

THE OMAGH BOMBING INQUIRY
WRITTEN OPENING STATEMENT
ON BEHALF OF THE CORE PARTICIPANTS
REPRESENTED BY FOX LAW

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Who We Are

1. This opening statement is made on behalf of the following families that lost their loved ones in the Omagh bomb ('the Bomb') on Saturday 15 August 1998:

- Michael Gallagher, Patsy Gallagher and Cat Wilkinson who lost a son and brother, *Aiden Gallagher* (Aged 21).
- Stanley McCombe, Clive McCombe and Colan McCombe who lost a wife and mother, *Ann McCombe* (aged 48).
- Edith and Linda White who lost a husband, father and son, brother, *Fred White* (Aged 65) and *Bryan White* (Aged 27).
- Michael, Patrick, Aoibheann and Eilisha Monaghan who lost a wife, mother and daughter, sister *Avril* (Aged 30) and *Maura Monaghan* (Aged 20 months) and Avril's unborn twins.
- Michael, Bernadette, Amanda, Caoimhe, Cillian and Aisling Doherty, Lisa Dillon, Gearoid Doherty and Oisín Doherty who lost a son and brother, *Oran Doherty* (Aged 8).
- John and Patricia McLaughlin who lost their son *Shaun McLaughlin* (Aged 12).
- Joe and Bridie Marlow and Nikki Lucas who lost a daughter and sister, *Jolene Marlow* (Aged 17).
- Victor Barker who lost his son *James Barker* (Aged 12).
- Bernadette, Louise, Colin and Brian McCrory who lost a husband and father, *Brian McCrory* (Aged 54).
- Jose Abad Esquivel, Paloma Abad Ramos and Ana Abad Ramos who lost a daughter and sister, *Rocio Abad Ramos* (Aged 23).
- Nuala, Conor, Gavin, Noeleen and Caragh McGrath who lost a husband and father, *Sean McGrath* (Aged 61).
- Gareth McCrystal and Rosemary Cooney who lost a mother and sister, *Geraldine Breslin* (Aged 43).
- Patrick and Fearghal Grimes who lost their mother *Mary Grimes* (Aged 66).

- Elizabeth Gibson and Caroline Martin who lost their sister *Esther Gibson* (Aged 36).

It is also on behalf of the following survivors who were injured as a result of this atrocity

- Donna Marie McGillion.
- Garry McGillion.
- Jaime McGlinn.
- Michelle McCullagh.
- Suzanne Travis.
- Mary Christina Kelly.
- Giles McCourt.
- Ronan McGrory.
- Nikki Lucas.
- Sandy Marcus-Smith.
- Monica Taggart

For the purpose of referencing, these victims and survivors will be collectively referred to as 'the CPs' in this opening statement. The use of the collective term 'CPs' should not distract from the fact that the CPs are individuals who each have suffered extraordinary levels of distress in different ways. Nobody who attended the commemorative hearings could be in any doubt about this.

Responsibility

2. At the outset, it must be clearly stated that there is no doubt who is to blame for the Bomb. Responsibility for that atrocity firmly rests with the dissident republican terrorists who planned, resourced and planted this bomb in the knowledge that it had the potential to cause mass destruction and have such devastating consequences as evidenced during the commemorative hearings. Nothing that follows is intended to suggest that responsibility is shared with anyone other than dissident republican terrorists or that their guilt is mitigated in some way. As was said during the commemorative hearings, this was a:

... cowardly, wicked act that took so much away (Suzanne Travis, 13 February, p72)

3. However, without in any way wanting to detract from the unqualified statements in the paragraph above, the guilt of dissident republican terrorists does not mean that it is not legitimate and important for questions to be raised about possible failings by the state in relation to protection.

4. In a modern democracy, there will always be evil people who seek to disrupt society. Both individuals and society collectively expect the state to protect its citizens from the threat of violence and the risk of harm. That is why the state funds security services such as the police and enacts special powers to enable those services to be effective. The reality is that nobody would have been in Omagh enjoying a beautiful summer day had there not been an expectation of effective state protection. As described during the commemorative hearings:

The town was busy and I distinctly recall the chatter of many of the visitors as they conversed in Spanish. There were children running about and the town was expecting the procession of a parade in a short time. The sun was shining and in all it was ideal for a summer carnival in Omagh (Jaime McGlinn, 12 February, p.206)

5. Society's expectations of protection are reflected in the recognition of the importance of the right to life, found in human rights instruments. For example, the right to life, safeguarded by article 2 of the European Convention on Human Rights ('article 2'):

... ranks as one of the most fundamental provisions in the Convention, one which, in peace time, admits of no derogation under Article 15. ... it enshrines one of the basic values of the democratic societies making up the Council of Europe (*Giuliani and Gaggio v Italy* app 23458/02 at [174]).

A key aspect of the right to life is the duty imposed on states to provide protection (e.g. *Osman v The United Kingdom* app 23452/94).

6. The duty to provide protection is in part made effective by the duty that is imposed on the state to investigate potential breaches of article 2. That duty has given rise to this Inquiry (see the judgment of Horner J (as he then was)). That duty exists in part because:

... that those who have lost their relative may at least have the satisfaction of knowing that lessons learned from his death may save the lives of others. (per Lord Bingham in R (Amin) v Secretary of State for the Home Department [2004] 1 AC 653 at [31]).

7. These matters demonstrate that it is legitimate for questions to be raised about whether state agencies took steps that we expect them to take to protect and that the law obliges them to take. As Michael Gallagher said to the Northern Ireland Affairs Committee on 16 March 2009:

We will not remove the blame from those who are responsible, and that is the Real IRA. They took responsibility for it. They are the people who created an extremely lethal and dangerous situation in Omagh and expected others to deal with it. Our call for an inquiry is not to shift blame from those who rightly should receive that blame, but to see what went wrong and what should be done to put it right.¹

What the families seek

8. The CPs wish to place on record their gratitude to the Inquiry for the dignified and considered manner in which the commemorative

¹ *The Omagh bombing: some remaining questions*, House of Commons Northern Ireland Affairs Committee, Fourth Report of Session 2009-10, EV3-4 [INQ000278_0042]

hearings were approached and managed. It highlighted the place of the families and survivors at the centre of the process and demonstrates the importance that they should remain the focus for the Inquiry at each and every stage. The hearings allowed the families of the deceased to remember their loved ones and convey their loss through their pen portraits, and for the survivors to tell their experiences and the impact that the bomb has had on their lives.

9. On observation, the hearings also provided the first responders with an opportunity to communicate their own experiences of the harrowing situation that they faced and the difficult tasks that they had to undertake.
10. Several themes are clear from the evidence heard during the commemorative hearings.
11. First, it is clear that there is a desire for the Inquiry to conduct a thorough and comprehensive review of the circumstances surrounding the Omagh bomb:

... learning about the inquiry has filled us with hope, the hope that a lot of the unanswered questions will finally be dealt with in a thorough and robust manner. The hope that all those who lost loved ones and survived can find out the whole story as to what happened. (Paloma Abad Ramos, 28 January, p94)

12. Secondly, one reason why it is important that there is a thorough and comprehensive review of the circumstances surrounding the Omagh bomb is that families need that to heal:

... people in the wider community have questions that remain outstanding and that they want answers to and I sincerely hope they find the answers. I hope I find the answers that I'm looking for and I hope this is a cathartic

process for those who involve themselves in it. [Emphasis added] (Gareth McCrystal, 30 January, p41) ...

I hope some people get the closure they need to overcome some of the challenges they have faced in the past 26 years (Nicola Marlow, 6 February, p22)

In a real sense this a last opportunity for a cathartic/healing process:

And I'm not too sure that we can keep doing this. I mean, this is really hard. It's really hard to -- you know, you build yourself up in a way where you are -- it's never away but you build yourself up in a way where you're coping and then you have to do this again, and I just don't particularly -- I just can't do this again. (Donna Marie McGillion, 12 February, p70).

13. Thirdly, another reason why the CPs seek a thorough and comprehensive review of the circumstances surrounding the Omagh bomb is, consistent with the judgment in *Amin* cited above, a desire on the part of families to prevent repeats of any failures:

[The Inquiry] is about making sure that something as barbaric and heinous as the Omagh bomb is not allowed to happen again. It is about learning lessons and standing up for truth and justice. (Stanley McCombe, 4 February, p92).

