what were the
4 consequences?

5
6 The UK Government also bore responsibility for the
7 structures governing the interaction of the RUC, the
8 Army and the Security Service on intelligence matters
9 in Northern Ireland. Those structures developed in a
10 piecemeal fashion resulting in an elusive and complex
11 set of arrangements without clear lines of authority
12 and oversight. Sir Desmond wrote of an accountability
13 gap. You will wish to consider, Sir, the extent to
14 which that allowed abuses to develop, it allowed them
15 to go unchecked and the extent to which that
16 contributed to the murder of Patrick Finucane.

17
18 There are also two concrete examples of Ministerial
19 intervention that fall to be examined. The first is
20 the statement to the House of Commons on 17th January
21 1989 by the then Junior Home Office Minister, Douglas
22 Hogg, that a number of solicitors were, to quote his
23 words,

24
25 "unduly sympathetic to the cause of the IRA."

26
27 Seamus Mallon of the SDLP deplored these words, saying
28 that lawyers would, as a result, become "targets for
29 the assassin's bullets."

1 weeks later, Patrick Finucane was murdered.

2
3 Sir Desmond found that loyalist paramilitaries had
4 heard these words and that they increased the
5 vulnerability of Patrick Finucane and others. He held 11:28
6 that there was no basis for saying that Douglas Hogg
7 intended this outcome and thought that he had been
8 "compromised" - that's Sir Desmond's word - by a
9 briefing provided by senior RUC officers. Again, these
10 are controversial findings and the Inquiry will 11:28
11 consider this matter with an open mind.

12
13 The second example of direct Ministerial intervention
14 came in respect of a prosecution of Brian Nelson.
15 Mr. Mills will return to this story detailing the 11:28
16 Ministerial and departmental opposition that the
17 Director of Public Prosecutions (Northern Ireland) and
18 the Attorney General had to overcome to proceed with
19 that prosecution.

20
21 Turning, Sir, to the conclusions of this section:

22
23 Sir Desmond's overall assessment was that there had
24 been collusion in the murder of Patrick Finucane, a
25 finding the Government has accepted and is reflected in 11:29
26 our Terms of Reference. Could we have on screen
27 please, document 1, electronic page 29, paragraph 115?
28 This is Sir Desmond's conclusion in what is called his
29 overall assessment. He wrote:

1
2 "Overall, I am left in significant doubt as to whether
3 Patrick Finucane would have been murdered by the UDA in
4 February 1989 had it not been for the different strands
5 of involvement by elements of the State. The 11:29
6 significance is not so much, as Sir John Stevens
7 concluded in 2003, that the murder could have been
8 prevented, though I entirely concur with this finding.
9 The real importance, in my view, is that a series of
10 positive actions by employees of the State actively 11:30
11 furthered and facilitated his murder and that, in the
12 aftermath of the murder, there was a relentless attempt
13 to defeat the ends of justice."

14
15 That can be taken down, please. 11:30

16
17 You, Sir, will come to your own view on these matters
18 and on the questions of where responsibility for
19 Patrick Finucane's murder lies. In this opening
20 statement we have approached this by considering the 11:30
21 role of each of those different agencies: the UDA, the
22 RUC, FRU, the Security Service, and the UK Government.
23 However, we must take care not to be trapped by silos.
24 Patrick Finucane's murder was a consequence of how
25 these agencies interacted, the way that information was 11:30
26 passed between them, the way in which they influenced
27 one another, intentionally or otherwise. The way in
28 which they were or were not overseen and directed.
29 This can be seen by examining the stated reason that

1 the UDA gave for murdering Patrick Finucane. Following
2 his death, the Ulster Freedom Fighters, the UDA's nom
3 de guerre, issued a statement in which they claimed
4 that they killed called, in their words,
5 "Patrick Finucane, the IRA officer." That statement 11:31
6 was, on his own account, largely drafted by
7 Brian Nelson, the FRU agent.

8
9 There is compelling evidence that the claim was false.
10 At the inquest into Patrick Finucane's death, the RUC 11:31
11 Chief Superintendent Alan Simpson, stated that there
12 was no evidence that Patrick Finucane was a member of
13 the IRA, a position repeated by former Chief Constables
14 Ronnie Flanagan and Sir Hugh Orde. Sir Desmond de
15 Silva, after his extensive review of all of the 11:31
16 material made available to him, stated that he had not
17 seen any evidence that would persuade him to displace
18 the findings already made by Justice Cory and others,
19 that Patrick Finucane was not a member of the
20 Provisional IRA. 11:32

21
22 The Commanding Officer of FRU gave its perspective on
23 the claim that Patrick Finucane was a leading
24 Provisional. He said:

25
26 "We knew who was on the Provisional IRA Army Council,
27 Northern Command, and Belfast Brigade.
28 Patrick Finucane did not figure."
29

1 claims of responsibility made by the UFF must be
2 treated with considerable caution. The first time the
3 group claimed responsibility for an attack it said that
4 it had killed an IRA man in response to the IRA killing
5 a UDA leader. In fact they murdered a young man 11:32
6 hitchhiking home from his girlfriend's house. He had
7 no connection with the IRA. The supposed vengeance was
8 also a lie. The UDA leader had been killed by the UDA
9 itself, because he was a suspected informer.

10
11 However, in respect of the murder of Patrick Finucane
12 there is considerable evidence that his killers did
13 believe him to be a "top Provisional," albeit wrongly.
14 The Inquiry must consider the environment in which this
15 came to pass. It was an environment where elements 11:33
16 within the security forces provided the UDA with
17 information and intelligence and where that information
18 was given a heightened status by the UDA because of its
19 origins in the security forces.

20
21 It was an environment in which RUC officers associated
22 lawyers with the paramilitary causes of their clients.
23 It was an environment where that elision was briefed by
24 senior RUC officers to a Government Minister who
25 repeated it in Parliament. It was an environment in 11:34
26 which the Security Service was running a propaganda
27 initiative that furthered such rumours and suspicion
28 including in respect of Patrick Finucane. It was an
29 environment in which FRU encouraged its agent within

1 the UDA to focus attention on leading Provisional
2 figures.

3
4 The Inquiry will consider these interactions and the
5 extent to which they did, or did not, influence the 11:34
6 murder of Patrick Finucane. It must also consider a
7 more stark and disturbing explanation: that these
8 interactions were not nebulous but the consequence of a
9 deliberate and directed action to use the UDA as a
10 proxy to murder a lawyer who had incurred the enmity of 11:34
11 the State.

12
13 It will not be easy to examine these matters at a
14 distance of more than 35 years. Witnesses have died,
15 memories have dimmed, evidence has been lost or 11:35
16 destroyed. The Inquiry must give proper weight to the
17 circumstances in which these events took place. By the
18 start of 1989, more than 3,000 lives had been lost in
19 the Troubles, this included 258 officers in the RUC and
20 RUC Reserve and 636 members of the British Army. 11:35
21 Informers and agents who were found by parliamentary
22 organisations were brutally tortured and murdered.
23 Unquestionably, many in the security forces sought to
24 uphold the law against all paramilitaries and they did
25 so, as those figures show, at considerable personal 11:36
26 risk. Anyone reading RUC Officer Johnston Brown's
27 memoirs will see the toll that this can take.

28
29 We must also be conscious that we re-examine decisions

1 with the inestimable benefits of hindsight and time,
2 and we do so in the calm environment of a public
3 inquiry. We must avoid retrospective moralising.
4 However, we do not accept that the difference between
5 then and now makes this task impossible or unfair. The 11:36
6 position of the UK Government in the 1980s was that the
7 security forces were seeking to uphold democracy and
8 the rule of law against terrorist violence. It is
9 legitimate to apply that standard of the rule of law to
10 its own actions. 11:37

11
12 In doing so, the Inquiry must consider a central
13 question: How should the State run an agent within a
14 paramilitary organisation? The agent cannot, as some
15 have observed, simply make the tea. So, what degree of 11:37
16 criminality will be tolerated? How do you weigh the
17 advantages the agent gives the State in providing
18 information against the advantage it gives to the
19 paramilitaries in improving their capacity to commit
20 murder? How should the State direct the agent and to 11:37
21 what end?

22
23 The Inquiry will have to consider those questions and
24 consider the rationales put forward to justify the way
25 in which Nelson and Stobie were run and the way in 11:37
26 which their intelligence was used and was not used. It
27 will also have to examine the rationale and the
28 motivations of those within the UDA who planned and
29 executed the murder of Patrick Finucane. These are

1 uncomfortable matters to contemplate, but such
2 examination is what the Terms of Reference require. As
3 your Counsel, we will seek to pose the questions and
4 bring the relevant evidence to light. This is done not
5 to excuse the inexcusable, the murder of a man in front 11:38
6 of his family, but to help you understand not just how
7 it happened but why it happened. We do not serve the
8 public and we do not do justice to Patrick Finucane by
9 doing anything less.

10
11 That, Sir, is what I say as an overview. I will turn 11:38
12 now to the first of the topics that I have
13 foreshadowed, which is the approach to agent handling
14 in Northern Ireland in the 1980s. This is a technical
15 area and many of these sections that we go on to are 11:39
16 technical areas, considerable detail will be provided
17 in the written document, and these are just overviews
18 of what will follow in that document.

19
20 Here, and in other elements of what we say, a lot of 11:39
21 the analysis will rest heavily on the de Silva Review
22 and the work of Operation Kenova as the authors of
23 those reports have had access to closed material which
24 has not been seen by other authors. The secondary
25 literature does, however, provide helpful context and, 11:39
26 importantly, further perspectives.

27
28 I will deal, Sir, with three matters here, the
29 intelligence agencies involved; the way in which those

1 intelligence agencies interacted and the legal and
2 policy framework in place for running agents.

3
4 This is very much an overview.

5
6 Beginning with the RUC: From 1976, a policy of police
7 primacy was followed whereby the RUC had the lead
8 responsibility for countering the paramilitary threat
9 in Northern Ireland. They were supported in this by
10 the Army and by the Security Service. Within the RUC,
11 Special Branch was tasked with gathering intelligence
12 on republican and loyalist terrorist activity.

13 Criminal investigations were undertaken by the Criminal
14 Investigation Department or CID. As we will hear,
15 there could be considerable tensions between CID and
16 Special Branch on whether, and how, to exploit
17 intelligence.

18
19 The prime source of intelligence about paramilitary
20 activity were human agents, sometimes referred to as
21 "Covert human intelligent sources" or "CHIS," but here
22 we will use the term "agent." Agents were registered
23 by Special Branch and were given reference numbers and
24 code names. They generally received regular financial
25 payments and they would have a number of agent handlers
26 who were located within a source unit.

27
28 After contact with an agent, the handlers would usually
29 prepare a written debrief, a form which recorded the

1 salient details of that contact. This raw intelligence
2 would then be summarised in a document known as an
3 SB50. Those summaries were often guarded to protect
4 the identity of the source.

11:41

6 An entry may also have been made in the RUC Daily
7 Intelligence Book and in the Threat Book which recorded
8 intelligence about specific threats to specific
9 individuals. If Special Branch intelligence were to be
10 shared outside of the RUC, it would be copied into a
11 document known as RIRAC.

11:42

13 One issue for the Inquiry to consider would be the
14 influence of the Walker Report, a review commissioned
15 in 1980 by the then Chief Constable and undertaken by
16 Sir Patrick Walker, who was later the Director General
17 of the Security Service. The report was intended to
18 improve the sharing of information between Special
19 Branch and CID, that it has been suggested that it led
20 to an imbalance, too much emphasis given to collecting
21 and protecting intelligence and too little to
22 exploiting it in criminal prosecutions. One such
23 critique came in the interim report of Operation Kenova
24 which was issued by Jon Boutcher, the current Chief
25 Constable of the PSNI. He also criticised what he
26 described as a "Cabal" in Special Branch that was, in
27 his words, "fiercely resistant to any form of scrutiny
28 or oversight based on claims about a paramount need for
29 secrecy." The phrase often used, Sir, is 'a force

11:42

11:42

11:43

1 within a force' and the suggestion is that that is what
2 Special Branch became.

3
4 Turning to the British Army: By the late 1980s the
5 British Army's central resource for agent running was 11:43
6 the FRU. After 1988 that was an independent unit
7 commanded by the Commanding Officer FRU, or CO FRU, who
8 reported to the Commander of Land Forces through the
9 Assistant Chief of Staff of the Army's Intelligence
10 Section. The activities of FRU were subject to a 11:43
11 series of directives including one issued in 1986 to
12 which I will return.

13
14 FRU comprised of a headquarters and four regional
15 detachments or DETs. Of most relevant to this inquiry 11:43
16 is the East DET which covered Greater Belfast, from
17 where Brian Nelson was run. Nelson had several
18 handlers during the course of his engagement by FRU,
19 and we have seen an extract of one of them. He was
20 given the source number 6137. 11:44

21
22 Handlers in FRU would record details of contacts with
23 agents just like their equivalent in Special Branch,
24 but they would do so in documents that were referred to
25 as Contact Forms or CFs. Where information was 11:44
26 disseminated outside of FRU, particularly to RUC
27 Special Branch, this would be done through a military
28 intelligence source report, an MISR, known generally as
29 a MISR.

1 It was the evidence of three witnesses to the Stevens
2 Inquiry and to Sir Desmond de Silva that under the
3 policy of police primacy, they would provide the
4 intelligence to the RUC but it was for the RUC to
5 determine how that intelligence would be exploited in
6 terms of police actions and police investigations.

11:45

7
8 On the Security Service or MI5. At the time of
9 Patrick Finucane's murder this was not on a statutory
10 footing. That would come later. Its remit was instead
11 set by a directive issued in 1952. The effect that had
12 on internal oversight and on scrutiny will be
13 considered later in this opening statement by
14 Mr. Jamieson.

11:45

15
16 In Northern Ireland, the Security Service initially
17 worked as part of a combined operation known as the
18 Irish Joint Section. This was disbanded in 1984 with
19 the Security Service taking on its responsibilities.
20 Sir Desmond de Silva found that it "ran a comparatively
21 small number of agents within republican and loyalist
22 terrorist groups" whilst also providing technical and
23 operational support for others.

11:45

24
25 Security Service agent handlers would produce Contact
26 Notes of their meetings with agents. So RUC would
27 produce the debrief forms and the SB50s. FRU would
28 produce the contact forms and the MISRs. Security
29 Service would produce Contact Notes.

11:46

1 A unit called the Assessment Group was responsible for
2 producing Northern Ireland Intelligence Reports, which
3 were the principal written means of conveying
4 intelligence to politicians and to civil servants.
5 Sir Desmond reported that these contained "high level
6 strategic intelligence."

11:46

7
8 The most senior Security Service officer in Northern
9 Ireland in 1980s was the Director and Coordinator of
10 Intelligence, the DCI. We'll discuss that role later.
11 The DCI was assisted by the Assistant Secretary
12 Political, the ASP, and the Deputy ASP both of whom
13 were based at the Army's headquarters.

11:47

14
15 I note the time, Sir, and I'm aware the stenographer
16 will need a break. I propose we rise now and then I
17 will return to how those agencies interacted and the
18 question of the effectiveness and the mechanisms that
19 were in place.

11:47

20 CHAIR: Certainly, Mr. Hill. Thank you. We'll rise
21 now and we'll come back at 12 o'clock. Thank you,
22 everyone.

11:47

23
24 THE INQUIRY ADJOURNED BRIEFLY AND CONTINUED AS FOLLOWS:

11:48

25
26 CHAIR: Thank you, Mr. Hill.

27 MR. HILL: Thank you, Sir. I return to the way in
28 which those three agencies that I have just described
29 interacted with one another.

1 In 1976, the then Secretary of State for Northern
2 Ireland, Merlyn Rees, briefed the incoming Prime
3 Minister, James Callaghan that, in his words:
4

5 "We now have a well-established single machine for
6 intelligence and covert work in Northern Ireland."
7

12:04

8 This, you may feel, Sir, turned out to be a case of
9 wishful thinking. There were structures in place to
10 achieve those goals and they will be explained in
11 detail in the written opening but for now I'm only
12 going to highlight three. These work from the ground
13 up.
14

12:05

15 The first is what are called Tasking and Coordination
16 Groups or TCGs. These were local bodies under the
17 command of RUC Special Branch which met to discuss the
18 exploitation of intelligence in respect of terrorist
19 groups and they would draw on the intelligence provided
20 by FRU and by the Security Service.
21

12:05

22 Higher up the chain, and these are not the only
23 institutions but I highlight them now, higher up the
24 chain were security and policy meetings which were
25 attended by the Secretary of State for Northern
26 Ireland, the DCI, the Director and Coordinator of
27 Intelligence, the Chief Constable and the General
28 Officer Commanding, the GOC in Northern Ireland, they
29 would also be attended by the NIO Permanent Secretary.

12:05

1 So this is a meeting of the most senior officials
2 across those fields.

3
4 These meetings typically occurred every month. The De
5 Silva report describes the meetings as:

12:06

6
7 "High level discussions of security policy at a
8 strategic level, they did not generally cover
9 operational issues such as agent recruitment and
10 handling."

12:06

11
12 Above that, Sir, sat the Joint Intelligence Committee
13 which sat within the Cabinet Office at the apex of
14 Whitehall's central intelligence machinery. The Joint
15 Intelligence Committee also provided a conduit to the
16 Prime Minister. Its role, of course, went beyond
17 Northern Ireland and covered any threat to the UK and
18 its overseas territories and dependencies. According
19 to Sir Desmond, the JIC minutes disclosed to his
20 review,

12:06

21
22 "Focussed primary on the terrorist threat in Great
23 Britain and in continental Europe during the late
24 1980s."

12:07

25
26 In addition to those elements of the machinery and the
27 structures that were in place there were also
28 individual meetings which included individual regular
29 briefings given by the CO of FRU to the DCI.

1
2 Turning to the effectiveness of these arrangements.
3 The interactions of the three agencies will be
4 considered by other members of the CTI team and I will
5 not pre-empt what they are about to say. It may be 12:07
6 helpful, however, to preface those presentations by
7 inviting consideration of four themes.

8
9 First, is the question of what information was shared
10 and with whom. The raw intelligence from an agent 12:07
11 would be filtered before being disseminated, in part
12 for reasons of source protection. Also important are
13 the limits that would be placed by the agency producing
14 the intelligence on onward dissemination. As we will
15 see, there is a stark dispute between the RUC and FRU 12:08
16 about what information FRU provided to the RUC. There
17 is also a dispute between FRU and the Security Service
18 over how much awareness the DCI and the ASP - the
19 Security Service agents - had of Brian Nelson's
20 activities. Was it just the product of his 12:08
21 intelligence that was shared, or the manner in which it
22 was obtained?

23
24 The second of the four themes are that both the de
25 Silva Review and Operation Kenova found that there was 12:08
26 a lack of coordination and clarity between the
27 agencies, exacerbated by institutional rivalries.
28 Sir Desmond thought that the strains were particularly
29 pronounced between Special Branch and FRU in the late

1 1980s. It is notable that extensive recommendations to
2 improve intelligence co-ordination were made by all
3 three Stevens investigations, and also by the Blelloch
4 Review and those investigations and those
5 recommendations span more than a decade.

12:09

6
7 The third theme and related is that you may feel that
8 there was a lack of certainty and clarity in the
9 structures that were in place to co-ordinate
10 intelligence in Northern Ireland. These had developed
11 in a piecemeal fashion in response to events since the
12 early 1970s. It is, perhaps, difficult to square the
13 policy of police primacy with the presence of a
14 Director and Co-Ordinator of Intelligence, who was a
15 senior Security Service officer and who appears to have
16 been intended as the Secretary of State's principal
17 adviser. The DCI's ambit and authority were left
18 unclear, as will be seen in the dispute over the
19 influence of the DCI and the ASP could and did yield
20 over FRU. That is an issue that was raised by both
21 Sir Desmond and Operation Kenova in its final report.
22 These nebulous and elusive lines of authority may have
23 contributed to an absence of rigorous oversight that
24 allowed dangerous practices to develop.

12:09

12:10

12:10

12:10

25
26 Finally, sir, the fourth of the themes is the question
27 of the guidance and direction provided on how agents
28 should be handled on the ground. On this, the de Silva
29 Reviews and Operation Kenova speak with one voice; it

1 was woefully inadequate.

2
3 For the police, and as I have mentioned, such guidance
4 that did exist was based on a Home Office circular
5 issued in 1969. A central tenet of that circular was:

12:11

6
7 "No member of a police force and no police informant
8 should Counsel, incite or procure the commission of a
9 crime."

12:11

10
11 For FRU, the relevant authority was found in the 1986
12 Directive that I mentioned before the break which was
13 issued by the Commander of Land Forces. This provided:

14
15 "All operations are to be conducted within the law and
16 members of the FRU shall remain subject to Military and
17 Civilian law at all times."

12:11

18
19 The accompanying instructions stated that:

20
21 "It is unlawful for any person to authorise an illegal
22 act."

12:11

23
24 The obvious flaw with both of these documents is that
25 for an agent to be of use he or she had to join a
26 paramilitary organisation and had to participate in its
27 activities. It was impossible to do this without
28 committing criminal acts.

12:12

1 It appears that there was, at some level, an appeal to
2 a common law principle that an informer who commits
3 such an act for the purpose of preventing it would not
4 be committing a criminal offence. And we saw that
5 reflected in the words of Geoff, the FRU handler that
6 we quoted earlier today.

12:12

7
8 Sir Desmond found this an unconvincing justification
9 given the range of activities contemplated of agents in
10 Northern Ireland.

12:12

11
12 The situation was widely recognised to be
13 unsatisfactory. Between 1987 and 1993, the RUC and the
14 Security Service supported at least, at some points, by
15 the Army repeatedly and firmly raised the need for
16 further guidelines. Their views were supported by the
17 reports of the Stalker, McLachlan, Stevens I and
18 Belloch investigations and reviews. In those six
19 years, which saw the murder of Patrick Finucane, the
20 public revelation of the role of Brian Nelson and the
21 ongoing activities of Stakeknife, the matter was
22 discussed in numerous briefing papers, numerous
23 submissions, two Working Groups and a Cabinet
24 sub-committee. No solution was agreed. Draft
25 guidelines were prepared and to some extent they were
26 adopted by the agencies, but these lacked formal
27 approval and were considered by many to be
28 insufficient, as a legislative solution was required.
29 That did not come until the passage of a Regulation of

12:13

12:13

12:13

1 Investigatory Powers Act in 2000.

2
3 Sir Desmond considered the lack of guidance and of
4 legal clarity to be at heart of a political failing,
5 which resulted in those running agents lacking training 12:14
6 and lacking support. The CO of FRU, at the time of
7 Patrick Finucane's murder, spoke of "wilful neglect" by
8 successive Government who, in his view, reaped the
9 political rewards of FRU's work but:

10
11 "deliberately failed to address the need for a more
12 complete legal framework and more detailed guidance."
13

14 In the Interim Report of Operation Kenova, Jon Boutcher
15 wrote the following: 12:15

16
17 "The lack of a proper framework for the security forces
18 to operate within and the absence of oversight and
19 governance are underlying failures and had dire
20 consequences both for agents and for those they came 12:15
21 into contact with."

22
23 "Those in the security forces involved in recruiting,
24 handling and managing agents during the Troubles, were
25 expected to penetrate while being instructed in their 12:15
26 training and guidelines that agents could not commit
27 crime. This was a charade with the official and formal
28 position that agents could not commit crime being
29 delivered in training whilst on the ground agents were

1 inevitably members of proscribed organisations
2 routinely involved in terrorism."

3
4 That Sir, is what Jon Boutcher said in the Interim
5 Report of Operation Kenova. As I mentioned earlier 12:16
6 Sir Desmond came to a similar conclusion and he said
7 that the failure to provide a sound legal basis for
8 agent-running in Northern Ireland was:

9
10 "a wilful and abject failure by successive 12:16
11 Governments."

12
13 I turn, Sir, to the second of the topics on which I'm
14 going to address you. You may be relieved to hear the
15 last that I will be addressing you on for the moment at 12:16
16 least, which is the provision of information and
17 assistance by members of the security forces to
18 loyalist paramilitaries.

19
20 I will look, Sir, at the analysis that Sir Desmond de 12:16
21 Silva undertook of the nature and the scale of this
22 issue, looking first at the quantity of material and
23 assistance provided; then at the source of the leaks
24 and of the assistance; and then, finally, at the nature
25 of the material and the assistance it provided. I will 12:16
26 then consider the response of the security forces and
27 the conclusions that Sir Desmond drew.

28
29 Before I turn to those matters, it is important to

1 stress the limitations of the exercise that Sir Desmond
2 undertook, he acknowledged these limitations expressly.
3 He looked at two classes of documents; FRU Contact
4 Forms which recorded Brian Nelson's reporting about
5 security force links to the UDA in the period between 12:17
6 1987 and September 1989; the second source of material
7 was a compendium compiled by the Security Service about
8 leaks from members of the security forces to loyalist
9 paramilitaries in the same period, 1987 to 1989 and
10 that was drawn from human and technical sources. It 12:17
11 was compiled in October 1989 following the announcement
12 of the first Stevens Inquiry.

13
14 Those two sources, as Sir Desmond expressly
15 acknowledged, are not comprehensive. He was not 12:18
16 seeking to understand every single instance in which a
17 leak occurred. He was, instead, in his words, seeking
18 a strategic overview of the prevalence and nature of
19 assistance given by members of the security forces to
20 loyalist paramilitaries. It is important, therefore, 12:18
21 Sir, that when I quote figures, these are not taken to
22 be the final number of such instances that took place,
23 they are most certainly not.

24
25 On the quantity of material: Sir Desmond's analysis 12:18
26 based on those two categories of documents, identified
27 270 separate instances of assistance provided by
28 members of the security forces to loyalist
29 paramilitaries between 1987 and September 1989. That

1 amounts to an average of around two a week.

2
3 The majority of the recorded leaks appeared to relate
4 to different members of the security forces providing
5 assistance to the UDA, not just a few individuals
6 producing material in bulk, and that is supported by
7 evidence that Brian Nelson himself didn't cultivate a
8 particular source and, instead, relied on a variety of
9 leaked information between members of the security
10 forces and members of the UDA.

12:19

12:19

11
12 Given the limitations of his sources, Sir Desmond
13 concluded that these figures were, in his words:

14
15 "Likely to represent only a small sample of a wider
16 problem."

12:19

17
18 They were, inevitably, weighted towards leaks to the
19 UDA in the West Belfast area where Brian Nelson
20 principally operated.

12:19

21
22 Other published works have reported instances of
23 information being shared and assistance provided
24 elsewhere in Northern Ireland. One source, who was
25 described by the authors of a book, as a UVF commander
26 is quoted as saying that intelligence documents were
27 "more common than beer mats."

12:20

28
29 An assessment by the Security Service in 1985 concluded

1 :
2

3 "The UDA had thousands of items of intelligence
4 material and 85% of this was drawn from security force
5 records."
6

12:20

7 The flow of information appears to have increased after
8 the Anglo-Irish Agreement in November 1985 and
9 Sir Desmond concluded that a proportion of intelligence
10 material held by the UDA that originated from security
11 forces "remained largely unchanged" by the time of
12 Patrick Finucane's murder. As I have said on the
13 Security Service analysis in 1985 it was 85% of that
14 material came from the security forces.
15

12:20

12:21

16 Looking at the sources of this material, if we could
17 have on screen, please, document 1, page 259. This is
18 Figure 10 from the de Silva report. We can see there,
19 Sir, that Sir Desmond has represented his findings about
20 the material that he identified. In 41% of occasions
21 he was unable to work out which element of the security
22 forces the material came from, but you can see there
23 the big proportions of the other 59%; 8% came from the
24 Army, and this is used to describe the regular Army as
25 distinct from the UDR. 27% is said there to come from
26 the UDR and it is significant that the UDR, the Ulster
27 Defence Regiment, was for locally recruited and locally
28 based regiment, its membership was drawn from the same
29 communities from which the UDA drew its membership.

12:21

12:21

1
2 19% is listed there as coming from the RUC with an
3 additional 4% from the Special Branch of the RUC and
4 that being the branch concerned with intelligence of
5 paramilitary activity. 1% is here characterised as 12:22
6 "other" and it's not clear what that represents because
7 Sir Desmond expressly found no evidence to suggest
8 leaks from the Security Service in this period.

9
10 Turning to the types of information shared, and we'll 12:22
11 go down to Figure 11. We can see that the largest type
12 is targeting information, which generally consisted of
13 security force documents or oral information being
14 passed to loyalist paramilitaries to provide details of
15 an individual suspected of being a member of the 12:23
16 Provisional IRA. In addition to that, 25% is vehicle
17 registration checks and Sir Desmond says that while he
18 separated this out for the purpose of the analysis,
19 much of the point of providing a vehicle registration
20 check would be to assist with target information. 12:23

21
22 "Operations information", we understand that to mean
23 information about operations that the security forces
24 were going to conduct, including against loyalist
25 paramilitary groups, tip-offs, in other words. 12:23

26
27 "Equipment" includes instances where weapons were
28 provided to members of the security forces, by members
29 of the security forces to loyalist paramilitaries. We

1 can see there, Sir, the different levels. 49%
2 targeting information, 25% vehicle registration checks,
3 10% operations information, 5% equipment and 11% that
4 Sir Desmond categorised as other.

5
6 It is worth repeating, Sir, the general conclusion that
7 Sir Desmond was referring to "a small sample of a wider
8 problem."

9
10 Further information about the types of intelligence and 12:24
11 assistance comes from what will be referred to as Brian
12 Nelson's intelligence dump. This is a collection of
13 materials that Nelson gathered and which he provided to
14 his FRU handlers. It was later recovered and examined
15 by the Stevens investigation. It shows the type of 12:24
16 material that Nelson was able to obtain from sources in
17 the security forces. It included photographs of
18 individuals that could be used for targeting purposes.
19 And as we will hear, that's an important element of
20 what happened in respect of Patrick Finucane. 12:25

21
22 Sir Desmond found that these were "normally"
23 photographs taken in police custody. This does not
24 necessarily mean that they were provided by RUC
25 officers because those photographs would be shared with 12:25
26 other members of the security forces to aid in their
27 ability to identify suspected paramilitaries.

28
29 Also contained within Nelson's intelligence dump were

1 what are described as 'P file cards.' Those are cards
2 which contain information about a specific individual.
3 A FRU file note made following the provision of the
4 intelligence dump by Nelson to FRU said that it
5 included "500 A4 RUC P file cards" and British Army P 12:25
6 file cards. Again, those types of cards would be
7 shared with other members of the security forces.

8
9 The intelligence dump also included military maps and
10 it had some examples of RUC witness statements and 12:26
11 Garda reports.

12
13 Nelson told the Stevens I investigation in 1990 that
14 information obtained from the security forces was:

15 12:26
16 "Classed within the UDA as High Grade information as
17 having originated from those sources."

18
19 So, it was given this heightened status to which I
20 referred earlier. It was thought to be reliable. 12:26

21
22 Turning to the context of the leaks and the response to
23 those leaks. Sir Desmond was at pains to emphasise
24 that those within the security forces providing
25 information to loyalist paramilitaries represented a 12:26
26 small proportion of the total personnel. In 1989 there
27 were over 11,000 full-time RUC officers and 1,600 in
28 the part-time Reserve. There were nearly 3,000
29 full-time personnel in the UDR and a similar number in

1 the part-time Reserve. There were also 11,200
2 personnel serving in the regular British Army in
3 Northern Ireland. Both Sir Desmond and Sir
4 John Stevens concluded that some degree of leakage of
5 information and some degree of assistance was
6 inevitable. However, that is not the same as
7 concluding that the scale described above was
8 inevitable.

12:27

9
10 Sir Desmond was highly critical of the response of the
11 security forces to the scale and the seriousness with
12 which they took the leaks. He identified only limited
13 action being taken. In respect of the regular Army,
14 there were two leak investigations in the mid-1980s led
15 by the Security Service. The first resulted in an Army
16 officer who was under suspicion being sent back to
17 England, the second could not identify the culprit.
18 Sir Desmond thought those inquiries were "rigorous" and
19 "genuine," but they were only two examples.

12:27

12:28

20
21 In respect of the UDR, several members of the UDR were
22 convicted of criminal offences for handling material
23 that was likely to be of use to terrorists. However,
24 Sir Desmond's overall conclusion was;

12:28

25
26 "The action taken was minimal in view of the scale of
27 the problem. "

12:28

28
29 For the RUC, the PSNI undertook a review of all

1 personnel records between 1982 and 1989 that they held
2 and they found only one investigation into an officer
3 leaking information to loyalists. An important caveat
4 to that is the PSNI found it difficult to trace
5 disciplinary records from this period, so there may
6 have been others.

12:29

7
8 It is also right that the RUC used other channels, not
9 just disciplinary action, to try to tackle the issue of
10 leaks, and PSNI can provide 36 examples of such action
11 being taken. However, Sir Desmond found that, for the
12 majority of RUC leaks, he was unable to find any record
13 of any investigation or any action being undertaken.

12:29

14
15 Neither Sir Desmond, nor the Stevens investigation
16 found any evidence that action was taken in response to
17 the discovery of Nelson's intelligence dump, that was
18 made available to FRU in October 1987. This was a
19 particular concern for Sir Desmond because he said that
20 the material in the intelligence dump-

12:29

12:29

21
22 "...would itself have illustrated the scale of Security
23 Force information in the hands of the UDA."

24
25 In Sir Desmond's view, the scale of the problem was
26 sufficient for Ministers to have been informed about
27 it. However, he found that, with sparse exceptions,
28 they were not. Even when the issue became a source of
29 public concern in autumn 1989, there was a tendency

12:30

1 from the Chief Constable and the General Officer
2 Commanding to play down the significance of the leaks.
3 In Sir Desmond's view, the Nelson intelligence dump
4 should have made it clear that material of significant
5 intelligence value had been provided to the UDA, and 12:30
6 this included material that could be, and was, used to
7 target and to murder people.

8
9 Sir Desmond's overarching conclusion was as follows:

10
11 "I am satisfied that leaks to loyalist paramilitaries 12:30
12 were not institutional in the sense that there was an
13 official or unofficial policy or strategy to authorise
14 the provision of information to such groups. However,
15 there was certainly an institutional failure on the 12:31
16 part of the RUC and the UDR to take the necessary
17 action to tackle the issue of leaks prior to the
18 Stevens I investigation. Both the RUC Special Branch
19 and Army intelligence were fully aware of the extent of
20 leaks, but the action taken to combat such leaks was, 12:31
21 in my view, inadequate in view of the scale of the
22 problem."

23
24 You, Sir, will be able to form your own view on this
25 matter and no doubt Core Participants will wish to 12:31
26 address you on it as well.

27
28 I turn now, Sir, to Ms. Townshend who is going to speak
29 to you about the understanding of the role of Brian

1 Nelson.

2 CHAIR: Thank you, Mr. Hill.

3
4 ADDRESS BY MS. TOWNSHEND

5
6 MS. TOWNSHEND: Thank you, Sir. Understanding the role
7 of Brian Nelson, the West Belfast intelligence officer
8 for the Ulster Defence Association, UDA, and an agent
9 of the British Army's secret Force Research Unit, FRU,
10 is central to this inquiry. This presentation
11 considers the publicly available material surrounding
12 the fact of Nelson's recruitment and most significantly
13 his re-recruitment by FRU, as well as the consequences
14 of placing a man with his antecedents in a position
15 where he could gather, organise and disseminate
16 targeting intelligence for loyalist terrorists whilst
17 also acting as an agent of the State.

18
19 Sir Desmond de Silva QC in his 2012 report assessed
20 that the effects of Nelson's recruitment and
21 re-recruitment were undoubtedly grave. He found that
22 Nelson played some part in at least four murders, that
23 of Terence McDaid, Gerard Slane, James Pratt ('Jim')
24 Craig and Patrick Finucane, ten attempted murders and
25 numerous conspiracies to murder.

26
27 Journalists John Ware and Geoff Seed, relying on free
28 files and Nelson's own journal, put the figure higher
29 suggesting involvement in 15 murders, 15 attempted

1 murders and 62 conspiracies to murder.

2
3 In January 1992, Nelson pleaded guilty to five counts
4 of conspiracy of murder, 11 accounts of possession of
5 documents likely to be useful to terrorists, three 12:34
6 counts of collecting information useful to a terrorist
7 organisation and one count of possession of firearms
8 with intent.

9
10 A Security Service agent who had direct dealings with 12:34
11 Nelson sometime after Nelson's arrest commented this to
12 his handlers:

13
14 "Nelson is a bad bastard unreliable and dangerous. I
15 could have told you this a long time and saved you all 12:34
16 a lot of trouble."

17
18 John Ware described the trouble that followed Nelsons
19 re-recruitment into FRU in early 1987 as a;

20 12:34
21 "...case study in the perils of an agent-running
22 operation freighted with foreseeable risk."

23
24 Sir Desmond determined that FRU must bear
25 responsibility for Nelson's targeting activity when a 12:34
26 FRU agent, whether or not in a particular case he
27 shared his full state of knowledge with handlers.

28
29 Sir Desmond records the Commanding Officer of FRU,

1 A05's comments at Nelson's trial:

2
3 "Whatever Nelson may or may not have done throughout
4 the period of time with the UDA since 1987 he would not
5 have done it had we in the FRU not reinstated him in 12:35
6 the UDA in the first place."
7

8 The nature of Nelson's involvement in
9 Patrick Finucane's murder and whether there is evidence
10 that his involvement and others could have been 12:35
11 prevented in Mr. Finucane's murder if those risks were
12 foreseen, is significant to this Inquiry's Terms of
13 Reference.
14

15 This presentation will proceed in four parts. First, 12:35
16 it considered Nelson's background and recruitment and
17 what was known about Nelson at the time, particularly
18 his involvement in very serious sectarian violence, the
19 kidnap and torture of Gerard Higgins. Second, examines
20 the available evidence concerning the circumstances of 12:36
21 Nelson's re-recruitment in 1987. Thirdly, I will go on
22 to consider conclusions made regarding the effect of
23 Nelson's position on the UDA's targeting capacity.
24 And, finally, I'll address Nelson's activities between
25 1987 and 1989 including specific murders, attempted 12:36
26 murders and conspiracy to murder. And in particular,
27 the recurring question of whether intelligence derived
28 from Nelson was used to prevent attacks, or instead,
29 allow targeting activities to continue.

1
2 The starting point is Nelson's background and the
3 circumstances of his first recruitment by FRU. Brian
4 Nelson was from the Shankill Road area of Belfast and
5 after periods in the Royal Navy and British Army he 12:36
6 joined the UDA in 1972. Shortly after, Nelson acted as
7 a ringleader, according to the prosecution at his
8 trial, in the abduction and torture of Gerard Higgins,
9 a partially sighted man, in March 1973. Nelson and two
10 other men kidnapped Mr. Higgins, took him to a UDA club 12:37
11 where he was beaten, set on fire and electrocuted. He
12 was apparently being led away to be executed as an Army
13 patrol intervened and he was taken immediately to
14 hospital. His injuries were so severe that he was not
15 expected to live. Although he survived he was mentally 12:37
16 scarred. His daughter told Sir Desmond:

17
18 "My father never recovered from this horrendous ordeal.
19 His life was left in tatters, his faith in humanity
20 destroyed." 12:37

21
22 In February 1974 Nelson was sentenced to seven years
23 imprisonment for firearms offences, intimidation and
24 assault occasioning actual bodily harm committed in
25 March 1973, against Mr. Higgins. 12:37

26
27 Nelson first contacted the Army a decade later in May
28 1984 to offer his services as a source of intelligence.
29 He told his FRU handler that the UDA once, "necessary"

1 had "grown evil" and was behind more of the criminal
2 activities in Protestant areas. He was then run by
3 FRU's East DET attachment in East Belfast as an agent
4 within the UDA until he left Belfast for west Germany
5 in October 1985. During that first period as a FRU 12:38
6 agent, Nelson became a significant source. He met his
7 handlers 60 times over 17 months and was paid more than
8 £2,000 which is £6,730 in today's money, in a 17-month
9 period.

10
11 During that first period as a FRU agent, Nelson was 12:38
12 involved in two further other serious incidents, which
13 along with the Higgins case Sir Desmond found, ought to
14 have acted as "major warning signs" which "should have
15 been clearly apparent to both the FRU and the Security 12:39
16 Service." Indeed, the Commanding Officer of FRU gave
17 evidence at Nelson's trial that he:

18
19 "Obviously looked at previous files and therefore, were
20 made aware of previous activities." 12:39
21

22 These activities included firstly the case of T/27.
23 Sir Desmond found that Nelson played a pivotal role in
24 the targeting and the attempted murder of T/27, a Sinn
25 Féin councillor on 27th September 1985. Sir Desmond 12:39
26 stated that this:

27
28 "...provides a clear example of Nelson's propensity for
29 involvement in very serious violent crime during the

1 first period as a FRU agent."

2
3 The contemporaneous Contact Forms record that, by
4 September 1985 thanks to Nelson's intelligence, at a
5 time that T/27 was attacked, FRU was "fully aware" that 12:39
6 T/27 was a target for the West Belfast UDA.

7
8 Also,

9
10 "That L/28 was a lead commander for the planned attack. 12:40
11 That the UDA had identified T/27 and that he left his
12 house between 7:15 and 7:30 every morning, and that
13 Nelson had positively confirmed T/27's identity in a
14 recce."

15 12:40
16 Despite FRU having this detailed intelligence the
17 Military Intelligence Source Report, MISR for short,
18 recorded only that:

19
20 "The UDA continued to target [T/27]." 12:40
21

22 Sir Desmond concluded that:

23
24 "Had the more detailed information from the Contact
25 Form been circulated more widely, and had the RUC 12:40
26 Special Branch been willing to act on the information,
27 it could have facilitated more effective preventative
28 measures being taken in relation to the planned
29 attack."

1
2 Sir Desmond also found there was no documentary basis
3 for concluding that T/27 was warned or protected before
4 the attack, despite what he described as the "very
5 significant amount of information that was passed by 12:41
6 the FRU to the RUC Special Branch regarding the threat
7 to T/27."

8
9 The second "major warning sign" in respect of Nelson's
10 recruitment was Nelson's involvement in the UDA's 12:41
11 attempts to obtain arms in 1988. Sir Desmond
12 determined that-

13
14 "There is no doubt that Brian Nelson visited South
15 Africa in 1985 to discuss the putative shipment of the 12:41
16 UDA."

17
18 And that in light of the FRU's Contact Forms and
19 Security Service documents, both FRU and the Security
20 Service were fully aware of Nelson's visit and 12:41
21 discussions with arms dealers there.

22
23 Sir Desmond also found that rather than facilitating
24 the rearming of loyalist, as has been alleged, the aim
25 of the Security Service was to intercept and seize the 12:42
26 weapons. However, Justice Cory in his collusion report
27 expressed a different view. Having examined the
28 relevant Contact Forms from July and September 1985, he
29 found that "the Army appears to have at least

1 encouraged Nelson in his attempt to purchase arms in
2 South Africa for the UDA."

3
4 Justice Cory also finds that the evidence was "frail
5 and contradictory" relating to the completion of the
6 arms transaction but highlights it-

12:42

7
8 "...to demonstrate the trust that has been reposed in
9 Nelson by FRU."

10
11 Sir Desmond found that Nelson's:

12:42

12
13 "Confidence in dictating a stipulation [that one
14 shipment should be let through, which was Nelson's
15 stipulation], would suggest that he wished to have a
16 significant and perhaps unhealthy degree of control
17 over the exploitation of his intelligence."

12:42

18
19 Furthermore, Sir Desmond recalled evidence, that
20 although Nelson was rebuked by his handlers for his
21 behaviour and told "no more freelancing," the covering
22 text of the Contact Form significantly underplays the
23 seriousness of this incident. The Contact Form simply
24 stated that Nelson had a, "tendency to be a little over
25 enthusiastic."

12:43

12:43

26
27 Sir Desmond concluded on this point:

28
29 "It seems to me that for an agent of the State without

1 any reference to his handlers to be seeking to
2 instigate an arms purchase from an international
3 terrorist group is significantly more serious than just
4 a 'little' overenthusiasm."