14. Fourthly, it is clear that an extraordinary level of suffering has resulted from the Omagh bomb. For example, Lord Turnbull said responding to evidence of Fearghal Grimes that:

Mr. Fearghal Grimes mentioned the words of the coroner spoken at the inquest into the killings, which took place in the year 2000, when the coroner mentioned that he could not recall any one family suffering such a loss in the history of The Troubles. 26 years later those words still resonate as a powerful measure of the extent of the cruelty inflicted upon this family. (29 January, p64)

15. These matters demonstrate why it is so important that the Inquiry undertakes its role with rigour, thoroughness and in a manner that has the confidence of the CPs. An important aspect of this is that the Inquiry does not rule out issues too early. For example, it is important not to rule out issues relating to the warning calls at this stage:
- a. The CPs argue that there was a need for all intelligence/information suggesting a threat to be considered by a single body with responsibility for protecting the public. This would have allowed a clear view to be formed of the threat, which may have enabled a more effective response to the warning calls. For example, a recognised code word was used. There was available intelligence that the time between the bomb warning being given, and the detonation had been shortened by dissident republicans². There is a need to investigate and assess if this information about a reduced time to respond (particularly when combined with other intelligence) should have impacted on the response and evacuation procedures implemented on the day.
 - b. There is a need to investigate differential policing (i.e. whether policing of terrorism in Northern Ireland was as effective as that in England). Preparedness for warning calls is an aspect of this. Did England have more effective procedures to respond to bomb threats.
 - c. The Army had regularly been called upon during bomb alerts as it possessed a range of expertise including bomb disposal expertise. However, on 15 August 1998 they were not deployed into Omagh following the warnings being issued. At the commemorative hearings, Kevin Skelton commented that for every bomb scare up to 14 and after 16 August 1998, the Army had been brought onto the streets to clear the town. This raises the question of why the Army were not deployed on the

² *Briefing paper: Omagh victims self-help group*, 22 February 2008, p22 [INQ000427].

day of the Bomb and what was the protocol governing their attendance. The CPs submit that an aspect of preventability is whether the decision not to deploy the Army was or should have been influenced by intelligence and other material suggesting a threat. It is noted below that there is express evidence that the response to the Bomb threat should have been influenced by intelligence [120(f)].

16. Further, although it is accepted that the investigation of the Bomb is not directly related to preventability, it potentially needs to be considered for the following reasons among others:
 - a. It may shed light on issues of preventability. For example, it may shed light on the extent to which there were effective mechanisms to ensure that intelligence was shared.
 - b. It may also shed light on the likely approach to the investigation of the prior incidents such as Banbridge.
 - c. It may be relevant to the weight that can be placed on the conclusions of the contemporaneous investigation.
17. In light of the matters above, although it is accepted that the terms of reference mean that there are limits to what the Inquiry can consider, it is important for the credibility of the Inquiry that issues are only ruled out after a review of the evidence demonstrates that a clear evidential basis exists for ruling issues out. That evidential basis needs to be explained to the CPs.
18. One aspect of rigour that is particularly important to the CPs is the need to investigate with rigour claims that the Inquiry has been provided with full disclosure/full evidence. There is a significant body of evidence that demonstrates that material has been withheld from official investigations in the past, including:

a. The Kenova Report³ states that:

In advance of my evidence to NIAC in September 2020, I telephoned a number of my predecessors to inform them that I was giving evidence and to ask if there was anything they might wish me to pass on to the Committee. They said:

- *David Cox, former Head of the PSNI, [Historical Enquiries Team – “They (PSNI Intelligence) always gave me a limited version of the truth- they invariably did not and will not give up information.”*
- *Lord Stevens, referring to the security forces - “I was misled deliberately, I was criminally obstructed from doing my job by the RUC and military, whilst MI5 failed to disclose information”*
- *Judge Pomerance, Senior Counsel to the Cory Inquiry – “We could not compel material being provided – others controlled what we received and when and how we received it and the conditions in which we received it. They (MI5) made the entire process uncomfortable. The state viewed itself as above the law.”*
- *Mary Lavery, Senior Counsel to Judge Smithwick – “They (the security forces) made it incredibly hard – when will they decide they can reveal the information?”*

b. The Billy Wright Inquiry Report⁴ states that:

The evidence which the Inquiry has heard from several witnesses, and the clear indication in the Alpass Report of 2000 of the enormous number of

³ Operation Kenova Northern Ireland ‘Stakeknife’ Legacy Investigation, Interim Report of Jon Boutcher, 2023, [49.4], [INQ000321].

⁴ The Billy Wright Inquiry Report, 2010, [5.115], [INQ000321].

hard copy files which were then in existence mean that it is very puzzling that the PSNI has been unable to produce any significant hard copy intelligence records from 1997. Where they are, or if and when they were destroyed, remains a mystery.

- c. The Police Ombudsman for Northern Ireland ('PONI') report entitled *Investigation by Police of the Murder of Mr. Sean Brown on 12 May 1997*⁵ states that:

The Box File was not available on 23rd and 24th May 2001, and was formally declared missing on 26th July 2002. The inability of the Police Service of Northern Ireland to produce this document had massive consequences for this investigation.

19. The experience and learning from these investigations and reports demonstrates a need for the Inquiry to probe with care, material provided to it to ensure it is complete and accurate.
20. At this early stage of the Inquiry, it is concerning that it is already being indicated on behalf of the Police Service of Northern Ireland ('PSNI') that potentially relevant documents connected to the intelligence community, some from the highest level, cannot be located, including:
- a. Any reports provided by the Royal Ulster Constabulary ('the RUC') to the Secretary of State for Northern Ireland.⁶
 - b. The agendas, briefings and minutes for the Security Policy Meetings held in 1997 and 1998 (1996 is available).⁷

⁵ <https://www.policeombudsman.org/getmedia/b8a50281-c672-4f91-b16a-a3ca8d1a5a67/Sean-Brown-Public-Statement.aspx?ext=.pdf> [11.3,x].

⁶ Corporate Witness Statement on Behalf of the Police Service of Northern Ireland, Response to Addendum Questions, May 2025, [251], [INQ013684].

⁷ Corporate Witness Statement on Behalf of the Police Service of Northern Ireland, May 2025, [251], [INQ012954].

- c. Relevant Northern Ireland Intelligence Reports, which had been created by the Assessment Group (part of the Security Service);⁸
- d. The agendas, briefings and minutes for the Special Branch Intelligence Management Group meetings.⁹
- e. The agendas, briefings and minutes for the Intelligence Review Committee meetings.¹⁰
- f. The agendas, briefing papers or minutes for the Special Branch Senior Management Group meetings.¹¹

21. There has never been a successful conviction of anyone in relation to the Omagh bomb. However, in the time since the bomb there have been related criminal trials¹², civil trials¹³, investigative reports¹⁴, and a judicial review¹⁵ that resulted in this Inquiry. Therefore, given this continual review and assessment, there would be an expectation from the CPs that all relevant material is available and that any reason proffered for a document being lost or destroyed is fully investigated. The documents identified in the paragraph above are all ones that one might expect to have been retained in light of the investigations and reviews.

22. The CPs also submit that there should be no delay in the provision of the materials from the state core participants. A significant period of

⁸ Ibid, [259].

⁹ Ibid, [288].

¹⁰ Ibid, [296].

¹¹ Ibid, [311].

¹² *R v Hoey* [2007] NICC 49; *DPP v Michael McKevitt* [2005] IECCA 139; *DPP v Murphy* [2005] IECCA 1; *Withdrawn case against Seamus Daly*, 1 March 2016.

¹³ *Breslin & Ors v McKenna & Ors* [2009] NIQB 50; *Breslin & Ors v McKenna & Ors* [2011] NICA 33; *Rush v PSNI & Secretary of State* [2011] NIQB 28.

¹⁴ For example, *Report Compiled for the British and Irish Governments in Support of a Full Public Inquiry into the Omagh Bombing 15 August 1998*, Bridger and Polaine, 2012, p4 [INQ000645].

¹⁵ *Re Michael Gallagher* [2021] NIQB 85.

time has already passed since proceedings were issued in 2013, challenging the decision of the then Secretary of State for Northern Ireland not to hold a public inquiry, and it has been 4 years since that decision was overturned. It is the CPs position that state bodies have been on notice since at least 2021 that all relevant documentation would be sought for the purposes of an article 2 compliant investigation.

23. The submissions above are not intended to cast doubt on the good faith of any current state official. The CPs appreciate the commitments of the state core participants to this Inquiry. The submissions above are intended to demonstrate why the CPs are concerned that a culture of non-cooperation with investigations may need to be challenged and why claims that material cannot be discovered must be examined with care.

Timing of the opening statement

24. It is regretted that state core participants have concluded that they are unable to make any concessions at this stage. In particular, the Secretary of State has been alert to the issues raised since 2013 at the latest in light of the judicial review proceedings. The duty of candour in the judicial review proceedings should have required a full review of the relevant documentation.
25. It is also regretted that there has been little engagement by the state core participants with the substantive issues raised by the Inquiry. That means that this opening statement is made without knowledge of the state's position.
26. At the time that this statement is being submitted full disclosure and oral evidence is still to be provided, which has several consequences:

- a. In the same way that the CPs expect and believe that the Inquiry should not prejudge matters, the CPs do not want to prejudge matters.
 - b. This opening statement will identify themes and issues that are important to the CPs. However, these submissions cannot be complete. Issues may arise as further evidence is disclosed. It is noted that the Inquiry may provide the opportunity for opening statements at the commencement at some, or all, of the various chapters. This approach is welcomed, given the limited disclosure of material to date.
- 27. The matters above mean that the CPs have not focused on particular chapters. Instead, they have sought to do 2 things:
 - a. Make submissions about the overall approach.
 - b. Identify themes that may need to be considered.

Holistic approach

- 28. The submissions below, highlight a number of particular issues. Similarly, the preliminary list of issues identifies a number of issues. That is, to some extent, inevitable. However, there is a danger to it. While the Chapters will provide a structure, it is essential not to consider any evidence in isolation, but rather to approach the evidence in a holistic manner, in order to identify any interconnectedness that may exist; this may prove particularly challenging where there will be evidence held in open and closed. For example:
 - a. It is important not to assess any piece of intelligence in isolation, without considering the potential that it could be related to other intelligence or information. It is the full picture that enables an assessment of risk to be conducted.
 - b. Intelligence may be obtained from an unreliable source. Corroboration for that intelligence may allow an assessment to be reached that it is more reliable than initially appears to be the case.

- c. The fact that dissidents were carrying out a series of bomb attacks potentially corroborated intelligence showing a desire/intent to carry out attacks.
29. The importance of the points made in the above paragraph is clear from the evidence heard in a Commission of Investigation in the Republic of Ireland. A former Detective Sergeant (now Chief Superintendent), Peter Kirwan stated that:
- Operational intelligence involved identifying a picture. The analogy often used is that of a jigsaw; the more pieces of the jigsaw you have, the more discernible the picture. If you have only one piece it is unlikely if you will be able to say whether it is a landscape or a still life. Once that picture is complete, or even if only some pieces are available it is disseminated to the relevant superintendents.*¹⁶
30. Further, when reviewing the response of the state, it is easy to focus on the conduct of particular officers. By doing that, one risks failing to address the overall response of the state. For example, individual officers may have handled discrete items of information appropriately. That, however, does not mean that the overall response was effective, as there may have been no assessment of the overall picture. That concern is supported by the submissions below about the failure to share intelligence.
31. One example of the need for a holistic approach arises in relation to the handling of the anonymous telephone call that was made on 4 August 1998. It explicitly identified Omagh as a target; the caller spoke for at least 10 minutes and stated that an “unspecified attack would be made on police on 15 August 1998”; 3 individuals were named, and a 4th referred to by a nickname and 2 addresses were provided. The

¹⁶ *Commission of Investigation established to investigate the fatal shooting in May 1998 of Ronan MacLochlainn in Ashford, County Wicklow*, p.17, [22], [INQ011710].

caller stated that weapons, including AK47's and rocket launchers, were to be brought on a given date, and to be moved from a given address to an unknown address 2-3 miles from Omagh.¹⁷

32. This call was also investigated by the Ombudsman¹⁸ and it was reported that the call was dismissed by Special Branch as a '*fall out between smugglers.*' The police Sub-Divisional Commander was not informed of this call until 15 August 2000, contrary to Force Order 99/91 which required that the Sub-Divisional Commander must be informed immediately when a threat is received. The Ombudsman was 'firmly of the view that this significant information was not handled correctly.'¹⁹
33. Even assuming (which is not accepted) that, on its own, the call could be dismissed, its significance is potentially greater when linked with other material such as that obtained from an agent (Kevin Fulton) suggesting that an attack might be being planned (see below). This demonstrates 2 matters need to be considered:
- a. Whether anyone within the state forces was in a position to carry out an assessment of the overall intelligence position and what it said about risk.
 - b. Whether all the intelligence picture required greater action from the state.

Hindsight/preventability

34. Several of the state participants warn against applying hindsight. The need to avoid hindsight is particularly important when considering the issue of preventability. The issue that arises by reason of article 2 is

¹⁷ *Rights Watch: A Report into the Omagh Bombing*, 15 August 1998, 2013, pp.6-10, [INQ000280].

¹⁸ *Statement by the Police Ombudsman for Northern Ireland on her Investigation of Matters Relating to the Omagh Bombing on 15 August 1998*, December 2001, [INQ000274].

¹⁹ *Ibid*, p.8, [6.6].

not whether the Bomb would have actually been prevented by any particular steps. Such an approach is objectionable as it involves the application of hindsight. The issue is whether there was a real and immediate risk that the state failed to take reasonable steps to address (*Sarjantson v Chief Constable of Humberside Police* [2014] QB 411).

Resources

35. PSNI state that there is a need to consider '*other issues and threats the RUC was dealing with*'.²⁰ In principle, this is not disputed. However, 2 matters need to be taken into consideration when considering the other challenges PSNI was dealing with:

- a. This was a time when security challenges had reduced (see below). This was not a situation where the state was dealing with a sudden unpredictable upsurge in violence.
- b. The UK is obliged to ensure that it has put the resources in place to comply with the Convention (*R (Noorkoiv) v Secretary of State for the Home Department* [2002] 1 WLR 3284 at [24]). Therefore the issue is not whether the actual resources available to the state could cope with the demands on them. The issue is whether the state put in place sufficient resources. It should be noted that:

*For the security services, the renewed ceasefires in Northern Ireland led directly to a drop of over 5% in the Service allocation of resources to Irish and domestic counter-terrorism ...*²¹

Security context

36. The Inquiry will be well aware that the Bomb was planted after the Good Friday Agreement ('the GFA'), which brought an end to the

²⁰ PSNI Opening Statement, [97(b)] [INQ015520]

²¹ *Intelligence and Security Committee Annual Report 1997-98* [INQ011983]

period which has become known as the Troubles. That is important as it means that the Bomb was preceded by almost 30 years of terrorist violence. That was so intense at times that what had emerged by 1972 was described by one of the experts as an '*effective civil war in Northern Ireland*.'²² Although those 30 years were horrific and traumatic for the people of Northern Ireland, they did allow the state to develop powers, resources and experience that was valuable in addressing the risk posed by terrorism. Further submissions about the resources and powers of the state are made below. However, it is important to note that the GFA meant that demands placed on those resources and powers were likely to be less than they had been for many years.

Resources

37. Until 2001, and the establishment of the Police Service of Northern Ireland, law enforcement in Northern Ireland had been carried out by the RUC since 1922. However, in 1969, due to the level of civil unrest, the British Army were also deployed in Northern Ireland to support the RUC and continued to have a role in the security and protecting the civilian population of Northern Ireland until the period of 'normalisation' after the GFA.

38. While the structure of law enforcement was at all material times relatively clear. The responsibility for intelligence gathering was more complex. That in part reflected history. In a 2002 briefing paper of the Security Service, it was said that:²³

The complex intelligence machinery in Northern Ireland was grown out of the history of security emergencies and the different, complimentary and supportive roles played in

²² *Submission to the Omagh Bombing Inquiry*, Dr John F Morrison, December 2024, [3.17], [INQ004365].

²³ *Security Service, The Intelligence Organisation in Northern Ireland*, 30 September 2002, as quoted in the *Report of the Patrick Finucane Review*, The Rt Hon Sir Desmond de Silva QC, December 2012, [3.2], [INQ000312].

them over the years by the intelligence agencies and security forces.

39. There were attempts to address this complexity, for example through the Walker²⁴ review, but what emerged was an *'unhelpful separation between the intelligence gathering and law enforcement sides of policing in Northern Ireland'* and *'resulted in the routine practice of intelligence not being shared with those investigating Troubles related crimes, on the basis that to share such information would risk exposing where it came from.'*²⁵
40. The complexities were compounded by the fact that throughout the period of the Troubles, in the pursuit of gathering intelligence, the management of agents was not governed by statute but by non-statutory guidance and direction.²⁶
41. At the time of the Bomb, RUC Special Branch had the lead responsibility for gathering and exploiting intelligence on republican and loyalist terrorist activity in Northern Ireland. It was structured into regions, which reported into Special Branch Headquarters, where units had responsibility for the assessment and dissemination of intelligence. Special Branch was of:
- ...critical importance in the sphere of intelligence and ran the majority of agents in all terrorist groups.*²⁷

Special Branch's structure and workings had been reviewed in 1996 by Sir Gerald Warner as a result of concerns by the UK Government

²⁴ *Report on the interchange of intelligence between Special Branch and CID and on the RUC units involved, including those in Crime Branch C1(1)*, 31 March 1980, [INQ000269].

²⁵ *Operation Kenova Northern Ireland 'Stakeknife' Legacy Investigation, Interim Report of Jon Boutcher*, 2023, [50.6], [INQ000321].

²⁶ *Security Service, The Intelligence Organisation in Northern Ireland*, 30 September 2002, as quoted in the *Report of the Patrick Finucane Review*, The Rt Hon Sir Desmond de Silva QC, December 2012, [4.8], [INQ000312].

²⁷ *Ibid*, [3.6] – [3.11].

about its operations.²⁸ The implementation of that review had also been reviewed.²⁹ That has 2 implications:

- a. There should have been no structural reason why intelligence was not handled effectively by the RUC.
- b. Findings of other investigations/inquiries touching on the workings of Special Branch such as Kenova that considered the period before Warner need to be viewed with caution.

42. Despite its later role, at the commencement of the Troubles the RUC was not in a position to lead intelligence collection, which prompted the British Army to intervene and forced it, and other intelligence organisations to take the lead in obtaining their own intelligence. This resulted in a multitude of intelligence units from military, law enforcement, intelligence agencies becoming involved and undertaking substantial roles - it has been reported that the organisational landscape with responsibility for intelligence gathering included some 20 units that formed or evolved between 1969 and 1983.³⁰

43. As indicated above, while the British Army acted in support of the RUC, it was also involved in many aspects of intelligence, including the recruitment and handling of agents, through various units, including the Force Research Unit (FRU), which operated with a headquarters and four regional units. The role of FRU was explained by a former Commanding Officer:

The secret role of the FRU is to obtain intelligence from secretly penetrating terrorist organisations in Northern Ireland by recruiting and running agents and informants. This role is vital to counter terrorist operations because only

²⁸ *Corporate Witness Statement on Behalf of the Police Service of Northern Ireland*, May 2025, [283], [INQ012954].