12:43

6 Now I'm going to turn to Nelson's re-recruitment in
7 1987. In his report, Sir Desmond sought to emphasise
8 the importance of viewing Nelson's activities
9 throughout 1987 and 1989, in light of the fact that he
10 was re-recruited and consciously infiltrated into the
11 UDA, by the FRU, in 1987, and that this was despite his
12 involvement in serious sectarian violence, an attempted
13 murder on a Sinn Féin councillor, and his involvement
14 in an international arms shipment.

12:43

15
16 Sir Desmond found:

12:44

18 "The subsequent running of Brian Nelson as an Army
19 agent is a matter that has caused me grave concern,
20 which had the net effect of serving the UDA's capacity
21 to target and attack republicans."

12:44

23 The Lawyers Committee for Human Rights concur,
24 describing Nelson as bringing "new order and
25 professionalism to the UDA information gathering." The
26 Lawyers Committee for Human Rights recite a Contact
27 Form from May 1988, which is also detailed in
28 John Ware's book, in which he says:

12:44

1 "Since 6137...", Nelson's agent number, "...took up his
2 position as intelligence officer, the targeting has
3 developed and is now much more professional."

4
5 The BBC reported that with FRU assistance, Nelson
6 introduced a system in which all details about a
7 possible UDA target was recorded on a personality card
8 or a P card which you'll hear me refer to later. This
9 would then be handed to the murder team in the UDA.

12:45

10
11 Judge Cory records that the primary source material for
12 these P cards consist of photo montages and written
13 information from either the military or the RUC. In
14 his 1990 statement, Nelson estimated that 90% of the
15 material he worked with had come from the Ulster
16 Defence Regiment.

12:45

12:45

17
18 Sir Desmond drew a number of conclusions from the
19 evidence concerning Nelson's re-recruitment by the FRU.
20 The first was that FRU actively and determinedly
21 re-recruited Nelson. In October 1985 Nelson had left
22 Belfast for West Germany to work as a floor layer but
23 only a few months later in December 1985 the FRU had
24 already met him to seek to re-recruit him. FRU and
25 Security Service officers attempted to meet Nelson in
26 person in West Germany, telephoned him and met him at
27 in person at Heathrow Airport. Although seemingly
28 reluctant at first citing family reasons, Contact Forms
29 and Nelson's own journal suggest that he had changed

12:45

12:46

1 his mind. He described himself as "being bitten by a
2 bug" and becoming, "...enmeshed in a web of intrigue,
3 conspiracies, confidences, danger and the power of
4 being aware of things that others around you aren't."

12:46

5
6 Clearance for Nelson's re-recruitment went up the
7 Army's chain of command. A05, the commander of FRU,
8 Sir Desmond says:

9
10 "Briefed the Commander of Land Forces and ACOS G2,
11 Assistant Chief of Staff of the Army's intelligence
12 section on the case and outlined the Security Service
13 interest."

12:47

14
15 Sir Desmond found that the FRU actively pursued Nelson
16 in order to persuade him to rejoin the UDA with a view
17 of gaining the position of intelligence officer. As
18 Sir Desmond remarked this was unusual since in the more
19 typical scenario an individual is already positioned
20 within a terrorist organisation. "Such was FRU's
21 determination to recruit him," they pursued him for a
22 number of months and offered him a substantial
23 financial deal in February 1987 to return to Northern
24 Ireland from west Germany.

12:47

12:47

25
26 A/05 had sought HQ approval for £7,200 in capital
27 expenditure to give Nelson a house plus £200 in monthly
28 payments. Sir Desmond highlighted the financial
29 benefit that Nelson received as an MOD employee. He

12:47

1 was paid a total of £24,428 which is £108,297 in
2 today's money, from the point of his re-recruitment in
3 1987 until his arrest in January 1990.

4
5 The second conclusion was that Nelson's re-recruitment 12:48
6 was sanctioned by very senior members of the British
7 Army and security forces. Sir Desmond established
8 that:

9
10 "Both ACOS G2 and the CLF, Major General Jeapes, were 12:48
11 directly involved in and sanctioned, A/05's attempts to
12 re-recruit Nelson as a FRU agent. The Director General
13 of the Security Service, Sir Anthony Duff, had also
14 been involved in the discussions about his
15 re-recruitment." 12:48

16
17 According to documentary records studied by Sir
18 Desmond, the Security Services were heavily involved in
19 discussions about Nelson's re-recruitment and perhaps
20 most significantly, Sir Desmond observed the security 12:49
21 Services:

22
23 "Never raised with the FRU any of the key concerns that
24 they should have had about Nelson, namely, his previous
25 involvement in sectarian violence, his involvement in 12:49
26 the attempted murder of T/27 and his willingness to act
27 as an Agent Provocateur."

28
29 A third conclusion was that, as already set out, there

1 are major warning signs that were obvious to FRU and
2 the intelligence services. In addition to the cases of
3 Higgins and T/27 and the South African arms shipment,
4 which I have already detailed, Sir Desmond highlights a
5 further warning sign, that is the extent to Nelson's
6 contribution to the UDA's intelligence capacity, which
7 would have been obvious to FRU. Sir Desmond found that
8 the UDA's intelligence capacity appears to have
9 significantly weakened, was significantly weakened, by
10 Nelson's departure to Germany. He noted:

12:49

12:49

11
12 "Immediate concerns within FRU as to whether Nelson
13 might in fact improve the UDA's intelligence capacity
14 if he returned."

12:50

15
16 In an FRU Contact Form dated 3rd January 1986, it said
17 this:

18
19 "L/28 admitted that the int. [intelligence] had 'gone
20 downhill' since source's departure. In actual fact the
21 UDA are still unable to use the intelligence files
22 created by Nelson on the computer because he has
23 withheld part of his password."

12:50

24
25 The fourth of Sir Desmond's conclusions concern FRU's
26 priorities when re-recruiting Nelson. Sir Desmond took
27 the view that FRU's aim was to install him as an
28 intelligence officer for the UDA and that the UDA's
29 targeting was to be centralised through him.

12:50

1 Sir Desmond considered the FRU's priority was to
2 protect Nelson's security rather than protect lives.

3
4 Judge Cory was of the same view finding Nelson's
5 "involvement in violent activities was of concern to 12:51
6 his handlers only to the extent that this exposed him
7 to risk of apprehension by police."

8
9 Sir Desmond refers to "a particularly significant
10 section in a Contact Form dated 20th April 1987." A/07 12:51
11 recorded that:

12
13 "In the past, when Nelson targeted people for the UDA
14 he, of course, would be aware that the victim would be
15 'hit' sometime or another and based on his information. 12:51
16 However, he never knew the identity of the 'hit' team
17 or actually when they would strike. It is hoped that
18 these arrangements will continue as long as it leaves
19 Nelson virtually above suspicion if a job goes wrong."

20 12:51
21 Sir Desmond found this entry particularly significant
22 since it showed that-

23
24 "rather than the use of Nelson's intelligence to
25 prevent loss of life, the FRU's priority appeared to be 12:51
26 Nelson's security."

27
28 The MOD's own internal problem areas document written
29 by A/05's successor, Sir Desmond finds, could be

1 interpreted as Army approving of paramilitary murders.
2 This is a theme that appears and reappears in many of
3 the publicly available sources which I will return to.
4

5 Sir Desmond's fifth conclusion was that, as Mr. Hill 12:52
6 has already set out, Nelson was acting in a position
7 equivalent to an MoD employee. Sir Desmond concluded
8 that Nelson's-

9
10 "subsequent actions as an agent of the State must be 12:52
11 seen in this light."
12

13 I'm now going to turn to those subsequent significant
14 actions and that is the specific targeting activities
15 of Brian Nelson between 1987 and 1989. 12:52
16

17 Sir Desmond's study of Nelson's activities between
18 these dates is best approached through the analysis of
19 the most significant examples, although I have cited
20 and explained all of the 15 examples Sir Desmond 12:53
21 examined in the written opening which will follow.
22

23 The key themes that can be established are as follows;
24 Firstly, the significance of Nelson's role in
25 strengthening UDA targeting; Secondly, occasions on 12:53
26 which FRU failed to pass important intelligence to RUC
27 Special Branch; Thirdly, RUC's failure to act on FRU or
28 Nelson intelligence and warn those targeted for attack;
29 and fourthly, Nelson's institutional reaction after

1 those murders or attempted murders by the UDA, and what
2 they tell us about the motivations of Nelson, and those
3 that handled him.

4
5 I will start by looking at the murder of 12:53
6 Terence McDaid. Terence McDaid was murdered by the UDA
7 on 10th May 1988 having been mistaken for his brother,
8 Declan McDaid. Sir Desmond found that Nelson played a
9 "pivotal role" in the targeting. He and L/27 chose
10 Declan McDaid as a target and carried and on Nelson's 12:54
11 later account checked the electoral register and
12 supplied L/22 with a P card containing Declan's
13 photograph.

14
15 Sir Desmond also found that the FRU were "fully aware" 12:54
16 that Nelson had played an important role in the murder,
17 by providing the address used by the UDA hit team but
18 that Nelson only reported his most recent targeting
19 actions after the murder when the security services
20 were in no position to protect Terence McDaid. 12:54

21
22 Sir Desmond considered FRU's reaction to the murder
23 particularly troubling. Despite Nelson's
24 self-confessed central role, the FRU showed:

25 12:54
26 "...no concern at all, expressed no warning,
27 admonishment or alarm and instead appeared to reassure
28 Nelson by linking Terence McDaid to the Provisional IRA
29 although he had no terrorist connection."

1 The Contact Form dated 11th May 1988 cited in the De
2 Silva report included the following comments from his
3 handler -- please can I ask you to bring up document 1
4 page 153, it's paragraph 7.133. Thank you.

5
6 "6137", which is Nelson, "...telephoned this office
7 four times between 00:41 and 01:27 hours on 11th May
8 '88 feeling depressed as he thought his targeting had
9 led to the wrong person being shot dead. He was
10 referring to the shooting of Terence McDaid earlier 12:55
11 that evening instead of Declan McDaid. 6137 thought
12 the victim was an innocent Catholic and needed
13 reassurance. Handler expected source to be depressed
14 at the meeting. Once 6137 had discovered that Terence
15 was traced as Provisional IRA he was quite content." 12:56

16
17 Thank you.

18
19 Sir Desmond also considered it of grave concern that
20 the RUC took no action to warn or protect 12:56
21 Declan McDaid, Terence McDaid's brother, that was not
22 killed, this was despite FRU intelligence indicating
23 that there was also a serious threat to his life.
24 Nelson pleaded guilty in 1992 to the [conspiracy to]
25 murder of Declan McDaid and was sentenced to 10 years 12:56
26 in prison.

27
28 I will now turn to the murder of Gerard Slane described
29 by Sir Desmond as FRU's most serious failure to pass on

1 intelligence. Gerard Slane was murdered by the UDA on
2 23rd September 1988. Sir Desmond was satisfied that
3 Nelson played a key role in the murder and described
4 the case as-

5
6 "the most serious example of the FRU failing to pass on
7 important intelligence to the RUC SB prior to a UDA
8 attack taking place."

9
10 Nelson had told handlers on 12th September 1988 that he 12:56
11 had checked the electoral register and provided his
12 address to Thomas 'Tucker' Lyttle, a high-ranking UDA
13 member, and L/28. This was translated into an MISR
14 which alerted the RUC SB to the fact that the UDA were
15 targeting Mr. Slane. More seriously, on 21st September 12:57
16 1988, two days before the murder, Nelson reported that
17 the UDA and Nelson in particular, were intensively
18 targeting Mr. Slane. The MISR raised only after the
19 murder in Sir Desmond's view was-

20
21 "remarkably vague and non-specific," omitting Mr. Slane 12:57
22 had been singled out, that Nelson had confirmed his
23 address from the electoral roll and a recce of Mr.
24 Slane's home was intended.

25
26 Please can I ask you to bring up document 1, page 157, 12:57
27 para 7.156. Thank you.

28
29 The MISR dated 23rd September 1988 merely recorded:

1 "West Belfast UDA interested in all IPLO members in
2 Belfast. They want three attacks to be carried out on
3 IPLO members before the end of October which will be
4 claimed collectively by the UFF."

12:58

5
6 Thank you. The aftermath is also significant for this
7 inquiry. Despite the RUC later being told directly in
8 a MISR, only ten days after Mr. Slane's murder by FRU
9 that L/20 had planned the murder, no steps were taken
10 to arrest him or other suspects identified by Nelson.
11 L/20 was never arrested in connection with Mr. Slane's
12 murder and later played a critical role in directing
13 and organising the murder of Patrick Finucane. Nelson
14 entered a plea of guilty in 1992 to the collection of
15 information likely to be of use in a terrorist attack
16 in relation to this attack.

12:58

12:59

17
18 I'll now turn to the murder of James Pratt Craig.
19 Mr. Craig, a longstanding UDA member, suspected to have
20 links with the Provisional IRA was murdered by the UDA
21 on 15th October 1988. Sir Desmond used this murder to
22 illustrate two themes; first, the flow of information
23 from RUC Special Branch to the UDA and, secondly, the
24 reaction of FRU handlers after the murder in which
25 Nelson's targeting material had been instrumental.

12:59

12:59

26
27 Sir Desmond found that from at least June 1987, the RUC
28 Special Branch ran an operation designed to discredit
29 Mr. Craig by feeding information to the UDA about his

1 Provisional IRA links. The Contact Form dated 1987
2 provided by the RUC Special Branch to the UDA is
3 important in this respect. Please could I ask that to
4 be brought up. It's page 160, paragraph 7.168.

13:00

5
6 Nelson reported on a conversation with the member of
7 the UDA as follows;

8
9 "[the member of the UDA] went on to say that the source
10 in Special Branch had confirmed that James Pratt Craig
11 was living with [a member of the Provisional IRA]."

13:00

12
13 Thank you. Nelson then helped produce a document about
14 the possibility of someone in the UDA providing
15 information to the Provisional IRA, which L/28 agreed
16 "pointed the finger at Craig." Sir Desmond de Silva
17 records that the Contact Form dated 11th July 1988
18 provided a lengthy account of Nelson's attempts to
19 convince senior UDA figures that Craig was guilty of
20 talking to the Provisional IRA.

13:00

13:01

21
22 After Mr. Craig's murder, Sir Desmond observed that
23 important intelligence, including two RUC intelligence
24 source reports identifying those responsible, was
25 withheld from the CID murder investigation and in fact
26 marked "CID not informed."

13:01

27
28 The Contact Form dated 17th October 1988 recorded that
29 Nelson, after the event-

1 "was in good spirits at the meeting since his document
2 was instrumental in a case against Craig and his
3 execution. Nelson was somewhat dismayed that handlers
4 had not brought a celebration drink to the meet but
5 handler explained this was not right to celebrate 13:01
6 anyone's death in such a way. This was an excuse and
7 had handler known that 6137 [that's Nelson] efforts had
8 contributed then perhaps a drink would have been
9 taken."

10
11 I'll now turn to the murder of Thomas Keenan:

12
13 Sir Desmond found that Nelson conducted repeated
14 recces, proposed Keenan as a target to the UVF,
15 suggested a method of assassination, a car bomb, and 13:02
16 provided L/20 with details, a photograph and a forged
17 student card to assist a recce. 37 MISRs were sent
18 containing information about Keenan's targeting
19 including reports that an attack was imminent yet there
20 were no Threat Book entries and no evidence that 13:02
21 Mr. Keenan was warned that his life was in danger.
22 Sir Desmond also noted, although did not resolve, the
23 suggestion that some information about Mr. Keenan was
24 being provided to the UDA by RUC contacts. This
25 information included a policeman telling 'Tucker' 13:02
26 Lyttle that they were aware that they were targeting
27 Mr. Keenan but that Nelson had the wrong first name.
28 Also included the RUC telling L/41 that the local RUC
29 station reacted slowly to shootings of Provisional IRA

1 members and that the RUC's supplying detailed
2 information concerning Keenan's weekly meetings at
3 university. In 1992 Nelson pleaded guilty to
4 conspiracy to murder Mr. Keenan and was sentenced to 10
5 years imprisonment and terrorist related offences.

13:03

6
7 I'll now turn to attempts to murder Alex Maskey on 22nd
8 May 1987 and 17th July 1988:

9
10 Sir Desmond regarded Nelson's involvement in targeting
11 Alex Maskey between 1987 and 1989 to be considerable.
12 Indeed, Sir Desmond cites the prosecution at Nelson's
13 trial as in agreement. Nelson's activities:

13:03

14
15 "Could only be construed as demonstrating not only
16 willingness but indeed determination on the part of
17 Nelson that an attack be made on Maskey."

13:03

18
19 Sir Desmond recalls that in order to facilitate the
20 attacks Nelson looked for L/28, L/22 and L/03 and when
21 he found the latter, he travelled back to the first
22 club that Nelson had been to and met with L/20 and
23 Kenneth Barrett, which is, of course, key to this
24 inquiry.

13:04

25
26 Mr. Maskey had just left the hotel before L/20 and
27 Mr. Barrett had arrived with a gun. Nelson telephoned
28 his handlers on 18th July 1988 to report that
29 Mr. Maskey had been seen at the hotel and that an UDA

13:04

1 hit team had missed him by 20 seconds and if Maskey was
2 seen there the following Sunday another attempt could
3 be made. L/01 asked Nelson to tell the west Belfast
4 brigade UDA to carry out a close quarters attack.

13:04

6 Despite a MISR dated 18th July 1988 stating that
7 Mr. Maskey had become a priority target, a further full
8 debrief contained no mention of the attempted murder of
9 Mr. Maskey. Nelson then performed a series of recces
10 and subsequently passed the targeting information on to L/20. 13:05

13 Nelson put together an information pack on Sinn Féin
14 members in Belfast which included Mr. Maskey. In April
15 Nelson suggested to L/04 of the UVF that Thomas Keenan 13:05
16 and Alex Maskey were in fact better targets than T/02.
17 L/04 agreed and asked for all of Nelson's information
18 on Mr. Maskey. Nelson took L/04 to Mr. Maskey's house
19 and the florist where Mr. Maskey picked up his wife and
20 in July Nelson suggested a list of republicans to L/28 13:05
21 which included again Mr. Maskey, whom he considered
22 good targets for a car bomb.

24 Nelson's handler confirmed that although the car
25 registration Nelson provided for Mr. Maskey was not 13:06
26 registered to him, it was-

28 "Probably used by him though."
29

1 Significantly, Sir Desmond finds that:

2
3 "It is difficult to conceive of a clearer example of
4 the FRU apparently being prepared to assist the UDA
5 with their targeting activities of known individuals
6 rather than acting to save their lives."

13:06

7
8 Sir Desmond noted that some 20 MISRs were issued
9 containing information regarding Mr. Maskey's targeting
10 however, again there were no entries in the RUC Threat
11 Book and the John Stevens team found no evidence that
12 Mr. Maskey was provided with any warnings on the basis
13 of Nelson's intelligence.

13:06

14
15 Nelson pleaded guilty to conspiracy to murder
16 Mr. Maskey in January 1992.

13:06

17
18 There are numerous other examples provided by
19 Sir Desmond de Silva which I have set out in detail in
20 our written note and they demonstrate the same pattern
21 concerning Nelson's central role in UDA targeting.
22 They also demonstrate FRU's failure to pass on material
23 intelligence to the RUC Special Branch and the RUC's
24 failure to act on that intelligence. I will turn to
25 three of those examples now.

13:07

13:07

26
27 First, the attempted murder of T/28 on 18th August 1988
28 and the targeting of T/29, T/28's brother. Sir Desmond
29 found that Nelson took part in surveillance on T/28 and

1 repeatedly reported to FRU that the UDA were targeting
2 T/28 and T/29, including plans for a close quarter
3 attack and possible use of a bomb on the brothers' van,
4 and that the "job" was likely to, "take place pretty
5 soon." Sir Desmond identified no RUC Threat Book
6 entries originating from Nelson's intelligence and
7 again no record of either brother being warned.

13:07

8
9 Second, I want to look at the conspiracy to murder
10 Brian Gillen from November 1987 to October 1989.

13:08

11 Sir Desmond established that Nelson carried out recces,
12 briefed the UVF and reported continuing plans to attack
13 Mr. Gillen including on 3rd March 1988 and the attack
14 would go ahead, "sooner rather than later." Nelson
15 claimed in an interview with John Ware that his
16 handlers gave him information too and on this occasion
17 they gave him Mr. Gillen's address because his handler
18 wanted to convince him that it was too dangerous to
19 stake out. Sir Desmond recites this allegation in his
20 report but does not appear to make a determination on
21 this issue.

13:08

13:08

22
23 Thirty MISRs were sent out but there were no RUC threat
24 book entries originating from Nelson's intelligence and
25 Mr. Gillen was only warned later, apparently for
26 reasons unconnected with Nelson's intelligence. Nelson
27 pleaded guilty to conspiracy to murder Mr. Gillen and
28 was sentenced to 10 years imprisonment.

13:09

1 Third, I will look at the attempted murder of T/14 on
2 7th December 1987. Sir Desmond noted that in November
3 1987 Nelson had reported to his handlers that L/22 had
4 picked T/14 from a list which was passed to the RUC
5 Special Branch the same day. Nelson admitted to the 13:09
6 Stevens investigation that he prepared a P card and
7 passed intelligence to L/22, before gunmen shot through
8 T/14's door. Sir John Stevens found no evidence again
9 of any attempt to warn T/14.

10
11 To conclude this section of the presentation; taken
12 together, these murders, attempted murders and
13 conspiracies to murder show the central themes
14 identified by Sir Desmond. First, that Nelson's
15 re-recruitment materially enhanced the UDA's targeting 13:09
16 capacity; second, that the FRU often used substantial
17 details about the targeting activity and even more
18 significantly passed targeting information to Nelson;
19 third, that important intelligence was sometimes not
20 passed on adequately or properly; and lastly, that 13:10
21 intelligence which did reach RUC Special Branch
22 frequently did not result in RUC Threat Book entries,
23 warnings or other effective protection.

24
25 Sir Desmond found that the most troubling examples were 13:10
26 not isolated errors but a repeated acceptance of
27 foreseeable risk while Nelson's position and security
28 were preserved. This raises important questions for
29 this inquiry regarding the FRU and security agencies'

1 priorities and willingness to accept foreseeable risks
2 for perceived operational gains during this period.