²⁹ *Ibid*, [275]

³⁰ *Shadowboxing in the Dark: Intelligence and Counter-Terrorism and Political Violence*, 2016, Finnegan, R, p501, [INQ011701].

*the 'inside knowledge' provided by agents can lead to a true understanding of the terrorists and their intention.*³¹

Similarly, 14 Intelligence Company played a role in gathering intelligence.³²

44. In addition, the Security Service ('MI5'), the Secret Intelligence Service and Government Communications Headquarters ('GCHQ') also played a role in intelligence gathering. These services are high quality. For example, GCHQ's website states:

*GCHQ is a world-leading intelligence, cyber and security agency with a mission to keep the UK safe ...*³³

These services have played an important role in disrupting terrorism. For example, MI5's website states:

*Despite devastating bomb attacks on the Baltic Exchange and the NatWest Tower, PIRA failed to achieve its aim. A Whitehall report commented: 'Only a combination of good intelligence, good policing and good luck prevented several more incidents on a similar scale.' Among other counter-terrorism successes was Operation AIRLINES which, in the summer of 1996, defeated a well-planned PIRA attempt to disrupt the whole of Greater London's electricity supply.*³⁴

It may be of some significance, that the highlighted successes appear related to London. A significant issue is whether a different and inferior approach was adopted to terrorism in Northern Ireland.

45. With particular reference to GCHQ, it is known that they had the capability and expertise to use electronic monitoring to track electronic devices and listen in to telephone calls, and that the legislation would have allowed for the collection of that information, whether or not it

³¹ *Cory Collusion Inquiry Report – Patrick Finucane*, [3.16], [INQ000322].

³² *Shadowboxing in the Dark: Intelligence and Counter-Terrorism and Political Violence*, 2016, Finnegan, R, p503 [INQ011701]

³³ <https://www.gchq.gov.uk/section/mission/overview>.

³⁴ <https://www.mi5.gov.uk/history/mi5-in-the-1990s-and-2000s/since-the-cold-war>.

was from inside or outside the United Kingdom.³⁵The submissions below about legal powers demonstrate that there does not appear to have been effective restrictions on that material being passed onto the police, if it was in furtherance of GCHQ's functions, and could be justified on the grounds of national security or to protect against a threat of a terrorist attack.

46. One particular feature of the state's response during the Troubles was the use of agents such as Kevin Fulton and David Rupert who had infiltrated terrorist organisations and were gathering intelligence to communicate back to their handlers within the intelligence community. The running of agents has been viewed in Northern Ireland as '*one of the most effective methods by which the security forces could frustrate terrorist activity and save lives*'³⁶ and that the '*most valuable agents during the Troubles were undoubtedly those positioned deep within the terrorist groups themselves*;' a former Commanding Officer of the FRU stated,

*...you cannot report on a terrorist organisation or any paramilitary organisation, unless you have someone at the centre of things. You cannot report properly on them if you simply have an agent who happens to be a drinking companion of a terrorist. That is not going to get you anywhere.'*³⁷

47. The state did not merely receive material from its own resources. Material was also received from the Republic of Ireland.
48. In 1998, in the Republic of Ireland, the Crime and Security Branch was responsible for the National Surveillance Unit ('NSU') and the Intelligence Section within the Garda.

³⁵ *Omagh Bombing Inquiry: Report by John Wadham*, December 2024, [28.9], [INQ010864].

³⁶ *Cory Collusion Inquiry Report – Patrick Finucane*, [4.3], [INQ000322].

³⁷ *Ibid*, [4.4].

49. While it worked within the Garda structures, the NSU was a covert, intelligence gathering unit, which conducted its work separately. In 1998, most NSU duties involved following suspected members of terrorist organisations, with team leaders compiling a daily report after each ‘tour of duty,’ which were entered into a ledger.³⁸
50. The function of the Intelligence Section was to analyse information and intelligence about national security issues which was received from various sources, including the NSU. National security in this context largely referred to counter terrorism policing or policing of any group which threatened the state.³⁹
51. The Emergency Response Unit (‘ERU’), which operated under the umbrella of the Special Detective Unit (‘SDU’) also worked closely with the NSU in 1998, and had responsibility for counter terrorist work:
- As a general rule, NSU stayed in the background as an undercover unit, while the ERU was called in if there was a need to intercept or interrupt potential offences, or to make arrests.*⁴⁰
52. The ERU was used as a frontline or intervention unit, and was established to combat armed crime, and many of their operations in the late 1990’s were counter-terrorist operations.⁴¹ However, the ERU did not generally have access to intelligence files.⁴²
53. The Garda plainly had the capacity to gather valuable intelligence. For example, it is reported that Garda intelligence maintained an internal

³⁸ *Commission of Investigation established to investigate the fatal shooting in May 1998 of Ronan MacLochlainn in Ashford, County Wicklow*, 2018, p16, [16], [INQ011710].

³⁹ *Ibid*, p.17, [20].

⁴⁰ *Ibid*, p13, [2].

⁴¹ *Ibid*, p20, [32].

⁴² *Ibid*, p21, [38].

report containing the names and addresses of those believed to hold senior positions within the IRA.⁴³

54. The issue of cross-border cooperation in relation to intelligence will be addressed below.
55. There is evidence of the effectiveness of intelligence. For example, as already noted, intelligence operations had successes. One example of this was Operation AIRLINES. Another example of intelligence gathering valuable information relates to the Canary Wharf bomb. After the IRA called its ceasefire (see below), the security and intelligence agencies in Northern Ireland and the Republic of Ireland maintained their surveillance on the IRA, albeit, with a lower degree of intensity. This resulted in the Garda Special Branch noticing increased activity among senior republicans, with the conclusion that something was planned. According to Garda intelligence sources, this information was passed to the police in the UK, and was thought to be a major factor that led to an alert being raised by British police before the Canary Wharf bomb exploded. It appears that did not prevent the bomb as there was insufficient evidence regarding the target of the bomb.⁴⁴ The Canary Wharf operation is highlighted as it is an example of cross-border cooperation. Unfortunately, it appears that cross-border cooperation may not always have resulted in what might have been hoped for (see below).
56. The matters above mean that at the material time, within Northern Ireland and the Republic of Ireland there was an exceptional level of resources available to protect the public from terrorism. However, the resources (particularly in relation to intelligence) was distributed across a number of organisations and units. That inherently undermines the ability of any organisation to form an overall picture of

⁴³ *Uncovering the Irish Republican Army*, Boyne S, 1996, Jane's Intelligence Review [INQ011716].

⁴⁴ Ibid.

risks and actions required. This is obviously an important issue to investigate.

Legal powers

57. Since the origins of the Troubles, with continuing and developing methods of terrorist activity, there was a requirement to ensure that there are appropriate legal powers available to the state authorities in Great Britain and Northern Ireland:

*... to seek to keep under surveillance, prevent or disrupt and/or detect the activities of those suspected of being engaged in the planning of and/or preparation for and/or carrying out of a terrorist attack.*⁴⁵

58. At the time of the Omagh bomb, the most important legislation was the Northern Ireland (Emergency Provisions) Act 1996 ('the 1996 Act'), which encompassed most of the powers included in the emergency provisions legislation of 1973, 1978 and 1991; the Police and Criminal Evidence (Northern Ireland) Order 1989 ('the 1989 Order'), and the Prevention of Terrorism (Temporary Provisions) Act 1989 ('the 1989 Act'), which preserved most of the powers from the Prevention of Terrorism (Temporary Provisions) Act 1974, which applied throughout the United Kingdom.
59. Along with the significant powers under the 1989 Order, the 1989 and 1996 Acts provided the police, and in some instances the Army, with exceptional powers to use against suspected terrorists. In summary, these included the following powers,
- a. To initiate a road check.⁴⁶
 - b. To wholly, or partly, close a road.⁴⁷
 - c. To stop a person for '*so long as is necessary*' for the purpose of ascertaining that person's identity and movements, or their

⁴⁵ *Omagh Bombing Inquiry: Report by John Wadham*, December 2024, [1.1], [INQ010864].

⁴⁶ 1989 Order, art.6(1).

⁴⁷ 1996 Act, s.26(3).

knowledge off any recent explosion, or any other recent incident, concerning life or injury life.⁴⁸

- d. To stop and search a person or vehicle if there were reasonable grounds for suspecting the presence of stolen or prohibited articles,⁴⁹ or to stop and search anyone who appeared be liable for arrest in relation to terrorism.⁵⁰
- e. To enter and search premises,⁵¹ under warrant,⁵² or without a warrant.⁵³
- f. To arrest without a warrant⁵⁴ and detain a person initially for 48 hours, with a further extension of 5 days.⁵⁵

A more comprehensive guide to the powers is attached as Appendix 1.

60. John Wadham⁵⁶ makes clear that policing powers were exceptional. He states that:

- *The Northern Ireland (Emergency Provisions) Act 1996 and the Prevention of Terrorism (Temporary Provisions) Act 1989 gave the police and the army exceptional powers to use against suspected terrorists in Northern Ireland.*
- *These Acts provided police officers and others with a wide remit to use their already significant powers under the Police and Criminal Evidence (NI) Order 1989 to disrupt, question, search and arrest those suspected of acts of terrorism.*

⁴⁸ 1996 Act, s.25(1).

⁴⁹ 1989 Order, art.3(3).

⁵⁰ 1996 Act, s15 and s.18.

⁵¹ 1989 Order, art.10.

⁵² 1989 Act, s.15.

⁵³ 1996 Act, s.17

⁵⁴ 1996 Act, s.18.

⁵⁵ 1989 Act, s.14.

⁵⁶ *Omagh Bombing Inquiry: Report by John Wadham*, December 2024, [9.8], [INQ010864].

- *These Acts also created a number of special substantive criminal offences including wearing uniforms and possessing information or articles where there was only 'suspicion' that they were possessed for terrorist purposes.*
- *Those extensive wide-ranging substantive offences extended the range of all the other policing powers because the threshold for their use was based on the investigation of criminal activity.*

61. Further, while police powers would now be constrained by the Human Rights Act 1998 so that wide powers of detention would be restricted (e.g. *Beghal v United Kingdom* app 4755/16), this was not true at the time of the Bomb.

62. The powers available were not restricted to those relating to the policing of suspects. There was also a wide range of steps that could be taken to gather intelligence.

63. Covert investigations by law enforcement agencies were largely unregulated and could have included:

... the surveillance of suspects or others; following a person or observing their movements or tracking them using electronic devices or by the collection of geographic telephone cell site data (subject to that being technically possible); listening to conversations using listening devices placed in homes, buildings and vehicles; collecting data about telephone calls from telecom suppliers; accessing the content of emails and other messages (at least by accessing the computer terminal); watching or recording computer and other devices' keystrokes (subject to that

*being technically possible); using covert human intelligence sources (informers and undercover agents).*⁵⁷

64. The Bomb occurred prior to the enactment of the Regulation of Investigatory Powers Act 2000, which now regulates surveillance in the United Kingdom. Therefore, in 1997 and 1998, in the absence of legislation, there were no general restrictions regarding the use of surveillance by law enforcement agencies. Some restrictions did exist for MI5, the Secret Intelligence Service and GCHQ. Telephone interception (see below) and property interference were 2 techniques that were regulated for all law enforcement agencies.
65. In relation to the interception of telecommunications, there were restrictions, but a warrant could be obtained from the Secretary of State for the required interception to be initiated, with the provisions applying equally to calls made from public telephone boxes, or from an individual's home phone. While the Interception of Communications Act 1985 ('the 1985 Act') created a number of safeguards, there were also allegations made that between 1990 and 1997, that GCHQ was intercepting all telephone traffic from the United Kingdom to the Republic of Ireland.⁵⁸
66. There were restrictions in relation to passing on information about the existence of intercepts or the material derived from those intercepts, but this did not include a recording that took place in a telephone box, which could be relevant in the Omagh bomb, when one considers the content of the cell site analysis. Furthermore, those restrictions on sharing the product of the interceptions did not apply where the disclosure was necessary for the purposes set out in s. 2(2) of the 1985 Act, which include national security, preventing or detecting serious crime, or safeguarding the economic well-being of the United Kingdom. Essentially, this could have allowed the product of an

⁵⁷ *Omagh Bombing Inquiry: Report by John Wadham*, December 2024, [23.7], [INQ010864].

⁵⁸ *Liberty v UK* (2009) 48 EHRR 1.

intercept to be shared with any law enforcement agency that needed it in relation to one of the above purposes.⁵⁹

67. Law enforcement agencies would have had access to public and private CCTV systems and Automatic Number Plate Recognition camera systems.⁶⁰
68. The police and the intelligence agencies could be authorised by the Secretary of State to trespass on land or damage another person's property⁶¹. These are further powers that could be used to gather intelligence.
69. At the time of the bomb, an individual's right to privacy would have been considered very weak under common law as the Human Rights Act 1998 had not come into force. In many situations, the law would not have prevented most activities regarding law enforcement because simply, their activities would not have been deemed unlawful.⁶² The courts had previously decided in a case that there was no right to privacy in law, including any particular right of privacy in relation to telephone calls, with the police having placed an intercept on a telephone in 1977.⁶³
70. Therefore, it appears during the time leading up to the Omagh bomb, in 1997 and 1998, that there were very few protections or controls on surveillance, and that the real limitations were not legal or regulatory, but rather the technical or scientific capabilities that existed at the time.⁶⁴

⁵⁹ *Omagh Bombing Inquiry: Report by John Wadham*, December 2024, [25.2], [INQ010864].

⁶⁰ *Ibid*, [23.9].

⁶¹ 1996 Act, s.26(1).

⁶² *Omagh Bombing Inquiry: Report by John Wadham*, December 2024, [23.10], [INQ010864].

⁶³ *Malone v Metropolitan Police Commissioner* [1979] Ch 344.

⁶⁴ *Omagh Bombing Inquiry: Report by John Wadham*, December 2024, [23.15], [INQ010864].

71. The key points about these powers are:

- a. Many of these powers appear to be exceptional powers directed at the challenges posed by terrorism in Northern Ireland. That is demonstrated by the name of the legislation and the fact that equivalent powers were not enacted in England.
- b. Although no legislative scheme can eliminate the threat of terrorism, the experience gathered during the Troubles is likely to mean that the state had all the powers that it needed, and that they were consistent with the human rights of the civilian population.
- c. These powers potentially enabled significant steps to be taken to disrupt terrorism. For example, suspect terrorists could be repeatedly stopped to both make it clear they were of interest, and also to potentially obtain intelligence regarding that person's movements and associates.
- d. The powers also potentially enabled significant steps to be taken to gather intelligence. Indeed, as noted above, intelligence gathering was a key part of the state's response to the Troubles.

72. The knowledge and experience obtained and developed by the British intelligence services has been well documented:

The British experience in Northern Ireland, particularly the fight against the PIRA, is an oft-cited case study in the counter-insurgency (COIN) spectrum and tome of counter-terrorism studies. It is the totality of the British intelligence experience in Northern Ireland, with its challenges and successes, which makes it such a valuable example within Terrorism Studies, which in turn gives an insight with which to shape contemporary COIN intelligence-based operations. Indeed as G.Lafree, L.Dugan and R.Korte noted, ... Northern Ireland provides a strategic test of the

*impact of counter terrorist measures on the risk of future terrorist attacks because the British tried almost every conceivable form of emergency power to quell the violence in Northern Ireland over thirty-year period.'*⁶⁵

Political context

Introduction

73. The political context is relevant for at least 3 reasons:
- a. It is possible that politics had an influence on security activity. In simple terms, there is a concern that the need to promote a narrative of peace may have resulted in a light touch being adopted to terrorist activity.
 - b. Equally, it is possible that intelligence did or should have had an influence on political decisions. For example, intelligence did or should have had an influence on the security resources deployed in Northern Ireland.
 - c. Finally, the peace process caused the number of people engaged in terrorism to reduce (see below). That may have meant that it was easier to act against those still involved in terrorism.
74. The potential for political influence on security decisions and vice versa is clear from the fact that there were formal organisational ties between the state's political decision makers and the security forces.
75. After direct rule was introduced in 1972, the Secretary of State for Northern Ireland had constitutional responsibility for the administration of law and order. The Northern Ireland Office ('NIO') advised government ministers on security policy issues, including legal and resourcing issues and information strategy. The Secretary of State was supported by the NIO's permanent Secretary and 3 primary

⁶⁵ *Shadowboxing in the Dark: Intelligence and Counter-Terrorism and Political Violence*, Finnegan R, 2016, p.497, [INQ011701].

security advisers: the Chief Constable of the RUC, the General Officer Commanding of the Army, and the Director and Co-Ordinator of Intelligence ('DCI'), a senior officer in the Security Service.⁶⁶ There were Security Policy Meetings, between the above, which have been described as *'the most important meeting'*.⁶⁷ Some sense of the frequency of the contact between the Secretary of State and the Chief Constable can be obtained from the opening statement of Sir Ronnie Flanagan, which appears to accept that:

*Sir Ronnie met with the Secretary of State for Northern Ireland most weeks during the relevant period to discuss security and political issues. He attended the most important strategic security meetings, some of which were chaired by the Secretary of State and included the military General Officer Commanding in Northern Ireland, to include the Province Executive Committee (PEC) and Security Policy Meetings. From these meetings strategic decisions in respect of approach to security issues cascaded down through the hierarchy of committees for implementation.*⁶⁸

76. As the brief for the Chief Constable was prepared by Special Branch, it meant that, *'SB had input at the highest possible level in terms of the governance of Northern Ireland.'*⁶⁹
77. The Security Service was also a member of the Joint Intelligence Committee ('JIC'), within the Government's Cabinet Office, which is responsible for intelligence assessment and co-ordination within the United Kingdom. While it is not known if there is, or was, a specific JIC subcommittee for Northern Ireland in 1998, it is known that the Security

⁶⁶ *Security Service, The Intelligence Organisation in Northern Ireland, 30 September 2002*, as quoted in the *Report of the Patrick Finucane Review*, The Rt Hon Sir Desmond de Silva QC, December 2012, [3.3 – 3.4], [INQ000312].