3
4 Sir, I note the time. I know we've five minutes to go
5 before the break, I wonder if that is a convenient
6 time. 13:11

7 CHAIR: If it is for you, Ms. Townshend, yes. Thank
8 you very much. We'll come back at 1.55. Thank you,
9 everybody.

10
11 THE HEARING ADJOURNED FOR LUNCH AND CONTINUED AS
12 FOLLOWS:

13
14
15 CHAIR: Thank you all for coming back. As you'll have 13:55
16 gathered, the timetable's fairly tight today. Don't
17 worry if you don't get back in time but we'll probably
18 start on time. Don't worry about being late. The
19 current projection is that we may be running 15 minutes
20 behind time which is actually quite good. It may mean 13:55
21 that we'll end rather than half past four or quarter to
22 five a quarter of an hour later than that, but that too
23 is fine. I have asked Counsel to the Inquiry just to
24 break this afternoon at a time that's convenient for
25 them on the basis that we'll see it through by quarter 13:56
26 to five or five o'clock. Thank you, Ms. Townshend.

27 MS. TOWNSHEND: Thank you, Sir. I'm now going to turn
28 to the second part of my presentation which is the use
29 made or not made of intelligence provided by Brian

1 Nelson.

2
3 This part considers the publicly available material
4 concerning the extent to which the intelligence
5 provided by Brian Nelson was, and was not acted upon by 13:56
6 the FRU, RUC, Special Branch, Army chain of command and
7 the Security Service. I will first identify the
8 central disputes between the FRU and the RUC about
9 whether usable intelligence was passed on. Then focus
10 on Sir Desmond de Silva's conclusion that both 13:56
11 positions left an "accountability gap."
12

13 Sir Desmond considered that both the Army and the RUC
14 had prior notice of planned UDA attacks but effective
15 protection was rarely taken. Against that background, 13:57
16 this part of our opening addresses Nelson's motivation,
17 his dissemination of targeting material, the provision
18 of targeting information by handlers, the failure to
19 restrain him despite criminal activity, limited counter
20 measures taken to protect targets and the wider 13:57
21 responsibility of senior Army officers and the Security
22 Service.
23

24 I will start by outlining FRU's position. The party's
25 positions were starkly opposed. FRU, through its 13:57
26 Commanding Officer, A/05, maintained that Nelson was
27 used to obtain detailed intelligence about UDA
28 targeting and passed it on to the RUC SB through MISRs
29 so that the RUC could frustrate attacks, save lives and

1 make arrests.

2
3 A/05's position was that Nelson's intelligence was,
4 "detailed, clear and exploitable", and if attacks were
5 prevented responsibility lay with the RUC -- sorry, 13:58
6 were not prevented, responsibility lay with the RUC
7 rather than FRU.

8
9 A/05's overall aim was said to frustrate loyalist
10 paramilitarism. A/05 in his 2002 statement to Stevens 13:58
11 2 stated:

12
13 "FRU's aim was always to get sufficiently detailed
14 information to allow the RUC not only to prevent
15 substantive crime also to arrest the terrorist and thus 13:58
16 cause attrition to the organisation."

17
18 The RUC by contrast contend that the FRU withheld the
19 information needed to protect those under threat. Sir
20 Desmond recorded evidence from Sir John Hermon, the 13:58
21 former Chief Constable, as well as RUC Source Unit
22 officers who questioned whether all relevant
23 intelligence was passed on. Others at the RUC Source
24 Unit described Nelson as a "low level informant" which
25 Sir Desmond finds may explain why the RUC did not act 13:59
26 on it.

27
28 I turn now to did Sir Desmond's conclusions on what he
29 called the accountability gap.

1
2 Sir Desmond was not satisfied that Nelson was in fact a
3 low-level informant. He was, he concluded, at the
4 heart of the most dangerous UDA brigade and
5 sufficiently trusted to attend UDA Inner Council 13:59
6 meetings providing FRU with a wealth of information
7 relating to actionable targeting. Sir Desmond
8 identified serious inconsistencies in the RUC's
9 evidence about Nelson's value. Brian Fitzsimons, the
10 deputy head of Special Branch between 1987 and 1989 13:59
11 described Nelson as "an agent of major importance" and
12 that, "There was a regular flow of information from
13 Nelson."

14
15 However, this contradicts a previous private comment 14:00
16 made by him that Nelson was, "being badly handled and
17 poorly exploited," as well as comments in a 1991 report
18 to the Director of Public Prosecutions (Northern
19 Ireland) that, "a considerable percentage of Nelson's
20 reporting was not passed to the police." 14:00

21
22 Assistant Chief Constable Fitzsimons in his report to
23 the DPP said this:

24
25 "Nelson's intelligence was always heavily caveated by 14:00
26 the Army to emphasise its sensitivity and the
27 importance of source protection has to be borne in mind
28 whenever action was taken. Additionally it was
29 frequently of an historic nature which postdated the

1 incident investigation but not specific operational
2 action. On occasions it was found to be erroneous or
3 in conflict with other source material."

4
5 These incongruities led Sir Desmond to express serious 14:00
6 concerns about the accuracy of the RUC's claim that
7 Nelson lacked value as an agent.

8
9 Sir Desmond's extensive review of MISRs, the RUC Daily
10 Intelligence Book and oral reporting, broadly supported 14:01
11 the FRU's contention the significant intelligence from
12 Nelson was regularly passed to the RUC. He found no
13 example from 1987 to 1989 of a meeting with Nelson that
14 did not result in a MISR being sent to the RUC. And,
15 also, identified threat intelligence relating to more 14:01
16 than 400 individuals.

17
18 The Daily Intelligence Book contained 219 entries
19 relating to Nelson's information, including material
20 provided to the RUC Special Branch on average every 14:01
21 four to five days. Sir Desmond describes figures as
22 demonstrating that a significant quantity of
23 intelligence from Nelson, that is 28% of intelligence
24 he produced, related to UDA targeting as opposed to 58%
25 of general intelligence. 14:02

26
27 Sir Desmond also accepted Justice Cory's point that
28 Special Branch paid little attention to the FRU's
29 report. Sir Desmond rejected the claim that MISRs

1 were;

2
3 "Diluted to such an extent they prevented the RUC from
4 taking any positive action to protect lives."

5
6 Having evaluated the nature of the intelligence held by
7 the FRU in advance of the UDA attacks, alongside
8 intelligence held by the RUC in advance of each attack,
9 he concluded that the evidence broadly supports A/05's
10 claim, that's the Commanding Officer of FRU, that a
11 significant amount of exploitable intelligence was
12 passed by the FRU to the RUC. I will now look at FRU's
13 responsibility.

14
15 Sir Desmond concluded that FRU should have known that
16 the RUC were taking little or no action on the vast
17 majority of Nelson's intelligence. The standard caveat
18 on a MISR supplement required consultation with the OC
19 East DET FRU before action was taken because RUC, could
20 affect FRU sources. Yet FRU personnel and the MoD said
21 they did not see it as their role to check whether the
22 RUC acted on intelligence.

23
24 Sir Desmond found no evidence that FRU raised concerns
25 with the RUC after attacks that Nelson had predicted or
26 facilitated and that that pattern, Sir Desmond
27 comments, made it unlikely that the FRU were unaware of
28 the non-exploitation of Nelson's reporting.

1 significantly for this inquiry, Sir Desmond notes that
2 in the Contact Form dated 10th January 1989, a month
3 before Patrick Finucane's murder, A13, Nelson's
4 handler, emphatically accepted that exploitation of
5 Nelson's intelligence had been minimal. This was 14:03
6 reinforced by the conclusion in the FRU's annual report
7 on Nelson which was dated January 1989 where it
8 significantly described exploitation as "nil."

9
10 Sir Desmond accepts that the RUC's attitude towards FRU 14:04
11 was a factor but not a critical factor in the failure
12 to exploit Nelson's intelligence as Justice Cory found.
13 Interestingly, Sir Desmond records that from his
14 analysis of the RUC Threat Book that the RUC were
15 taking effective action when the intelligence provided 14:04
16 by the FRU were from republican agents concerned with
17 Security Force personnel. Support for this contention
18 is provided by ACOS G2, that's the Assistant Chief of
19 Staff of the Army's intelligence section to the General
20 Officer Commanding the GOC privately in 1991 after 14:04
21 Nelson was arrested. Please can I ask you to turn to
22 document 1, page 811, paragraph 5(c) in the middle of
23 the page, thank you. We can see there what is said at
24 (c):

25 14:04
26 "Were the RUC operating a policy of selective action
27 dependent upon an individual's record?"

28
29 And then looking down to (e):

1
2 "Failure to maintain records of actions taken in this
3 sensitive area is indicative of gross inefficiency or a
4 deliberate attempt to conceal the nature and extent of
5 operations mounted by the RUC. Could the RUC weather 14:05
6 an investigation into the possible negligence of this
7 Special Branch to take appropriate action to save
8 lives? Probably not."

9
10 Sir Desmond then addresses the question, was Nelson out 14:05
11 of FRU's control? Crucially Sir Desmond concluded that
12 although Nelson withheld information from his handlers,
13 he was not operating as an agent out of control. The
14 key question was whether FRU tasked Nelson to target
15 Provisional IRA figures as an intelligent strategy 14:05
16 designed to distract the UDA and enable counter
17 measures or whether, as NGO suggested, FRU had a
18 military objective to steer loyalist violence towards
19 republican targets regarded to be threats to the State.

20 14:06
21 British Irish Rights Watch described FRU's rationale as
22 bizarre given that FRU's actions did not in fact save
23 lives alleging its actions amounted to "State murder by
24 proxy."

25 14:06
26 John Ware similarly questioned whether FRU's real
27 priority was saving lives or preserving agent
28 intelligence. Although he regarded Sir Desmond's
29 reasons for rejecting a proxy assassination strategy as

1 fair counters, he nevertheless described the strategy
2 as "reckless" particularly given FRU's own
3 acknowledgement that, "Nelson initiates most of the
4 targeting."

5
6 Sir Desmond ultimately gave A/05, the commander of FRU,
7 stated explanation that FRU's objective to was save
8 lives and frustrate loyalist paramilitary activity, the
9 benefit of the doubt. He did so because he found that
10 there was some precedent for distraction tactics
11 because FRU passed a substantial volume of Nelson's
12 intelligence to the RUC, because a deliberate proxy
13 assassination strategy would likely have required more
14 direct and current targeting assistance from FRU and
15 because the UDA in fact killed few leading republicans.
16 However, that did not absolve FRU in Sir Desmond's
17 eyes.

18
19 John Ware records that Sir Stevens in his investigation
20 also finding that;

21
22 "Decisions were made on the basis of expediency rather
23 than life saving."

24
25 Judge Cory similarly considered that Nelson's
26 criminality concerned handlers mainly because it risked
27 Nelson's arrest.

28
29 Sir Desmond agreed that the FRU placed a very high

1 priority on what was described as source protection.

2
3 Sir Desmond remained highly critical of FRU's handling
4 of Nelson and reached what he described as an
5 inescapable conclusion. This was that;

14:07

6
7 "The FRU acquiesced in or turned a blind eye to the
8 fact that Nelson's targeting could and did lead to
9 people being attacked and killed by the UDA. Nelson
10 continued to be retained as an Army agent despite the
11 illegal nature of his targeting."

14:08

12
13 Sir Desmond found that long before Patrick Finucane's
14 murder the consequences of Nelson's actions would have
15 been obvious to FRU. Despite Nelson's role in the
16 murders of Terence McDaid and Gerard Slane, Nelson
17 continued to be employed as an agent. A/02, one of
18 Nelson's handlers, told the Stevens I investigation
19 that it was FRU's policy never to retire an agent.

14:08

20
21 John Ware reports that one of Nelson's handlers said to
22 the Stevens I investigation that he could think of no
23 scenario where Nelson's involvement in criminality
24 would have been sufficient for the FRU to desert him.

14:08

25
26 Sir Desmond's view was that Nelson;

27
28 "Clearly should have been stood down or withdrawn by
29 FRU in these circumstances."

14:08

1
2 Sir Desmond and the Director of Public Prosecutions
3 (Northern Ireland) found that on occasion FRU's
4 handlers indication was not only consistent with the
5 interpretation that they wished to facilitate Nelson's 14:09
6 targeting of republicans. But Judge Cory goes a step
7 further and describes Army handlers and their
8 superiors;

9
10 "Turning a blind eye to the criminal acts of Nelson." 14:09
11

12 And in doing this they created a pattern of behaviour
13 that could be described as collusive.

14
15 In terms of higher up the chain, Sir Desmond concluded 14:09
16 that it was never suggested that senior officers were
17 aware at the material time of the extent to which
18 Nelson was involved in criminality. However, he says,
19 "there was a signal failure by the Army to ensure that
20 the chain of command adequately monitored the Nelson 14:09
21 case, particularly in light of the concerns raised by
22 Security Service officers over the targeting of Gerry
23 Adams in 1987." This is something that I will come on
24 to.

25 14:09
26 In terms of the responsibility of the Security Service
27 this issue can be dealt with shortly. The Security
28 Service role will be addressed elsewhere in this
29 presentation by Mr. Jamieson. For present purposes the

1 key points is that Sir Desmond found no evidence of
2 collusive acts by the Security Service but did conclude
3 that it failed adequately to discharge its advisory and
4 coordinating responsibilities in relation to Nelson and
5 the FRU.

14:10

6
7 I'll now move on to Sir Desmond's overall conclusions
8 on Nelson's conduct.

9
10 In summary, Sir Desmond's conclusions were that:

14:10

11
12 1. Nelson was motivated by a desire to assassinate
13 republicans, not save lives.

14
15 2. Nelson's dissemination of targeting material of the
16 UDA and UVF substantially increased the UDA's targeting
17 capacity and thus deaths. And more concerning, was
18 the dissemination of information which originated from
19 his handlers and what they told him.

14:10

20
21 3. That the FRU very rarely took counter measures to
22 protect UDA targets.

14:10

23
24 4. The Army failed to provide adequate supervision of
25 Nelson.

14:11

26
27 5. The Security Service failed to carry out adequate
28 advisor and coordinating duties and finally,
29

1 6. That the RUC Special Branch did nothing to prevent
2 a series of murders and attempted murders which the FRU
3 had been given prior notice of.
4

5 I'll start by addressing Nelson's motivation: When 14:11
6 carrying out targeting for the UDA, Sir Desmond
7 determined that Nelson was;
8

9 "Motivated by a desire to see what he perceived to be
10 legitimate 'republican targets killed.'" 14:11
11

12 However, Sir Desmond went on to find;
13

14 "Given the nature of the tasking he received from the
15 FRU, Nelson was unlikely to believe that there was any 14:11
16 distinction between his objective targeting supposedly
17 legitimate republican targets on the one hand and the
18 objectives of the FRU on the other."
19

20 Sir Desmond roundly rejected the Commanding Officer of 14:11
21 FRU A/05's evidence at Nelson's trial and that Nelson
22 simply;
23

24 "...wished to help the Army in its attempts to counter
25 terrorism and save lives." 14:12
26

27 Sir Desmond observed that Nelson's desire to see what
28 he perceived as legitimate targets killed is clear when
29 examining specific murders that he was involved in,

1 some of which I have referred to already. These are
2 the murders and attempted murders of Terence McDaid,
3 T/02, Alex Maskey and Thomas Keenan. A similar point
4 could also be made about James Pratt Craig, a UDA
5 member murdered due to his perceived associations with 14:12
6 the Provisional IRA.

7
8 I will now turn to targeting. Sir Desmond concluded
9 that Nelson's;

10 14:12
11 "...actions materially increased the targeting
12 activities of the UDA and, therefore, furthered their
13 murderous objectives."

14
15 Sir Desmond was; 14:12

16
17 "...particularly concerned by the fact that on occasion
18 Nelson's FRU handlers provided him with information
19 that was subsequently used for targeting purposes."

20 14:13
21 This, he found, was;

22
23 "...indicative of handlers in some instances
24 deliberately facilitating Nelson's targeting of
25 Provisional IRA members." 14:13

26
27 Dissemination:

28
29 Nelson's role in the distribution of targeting material

1 to other loyalist paramilitaries is not in question
2 given his conviction in January 1992 of several
3 murders. The question for Sir Desmond, then, was
4 whether the FRU knowingly permitted Nelson to engage in
5 the dissemination of targeting material and if so,
6 whether there was any justification for it.

14:13

7
8 Sir Desmond concluded that Nelson's dissemination of
9 targeting across the UDA and UVF was:

10
11 "A sustained and consistent course of conduct."

14:13

12
13 Support for this can also be found in the Stevens
14 inquiries which recovered Nelson's P Cards from no
15 fewer than 12 loyalist "intelligence dumps" one as far
16 away as Derry/Londonderry. John Ware reports the FRU
17 records document which show that on 16 occasions when
18 Nelson gave copies in bulk of his P cards to the UDA or
19 the UVF.

14:13

20
21 An incident of particular concern to Sir Desmond was
22 recorded in a Contact Form of 20th October 1987. In
23 that form, it stated that Nelson was specifically
24 tasked by his handlers to;

14:14

25
26 "Copy all UDA targeting files and computer floppy
27 disks."

14:14

28
29 Sir Desmond found that since the FRU had already

1 received copies of Nelson's intelligence dump a week
2 before on 14th October 1987, that this raised the
3 possibility that FRU explicitly were tasking Nelson to
4 copy material for the purposes of dissemination to
5 other UDA members. Indeed, the same Contact Form
6 recorded that during a UDA meeting in October 1987, he
7 told the assembled company that as of the following day
8 he would have updated all available targeting
9 information and it would be available when required.

14:14

10
11 Sir Desmond concludes from this, that although he
12 cannot be sure whether FRU tasked Nelson to copy the
13 intelligence dump for the purposes of disseminating it,
14 the Contact Form makes clear that FRU were aware of
15 Nelson's intentions to hand over targeting material to
16 other UDA members.

14:15

17
18 In addition, Justice Cory records Nelson's 1990
19 statements in the Stevens investigations in which he
20 says FRU kept photocopies of his P cards and knew that
21 these documents were being provided to other members of
22 the UDA. Sir Desmond held that it would have been
23 reasonable to expect Nelson's handlers to advise him as
24 the best means of minimising and controlling the
25 distribution of this targeting information especially
26 given FRU's stated aim as frustrating terrorist
27 activity.

14:15

14:15

14:15

28
29 Sir Desmond found that it must have been abundantly

1 clear that Nelson's aims in proliferating the material
2 were criminal in nature. Sir Desmond considered that;
3 "By disseminating the material so extensively he
4 effectively relinquished control over it."

14:16

6 This consideration is mirrored by the author who was
7 probably A16, a successor to A/05, the commander of
8 FRU, in an internal MoD problems area document who
9 commented that:

14:16

11 "The spreading of such material greatly enhanced the
12 UDA's potential for murder with no possible warning
13 from Nelson. The handlers make no comment on this
14 action."

14:16

16 There is further support for this in John Ware's
17 analysis. Upon examination of the 16 occasions in
18 which Nelson gave P cards to the UDA or UVF Ware found
19 no record of Nelson's handlers or co-handlers
20 restraining or admonishing him for the inevitable
21 consequences and Ware's own examination of the
22 documents dozens of names, later recovered by Sir
23 John Stevens from Nelson's intelligence dump, were the
24 victims of attempted murders.

14:16

14:17

26 In these circumstances, Sir Desmond held, it was
27 incumbent on FRU to ensure that Nelson fully reported
28 to them and that his reporting was exploited by the RUC
29 to frustrate terrorist activity and save lives.

1 Sir Desmond determined that within six months of
2 rejoining the UDA, Nelson had made a significant impact
3 in increasing the UDA's targeting capacity.

4 Importantly, for this inquiry, Justice Cory similarly
5 highlighted that by February 1989, six days before
6 Patrick Finucane's murder, Nelson's handler noted that;

14:17

7
8 "Nelson initiates most of the targeting though it is
9 often unclear whether the targeting has been completed
10 and attack is to take place. Of late Nelson has been
11 more organised and is currently running an organisation
12 against selected republican personalities."

14:17

13
14 Sir Desmond observes that despite FRU having advanced
15 warning of Nelson's actions, they appear to have placed
16 no restrictions on his dissemination of targeting
17 information. He finds;

14:18

18
19 "FRU's handling of him was characterised by a
20 willingness to allow him to engage in such activity
21 without proper control."

14:18

22
23 At Nelson's trial in 1992 FRU's Commanding Officer
24 revealed there were no guidelines for undercover
25 agents' activities. Stevens III investigation found
26 that;

14:18

27
28 "Informants and agents were allowed to operate without
29 effective control and to participate in terrorist

1 crimes."

2
3 Even more dangerously, Sir Desmond held Nelson further
4 disseminated targeting material to the Ulster Volunteer
5 Force, the UVF. He found that;

14:18

6
7 "It should have been apparent to all concerned that
8 distributing such material beyond the confines of his
9 organisation, the UDA, would to all intents and
10 purposes amount to a total abandonment of control over
11 the use to which it was put."

14:18

12
13 Nelson himself acknowledged the danger of the UVF,
14 describing the UVF's quartermaster as "an absolute
15 animal", a "psychopath".

14:19

16
17 Sir Desmond concluded that Nelson provided assistance
18 to the UVF in targeting Mr. Keenan and Mr. Maskey, whom
19 I've already mentioned, because he actively desired
20 their murder. Nelson commented to his handler;

14:19

21
22 "It is better that the UVF do it than no one."

23
24 Sir Desmond notes that far from admonishing Nelson for
25 exchanging targeting information with the UVF, A13
26 appeared actively to be welcoming it and he commented:

14:19

27
28 "If this is successful, it will enhance Nelson's
29 standing with L/28, particularly if the UVF carry out

1 an attack on one of the targets for which Nelson
2 supplied the information."

3
4 Detective Superintendent Vince McFadden, senior
5 investigating officer for the first Stevens
6 investigation, identified there was;

14:19

7
8 "Ample evidence the UVF was living off Nelson and
9 increasing its strike rate as a result."