⁶⁷ *The Billy Wright Inquiry Report*, 2010, [5.88], [INQ000325].

⁶⁸ Opening statement of Sir Ronnie Flanagan, [12], [INQ015518]

⁶⁹ *The Billy Wright Inquiry Report*, 2010, [5.88], [INQ000325].

Service operated an Assessments Group in Northern Ireland, and they were responsible for receiving intelligence from Special Branch, the Security Service and the FRU and using it to produce intelligence reports and assessments for the intelligence community and the Government.⁷⁰

78. Within Special Branch, the Intelligence Management Group ('IMG'), formed in 1997, was a 'central point' responsible for collating, analysing and distributing intelligence and ensuring that it was passed onto the Assessments Group.⁷¹
79. The DCI who was based in Stormont, but also had representation in RUC HQ and Army HQNI,⁷² was concerned with the '*provision of an intelligence-reporting service to Ministers and officials in the NIO and in Whitehall, principally through reports prepared by his staff in the Assessments Group.*'⁷³ The DCI also chaired the weekly Intelligence Review Committee meetings which considered strategic intelligence requirements and priorities and was attended by senior representatives of the Assessments Group, Special Branch and the Army.

The GFA

80. The Omagh bomb has been described as the single greatest loss of life as a result of a single atrocity during the Troubles. However, unlike other atrocities, the Bomb occurred after the GFA was signed in April 1998. The GFA was overwhelmingly endorsed by the people of

⁷⁰ *Security Service, The Intelligence Organisation in Northern Ireland, 30 September 2002*, as quoted in the *Report of the Patrick Finucane Review*, The Rt Hon Sir Desmond de Silva QC, December 2012, [3.28], [INQ000312].

⁷¹ Corporate Witness Statement on Behalf of the Police Service of Northern Ireland, May 2025, [268 and 269], [INQ012954].

⁷² *Ibid*, [286 and 287].

⁷³ *Security Service, The Intelligence Organisation in Northern Ireland, 30 September 2002*, as quoted in the *Report of the Patrick Finucane Review*, The Rt Hon Sir Desmond de Silva QC, December 2012, [3.29], [INQ000312].

Northern Ireland and Republic of Ireland in pursuit of a peaceful society. As a consequence, it can be viewed as distinct from the Troubles.

81. During the Troubles, the Provisional IRA had engaged in a campaign of violence, with the goal of achieving a united Ireland and removing any involvement from Britain.⁷⁴
82. In 1993, meetings commenced between the SDLP leader, John Hume, and the leader of Sinn Féin, Gerry Adams, in an effort to bring an end to Provisional IRA violence, with the focus on achieving a political solution. The talks were criticised, but there was also confirmation that secret talks had taken place between the British government and Sinn Féin. In December 1993, the British and Irish governments issued a joint declaration, to become known as the Downing Street Declaration, which initiated a peace process around the principle of self-determination.⁷⁵
83. This initiative ultimately resulted in the significant development of the IRA declaring a ceasefire on 31 August 1994, with a '*complete cessation of military operations*,' and the belief that '*an opportunity to secure a just and lasting settlement has been created*' and urging '*everyone to approach this new situation with energy, determination and patience*.'⁷⁶
84. A declaration of a ceasefire by the Combined Loyalist Military Command followed on 13 October 1994, which described '*a new and exciting beginning with our battles in future being political battles*.'⁷⁷

⁷⁴ *Independent Report for the Omagh Bombing Inquiry*, Professor English, 2024, [3.9], [INQ001631].

⁷⁵ *Joint Declaration on Peace: The Downing Street Declaration*, CAIN, [INQ000346].

⁷⁶ *IRA ceasefire statement*, 31 August 1994, [INQ000347].

⁷⁷ *Combined Loyalist Military Command (CLMC) ceasefire statement*, 13 October 1994, CAIN, [INQ000348].

85. However, the peace process encountered a number of issues, with a particular deadlock ensuing over the issue of decommissioning of weapons, which resulted in both governments agreeing a 'twin-track' approach in order to make parallel progress on the issue of decommissioning and on all-party negotiations.⁷⁸
86. The issues resulted in the IRA exploding a bomb in the Docklands area of London, killing 2 people and causing injury to others, which marked the end of their ceasefire.⁷⁹ Despite this development, political discussions and efforts continued and multi-party talks (the Mitchell Talks) commenced on 10 June 1996.
87. In the intervening period however, prior to the signing of the GFA, the IRA exploded a bomb in Manchester, injuring 20 people (15 June 1996), exploded 2 bombs in the British Army headquarters in Lisburn (7 October 1996), shot dead a British soldier in Bessbrook (12 February 1997), caused widespread disruption on motorways in England with bomb warnings (3 April 1997), issued bomb threats which forced the postponement of the Grand National horse race (5 April 1997), and shot dead 2 police officers in Lurgan (16 June 1997).⁸⁰
88. While a ceasefire was subsequently called by the IRA on 20 July 1997, the above paragraph, along with divisions within unionism, loyalist terrorist activities, and dissident Republican activity clearly highlight the fragility of the peace process around that time, which continued after the signing of the GFA.

⁷⁸ *British and Irish Governments, Joint Communiqué*, 28 November 1995, CAIN, [INQ000352].

⁷⁹ *Irish Republican Army (IRA) ending the ceasefire*, CAIN, [INQ000354].

⁸⁰ *The Irish Peace Process-Chronology of Key Events (April 1993-April 1998)*, CAIN, [INQ000334].

89. The GFA was signed on 10 April 1998. It was subsequently overwhelmingly endorsed by the people of Northern Ireland. However, a significant minority of the people of Northern Ireland voted against the GFA and issues remained outstanding, particularly around the issue of decommissioning.
90. The IRA issued a statement on 30 April 1998 in relation to the GFA and decommissioning, which stated that the Agreement *'falls short of presenting a solid basis for a lasting settlement,'* which also stated, *'Let us make it clear that there will be no decommissioning by the IRA.'* The issue of decommissioning continued to cause issues after the Bomb.
91. The history set out above demonstrates that the need to effectively police, deter and disrupt the terrorist threat continued despite the GFA. The GFA was fragile at the date of the Bomb. In addition, as is considered in greater detail below, there remained opponents of peace. Some of those were willing to continue to engage in violence.
92. Although the fragility of the GFA meant that there was a need to maintain the security response to the IRA, there is also evidence to suggest that the security response was relaxed. Mr Norman Baxter (a former RUC Detective Chief Superintendent) stated in his evidence to the Northern Ireland Affairs Committee ('NIAC'):

In the post-1998 settlement, there was drive by the Northern Ireland Office to ensure That security was reduced in certain areas and, as a serving police officer, I was aware that that was happening, so we had Cloghogue and other border checkpoints where the soldiers were moved off the road, not stopping cars. We had soldiers not allowed to patrol areas. The security policy was a failure and these

*people were coming freely into Northern Ireland and carrying out attacks.*⁸¹

He also stated that *'the Government had their eye off the ball.'*⁸²

93. In light of the matters above, a key issue is whether there was a decision to relax security that was inappropriate and contributed to the bomb.

94. There is a linked issue of whether any flawed decision was political. Mr Baxter expressly stated in evidence that:

*I am saying that you would have to be naïve to believe that the Secretary of State and his officials, or her officials in the past, did not directly intervene in policing.*⁸³

95. The concern that politicians may have influenced security decisions is consistent with the evidence regarding demilitarisation. Mr Baxter stated that he was at meetings where commanders were disputing with their senior officers about the removal of troops from areas because they felt it was leaving people vulnerable.⁸⁴ Similarly, the former Chief Constable, Sir Ronnie Flanagan said in the context of demilitarisation and the reduction/removal of Army patrols that *'he could not be seen to working to an overt political agenda involving decommissioning for de-escalation, although he recognised that "nobody is working in a vacuum and there is a wider political context."*

85

⁸¹ *Omagh – A Decade After The Bomb. Minutes of evidence taken before NIAC, 11 November 2009, Q 337, [INQ000626].*

⁸² *Ibid*, Q 335.

⁸³ *Ibid*, Q 383.

⁸⁴ *Ibid*, Q 340.

⁸⁵ *Memorandum of a conversation between the Joint Secretary of Justice (Republic of Ireland) and Ronnie Flanagan (Chief Constable of the RUC) regarding ending of army patrols in Northern Ireland, withdrawal of troops, the Policing Commission, and the current security situation, 22 September 1998, [INQ000317].*

96. The history of violence in the context of the Troubles set out above suggests that there may have been greater tolerance of terrorism than found in other jurisdictions. The Inquiry has identified a significant number of incidents that preceded the Bomb. A legitimate question to ask is whether a more intensive police response would have followed an equivalent pattern of violence in England.