10
11 Sir Desmond finds that FRU appear not to have sought to
12 restrict or curtail Nelson's activity and they continue
13 to employ him which shows at least tacit approval of
14 his activity. He observes that Nelson's repeated
15 failures to provide his handlers with the names of
16 persons whose details had been proliferated, and the
17 failure of Nelson's handler to admonish him for failing
18 to provide that information or even asking for it meant
19 that his actions could not help to protect those who
20 were threatened.

14:20

14:20

14:20

21
22 On occasion, Sir Desmond finds;

23
24 "It seems to have gone much further than that, if not
25 to the point of actively encouraging his activity."

14:20

26
27 There is also an important question of whether targeted
28 information flowed the other way round, that is from
29 Nelson's handlers to him. Sir Desmond considered that

1 if in fact information was passed to Nelson that could
2 assist the UDA in its targeting activity it would cause
3 serious doubt on the Commanding Officer of FRU's stated
4 aims for running Nelson since such activity would place
5 individuals at grave risk of assassination. It was the 14:21
6 role of handlers to receive information from agents and
7 as Judge Cory notes, it was policy for good reason that
8 dictated handlers would not supply their agents with
9 information. If a handler provided information that
10 facilitated operations of terrorist organisations he or 14:21
11 she would run the risk of becoming an accomplice in
12 those activities.

13
14 Sir Desmond made a clear finding that between October
15 1987 and April 1989, FRU handlers did share target 14:21
16 information with Nelson on occasions. Sir Desmond
17 considered that the comments made by FRU officers to a
18 security officer in June 1988 in a memo dated 11th July
19 1988 demonstrate that Nelson was perceived as having
20 sought to use FRU as a source of intelligence on 14:22
21 republicans and, therefore, in Sir Desmond's view it
22 must have been abundantly clear to FRU handlers that
23 Nelson would use any intelligence gained from them to
24 further this objective.

25 14:22
26 Please can we bring up that memo from July 1988, it's
27 document 1, page 816, halfway down the page at
28 paragraph 2 please. We can see there it says:
29

1 "In addition, FRU admitted that 6137 (Nelson) was not
2 completely frank and honest since he takes his UDA
3 intelligence role seriously, does not necessarily pass
4 FRU all details of justifiable actions and, to an
5 extent, he may attempt to use his agent role to gain
6 intelligence from FRU."

14:22

7
8 Thank you. Sir Desmond concluded that on at least four
9 occasions during 1988 Nelson was provided with
10 targeting information from his handlers. These
11 include, firstly, in March 1988 Nelson was given two
12 vehicle registration numbers, VRNs, relating to Patrick
13 McGeown, T/03 and T/06 by FRU to pass to L/26 for
14 checking which had been requested by the RUC Source
15 Unit. Nelson then passed this information to 'Tucker'
16 Lyttle and asked it to both Mr. McGeown's and T/03
17 index cards or P cards. Sir Desmond found this to be a
18 clear example of Nelson instigating the targeting of an
19 individual and using information provided to him by the
20 security services.

14:23

14:23

14:23

21
22 Second, FRU passed on information relating to Brendan
23 Hughes, a well known member of the Provisional IRA.
24 Contact Forms from March 1988 demonstrate that
25 Mr. Hughes's VRN was provided to Nelson, this was
26 passed on to several members of the UDA, including
27 L/26, a UDA brigadier. A telephone Contact Form
28 recorded that on 22nd March 1988 which was between
29 Nelson and his handler, A/13, shows that the handler

14:23

1 confirmed Mr. Hughes's address as well the VRN.

2
3 Sir Desmond's findings are clear; the only credible
4 interpretation of these circumstances were;

5
6 "The FRU handler consciously wished to facilitate
7 Nelson's targeting of a republican figure."

8
9 He finds this (a), that the results of vehicle checks
10 shared by the FRU with Nelson were then used for
11 targeting purposes; and (b), vehicle details shared by
12 the FRU and the RUC in order to help them identify a
13 source of leaks, although it was a valid objective was
14 highly dangerous, and again, led to the vehicle details
15 being used by the UDA for targeting purposes.

16
17 Nelson himself in his journal and reportedly in his
18 interviews with John Ware, claimed that his handlers in
19 E DET Fru actively assisted him in targeting potential
20 victims. This finds some support in information
21 provided in the Contact Forms and the telephone Contact
22 Forms seen by Sir Desmond.

23
24 Firstly, in the summer of 1987 a senior FRU handler
25 suggested to Nelson that the UDA should start a bombing
26 campaign in the Republic of Ireland, in particular, the
27 oil terminal outside Cork. Although Sir Desmond
28 comments that the relevant Contact Forms do not
29 corroborate this allegation.

1 Secondly, in mid August 1987, when 'Tucker' Lyttle
2 asked Nelson for information about David Clinton, he is
3 suspected of targeting John McMichael, Ware says that
4 Nelson's handler told Nelson the address Nelson had for
5 Clinton was wrong.

14:25

6
7 In relation to the targeting of T/26, A/02 told him;

8
9 "Not to go near T/26 house and he would get a
10 photograph for me and I could give L/49, the UVF
11 officer commander, the complete targeting pack."

14:26

12
13 The journal goes on to alert that A/02 subsequently did
14 an outline of T/26's house.

14:26

15
16 Nelson also claimed that FRU gave him Brian Gillen's
17 address, another republican targeted by the UDA.
18 Sir Desmond sets out this claim in his report but does
19 not seem to make any factual findings on this issue.

14:26

20
21 A telephone Contact Form also shows that when Nelson
22 thought he saw Alex Maskey's car outside a restaurant
23 on 17th July 1988 his handlers told him by telephone
24 that the car was "probably" used by him.

14:26

25
26 Justice Cory provides a further example which he
27 describes as worrisome. It was an instance in which
28 handlers facilitated Nelson's targeting, which is
29 contained within a Contact Form from April 1989. The

1 Contact Form is referred to in the De Silva report.
2 However, Sir Desmond does not recite the relevant
3 extract which shows the handlers actions but Justice
4 Cory does. Justice Cory records that Nelson told his
5 handlers that he was having difficulty taking photos of 14:27
6 a UDA target's residence because of its location.
7 The handler then went so far as to conduct a personal
8 recognizance and identified the best place photographs
9 to be taken from, Justice Cory records. This
10 information was to be conveyed to Nelson at the next 14:27
11 debriefing so that he could provide a useful targeting
12 package and impress high ranking UDA officials.

13
14 Furthermore, Justice Cory reports that about the time
15 of Patrick Finucane's murder, Nelson's handlers were 14:27
16 anxious to have Nelson rise higher and have an even
17 greater influence within the UDA.

18
19 Justice Cory concludes that the significance of
20 Nelson's handler providing information is fourfold 14:28
21 since it demonstrates the handlers were aware or should
22 have been aware that:

- 23
24 1. Nelson was doing a lot of the targeting.
25
26 2. That Nelson occasionally committed crimes when
27 targeting.
28
29 3. They were not supposed to give him information.

1
2 4. The information they provided was used in targeting
3 activities.

4
5 Justice Cory describes the passing of this information 14:28
6 to assist him in targeting activities as constituting a
7 collusive act. He poses the question of how these
8 collusive acts relate to Patrick Finucane's murder. He
9 says:

10 14:28
11 "The answer to this question is twofold. First, it
12 indicates a pattern of conduct on the part of the FRU
13 handlers that should be taken into consideration.
14 Second, if, for example, a public inquiry heard and
15 accepted evidence that was similar to William Stobie's 14:28
16 statement to journalist A/05 that Nelson was
17 intelligence, and present at the meeting planning the
18 Finucane murder, then the passing of information to him
19 would become direct and telling evidence of collusion."

20 14:29
21 Even if the handlers did not furnish any information
22 relating specifically to Patrick Finucane, this breach
23 of policy is relevant in that it could be taken to
24 reveal either tacit encouragement or even active
25 facilitation of UDA operations and the targeting that 14:29
26 often led to murder, said Justice Cory.

27
28 Justice Cory goes further than Sir Desmond by
29 suggesting deliberate collusion, whereas Sir Desmond

1 finds that the passing of information from the handlers
2 to Nelson only provided so much as "material assistance
3 to Nelson" and the UDA. Justice Cory finds that there
4 is no indication that the handlers provided information
5 that was specifically related to Patrick Finucane, 14:29
6 although there is no indication that he provided
7 information specific to Patrick Finucane, the breach of
8 policy is significant since it demonstrates a pattern
9 of behaviour by handlers which "...could be considered
10 collusive." 14:30

11
12 Justice Cory seeks to build a picture. Nelson's
13 handlers were aware that he was a central player within
14 the UDA, that he had considerable influence in
15 directing targeting operations and that Nelson often 14:30
16 played a direct and active role in recognizance
17 missions. Justice Cory's report concludes;

18
19 "The provision of information to Nelson in these
20 circumstances may be seen as evidence of collusive 14:30
21 behaviour that had the potential to facilitate the
22 deadly operations planned by the UDA."

23
24 As to the accountability of State departments,
25 Sir Desmond found that the contradictory explanations 14:30
26 which have been provided make findings on
27 accountability complex. In summary, he makes the
28 following conclusions:
29

1 First, that the Security Services very rarely took
2 counter measures to protect UDA targets. Nelson was
3 tasked by FRU to target what the FRU's Commanding
4 Officer referred to as Provisional IRA activists. The
5 stated rationale for this was that these targets would 14:31
6 be more difficult to find, and therefore, take the UDA
7 longer to attack them, therefore, giving the security
8 services time to protect them. However, Sir Desmond
9 determined that this was contradicted by the evidence
10 and demonstrated that counter measures were very rarely 14:31
11 taken in response to intelligence given by Nelson.
12

13 Furthermore, Sir Desmond took the view that the
14 reaction of the FRU to Nelson's involvement in the UDA
15 attacks and murder was "wholly unacceptable." As I 14:31
16 have set out, first when the FRU handler sought to
17 reassure the troubled Nelson after the murder of Trevor
18 McDaid, the mistaken identity, by telling him that
19 Mr. McDaid was a member of the Provisional IRA.
20 Second, was when Nelson's handlers, having initially 14:31
21 expressed disapproval after the UDA murder of James
22 Pratt Craig but then suggested a celebratory drink with
23 Nelson might have been appropriate given Nelson's role
24 inciting the attack.
25

26 Sir Desmond's concluded that the Government's assertion
27 to the UN Special Rapporteur in his 1988 report, that
28 Brian Nelson information saved about 70 lives was
29 baseless. Having examined the entirety of the 14:32

1 documentation provided as a result of the Stevens
2 Investigations as well as the RUC Threat Book and the
3 Daily Intelligence Book, Sir Desmond concluded that in
4 fact action was only taken in relation to three cases
5 to protect lives as a result of Nelson's reporting. 14:32
6 The first concerned Gerry Adams as the UDA target.
7

8 Sir Desmond recorded that in May 1987 the UDA planned
9 to assassinate the President of Sinn Féin, Gerry Adams,
10 a sitting MP for Belfast West and a candidate in the 14:32
11 upcoming election. Nelson was tasked to act as a
12 trigger to the hit team. He had planned to drive upon
13 a motorcycle and plant a mine on Adams's car.

14 Sir Desmond find the security forces did take steps to
15 frustrate the UDA's planned attack by flooding the area 14:33
16 with security forces but;
17

18 "The circumstances in which the UDA aborted the plan
19 are somewhat unclear."
20

21 Sir Desmond also found that the Adams case was 14:33
22 potentially an early example of Nelson's value and used
23 in mitigation in Nelson's 1992 trial. Sir Desmond
24 cites a revealing telegraph sent by a senior security
25 officer to the London office on 21st May 1987. 14:33

26 Sir Desmond finds that this demonstrates that Nelson's
27 emerging role was clearly a cause for serious concern
28 amongst Security Service officers.
29

1 Please can I ask that we bring up that telegram,
2 please? It's page 813 and it's paragraph 3 at the
3 bottom of the page. Thank you. It says:

4
5 "We have discussed this extensively with X, he shares
6 our view that the operation threatens to get out of
7 control."

14:34

8
9 This is in relation to the Gerry Adams case:

10
11 "At the very least if 6137 [Nelson] is to be tasked by
12 the UDA with a range of projects against high profile
13 republican targets is expected to take an active part
14 in the execution he will inevitably..."

14:34

15
16 And over the page, please.

14:34

17
18 "...be blown very quickly for precious little
19 intelligence dividend."

20
21 He goes on to say:

14:34

22
23 "If his links with the Army were to get into the public
24 domain in some way (whether immediately or in the
25 future) then British intelligence and HMG could face
26 accusations of having conspired in the murder of a
27 prospective MP with all the attendant adverse
28 consequences."

14:34

1 And then slightly further:

2
3 "In short, we are perturbed that the FRU have paid
4 insufficient regard to the wider implications of this
5 operation. Indeed, it is possible that they themselves 14:35
6 have been pushing 6137 to implement the Adams plan
7 speedily as a way of reinforcing his standing with the
8 UDA. X has expressed our joint reservations in strong
9 terms to ACOS G2 and the CO of FRU have accepted them.
10 ACOS G2 has given a specific instruction that the 14:35
11 attempt on Adams must not succeed."

12
13 Thank you. Sir Desmond finds that this telegram
14 demonstrates several important points in this context.
15 First, the FRU may have been encouraging Nelson to 14:35
16 implement the Adams plan. Secondly, the apparent need
17 for both strong representations from the Security
18 Service and a specific instruction from ACOS G2 to
19 ensure an attack would be prevented. And thirdly, it
20 shows the dangers inherent in the future employment of 14:36
21 Nelson as an Army agent and should have served as a
22 warning sign of the dangers of running such an agent.

23
24 Sir Desmond wryly observes that the prediction made by
25 the security service officer that Nelson's activity 14:36
26 could lead to the State becoming implicated in
27 conspiracy to murder in the Adams case is;

28
29 "Precisely what later transpired."

1
2 The next example given by Sir Desmond of a life
3 potentially saved by Nelson is T/02. In May 1988
4 Nelson carried out recces of the place of work of T/02.
5 Nelson told his handlers that the attack on T/02 would
6 take place the following morning and that Nelson was to
7 drive the lead car to T/02's workplace. The Contact
8 Form dated 23rd May reported a security force operation
9 was put in place to prevent the attack and it was
10 aborted. However, Sir Desmond finds that he is;

14:36

14:36

11
12 "Left with some unease since there are several
13 references in the documents implying that the attack
14 was prevented by the security services only because
15 Nelson was directly involved in the lead car."

14:37

16
17 In a third case of an unnamed individual, Sir Desmond
18 held that;

19
20 "The information provided by Nelson about the targeting
21 of the individual who had assisted the police appears
22 to have prompted far greater willingness on their part
23 to take action than was ever shown in response to the
24 wealth of other threat intelligence provided to them in
25 MISRs throughout the period 1987-1989."

14:37

14:37

26
27 I have already alluded to Sir Desmond's remaining
28 conclusion that the Army failed to provide adequate
29 supervision of Brian Nelson. He concluded:

1
2 "Accountability for what went wrong in the Nelson case
3 did not solely rest with FRU and their Commanding
4 Officer. Procedural provisions were in place in the
5 Army chain of command which should have enabled senior 14:37
6 officers to supervise such cases. These were not
7 applied in relation to Brian Nelson there was,
8 therefore, a signal failure by the Army to ensure
9 adequate protection in this case."

10
11 Sir Desmond also found that the Security Service failed
12 to carry out adequate advisory coordinating duties as
13 will be discussed later on in CTI's opening.

14
15 Finally, as I previously set out, Sir Desmond also 14:38
16 found that the RUC Special Branch did nothing in
17 relation to prevent a series of murders which the FRU
18 had been given prior notice of.

19
20 Sir Desmond determined that in terms of accountability, 14:38
21 however, the most serious issue of all relates to the
22 failure of the RUC SB to respond to Nelson's
23 intelligence.

24
25 To conclude this part of CTI's opening, the publicly 14:38
26 available material demonstrates a sustained failure to
27 translate intelligence from Brian Nelson into
28 effective, protective action. Sir Desmond's analysis
29 identifies serious failings across FRU, the Army chain

1 of command, the Security Service and most gravely the
2 RUC Special Branch. Whatever the precise allocation of
3 responsibility between those agencies, the overall
4 picture is of a system in which dangerous targeting
5 information was repeatedly known to FRU and the RUC, 14:39
6 disseminated to the UDA and the UVF and insufficiently
7 acted upon with fatal consequences. This inquiry will
8 consider how FRU and other State agencies may have
9 created an environment in which Brian Nelson was able
10 to target Patrick Finucane with little oversight, 14:39
11 control or accountability.

12
13 Ms. Millar is now going to provide more detail as to
14 the RUC's failure to take action in this case against
15 the West Belfast UDA. 14:39

16 CHAIR: Thank you, Ms. Townshend.

17
18 ADDRESS BY MS. MILLAR:

19
20 MS. MILLAR: Sir, this section considers whether the 14:40
21 authorities took sufficient action to frustrate the
22 activities of the West Belfast UDA prior to the murder
23 of Patrick Finucane.

24
25 The work carried out by the Stevens III investigation 14:40
26 led to the identification of a number of key UDA
27 suspects who were believed to have been involved in the
28 murder of Patrick Finucane in addition to Kenneth
29 Barrett, Brian Nelson and William Stobie.

1
2 However, given the passage of time, there was
3 insufficient admissible evidence to prosecute any of
4 this group of additional individuals.

5
6 Counsel to the Inquiry do not assert and are not in a
7 position to assert whether the suspicions of the
8 Stevens investigators and Sir Desmond, are
9 well-founded. It is, nonetheless, necessary to
10 consider the work undertaken by Sir Desmond's review to 14:40
11 trace the involvement of a number of these individuals
12 through a series of murders and attacks by the West
13 Belfast UDA in the period prior to Patrick Finucane's
14 murder. 14:41

15
16 In this respect, Sir Desmond ultimately concluded that
17 the evidence clearly showed that the RUC had failed to
18 take action against what he described as a gang and
19 such action as the RUC did take to investigate and
20 disrupt the West Belfast UDA at this time was grossly 14:41
21 inadequate. In particular, there was intelligence
22 linking the majority of those he considered likely to
23 be involved in the murder of Patrick Finucane to a
24 number of murders and attempted murders from May 1987
25 to February 1989. 14:41

26
27 while the use of such intelligence to arrest suspects
28 was a complex task, it supposedly formed part of the
29 rationale for running agents such as Brian Nelson and

1 william Stobie in the first place. However, none of
2 the four individuals Sir Desmond considered to be
3 reliably linked to the murder of Terence McDaid in May
4 1988 and none of the six individuals linked to Gerard
5 Slane's murder in September 1988, was arrested in
6 connection with the killings.

14:42

8 Indeed, Sir Desmond considered that it was remarkable
9 that individuals such as L/20 and L/28 were not
10 arrested at any stage during this period.

14:42

12 while Sir Desmond considered that the record of the RUC
13 in arresting and bringing charges against loyalist
14 terrorists across Northern Ireland during this period
15 withstood scrutiny and was indeed disproportionality
16 better than their record against republican terrorists,
17 its response to the West Belfast UDA stood out in stark
18 contrast to that general pattern.

14:42

20 In reaching this conclusion Sir Desmond's review
21 considered the following four issues; the use of
22 intelligence to arrest terrorist suspects; the UDA
23 suspects linked to the murder of Patrick Finucane and
24 the availability of intelligence related to them; the
25 passage of information from RUC Special Branch to the
26 CID; and the exploitation of intelligence to arrest UDA
27 suspects.

14:43

29 So taking each of those matters in turn. To start, the

1 use of intelligence to arrest terror suspects; in
2 framing this issue, Sir Desmond explained that he'd
3 been mindful of the following four matters:

4
5 The first, the fact that intelligence material linking 14:43
6 an individual to an attack did not constitute evidence
7 which would be admissible in a criminal prosecution.
8 As a result, it would not necessarily be fair to
9 criticise the RUC for failing to translate intelligence
10 into prosecutions. 14:43

11
12 Second, by the late 1980s both republican and loyalist
13 terrorists had adopted a consistent strategy of
14 refusing to answer questions in police custody. Third,
15 the RUC were dealing with an unprecedented number of 14:44
16 serious crimes during this period and, fourth, the
17 intelligence must be used with care when seeking to
18 arrest and question suspects and the protection of the
19 source must be considered before exploiting such
20 intelligence. 14:44

21
22 Nevertheless, Sir Desmond observed the intelligence was
23 successfully exploited during the late 1980s to arrest
24 terror suspects and exploiting terrorists to enable the
25 investigation and arrests of suspects was an important 14:44
26 part of the rationale for running agents.

27
28 The latter was cited explicitly by A05 in 2002 as one
29 of the FRU's two key objectives in running Brian Nelson

1 as an agent.

2
3 Turning then to the second issue, namely, the UDA
4 suspects linked to the murder of Patrick Finucane and
5 the intelligence related to them.

14:44

6
7 Sir Desmond confirmed that he'd analysed the RUC's
8 actions in relation to individuals in the West Belfast
9 UDA who had been linked to Patrick Finucane's murder.
10 This included a significant quantity of intelligence
11 provided by Brian Nelson, intelligence provided by
12 William Stobie and from other sources.

14:45

13
14 Sir Desmond summarised the intelligence received in
15 respect of some of the murders and attempted murders
16 committed by elements within the West Belfast UDA in
17 1988, namely, the murders of Terence McDaid and Gerard
18 Slane and the attempted members of T/17, Patrick
19 Monaghan and James Peter Morgan, (Figure 12 of his
20 report). Sir Desmond was satisfied that these examples
21 accurately reflected the broad pattern.

14:45

22
23 So if we could have document 1 at page 325 on screen
24 please. So there we can see Figure 12. I don't
25 propose to read out each line, but we can see the first
26 table relates to the murder of Terence McDaid on 10th
27 May 1988. Then looking at the columns from left to
28 right, we can see the UDA suspect is identified, the
29 agency receiving intelligence, the date the

14:45

1 intelligence was received and, finally, its source.
2 And Sir Desmond also said in respect of each of the
3 murders and attempted murder, we can see there the same
4 in relation to the murder of Gerard Slane and this
5 continues on the next page.

14:46

6
7 The next table we can see the attempted murder of T/16
8 on 20th September 1988. And if we can keep going down,
9 the attempted murder of Patrick Monaghan on 9th
10 November 1988. And then if you keep going down,
11 finally the attempted murder of James Peter Morgan on
12 14th November 1988. Thank you very much.

14:46

13
14 In relation to that last attempted murder of James
15 Peter Morgan, Sir Desmond noted that the FRU failed to
16 pass important intelligence linking UDA suspects to the
17 attack to the RUC.

14:47

18
19 So that just gives you a sense of the volume of
20 intelligence received in relation to suspects linked to
21 the murder of Patrick Finucane.

14:47

22
23 So moving on then to the third issue, namely, the
24 passage of such information from Special Branch to the
25 CID.

14:47

26
27 Sir Desmond observed that there are no records to
28 suggest that any of the intelligence from the FRU was
29 passed by Special Branch to the CID. However, the

1 documentary evidence suggested that at least some
2 Special Branch intelligence was passed to the CID,
3 namely, two SB50 documents which recorded intelligence
4 linking L/30, L33 and L/25 to the murder of Gerard
5 Slane. Could we have the first of those documents on 14:48
6 the screen please at document 1 page 589? Thank you.
7 This is the first time that we have actually seen one
8 of these SB50 documents. We can see at Part II that is
9 the text of the report which is often redacted in
10 volume 2 of the de Silva Review. This is dated 23rd 14:48
11 September 1988 and I won't read the text in full but
12 you can see reference there to L/33, L/25 and L/30.
13 In the last line you can see reference to, "Grosvenor
14 Road murder squad," "DC Inspector CID informed."

15
16 So if we can then go over to the second of those
17 documents at page 590. And similarly you can see
18 reference to L/33, L/25 and then the penultimate line
19 says, "Grosvenor Road CID informed."

20
21 Thank you. So, similarly, Sir Desmond noted the SB50
22 which recorded William Stobie's intelligence in
23 relation to the murder of Terence McDaid noted that the
24 CID had also been informed.

25
26 while accepting that these annotations, namely, that
27 the CID had been informed, could not necessarily be
28 relied upon. Sir Desmond stated that the intelligence
29 was certainly provided to the CID in the case of

1 Terence McDaid because the information was subsequently
2 included in a CID file.

3
4 So moving on to the final issue in this respect,
5 namely, the exploitation of the intelligence to arrest 14:50
6 UDA suspects.

7
8 Sir Desmond also noted the arrest records of the UDA
9 suspects linked to Patrick Finucane's murder after
10 Brian Nelson's return to Belfast. He considered that 14:50
11 there was a marked disparity between the extensive
12 intelligence received by the RUC and the custody
13 records of the individuals linked to UDA attacks prior
14 to February 1989 and this, he illustrated this in
15 Figure 13 of his report. Could we have document 1 on 14:50
16 page 328 please on screen?

17
18 Thank you very much. That is the details of arrests of
19 UDA suspects for May 1987 to February 1989 and of the
20 eight suspects listed there four had been arrested 14:51
21 during this period, namely L/22, Kenneth Barrett on two
22 occasions, L/33 and L/30. Thank you.

23
24 Sir Desmond described the records as painting a
25 concerning picture which was likely to have been 14:51
26 repeated in relation to further attempted murders and
27 conspiracies to murder. So, none of the four
28 individuals linked to the murder of Terence McDaid,
29 none of the six individuals linked to the murder of

1 Gerard Slane was arrested in connection with those
2 crimes, nor were a number of individuals linked to the
3 three attempted murders that we looked at earlier.
4

5 Further, Sir Desmond considered that even taking into 14:51
6 account the context of time, one would expect to find
7 that most or all of the UDA suspects would have been
8 arrested on a number of occasions in connection with
9 those crimes. He did not consider that the protection
10 of sources could possibly account for the failure to 14:52
11 take sufficient action against the list of suspects.
12 In this respect he also noted that Brian Nelson himself
13 expressed surprise at the lack of action taken against
14 members of the UDA in his statement to the first
15 Stevens investigation on 3rd February 1990. 14:52
16

17 The de Silva Review requested representations from PSNI
18 as to why such individuals had not been arrested in
19 connection with the series of attacks prior to the
20 murder of Patrick Finucane. The PSNI response noted 14:52
21 that it was sometimes necessary to allow the situation
22 to develop in order to enable further evidence to be
23 gathered prior to making an arrest and that the threat
24 to the individual providing the information had to be
25 considered. Sir Desmond recognised the importance of 14:52
26 these points but concluded that that did not adequately
27 explain the failure to arrest those individuals and he
28 had been unable to find any evidence of an ongoing
29 intelligence operation which could explain why such

1 intelligence was not exploited against these
2 individuals.

3
4 Sir, that concludes the issue of the failure to take
5 action against the West Belfast UDA and that leads me 14:53
6 to the next topic that I will begin before the
7 afternoon break which is the role of RUC officers in
8 encouraging the targeting of Patrick Finucane.

9
10 It's of note that Sir Desmond did not make specific 14:53
11 findings about whether threats were in fact made to
12 Patrick Finucane by RUC officers via his clients. And
13 Sir Desmond was not persuaded that this issue would
14 significantly influence his findings. Instead, he
15 considered that the critical issue, which will be 14:53
16 explored in this section, was whether RUC officers
17 incited loyalists to attack Patrick Finucane.

18
19 In analysing this issue, Sir Desmond considered two but
20 related matters which will be discussed in this 14:54
21 presentation. First, he considered accounts provided
22 by loyalist paramilitaries who claimed that the UDA was
23 encouraged to attack Patrick Finucane by RUC officers.
24 This included Kenneth Barrett, who provided information
25 on 3rd October 1991 that the UDA received intelligence 14:54
26 on Patrick Finucane from an RUC source. After
27 analysing the surrounding evidence in detail,
28 Sir Desmond concluded that this was essentially
29 accurate.

1
2 Second, Sir Desmond considered whether RUC officers
3 proposed Patrick Finucane as a target to UDA members in
4 Castlereagh and, in particular, to L/03. In this
5 respect, Sir Desmond found that the murder was likely 14:54
6 to have been instigated as a result of suggestions made
7 by RUC officers in Castlereagh to L/03 on either 8th or
8 9th September 1988.

9
10 Sir Desmond also considered and ultimately dismissed a 14:55
11 number of separate allegations related to the RUC's
12 involvement in inciting or facilitating
13 Patrick Finucane's murder. This included Barrett's
14 accounts from 2001 onwards implicating named RUC
15 officers, including an officer he referred to as 14:55
16 McWhirter. Allegations that a roadblock had been
17 deliberately lifted to facilitate the murder. An
18 allegation that an RUC officer was present in the
19 stolen mini cab driven to Mr. Finucane's home by the
20 UDA members responsible for his murder. 14:55

21
22 Turning first then to allegations of incitement by
23 loyalists, by the RUC. The day after the murder of
24 Patrick Finucane the Ambassador of the Government of
25 Ireland met the Cabinet Secretary to provide an 14:56
26 advanced copy of the Taoiseach's statement about the
27 murder. The Cabinet office's note of the meeting
28 recorded the Ambassador as having said:
29

1 "The Irish Government's concern had been increased by
2 information that the police in Castlereagh were
3 encouraging protestant paramilitaries to attack
4 republican lawyers.

5
6 In this context the names of Messrs. Finucane, McGrory
7 and Kelly had been mentioned. The murder of
8 Mr. Finucane had shown that these concerns were
9 justified."

14:56

10
11 The Ambassador did not reveal the source of the
12 information and Sir Desmond observed that RUC
13 intelligence raised the possibility that such reports
14 may have originated from loyalist sources briefing a
15 well known journalist. However, as these reports were
16 hearsay Sir Desmond sought to examine the evidence more
17 closely.

14:56

18
19 In doing so, he considered accounts provided by four
20 loyalist paramilitaries who claimed that members of the
21 UDA were encouraged to attack Patrick Finucane by RUC
22 officers, namely, accounts from Sammy Duddy, Thomas
23 'Tucker' Lyttle, Brian Nelson and Kenneth Barrett.

14:57

24
25 First, turning to Sammy Duddy. On 17th June 1991, as
26 part of the ITV's world in Action programme broadcast,
27 Sammy Duddy, who was described as the ex-editor of
28 Ulster Magazine, a publication associated by the UDA
29 commented that:

14:57

1
2 "Prior to Pat Finucane's murder loyalists had been
3 called into Castlereagh Interrogation centre, had been
4 told by the RUC that Pat Finucane was a well-known IRA
5 member."

14:57

6
7 When asked whether this had contributed to his murder
8 Duddy said:

9
10 "I would say with all sincerity that it probably did."

14:57

11
12 Second, 'Tucker' Lyttle. In an article published by
13 the New Statesman in 1998, John Ware summarised a
14 conversation he had with 'Tucker' Lyttle, the UDA's
15 West Belfast brigadier on 24th December 1993:

14:58

16
17 "Lyttle confirmed that the original idea to murder
18 Patrick Finucane came from two RUC detectives. While a
19 prominent UDA gunman was being held in Castlereagh an
20 officer entered the interrogation room and said to his
21 colleague 'have you put it to him yet?' They then
22 suggested that the UDA shoot Finucane."

14:58

23
24 John Ware's interview notes, which Sir Desmond saw no
25 reason to doubt, recorded that the prominent UDA gunman
26 was L/03 and the suggestion was made by two officers
27 based in Grosvenor Road RUC Station. In his submission
28 to the de Silva Review John Ware explained why he
29 assessed Lyttle's allegations to be credible and I

14:58

1 quote:

2
3 "When I went to Belfast in September 1989, seven months
4 after Finucane was murdered, to make the first of
5 several Panorama programmes on collusion, I was told 14:59
6 that a few weeks before his murder Lyttle had asked to
7 meet two individuals whom he trusted and both of whom I
8 know. Lyttle had said to them words though to this
9 effect, 'You'll never guess what the cops are
10 suggesting we do, kill Finucane.' This was recounted 14:59
11 to me by one of the individuals whom I have known since
12 1975 who is a friend and whom I trust implicitly. This
13 individual was conscience stricken because he felt he
14 should have acted upon what Lyttle had told him,
15 perhaps by telling Finucane himself." 14:59

16
17 As John Ware's source was confidential Sir Desmond did
18 not place weight on the aspect of the account relating
19 to comments made prior to the murder. However, he
20 noted that other aspects of the information imparted to 15:00
21 Mr. Ware were accurate.

22
23 Third, turning to Brian Nelson. On 18th April 1991,
24 John Ware's notes of an interview with Nelson recorded
25 Nelson's belief that RUC officers had encouraged 15:00
26 loyalists in Castlereagh to attack Patrick Finucane but
27 Nelson could not remember the loyalist to whom this had
28 been suggested. He thought it might have been L/28 or
29 L/22. John Ware's notes also contained evidence that

1 the UDA believed Patrick Finucane to have been involved
2 in providing assistance to the Provisional IRA on
3 financial matters. This is a matter which arises in
4 other intelligence evidence which is discussed in
5 further detail later.

15:00

6
7 In relation to the account provided by Nelson,
8 John Ware's note was as follows:

9
10 "They were going for Adams but L/28 was told, I don't
11 know by whom, 'Don't bother with Adams Finucane is the
12 man who really counts. He's the brains, he's the man
13 who organises all the money to be laundered. He's the
14 man who gives them advice.' I assume that came from
15 the cops I don't know but 'Tucker' Lyttle had a very,
16 very good police source."

15:00

15:01

17
18 Fourth, and finally, Kenneth Barrett.

19
20 On 3rd October 1991, Barrett met with RUC officers
21 during which he made an admission to being involved in
22 the murder of Patrick Finucane. This issue will be
23 discussed in greater detail in tomorrow's session but
24 for present purposes could we please have document 1 on
25 screen please at page 619. So, this is the
26 intelligence report from a Special Branch officer R06
27 who was present at the meeting and you can see at
28 paragraph 8 it says:

15:01

15:01

1 "The intelligence for this job came from the police but
2 source [Barrett] Could not elaborate any further as a
3 to whom. Intelligence given was that Finucane was
4 laundering money for the Provisional IRA and that he
5 was an officer in the Provisional IRA. He met with
6 Gerry Adams and T/13. Finucane has also been seen in
7 the company of other suspect Provisional IRA members,
8 one of whom was a builder who owned CD Construction &
9 Co and was shot by the UVF, Ulster Volunteer Force.
10 Apparently a brother of this person did a prison
11 sentence of 15 years for attempted murder. This
12 intelligence was good enough to get the go-ahead to
13 carry out the hit. It took six weeks to plan as
14 Finucane was hard to tie down to his home address."

15:02

15:02

15
16 Thank you.

15:02

17
18 Sir Desmond noted that although Barrett's account of
19 RUC involvement became more detailed and varied in his
20 later statements, his accounts consistently suggested
21 some form of police instigation and facilitation of the
22 murder.

15:02

23
24 To take just a few examples of his later accounts, in
25 2001 Barrett explained to a BBC Panorama team:

15:03

26
27 "The killing of Pat Finucane was organised by the
28 police, right. The dogs on the street know that.
29 Everyone knows it. The peelers want him whacked. We

1 whacked him and that's the end of the story as far as
2 I'm concerned."

3
4 During intrusive police surveillance in 2002 Barrett
5 said:

15:03

6
7 "Yes, I would be the first to tell you, there was
8 collusion, do you know what I mean. As I once told
9 you, you didn't pick these names out of the phone
10 book."

15:03

11
12 Barrett provided two accounts to the Stevens III
13 investigation team. First, an intelligence only
14 debrief in 2002 and a statement made in the presence of
15 his solicitor in 2006.

15:03

16
17 In 2002 he claimed that the plan to murder Mr. Finucane
18 started with detectives questioning people in
19 Castlereagh. He said that one particular one I can
20 remember, L/03 was being questioned. Barrett claimed
21 that RUC officers proposed Patrick Finucane as a target
22 in roughly '88 and said that he was nearly sure of the
23 identity of one of the officers whom he named. Barrett
24 provided a similar statement in 2006 to the Stevens III
25 team that;

15:04

15:04

26
27 "Police officers at Castlereagh were putting the word
28 out that Finucane should be hit during interviews with
29 loyalist detainees."

1
2 Against this background, Sir Desmond regarded it as
3 significant that Barrett had maintained an account of
4 RUC involvement in a number of different contexts
5 although he made it clear that he took a highly 15:04
6 cautious approach to his evidence. Sir Desmond
7 considered that it was difficult to conceive of Barrett
8 being able to maintain an elaborate misinformation
9 campaign for over a decade.

10
11 Sir Desmond went on to consider whether Barrett's
12 description of the UDA's supposed intelligence on
13 Patrick Finucane was accurate. He concluded that
14 Intelligence Reports from the security forces largely
15 corroborated Barrett's description of the UDA's 15:05
16 intelligence on Mr. Finucane. In doing so, Sir Desmond
17 analysed both RUC and FRU intelligence.

18
19 RUC records included intelligence received shortly
20 after the murder which referred to L/28's comments 15:05
21 about the attack. The RUC Daily Intelligence Book
22 included the following note:

23
24 "L/28 claimed responsibility for Finucane's murder.
25 Finucane was an IO (intelligence officer) and had begun 15:05
26 seen with G Adams (Gerry Adams) and other top
27 Provisional IRA at a meeting."

28
29 Further, can we have document 1 on screen, please, at

1 page 610. This is another SB50 document dated 16th
2 February 1989 and towards the bottom half of that page
3 we can see the main topic of discussion was the recent
4 shooting of Pat Finucane.

5
6 "L/28's team was responsible and Finucane was an
7 intelligence officer for the 3rd Battalion of the
8 Provisional IRA and laundered money for the Provisional
9 IRA through Finucane's firm of solicitors."

15:06

10
11 Thank you. In addition, FRU Contact Forms outlined
12 Nelson's discussions with other UDA members regarding
13 his draft statement claiming UFF responsibility for the
14 murder.

15:06

15
16 The Contact Forms again, made reference to
17 Patrick Finucane's meeting with Gerry Adams at a hotel
18 which Sir Desmond referred to as the AB hotel. But the
19 most specific details regarding Patrick Finucane's
20 alleged meeting with Gerry Adams were contained in
21 further intelligence received by Special Branch on 16th
22 February 1989. Can we have document 1 back up on
23 screen please at page 609?

15:06

24
25 This is, again, another SB50 document produced as a
26 result of that intelligence. We can see under the
27 heading:

15:07

28
29 "Reference murder of Pat Finucane."

1
2 First that there is a handwritten annotation in
3 brackets which says (PSF/PIRA) and a note then says:

4
5 "Recent UDA intelligence indicated that the above
6 person, namely, Patrick Finucane, met with Gerry Adams
7 and T/13 at the AB hotel and discussed Provisional IRA
8 politics, finance and future policy."

15:07

9
10 "Patrick Finucane was shot by a joint team from A and B
11 company WDA. (Woodvale Defence Association). L/28 was
12 the operations officer and L/20 and Ken Barrett were
13 also involved. Barrett may with have been one of the
14 gunmen."

15:07

15
16 As a result, Sir Desmond concluded that Barrett's
17 October 1991 account of the UDA's intelligence on
18 Patrick Finucane was largely accurate in the sense that
19 Barrett was correctly reporting the UDA's
20 interpretation of the information that it had received.
21 However, it is important to note again in this respect
22 that Sir Desmond did not find that the UDA's
23 intelligence was itself an accurate reflection of
24 reality. Sir Desmond stressed that even on its own
25 terms the intelligence does, of course, fall far short
26 of establishing that Patrick Finucane laundered money
27 for the IRA and that it was unclear on precisely what
28 basis Patrick Finucane was considered to be an
29 intelligence contact for the Provisional IRA. Sir

15:08

15:08

15:08

1 Desmond also repeated that he had;

2
3 "Not seen any evidence which would persuade me to
4 displace the findings already made by Justice Cory and
5 others that Patrick Finucane was not a member of the
6 Provisional IRA. "

15:09

7
8 Sir Desmond went on to consider and subsequently found
9 that the UDA had a number of police sources at the time
10 who could have passed on that intelligence. First, in
11 relation to L/20 and L/28, both of whom appeared to
12 Sir Desmond to be key players in Patrick Finucane's
13 murder. The intelligence suggested that they were
14 receiving information from the security forces.

15:09

15
16 Second, Sir Desmond observed that the UDA's clear
17 belief that Patrick Finucane met with Gerry Adams and
18 T/13 at the AB hotel was striking and in particular
19 that the UDA intelligence was based not only on
20 sightings of the three men but also the broad content
21 of their discussion, and this is because it was clear
22 to Sir Desmond that UDA intelligence did not have the
23 means to independently collate such information. The
24 UDA had;

15:09

25
26 "Not demonstrated a capacity to conduct their own
27 electronic monitoring of conversations nor did they run
28 their own agents within the Provisional IRA."

15:10

1 In this respect, Sir Desmond also noted that it was
2 potentially significant that the UDA appeared to be in
3 receipt of intelligence information from the E4A
4 surveillance section of the RUC in January 1989
5 relating to the movements of republicans near the EF 15:10
6 building site which was an area in close proximity to
7 the AB hotel. A FRU Contact Form noted that a RUC
8 contact had provided this information to a senior UDA
9 figure.

10
11 while Sir Desmond noted that there was no evidence in
12 the intelligence materials to suggest that the RUC E4A
13 contact ever provided intelligence on Patrick Finucane
14 to the UDA, he considered that it was potentially
15 significant that the UDA was receiving such sensitive 15:11
16 information about meetings involving Patrick Finucane
17 that took place in close proximity to the EF building
18 site.

19
20 Finally, Sir Desmond analysed whether the UDA 15:11
21 intelligence correlated with RUC records, namely,
22 whether aside from the AB hotel meeting the evidence
23 suggested the UDA believed that Mr. Finucane was a
24 Provisional IRA intelligence officer, that he laundered
25 money for the Provisional IRA and according to Barrett 15:11
26 that he had links to someone from CD Construction.
27 Sir Desmond's analysis of RUC records show that this
28 information appeared to bear a significant resemblance
29 to material contained within RUC intelligence files.

1 For example, he noted that first Special Branch
2 officers routinely annotated Patrick Finucane's name
3 with the word "the Provisional IRA" or "the Provisional
4 IRA solicitor" and we saw an example of this on one of
5 SB50 documents displayed earlier.

15:12

6
7 Second a high level Special Branch assessment produced
8 after Patrick Finucane's murder included a section on
9 the Provisional IRA's intelligence contacts and noted
10 that the Provisional IRA were seeking another link into
11 the legal profession to replace Patrick Finucane.

15:12

12
13 Third, Special Branch records showed that
14 Patrick Finucane was being linked to CD Construction
15 and republican finances in the months before his
16 murder.

15:12

17
18 Fourth, links between Patrick Finucane and the issue of
19 republican finances are also evidenced in SB50s
20 produced in October 1987 and January 1988. Both of
21 these documents link Patrick Finucane to Noraid, which
22 is an American organisation, widely known to be
23 involved in fundraising activities for Sinn Féin and
24 the Provisional IRA.

15:12

25
26 In John Stalker's book, which is called "Ireland, Shoot
27 to Kill and the Affair," the author of the Stalker
28 report observed the apparent ease with which lawyers
29 might come to be associated with their clients by the

15:12

1 RUC.

2
3 In particular, he recalled a conversation with a
4 uniformed RUC sergeant who approached him after he
5 spoke briefly with his solicitor representing Martin 15:13
6 Macauley in Crumlin Road court. In the Finucane
7 family's opening statement to this inquiry on 10th June
8 2026 it was noted that this would have been
9 Patrick Finucane.

10
11 John Stalker recounted that the sergeant said to him:

12
13 "The solicitor is an IRA man. Any man who represents
14 IRA men is worse than an IRA man. His brother is an
15 IRA man also and I have to say that I believe that a 15:13
16 senior policeman of your rank should not be seen
17 speaking to the likes of either of them. My colleagues
18 have asked me to tell me that you have embarrassed all
19 of us in doing that. I will be reporting this
20 conversation and what you have done to my superiors." 15:13
21

22 Stalker noted that the conversation with the sergeant
23 showed him how easy it was to have one's name included
24 in Special Branch files as having possible republican
25 sympathies and that an open conversation with a 15:14
26 solicitor outside court was, it seemed to him, probably
27 sufficient evidence of such sympathies.