Dissident Republicans

97. As part of the peace process, the political parties had committed to adhere to, what were known as the Mitchell principles while participating in talks, which included a commitment to democratic and exclusively peaceful means of resolving political issues. This resulted in Republican and Loyalist organisations entering into periods of ceasefires (see above). In principle, while the GFA then cemented the peace process, there remained those who opposed the process.
98. There has been a history of splits within Republicanism (and, in particular, within armed Republican groups), and consequently splits occurred over participation in democratic political processes.
99. For example, an important split occurred in 1986 with the formation of Republican Sinn Féin and the Continuity IRA ('CIRA'), over the decision by Sinn Féin to discontinue its abstentionist policy from taking seats in Dáil Éireann. This has been referred to as '*very much an uneven split*,' with the new Adams-McGuinness leadership bringing the '*vast majority*' of republicans with them, and which would go on '*to lead the Provisionals' politicisation process into the peace process.*'⁸⁶ A key point about this split is that it demonstrated how any engagement with democratic processes risked dissent among those committed to armed conflict.

⁸⁶ *Submission to the Omagh Bombing Inquiry*, Dr John F Morrison, December 2024, [9.30], [INQ004365].

100. The Provisional IRA leadership retained significant support at this time, and the Continuity IRA did not have the capabilities to threaten its position and faced obstacles in attaining any weaponry for a serious armed campaign. It was not until the mid-1990s, that the Continuity IRA were able to mount any paramilitary offensive.⁸⁷
101. The more significant split occurred in 1997 with the formation of the Real IRA ('RIRA') and the 32 County Sovereignty Committee (later Movement). Although the IRA Convention in Gweedore, Donegal in October 1997 is regarded as the formal point of the split, it is generally accepted that the origins of the divergence had actually commenced around the time of the first IRA ceasefire with a growing discontentment by some members of their involvement in the peace process. This discontentment had resulted from the belief that the negotiations were not progressing the Republican cause, while the British government were standing firm on the need for decommissioning, and the IRA Executive were being excluded from the process.⁸⁸
102. However, ultimately, it was the endorsement of the Mitchell principles (the ground rules for each political party to follow), that was viewed by some members within the IRA Executive as '*unconstitutional*' and could be considered as '*accepting the legitimacy of the Northern Irish state,*' and that, '*if they were to sign up to the disarmament process. There would be no opening for them to return to the 'armed struggle.'*'⁸⁹
103. Following the IRA Convention, 5 members of the IRA Executive subsequently resigned: Michael McKevitt, Seamus McGrane, Liam Campbell, 'Frank McGuinness' (true identity unknown), and Pascal Burke. They in turn went on to form the RIRA.

⁸⁷ Ibid, [9.31].

⁸⁸ Ibid., [9.48].

⁸⁹ Ibid., [9.55].

104. While the split also saw the establishment of the 32 County Sovereignty Committee, it was the division within the paramilitary wing of the Provisional Republican movement that was most significant. However, it was *'not a major split in terms of number of members leaving the Provisionals'* as the *'vast majority'*⁹⁰ remained within the Adams-McGuinness leadership.
105. While *'only a small number'* ⁹¹ left the Provisional IRA, the majority of the RIRA membership came from within the quartermaster and engineering departments. This included the Belfast and Southern Command's quartermasters, with many of those joining being from the Border Counties.⁹² Their existing *'skillset and expertise enabled them to launch a near immediate paramilitary campaign.'* ⁹³
106. In particular, in his role as quartermaster general, McKevitt had control and access to the Provisional IRA's explosives, artillery and weaponry for 14 years. As a result, the Real IRA were able to obtain a small number of small arms, a small amount of Semtex, alongside detonators and timing devices. Included within these weapons were IRECO detonators, like the one used in the Omagh Bomb.⁹⁴
107. In their paramilitary campaign, the Real IRA Army Council followed the direction proposed by Liam Campbell. That was to focus on the use of car bombs against commercial premises, with the purpose of disrupting and putting pressure on the peace process. This was

⁹⁰ Ibid., [9.41].

⁹¹ *Independent Report for the Omagh Bombing Inquiry*, Professor English, 2024, [5.35], [INQ001631].

⁹² *Submission to the Omagh Bombing Inquiry*, Dr John F Morrison, December 2024, [9.59], [INQ004365].

⁹³ Ibid, [9.41].

⁹⁴ *IRA: The Bombs and the Bullets*, Oppenheimer AR, 2008, p161, [INQ013306].

intended to make it difficult for Sinn Fein and the Provisional IRA, and the unionists to remain within the talks.⁹⁵

108. In light of the small numbers within the Real IRA and the powers and capacity of the state, there is every reason to believe that the state forces will have known who was playing an active role within the Real IRA and their intention and capacity to cause serious violence. That submission is supported by the following matters:

- a. During a meeting on 16 August 1998 between Taoiseach Bertie Ahern and Prime Minister Tony Blair following the Bomb, the Taoiseach stated that:

*Putting matters in context, the Taoiseach said that those in the splinter group numbered perhaps 90 in all, including those who stole cars, did lookout etc. Perhaps only a third or less were dangerous activists.*⁹⁶

- b. During a telephone conversation on 20 August 1998 between Taoiseach Bertie Ahern and Prime Minister Tony Blair following the Bomb, the Taoiseach stated in relation to the 32 County Sovereignty Committee:

I think we can break the 32 County totally...I think we can disintegrate them. There might remain a little kind of a political group talking about stuff, but I think the militant end of it, we can break it.

And in relation to the Continuity IRA, the Taoiseach stated:

...now I'm trying to make some overtures to them, they're not that significant, as I told you before, but I'd just be afraid that the rump might move to them...because the rump will move somewhere,

⁹⁵ *Submission to the Omagh Bombing Inquiry*, Dr John F Morrison, December 2024, [9.61], [INQ004365].

⁹⁶ Record of a meeting between Bertie Ahern (Republic of Ireland Taoiseach) and Tony Blair (United Kingdom Prime Minister) in Belfast, 16 August 1988, [INQ000379]

*but if we can just keep hunting the rump, but I think we are having major hits, if we just keep at it.*⁹⁷

Although this call took place after the Bomb, it raises the question why action could not have been taken earlier.

- c. The Report of the Smithwick Tribunal refers to the active surveillance of Michael McKevitt by the Garda, as far back as 1990, through intercepted telephone conversations.⁹⁸
- d. A surveillance operation by the NSU had targeted Paschal Burke, which resulted in his arrest in May 1998 following a foiled attempted robbery of a Securicor van. He had previous convictions for explosive offences. He was known to the Garda as an 'Engineer' having been involved in the explosives department of Provisional IRA.⁹⁹ Mr Burke was among a number of other people, but he was 'by no means their most important target'¹⁰⁰.
- e. David Rupert was initially recruited by the FBI and later became an agent for the British Secret Security Services in 1997. He was jointly operated and managed by both organisations at the time of the Bomb. Over a period of time, he had infiltrated dissident Republicans at the leadership level within organisations.¹⁰¹ During the trial of McKevitt (*DPP v Michael McKevitt* [2005] IECCA 139) David Rupert gave evidence as a main prosecution witness. He stated that he met McKevitt and other republicans Michael Donnelly, Phil

⁹⁷ Transcript of a telephone conversation between Bertie Ahern (Republic of Ireland Taoiseach) and Tony Blair (United Kingdom Prime Minister), 20 August 1998, [INQ000295].

⁹⁸ *Report of the Smithwick Tribunal*, [11.5.3 -11.5.4], [INQ000258].

⁹⁹ *Ibid*, p. xi, [4].

¹⁰⁰ *Ibid*, p.24, [9].

¹⁰¹ *Report Compiled for the British and Irish Governments in Support of a Full Public Inquiry into the Omagh Bombing 15 August 1998*, Bridger and Polaine, 2012, pp.23-26, [INQ000645]; *Rights Watch: A Report into the Omagh Bombing*, 15 August 1998, 2013, pp.17-19, [INQ000280]; *Breslin & Ors v McKenna & Ors* [2009] NIQB 50 [87]-[125]. [INQ000253].

Kent and Seamus McGrane in Monaghan, and that the Omagh bombing had been discussed.

- f. The Garda also appears to have developed intelligence regarding the Real IRA. It is known that the NSU of the Garda had been developing intelligence on the RIRA since the end of 1997.¹⁰² There were obvious reasons for the Garda to gather this intelligence. For example, there is evidence that after the GFA, in relation to the Real IRA:

There was major concern within the State and even, indeed, within the IRA, who were on ceasefire, as to who was leaking to this new organisation. ¹⁰³

Further evidence from the Garda stated that:

... this embryonic group did not appear to have defined political objectives but wanted to commit "some kind of terrorist outrage" as he put it, as soon as possible ¹⁰⁴

- g. The Garda placed tracking devices on 2 vans in April 1998, which it was believed, were going to be used by the Real IRA, with the speculation that explosives were involved. That was because there had been 2 previous incidents involving car bombs in April, in Dun Laoghaire and Dundalk.¹⁰⁵
- h. According to his evidence to the Smithwick Tribunal, Kevin Fulton enlisted in the British Army in 1979 and was recruited by British Army Intelligence. It was arranged that he would be falsely discharged from the Royal Irish Rangers.¹⁰⁶ When he

¹⁰² *Commission of Investigation established to investigate the fatal shooting in May 1998 of Ronan MacLochlainn in Ashford, County Wicklow*, pp. 22-23, [INQ011710].