28
29 Having considered the evidence as a whole Sir Desmond

1 was struck by the correlation between the UDA's
2 description of their own intelligence and the material
3 contained in RUC records on Patrick Finucane. While
4 acknowledging that in itself the degree of correlation
5 did not prove that the UDA received information from 15:14
6 the RUC this had to be considered alongside: (1)
7 Barrett's statement that the UDA received the
8 intelligence from a police source. (2) the evidence
9 that they had a number of police contacts at the time
10 who were providing intelligence on republicans; (3) the 15:14
11 UDA's reliance on RUC or UDR leads for their attacks;
12 and (4), the fact that the UDA did not have the ability
13 to independently gather intelligence on issues such as
14 republican finances.

15
16 As a result, Sir Desmond was ultimately persuaded that
17 Barrett's account on 3rd October 1991 that the UDA
18 received intelligence on Patrick Finucane from an RUC
19 source was essentially accurate.

20
21 Sir, just at this point before I move to another topic
22 I wonder if that will be a convenient time for the
23 afternoon break.

24 CHAIR: Certainly, thank you Ms. Millar. We'll break
25 now until half past three. Thank you very much. 15:15

26
27 THE INQUIRY ADJOURNED BRIEFLY AND CONTINUED AS FOLLOWS:

28
29 CHAIR: Thank you. Thank you, Ms. Millar.

1 MS. MILLAR: Thank you, Sir. Before the break we
2 considered accounts provided by loyalist paramilitaries
3 who claim that the UDA was encouraged to attack
4 Patrick Finucane by RUC officers. Now, I'm going to
5 turn to the issue of whether RUC officers proposed 15:32
6 Patrick Finucane as a target to UDA members in
7 Castlereagh and the identity of those potentially
8 involved.

9
10 In considering this issue, Sir Desmond examined the 15:32
11 custody records for every UDA member suspected of
12 having had at least an awareness of the conspiracy to
13 murder Patrick Finucane between December 1988 and
14 February 1989. The only UDA member with such awareness
15 who was arrested and interviewed at Castlereagh Holding 15:33
16 Centre during that period was L/03, a prominent
17 military figure in A Company based in the Highfield
18 area of Belfast.

19
20 Following his arrest on 8th December 1988, L/03 was 15:33
21 interviewed six times on the same day and 3 further
22 times on 9th December 1988.

23
24 In relation to the RUC officers involved, Sir Desmond
25 noted that it was entirely possible that RUC officers 15:33
26 other than the four individuals identified as
27 interviewing officers in the records may have been
28 involved in interviewing L/03 and that other officers
29 involved in his arrest and detention could

1 realistically have been in a position to speak to him
2 at some point.

3
4 For context, it is of note that in 1988 there were no
5 cameras in police interview rooms and no video or audio 15:34
6 recording of what was discussed. While the written
7 interview note was made this was not a contemporaneous
8 account and instead represented the officer's summary
9 of the interview. In L/03's case Sir Desmond observed
10 that the notes were very brief and somewhat vague. 15:34

11
12 No RUC officer or loyalist interviewed by the Stevens
13 team admitted to having been involved in a conversation
14 about targeting Patrick Finucane. It was, therefore,
15 unsurprising that the Stevens III investigation was 15:34
16 unable to present evidence to a criminal standard of
17 proof against any individual RUC officer in respect of
18 these allegations.

19
20 Against that background, Sir Desmond considered the 15:34
21 likelihood of the broader allegation that at some point
22 during L/03's detention in Castlereagh Holding Centre
23 Mr. Finucane was proposed as a target by an RUC officer
24 or officers.

25 15:35
26 In considering whether other available intelligence
27 material could lend support to the claim, he observed
28 that two additional reports were relevant. First,
29 Security Service intelligence received after the world

1 in Action programme in 1991. This suggested that
2 members of the UDA were alarmed by Sammy Duddy's
3 television appearance, which I had previously referred
4 to, and that they questioned what business he had
5 incriminating the RUC.

15:35

6
7 Sir Desmond considered that Duddy's comments were,
8 therefore, highly unlikely to be part of a UDA
9 disinformation operation and while the intelligence did
10 not establish the truth of his comments, it did lead
11 Sir Desmond to place a greater degree of weight on his
12 allegations.

15:35

13
14 Second, FRU intelligence that L/03 was provided with
15 targeting information a republican during his detention
16 in Castlereagh. Could we please have document 1 back
17 on the screen, please, at page 514, starting at
18 paragraph 14?

15:36

19
20 So, this is a FRU Contact Form dated 31st January 1989
21 which recorded discussions between L/03 and Nelson
22 regarding targeting. And starting at paragraph 14:

15:36

23
24 "6137, namely, Nelson also met L/03 at UDA HQ Shankill
25 on Saturday 28 January 1989. L/03 spoke to 'Tucker'
26 Lyttle then to Nelson. L/03 arranged with Nelson to
27 meet him at Nelson's house at 13:00 hours on Sunday
28 29th January 1989. Nelson was to give L/03 a lift."

15:36

1 Jumping to the end of the fourth line at paragraph 15:

2
3 "En route, L/03 explained to Nelson and L/23 that
4 whilst in RUC Castlereagh recently, L/03 had been told
5 some information. The RUC had commented on how easy it 15:37
6 was to carry out an attack on T/05 has he parks his
7 mobile snack van at...", a redacted location.

8
9 "They did not see a snack van but on the way back they
10 saw a mobile snack van at Seven Arches Car Park, 15:37
11 Dundrum. They stopped and L/03 bought a drink of Coke.
12 L/03 told Nelson and L/23 that one of the two men in
13 the snack van was almost certainly T/05."

14
15 Thank you. while that report doesn't mention 15:37
16 Patrick Finucane, Sir Desmond considered it was
17 important because it provided the only reported account
18 that L/03 had given of his experience at RUC
19 Castlereagh on 8th and 9th December 1988 and that it
20 was difficult to understand why either L/03 or Nelson 15:38
21 would have invented this account.

22
23 In addition, Sir Desmond noted that in light of his
24 other findings that Nelson didn't provide his handlers
25 with information about the targeting of 15:38
26 Patrick Finucane, it was possible that L/03 mentioned
27 Mr. Finucane but that this was not passed on by Nelson
28 to his handlers.

1 while Sir Desmond acknowledged that L/03's comments did
2 not necessarily imply Patrick Finucane would have also
3 been proposed as a target, it strongly suggested that
4 L/03's interviews on both 8th and 9th December 1988 did
5 not solely represent a desire on the part of RUC
6 officers concerned to establish his involvement in
7 loyalist terrorist activity.

15:38

8
9 ultimately, Sir Desmond considered that it was not
10 possible to establish with certainty whether RUC
11 officers proposed Patrick Finucane as a target to UDA
12 members in Castlereagh Holding Centre. The evidence
13 was insufficient, even on a balance of probabilities,
14 to ascribe responsibility to any RUC officer or group
15 of officers save for the fact that the comments must
16 have been made by an officer with access to L/03 at
17 some stage during his detention.

15:38

15:39

18
19 However, Sir Desmond did conclude that when the
20 circumstantial evidence was considered cumulatively, it
21 was likely that an RUC officer or officers did propose
22 Patrick Finucane along with at least one other
23 individual as a target when speaking to L/03 in RUC
24 Castlereagh on 8th or 9th December 1988.

15:39

15:39

25
26 Turning then, finally, to a collection of other
27 allegations of Security Force involvement in the murder
28 of Patrick Finucane which were ultimately dismissed by
29 Sir Desmond, and starting with accusations made by

1 Kenneth Barrett against identified RUC officers.

2
3 while the note of the meeting on 3rd October 1991, to
4 which I have previously referred, recorded that Barrett
5 was unable to elaborate further on the identity of the 15:40
6 police source for the UDA's intelligence on
7 Patrick Finucane, in his later accounts Barrett
8 identified a police officer known as McWhirter who he
9 claimed had been primarily responsible for passing on
10 the information. 15:40

11
12 These accounts were provided to the Panorama
13 journalists John Ware and Eamon Hardy in 2001 and to
14 the Stevens III investigation team. A number of key
15 allegations about McWhirter centred on the murder of 15:40
16 Patrick Finucane and included an account that McWhirter
17 instigated the murder by the UDA.

18
19 Having conducted a detailed analysis of the RUC
20 records, Sir Desmond was satisfied that Barrett was in 15:40
21 contact with a Special Branch officer who was known to
22 him as McWhirter in 2001 and this was Special Branch
23 officer DI R02. In a statement to the Stevens III
24 investigation dated 3rd February 2004, R02 outlined the
25 conversations he'd had with Barrett in 2001. 15:41

26 Sir Desmond observed that R02's proper and detailed
27 recording of his interactions with Barrett was not
28 indicative of an officer seeking to conceal criminal
29 behaviour in contrast with Barrett's characterisation

1 of McWhirter as a powerful figure at the centre of a
2 complex web of corruption. This was in addition to a
3 number of inaccuracies and weaknesses in Barrett's
4 account coupled with the contradictory statements he
5 made to the Stevens III investigation at a similar
6 time.

15:41

7
8 As a result, Sir Desmond was satisfied that Barrett's
9 claims regarding McWhirter were, and I quote:

10
11 "So unreliable and contradictory so that no weight can
12 be placed on this aspect of his account."

15:41

13
14 In particular, there was no evidence to suggest that
15 the officer known to Barrett in 2001 as McWhirter was
16 known to him in 1989, or indeed, was involved in any
17 way in Mr. Finucane's murder. This led Sir Desmond to
18 conclude that while circumstantial evidence and a
19 pattern of UDA reliance on RUC or UDR leads for their
20 attacks supported Barrett's general proposition that
21 the UDA received intelligence on Mr. Finucane from an
22 RUC source, his later allegations made to the Stevens
23 team and to journalists in which he sought to name
24 specific individuals did not stand up to scrutiny.

15:42

15:42

25
26 It followed that Sir Desmond concluded no weight could
27 be placed on Barrett's accusations against other named
28 RUC officers in his accounts to Panorama and this
29 included R04, Detective Sergeant Brown and DCR06.

15:42

1
2 Moving on then to an allegation that a vehicle
3 checkpoint had been deliberately removed to facilitate
4 Mr. Finucane's murder.

5
6 In a British/Irish Rights Watch report it was alleged
7 that Patrick Finucane's murder was procured by members
8 of the RUC and that:

9
10 "According to neighbours, police roadblocks in place up
11 to an hour before the murder in close proximity to
12 Patrick Finucane's home were removed thus affording the
13 murderers unfettered access to an escape from the
14 house."

15
16 This allegation was investigated by Justice Cory who
17 concluded that there was no evidence that this was a
18 sinister or collusive act. Separately, the Stevens III
19 team was unable to recover any evidence either
20 supporting or refuting this allegation but did discover
21 there had been intensive Army activity, namely, a
22 search operation approximately 1.5 miles from
23 Mr. Finucane's home on 12th February 1989 which had
24 ceased around 70 to 80 minutes prior to his murder.

25
26 In 2000, an experienced Army officer, A22, analysed the
27 available Army records and transmissions on 12th
28 February 1989. In summary, he observed that first, a
29 preplanned search operation was conducted jointly by

1 the Army and the RUC. Second, such operations were
2 normally carried out during daylight hours. Third, the
3 operation was completed at 18:14 hours. Fourth, after
4 such intensive military activity in a relatively
5 confined area, the withdrawal of units would have been 15:44
6 immediately apparent to the local community. And,
7 fifth, after the Army withdrew, the RUC radio net
8 broadcast a report of the shooting at Mr. Finucane's
9 home.

10
11 Sir Desmond noted that the only other evidence on the 15:44
12 point came from Barrett's account to John Ware and his
13 party. However, as noted previously, he did not
14 consider that any weight could be placed on Barrett's
15 allegations relating to the specific involvement of an 15:45
16 RUC officer in allegedly helping to lift the vehicle
17 checkpoint.

18
19 The final issue in this section relates to the
20 allegations that an RUC officer was present in the mini 15:45
21 cab when the UDA team drove to Patrick Finucane's home
22 on 12th February 1989.

23
24 Similarly, Justice Cory found no evidence to support
25 this allegation. Kenneth Barrett also denied that a 15:45
26 fourth person had been present in the mini cab in his
27 statement to the Stevens III investigation in the 2006.
28 Sir Desmond found only one piece of evidence that could
29 potentially support this allegation, namely, security

1 service intelligence which was graded as reliable at
2 the time, which indicated that;

3 "There is a rumour in the UDA the fourth person in the
4 car was a member of the security forces."

5
6 However, Sir Desmond did not consider that the report
7 was sufficiently strong to enable any weight to be
8 attached to it, particularly in circumstances where it
9 was received 12 years after the murder and that it was
10 a rumour circulating in the UDA.

11
12 Sir, that concludes this section. In the next section
13 of the presentation Mr. Hill will be addressing the
14 role of William Stobie in the murder of
15 Patrick Finucane.

16 CHAIR: Thank you, Ms. Millar.

17
18 ADDRESS BY MR. HILL:

19
20 MR. HILL: Thank you, Sir. William Stobie was, on
21 Sir Desmond de Silva's analysis, the man who supplied
22 one of the weapons used to kill Patrick Finucane and
23 that he did so a few hours before the attack. Stobie
24 was also an RUC Special Branch informer.

25
26 Stobie was arrested in 1990 and again in 1999. On the
27 latter occasion he was charged with conspiracy to
28 murder Brian Adam Lambert and the murder of
29 Patrick Finucane. The case against him appeared to

1 rest largely on the evidence of a journalist, Neil
2 Mulholland, to whom Stobie had given an account in June
3 1990. Mr. Mulholland was unable to give evidence at
4 the trial due to ill-health and the trial collapsed, a
5 not guilty verdict was entered against Stobie.

15:47

6
7 Two weeks later, on 12th December 2001, Stobie was
8 murdered by loyalist paramilitaries. Some have
9 suggested this was a response to Stobie's support for a
10 public inquiry into the murder of Patrick Finucane and
11 his indication that he may be willing to give evidence
12 at such a public inquiry.

15:48

13
14 In this section I will discuss first Stobie's role and
15 his recruitment as an informer. Second, his role in
16 the murder of Patrick Finucane, and third, what he told
17 his Special Branch handlers in the week before the
18 murder and what was and was not done in response to
19 that intelligence.

15:48

20
21 Beginning then, Sir, with Stobie's role in the UDA and
22 his recruitment by Special Branch.

15:48

23
24 Stobie acted as a quartermaster in the Belfast UDA.
25 Sir Desmond found that in practice he was a number
26 of -- he was one of a number of people in Belfast who
27 stored or moved weapons for the UDA. In his view,
28 Stobie was a relatively low level comparatively minor
29 figure at least when compared to Brian Nelson.

15:48

1
2 The exact details of how Stobie were recruited are
3 hinted at in the De Silva report but not expressly
4 stated. It seems to tie in with the implication that
5 Stobie was involved in the murder of Brian Adam Lambert 15:49
6 who was a 19 year old man killed by the UDA on 19th
7 November 1987. According to the book "Lost lives," the
8 killing was carried out as retaliation against the
9 Enniskillen Poppy Day bombing which had taken place the
10 previous day. Adam Lambert, as he was known by his 15:49
11 family, was shot on a building site in the Highfield
12 estate off the Springfield Road. He was working there
13 during his university holiday. He was not connected
14 with the IRA and seemingly unknown to those who killed
15 him he was, in fact, a Protestant. 15:50

16
17 Stobie was arrested in retaliation to the murder and
18 held at the Castlereagh Detention Centre on 15th and
19 16th February 1988. It is implied but not expressly
20 stated in the de Silva report, that this was the time 15:50
21 that Stobie was recruited as a Special Branch agent.
22 Stobie's own account to Mr. Mulholland is consistent
23 with that chronology he says:

24
25 "I was up to my neck in the Lambert murder and Special 15:50
26 Branch had me by the balls."

27
28 Stobie was not pursued for the murder after he was
29 recruited. Sir Desmond said:

1
2 "It appears that the RUC effectively decided to drop
3 the pursuit of a suspect in a murder investigation in
4 order to recruit the individual as an agent."

15:51

5
6 You may feel, Sir, that there are similarities between
7 Stobie's recruitment and the later decisions made in
8 respect of Kenneth Barrett.

9
10 Turning to Stobie's role as an agent. His position as
11 a quartermaster was potentially useful for Special
12 Branch. An RUC Chief Superintendent summarised
13 Stobie's work in November 1990 recording that:

15:51

14
15 "The intelligence supplied was of a good standard and
16 of a medium grade."

15:51

17
18 Sir Desmond's analysis of Stobie's effectiveness as an
19 agent prior to the murder of Patrick Finucane was that
20 his work:

15:52

21
22 "Did not generally have the effect of frustrating
23 terrorist activity, his handling and the lack of
24 exploitation of his intelligence raises some of the
25 same issues as the Nelson case."

15:52

26
27 And you have heard earlier from Ms. Millar and
28 Ms. Townshend about those limitations.

1 In respect of Stobie's role in the murder of
2 Patrick Finucane; intelligence seen by Sir Desmond
3 suggests that by the end of January 1989 Stobie was in
4 possession of a number of weapons, including two
5 Browning pistols and a Heckler and Koch handgun. As we 15:52
6 have heard, one of the Brownings had been stolen by a
7 British Army soldier from Palace Barracks in Hollywood.
8 As explained in the written opening this soldier, a
9 member of the UDR, had stolen a van load of weapons
10 having been given the key to the armoury following a 15:53
11 night's drinking. The soldier was a former UDA member.
12 He had, twice before, lost a weapon during what he
13 claimed were robberies. The second of those robberies
14 took place in a bar known to be frequented by UDA men.
15 Sir Desmond found it 'extremely surprising', his words, 15:53
16 that a man with such a checkered past was allowed a key
17 to the armoury. More generally, he considered that the
18 theft represented:

19
20 "A woeful failure by the UDR to maintain adequate 15:53
21 control over its weapons and prevent them from falling
22 into the hands of terrorists."
23

24 Returning to William Stobie. Debrief forms containing
25 intelligence that he gave to Special Branch suggest the 15:53
26 following sequence of events in the lead-up to the
27 murder of Patrick Finucane.

28
29 On Monday, 6th February, six days before the murder,

1 Stobie attended the weekly UDA meeting. At around
2 6:30 p.m. L/03 asked him for a 9mm pistol. Stobie left
3 the meeting and returned with a 9mm Heckler & Koch
4 weapon and gave to it to L/03.

5
6 At 11:30 on the same night, L/20 told Stobie that they
7 "a hit planned on a top IRA man." L/20 said that he
8 didn't like the small Heckler & Koch pistol and asked
9 him to get a Browning instead. He said he would need
10 it for the Thursday or the Friday of that week. So 9th 15:54
11 or 10th February.

12
13 Stobie understood and told his Special Branch handlers
14 that it was most likely that L/33 and L/20 would then
15 move the weapon to the woodvale area prior to going on 15:55
16 the operation.

17
18 On Tuesday, 7th February, Stobie relayed the
19 information set out above to his RUC Special Branch
20 handlers. They appear to have tasked him to delay 15:55
21 handing over the 9mm Browning pistol until he had
22 contacted his handlers again.

23
24 Two days later, on Thursday, 9th February, Stobie
25 called his Special Branch handlers. A debrief form 15:55
26 records him saying:

27
28 "Tell them the parcel was not delivered tonight. Ask
29 the boys to ring me at midnight."

1 There is no further reference to contact from Stobie in
2 the Special Branch files as recovered by the de Silva
3 Review, until Wednesday, 15th February - three days
4 after Patrick Finucane's murder.

5
6 That debrief form indicated that Stobie did not find
7 out about the murder of Patrick Finucane until he heard
8 about it on the news on the night of 12th February. It
9 also contains a series of names of loyalists who met
10 together on the day of the murder, most of whom were
11 later implicated in it.

12
13 On the morning of 15th February, Stobie drove L/03 to
14 L/20's house in the Highfield estate. L/20 spoke to
15 L/03 who in turn told Stobie to "call with L/20 tonight
16 at 9:00 p.m. and collect a Browning pistol and hide the
17 same." Stobie reported this to his RUC Special Branch
18 handlers that afternoon. So before he was due to
19 collect the pistol that evening.

20
21 The Special Branch record contains a critical gap in
22 information between 9th and 12th February on the
23 question of whether Stobie provided the 9mm Browning
24 pistol to the UDA. However, in later interviews with
25 two journalists Stobie was clear that he did provide
26 that weapon. Sir Desmond concluded that he was
27 satisfied that the weapon was handed over on Sunday,
28 12th February, the day on which Patrick Finucane was
29 murdered.

1
2 There is a question, Sir, as to whether or not Stobie
3 was aware that Patrick Finucane was the intended victim
4 of this plot. As we have heard, in the contemporaneous
5 Special Branch records, reference was made only to a 15:58
6 top IRA man, not a name that was given. Stobie at
7 points later said that he did know who was going to be
8 attacked, but then at other stages he said that he did
9 not. Sir Desmond, having reviewed all of this
10 evidence, including the intelligence that we have seen 15:58
11 and other intelligence we have not seen, Sir Desmond
12 concluded that Stobie did not know that
13 Patrick Finucane was the intended target of the attack.
14

15 Turning to the question of what Stobie told his Special 15:58
16 Branch handlers prior to the murder. It is evident, as
17 I have said earlier, from the debrief forms that by 9th
18 February Stobie had told his handlers of the following
19 information:

20
21 First, an imminent hit was planned on a top IRA man;
22

23 Second, L/20 was a key figure in the operation;
24

25 Third, Stobie was storing two 9mm Browning pistols 15:59
26 along with other weapons for the UDA;
27

28 Fourth, Stobie had supplied a Heckler & Koch pistol for
29 the hit, but he had also been asked to hand over a

1 Browning;

2
3 Fifth, the Browning pistol had not been handed over on
4 9th February; and

5
6 Sixth, Stobie wished to speak to his handlers before
7 midnight that night, 9th February.

8
9 Sir Desmond found that the RUC had some corroborative
10 intelligence as well to the effect that the Highfield 15:59
11 UDA were working on a big job. The RUC would have
12 known that two members of the Highfield UDA were L/03
13 and L/20.

14
15 Later, Stobie would tell journalists that he contacted 16:00
16 his RUC handlers again on the evening of 12th February
17 to tell them that he delivered the weapon to a group of
18 UDA men who he suspected were on a job. He came to
19 that conclusion because the men were drinking soft
20 drinks when they were usually hardened drinkers. 16:00

21
22 There is no contemporaneous record of Stobie making
23 contact in that way with his handlers on 12th February,
24 but when he was arrested in 1999, Stobie denied his
25 guilt in the murder of Patrick Finucane and stated: 16:00
26

27 "At the time I was a police informer for Special
28 Branch. On the night of the death of Patrick Finucane
29 I informed Special Branch, on two occasions, by

1 telephone, of a person who was to be shot. I did not
2 know at the time of the person who was to be shot."

3
4 Later, in a short statement handed to the officers of
5 the Stevens III investigation on 23rd June 1999, Stobie 16:01
6 claimed:

7
8 "On Sunday, 12th February 1989 I informed my Special
9 Branch handlers, twice by telephone, that a man was to
10 be shot. My handlers realised the full significance of 16:01
11 this information."

12
13 Having reviewed all of the evidence, Sir Desmond
14 concluded that it was inconclusive. He did, however,
15 think it was possible that Stobie had done as he said; 16:01
16 that he had contacted his handlers on the night of 12th
17 February 1989. Sir Desmond thought that if he had done
18 so it was probably at around the time that the attack
19 took place.

20
21 I turn, Sir, to the question of what the RUC did in
22 response to Stobie's intelligence.

23
24 Sir Desmond found that the intelligence provided by
25 Stobie on 7th February was disseminated by his handlers 16:02
26 to the RUC Source Unit and the Tasking and
27 co-ordination Group - that is the ground level group
28 that I mentioned earlier, led by Special Branch which
29 was tasked with deciding what should be done with

1 information and intelligence that was received.

2
3 Stobie's intelligence was also recorded in the RUC's
4 Daily Intelligence Book. Officers of the rank of Chief
5 Inspector and Detective Superintendent were aware of
6 the intelligence, according to contemporaneous records.

16:03

7
8 On the evening of the 9th February, when Stobie called
9 the RUC Special Branch to say that the parcel hadn't
10 been delivered and requested that the boys call him at
11 midnight, a comment in the margin of the record notes
12 that one of Stobie's handlers, Detective Constable R/08
13 was informed of this information.

16:03

14
15 Sir Desmond concluded, however, that no action was
16 taken. He said he found this "extremely surprising
17 given the high value nature of the intelligence that
18 had been provided by Stobie to his handlers."

16:03

19
20 Could we bring up, please, document 1, electronic
21 page 422. This is paragraph 22.22 of the de Silva
22 report. This is what Sir Desmond said:

16:03

23
24 "The intelligence picture as a whole was certainly
25 sufficient for the RUC to have considered a range of
26 options to attempt to prevent the UDA 's planned
27 attack. Analysis of the Daily Intelligence Book and
28 the Threat Book shows the RUC regularly and
29 successfully taking action to prevent attacks on the

16:04

1 basis of vaguer intelligence than the information
2 provided by Stobie in the week preceding
3 Patrick Finucane's murder. The RUC could have
4 considered a range of options to seek to thwart the
5 attack, including, for example, placing the UDA 16:04
6 suspects under surveillance, taking action in relation
7 to the weapons in Stobie's possession or pre-emptively
8 arresting some of those plotting the attack, such as
9 L/20."

10
11 As I have mentioned earlier, both Sir Desmond and Sir
12 John Stevens included that proper exploitation of
13 Stobie's intelligence could have prevented
14 Patrick Finucane's murder.

15
16 Sir Desmond also found that after the murder, Special
17 Branch unjustifiably withheld critical information from
18 Stobie from their colleagues in the CID, those who were
19 investigating Patrick Finucane's murder. This included
20 the time critical information from 15th February that 16:05
21 Stobie had been asked to collect the potential murder
22 weapon from a potential suspect in the murder. That
23 was not passed on timeously to the CID.

24
25 They are, Sir, you may feel some stark conclusions, 16:05
26 however, for Mr. Moloney they only went so far. To
27 quote his article, he said this was "a powerful
28 indictment of what? RUC incompetence or malevolence or
29 evidence of some hidden subterranean manipulation? We

1 don't know, because as with so much of Sir Desmond de
2 Silva's report there are more questions than answers,
3 more whats, wheres and whens than whys."

4
5 As I've said earlier, Sir, that is a critique of
6 Sir Desmond's report, which others have shared.

16:06

7
8 That is all I will say for now on the role of William
9 Stobie and I will turn to the role of Tommy 'Tucker'
10 Lyttle.

16:06

11
12 I stress that, again, in respect of both of these
13 individuals, and indeed everything else that you've
14 heard today, more detail will be provided in the
15 written document that will follow.

16:07

16
17 Tommy 'Tucker' Lyttle was the UDA's West Belfast
18 Brigadier. By 1989 he had also become the Chairman of
19 the Inner Council of the UDA. He was, in theory, one
20 of the most powerful figures within the UDA,
21 particularly in the battalion considered responsible
22 for Patrick Finucane's murder. Various questions have
23 been raised about his role in the murder. I focus on
24 three in particular.

16:07

25
26 First, it has been alleged and asserted that he was an
27 informer or agent for the RUC Special Branch.

16:07

28
29 Second, there is evidence that he had contacts within

1 the RUC, including within Special Branch. The extent
2 and nature of those contacts may be relevant both to
3 the murder of Patrick Finucane and more generally about
4 the relationship between the RUC and the UDA.

16:08

6 In particular, Lyttle gave interviews to the
7 journalist, Greg Harkin, and as we have heard from
8 Ms. Millar, to John Ware, in which he suggested that
9 the UDA had been encouraged by RUC officers to murder
10 Patrick Finucane.

16:08

12 The third question is about Lyttle's personal role in
13 the murder. It is important to establish, as a point
14 of fact, what his role was in order to help fulfil the
15 Terms of Reference of this inquiry.

16:08

17 I will turn to those questions, Sir, after a brief
18 overview of some of the secondary sources about
19 Tommy Lyttle.

16:09

21 Lyttle rose to the position of Chairman of the Inner
22 Council in 1988 after a period of fierce and bloody
23 infighting within the organisation. The previous 12
24 months had seen the murders of John McMichael and of
25 James Pratt Craig as we have heard earlier, Jim Craig
26 who was suspected of racketeering and had links with
27 the Provisional IRA. This period had also seen the
28 ousting of the longstanding supreme commander of the
29 UDA. Lyttle emerged at the head of the organisation in

16:09

1 his place but had a more limited status as reflected in
2 his less grandiose title as Chairman of the Inner
3 Council. He was, at most, primus inter pares in a more
4 collective style of leadership.

5
6 Lyttle's position as brigadier in west Belfast was of
7 longer standing with one source stating that he emerged
8 in that role in 1986. However, even within west
9 Belfast he was, by 1989, coming under pressure from
10 younger, more militant members. The journalist, 16:10
11 Ed Moloney described him as "probably the last of a
12 generation of so-called moderate UDA leaders who were
13 as interested in politics as war." Sir Desmond de
14 Silva said he was "generally considered to be one of
15 the older generation less militaristic figures on the 16:10
16 Inner Council." It's important to note, Sir, that
17 these things are all relative and that undoubtedly
18 Lyttle was heavily involved in paramilitarism.

19
20 Turning to the question of whether Lyttle was an RUC 16:10
21 agent. Mr. Moloney wrote:

22
23 "By the time of his death, there was hardly a
24 figure in the Belfast media who didn't believe that
25 will Tommy Lyttle was a tout." 16:11
26

27 As we will see, Mr. Moloney, himself, was one of few
28 exceptions. There are a number of published sources
29 referred to in the written document that have served as

1 a fact that Lyttle was a Special Branch agent.

2
3 Sir Desmond de Silva, however, said in his report that
4 he was satisfied that there was no sound evidential
5 basis for those reports. He went on:

16:11

6
7 "However, I also recognise that in the context of
8 Northern Ireland in the late 1980s, there was a broad
9 spectrum of possible relationships between paramilitary
10 figures and members of the security forces. The
11 officially sanctioned link between a handler and a paid
12 agent represents only one such type of relationship."

16:11

13
14 Both Sir Desmond and Mr. Moloney considered the nature
15 of the links between Lyttle and his contacts in the
16 RUC. The detail of their analysis is set out in the
17 written opening and I will not repeat it here. It's
18 complex story and hard to piece together from what has
19 to date been published.

16:12

20
21 In summary, Sir Desmond was satisfied that Lyttle had a
22 number of RUC contacts from at least 1986 until after
23 Patrick Finucane's murder. There was, he thought,
24 circumstantial evidence that one of the sources with
25 whom Lyttle maintained contact in early 1989 was a
26 Special Branch officer and hence someone who would have
27 access to a higher degree of sensitive information.

16:12

28
29 In 2015, three years after the de Silva report,

1 Mr. Moloney published an article based on a tape
2 recording made by Lyttle in 1994. This tape recording
3 had not been provided to the de Silva Review or, it
4 seems, to the Stevens Investigations. The tape was, in
5 Mr. Moloney's assessment, Lyttle's response to the 16:13
6 allegations that he was an informer. It was made
7 shortly before his death. Lyttle died of a heart
8 attack in 1995.

9
10 what the tape contained, according to Mr. Moloney, was 16:13
11 an account of Lyttle's relationship with a particular
12 source in the RUC Special Branch. Lyttle said that he
13 inherited that source from another UDA man in or around
14 August 1988. Again, the detail is set out in the
15 written opening. Mr. Moloney characterised the 16:13
16 relationship Lyttle had with the source as "a collusive
17 alliance from which both parties, UDA and RUC, gained.
18 Information flowed in both directions."

19
20 To Mr. Moloney's eyes it raised the question of whether 16:14
21 the UDA were being directed towards certain acts and
22 away from other acts. These accounts of Lyttle's RUC
23 contacts are important in their own right showing, as
24 they do, the links between elements within the RUC and
25 a senior figure in the UDA. Sir Desmond concluded that 16:14
26 this was "a source of serious concern. I do believe
27 that Lyttle was improperly assisted by RUC contacts in
28 the period before and after Patrick Finucane's murder
29 and that one of these contacts was a Special Branch

1 officer with access to intelligence information. In my
2 view, Lyttle's links to some RUC officers during this
3 period were so significant that they provided him with
4 an entirely improper degree of protection and
5 assistance in conducting his activities as the 16:15
6 brigadier of the West Belfast UDA."

7
8 Those links have a particular resonance in light of
9 information that Lyttle reportedly gave to other 16:15
10 journalists about what his source said to him about the
11 targeting of Patrick Finucane. I turn to that now.

12
13 The de Silva Review considered two such accounts. The
14 first is taken from a book written by the journalist
15 Greg Harkin or co-written by him and Martin Ingram. 16:15
16 Mr. Harkin stated that he met Lyttle in January 1990 at
17 around the time when he was first arrested. I'll come
18 on to his arrest later. The second account was to
19 John Ware and we've already heard of something of that
20 from Ms. Millar. 16:16

21
22 Beginning with the account given to Greg Harkin.
23 Mr. Harkin wrote in his book:

24
25 "UDA West Belfast commander, Tommy 'Tucker' Lyttle told 16:16
26 me that within hours of Douglas Hogg's speech in the
27 Commons on 17th January he [Lyttle] met with his
28 Special Branch handler. Lyttle claimed that his
29 handler discussed Hogg's comments with him and said,

1 'Why don't you whack Finucane?' Brian Nelson was then
2 summoned tomorrow Lyttle's house and told to prepare an
3 intelligence file on the lawyer. What Lyttle didn't
4 know was that Brian Nelson was already actively
5 targeting Pat Finucane."

16:16

6
7 Sir Desmond expressed some scepticism about this
8 account. He noted that at the time Lyttle had a reason
9 to be raising concerns about the RUC given his recent
10 or imminent arrest. He also thought it doubtful that
11 Lyttle would have given an account in which he referred
12 to his Special Branch handlers given that Lyttle
13 himself denied being a Special Branch agent.

16:17

14
15 Sir Desmond preferred the account given to John Ware.
16 You've heard some evidence about this already from
17 Ms. Millar but it may be helpful to provide a little
18 more detail.

16:17

19
20 According to contemporaneous notes submitted to the de
21 Silva Review, Mr. Ware interviewed Lyttle on 24th
22 December 1993 and on 20th to 22nd June 1994. He
23 summarised what he was told in an article in the New
24 Statesman in 1998, the relevant section of which is
25 reproduced in the de Silva report. I ask that that be
26 brought up now. It is paragraph 20.10. I think it's
27 page 371. [Short pause]. Sorry, page 369. If we
28 could just go to that bottom paragraph please. Thank
29 you.

16:18

1
2 The article included the following passage:

3
4 "Lyttle... confirmed that the original idea to murder
5 Patrick Finucane came from two RUC detectives. While a 16:19
6 prominent UDA gunman was being held in Castlereagh, an
7 officer entered the interrogation room and said to his
8 colleague: 'Have you put it to him yet?' They then
9 suggested that the UDA shoot Finucane. Lyttle said
10 that he was so astonished at this suggestion that he 16:19
11 informed a regular contact in the RUC Special Branch:
12 'I told him: 'What the hell is going on in
13 Castlereagh? Why is Finucane being pushed?' The
14 officer said that it would be 'a bad blow for the
15 Provos [the IRA] to have Finucane removed.' Did that 16:19
16 amount to approve that he should be shot?' Put it this
17 way,' said Lyttle, 'he didn't discourage the idea that
18 he should be shot'."

19
20 That is what was written in the article and it is 16:20
21 consistent with Mr. Ware's notes. You saw and heard
22 something of those notes earlier and they are linked
23 back to the account given of L/03 being the UDA man who
24 was held at Castlereagh and who was encouraged to
25 target Patrick Finucane. 16:20

26
27 The notes also include the comment from Lyttle that:

28
29 "If a man in his position..."

1
2 This is the position of his RUC source.

3
4 "If a man in his position doesn't discourage it, then
5 that amounts to approval." 16:20

6
7 John Ware's notes also include Lyttle as saying:

8
9 "There is no doubt at all that between the RUC and an
10 RUC Special Branch contact, the idea to kill Finucane 16:21
11 was born."

12
13 You have heard, Sir, that Mr. Ware gave a submission to
14 the de Silva Review which explained why he considered
15 Lyttle's account to be credible and that included 16:21
16 another source telling Mr. Ware that he had been told
17 before Patrick Finucane's murder that Lyttle had said
18 to him, 'You'll never guess what the cops are now
19 suggesting we do: Kill Finucane.' And Mr. Ware's
20 contact had since been conscience stricken because he 16:21
21 or she wondered whether or not they should have done
22 more to act upon that information.

23
24 As we've heard, Sir Desmond de Silva did not consider
25 and weigh that part of Mr. Ware's evidence because he 16:21
26 had taken a self-denying ordinance that he was not
27 going to place weight on anonymous sources. That will
28 be something that this inquiry will have to consider.
29

1 In general, however, and as Ms. Millar said earlier,
2 Sir Desmond did consider that Mr. Ware's account of
3 what he was told was reliable given that it was based
4 on contemporaneous notes. Sir Desmond also described
5 the general accuracy of the information provided by
6 Lyttle to Mr. Ware. It is, perhaps, notable that by
7 the time Lyttle spoke to Mr. Ware he had left the UDA.

16:22

8
9 Sir Desmond went on to consider the wider evidence
10 about Lyttle's contact with RUC officers. I discussed
11 some of that earlier and it's in more detail in the
12 written report. He found no direct evidence to
13 corroborate Lyttle's claim that he discussed the
14 targeting of Patrick Finucane with his RUC Special
15 Branch contact. However, Sir Desmond said:

16:22

16
17 "I certainly cannot exclude the possibility that Lyttle
18 did, as he told John Ware, discuss the targeting of
19 Mr. Finucane with a Special Branch contact."

16:23

20
21 So nothing directly to corroborate that Sir Desmond did
22 not exclude the possibility. When he came to that
23 conclusion, Sir Desmond did not have Mr. Moloney's
24 article or the tape recording that Mr. Moloney had of
25 Lyttle before him. That additional information cuts
26 both ways. If accurate, it appears to reinforce the
27 conclusion that Lyttle had an established Special
28 Branch contact at or around the time of planning of
29 Patrick Finucane's murder. However, there is nothing

16:23

1 in Mr. Moloney's article to suggest that Lyttle
2 referred to any discussion with that contact about
3 Patrick Finucane, still less any tacit or explicit
4 encouragement to kill Patrick Finucane.

5 It should be noted, though, that Mr. Moloney thought
6 that Lyttle may have been downplaying aspects of his
7 relationship with that Special Branch source.

16:24

8
9 These, Sir, are all matters that this inquiry will
10 consider.

16:24

11
12 Turning to Lyttle's role in the murder of
13 Patrick Finucane.

14
15 The de Silva report describes Lyttle's role in the plot
16 as complex and in parts contradictory. And that
17 assessment reflects, in part, the power struggle that
18 was going on within the UDA at the time with the
19 tendency of more militant elements to minimise Lyttle's
20 role and indeed to minimise Lyttle's capabilities.

16:24

16:25

21
22 There are suggestions in the Contact Forms of FRU's
23 interactions with Nelson and in an interview that
24 Kenneth Barrett gave to Panorama journalists that
25 Lyttle was somewhat sidelined during the planning of
26 the murder and that he was nervous afterwards about the
27 UDA claiming responsibility for it. However, there are
28 also goblets of intelligence that may suggest Lyttle
29 was closely involved. These include a piece of

16:25

1 security service intelligence dated 15th February 1989
2 which records that:

3
4 "Lyttle had mentioned Home Office Minister Douglas
5 Hogg's comments about PIRA sympathizers among the legal 16:26
6 profession in the week prior to the murder of
7 Patrick Finucane."

8
9 Sir Desmond found that none of these individual
10 Intelligence Reports were conclusive. Taken together, 16:26
11 and with Lyttle's accounts to journalists, Sir Desmond
12 concluded:

13
14 "I am satisfied that Lyttle must have had full
15 knowledge of the UDA plan to murder Patrick Finucane. 16:26
16 It is, however, nonetheless possible that although
17 Lyttle was aware of the targeting of Patrick Finucane,
18 he was not privy to the operational details as to how
19 and when the UDA hit team intended to murder him."

20 16:26
21 Sir Desmond did not express a view on whether Lyttle
22 approved or sanctioned the murder. As I said earlier,
23 this question of how have the UDA operated, how the
24 chains of command and whether there were chains of
25 command within the UDA is a matter that the Inquiry 16:27
26 will have to grapple.

27
28 There is, Sir, one final area in which Lyttle is
29 important to understanding the events that this inquiry

1 will consider. On 25th August 1989, six months after
2 the murder of Patrick Finucane, gunmen from the UDA
3 broke into another house and murdered another father in
4 front of his family. Loughlin Maginn, aged 28 and a
5 father of four, was shot in the chest and died on his 16:27
6 stairs, witnessed by his ten-year-old daughter, Jenny.

7
8 Elements within the UDA were anxious to counter the
9 suggestion that this was a mere sectarian murder. They
10 wished to show that the UDA could obtain intelligence 16:28
11 to direct targets towards what they deemed to be
12 legitimate targets, including active PIRA volunteers.
13 To this end, the UDA showed journalists video footage
14 obtained from within the Ballykinler army base in
15 County Down. That video included images and a document 16:28
16 compiled by the RUC that listed IRA suspects in the
17 area and which included Loughlin Maginn's name. This,
18 Sir, is part of this sharing of information and
19 assistance between the security forces and the UDA that
20 we discussed earlier. 16:28

21
22 Numerous reports state that these media efforts were
23 led by 'Tucker' Lyttle.

24
25 At first, the UDA were pleased with the outcome. The 16:29
26 DCI told the Secretary of State and others at a
27 security policy meeting on 26th September 1989 that the
28 UDA had enjoyed a surge in morale as it was perceived
29 as a greater threat to the Provisional IRA and because

1 the Anglo-Irish Agreement had been put under strain as
2 a consequence of the publicity surrounding this video.
3 The victory proved to be pyrrhic. In the words of
4 Mr. Moloney it was "the loosened pebble that caused a
5 landslide."

16:29

6
7 The resulting scandal led the RUC Chief Constable,
8 Sir Hugh Annesley to commission the first Stevens
9 investigation, that and the subsequent two
10 investigations resulted in 144 arrests and 94
11 convictions. One of those convicted was 'Tucker'
12 Lyttle who received a seven-year sentence. This and
13 the rumours of his role as an informer ended his time
14 at the head of the UDA. As I've said, Sir, he died of
15 a heart attack in 1995.

16:30

16:30

16
17 More detail about the Ballykinler video is provided in
18 the written statement, that includes evidence that the
19 RUC knew in advance that there was likely to be a
20 UDA-led break-in but did not stop it. Part of the
21 rationale was allegedly that the UDA was thought to
22 have that kind of material anyway.

16:30

23
24 That, Sir, concludes what I have to say about the role
25 of Tommy 'Tucker' Lyttle.

16:31

26
27 I note the time, Sir, and tomorrow we will return to
28 the role of Brian Nelson before then going on to
29 discuss the role of the Security Service and the role

1 of the UK Government, including comments made by
2 Douglas Hogg, before then turning to the initial RUC
3 investigation, the investigation by the Stevens team
4 and the prosecution of Brian Nelson.

5 CHAIR: Thank you, Mr. Hill, and thank you,
6 Ms. Townshend and Ms. Millar. That concludes
7 proceedings for today. We begin again tomorrow at
8 10:30. Thank you, everyone.

16:31

9
10 THE INQUIRY WAS THEN ADJOURNED UNTIL WEDNESDAY, 16TH
11 SEPTEMBER 2026 AT 10:30 A.M.

16:31