¹⁰³ *Commission of Investigation established to investigate the fatal shooting in May 1998 of Ronan MacLochlainn in Ashford, County Wicklow*, p.23, [5], [INQ011710].

¹⁰⁴ *Ibid*, p.23, [6]

¹⁰⁵ *Ibid*, p.43, [82]

¹⁰⁶ *Report of the Smithwick Tribunal*, [15.2.1], [INQ000258].

returned to Northern Ireland, he worked for the FRU¹⁰⁷ and continued to work for Army intelligence until the early 1990 and was jointly handled with MI5. In his evidence, he stated that while he never worked for Special Branch, sometimes they attended his briefings.¹⁰⁸ As noted elsewhere, Kevin Fulton provided intelligence that may have been relevant to the Bomb.

Concluding remarks regarding context

109. In light of the matters above it is submitted that there is every reason to believe that the state's resources enabled it to know that there was a serious risk of attacks by dissident republican and the identity of the individuals who posed that risk. Further, the state had the powers to disrupt those individuals. Whether this is correct is obviously a matter that will need to be considered when evidence is reviewed. However, if it is correct, it raises very important questions regarding why there was a failure to disrupt the bombers. The overlap between the political elements of the state and the security forces, means that both parts of the state must be considered. That is the context in which what follows should be viewed, which is a list of some areas where there may have been failures. For the reasons already given, it is not comprehensive.

Intelligence sharing

110. As referred to above at paragraph 35, there was a '*complex*' intelligence machinery in Northern Ireland. The lead for intelligence relating to Irish Republican paramilitaries was Special Branch, though this was not without difficulties within the RUC, as the CID were also collectors of intelligence, and issues arose around the exchange of this information, which resulted in the review by Sir Patrick Walker.¹⁰⁹ The

¹⁰⁷ Ibid, [15.2.2].

¹⁰⁸ Ibid, [15.2.8].

¹⁰⁹ *Report on the interchange of intelligence between Special Branch and CID and on the RUC units involved, including those in Crime Branch C1(1)*, 31 March 1980, [INQ000269].

PSNI corporate statement appears to recognise that CID intelligence gathering continued at the time of the Bomb (albeit that this was focused on non-terrorist crime).¹¹⁰

111. In addition, the Army had developed its own intelligence capabilities including the recruitment and running of agents, which from 1982 had been centralised into the FRU. Many in the RUC believed that there was no requirement for the Army to have its own '*intelligence gathering apparatus*,'¹¹¹ which perhaps contributed to a difficult relationship, as highlighted in the Kenova report:

*The relationship between the FRU and the RUC sometimes lacked coordination and clarity. This confusion was exacerbated by institutional rivalry between the different organisations and parts of the intelligence community. This rivalry became most apparent in the often strained relationship between the FRU and the RUC Special Branch.*¹¹²

112. In addition, MI5 at that time, operated only a small number of agents, and only sought to recruit agents who could provide strategic intelligence about threats against Great Britain and British interests overseas.¹¹³ MI5 provided technical surveillance support to the RUC, but the RUC

... owned the intelligence produced, whether strategic or tactical, and controlled its exploitation and dissemination.

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¹¹⁰ Corporate Witness Statement on Behalf of the Police Service of Northern Ireland, May 2025, [103], [INQ012954].

¹¹¹ *Operation Kenova Northern Ireland 'Stakeknife' Legacy Investigation, Interim Report of Jon Boucher*, 2023, [9.10], [INQ000321].

¹¹² *Ibid.*, [9.11]

¹¹³ *Ibid.*, [8.7].

¹¹⁴ *Ibid.*, [8.8].

113. In this '*superior position*' in the intelligence network, while running its own agents, and collecting information from external agencies, more importantly, the RUC was responsible for determining what, if any, action should be taken as a result of the information received, and therefore '*assumed a degree of primacy in matters of intelligence.*'¹¹⁵
114. However, it would appear unclear whether any part of the RUC was charged with undertaking an overarching assessment of intelligence or assessing what actions needed to be taken to protect the public.
115. Therefore, this would suggest that there were silos of information within the RUC and the intelligence community, rather than a cohesive and coordinated approach that would allow for consistent gathering, assessment and sharing of intelligence.
116. It has already been submitted that there is every reason to believe that intelligence was being gathered in relation to key dissidents associated with the Bomb. Specific intelligence may include:
- a. The intelligence provided by Kevin Fulton was considered to be of such significance that PONI carried out an investigation into the information that he provided¹¹⁶. PONI was satisfied that Fulton was a reliable source, and that he had passed information onto the police on five occasions between June and August 1998, and that contact sheets for each meeting were passed onto Special Branch. Notably, the information provided by Fulton included intelligence on 12 August that the Real IRA was to move something North over the next few days.
 - b. Allegations regarding the conduct of Garda officers have been identified in the work of PONI. Paddy Dixon was providing

¹¹⁵ *Cory Collusion Inquiry Report – Patrick Finucane*, [1.32], [INQ000322].

¹¹⁶ *Statement of the Police Ombudsman for Northern Ireland on her Investigation of Matters Relating to the Omagh Bombing on 15 August 1998*, December 2001, [INQ000274].

- intelligence in the Republic of Ireland to the Garda, claiming that he had provided cars to dissident Republicans for the purpose of bombings. This information, provided to Detective John White, enabled the Garda to intercept cars, containing bomb equipment, which were destined for Northern Ireland.¹¹⁷
- c. The BBC and Daily Telegraph have published allegations that GCHQ had monitored mobile telephone conversations on the day of the bombing live and that at least one phone had been monitored from at least July 1998.¹¹⁸
 - d. There is evidence of an intelligence gathering operation in the South Armagh border area in the 2014 report of PONI. Mr Baxter gave evidence supporting this.
 - e. There is evidence of an anonymous phone call being made to Omagh Police Station on 4 August 1998 stating that an attack would take place on the police in Omagh on 15 August 1998.¹¹⁹
 - f. E-mails have been obtained that demonstrate that an informer, David Rupert, was supplying relevant intelligence in advance of the bombing.¹²⁰

117. This material would therefore appear to have been gathered by different parts of the police and security services, who were managing their own intelligence sources; for example, David Rupert was handled by the MI5 (and the FBI); Kevin Fulton, after being initially recruited by

¹¹⁷ *Report Compiled for the British and Irish Governments in Support of a Full Public Inquiry into the Omagh Bombing 15 August 1998*, Bridger and Polaine, 2012, pp.20-21, [INQ000645]; *Rights Watch: A Report into the Omagh Bombing*, 15 August 1998, 2013, pp.17-18, 29-31, [INQ000280].

¹¹⁸ *Rights Watch: A Report into the Omagh Bombing*, 15 August 1998, 2013, [3.5], [INQ000280].

¹¹⁹ *Report Compiled for the British and Irish Governments in Support of a Full Public Inquiry into the Omagh Bombing 15 August 1998*, Bridger and Polaine, 2012, pp.16-17, [INQ000645]; *Rights Watch: A Report into the Omagh Bombing*, 15 August 1998, 2013, pp.6-10, [INQ000280].

¹²⁰ *Report Compiled for the British and Irish Governments in Support of a Full Public Inquiry into the Omagh Bombing 15 August 1998*, Bridger and Polaine, 2012, pp.22-25, [INQ000645].

Army Intelligence was jointly handled with MI5, with Special Branch sometimes attending his briefings¹²¹ and then later worked with RUC CID.¹²² . That raises an issue about whether intelligence was being shared so that an overall picture could be developed.

118. The existence of multiple bodies collecting and disseminating intelligence supports the point already made. There was a risk of silos of information being gathered but not shared. 3 points support these concerns:

- a. As noted below, there were no rules or guidance governing the handling of intelligence. As a result, it appears clear that individual officers and units of the security forces had considerable discretion as to how to handle intelligence. It would appear that there may have been no expectation of intelligence sharing.
- b. As noted below, there have clearly been issues with record keeping. That made/makes it more difficult to hold people to account for a failure to share intelligence.
- c. When giving evidence to NIAC, Mr Baxter made the following opening comments in relation to the sharing of intelligence:

...I think there has been a blurring of understanding of the language which emanates from the intelligence community. People within the intelligence and investigation community speak in term of information, intelligence and evidence, and in respect of those three things they are distinctly different from a professional's perspective. Information is regarded as almost raw data which is received. Intelligence is information which is analysed and produces what is known as intelligent product, which can either be predictive which

¹²¹ *Report of the Smithwick Tribunal*, [15.2.8], [INQ000258].

¹²² *Ibid*, [15.2.8].

*forecasts something which may happen, or reflective, which helps investigators deal with something in the past. Evidence is the translation of information through witnesses and documents to something that can be placed before the court. I would have to say to the committee that when statements are made that all intelligence has been passed to the police, it cannot be assumed, nor is it the case, that all information has been passed to the police because the information that is used to develop intelligence which has been discarded as of no intelligence value will not be disseminated, and information which has formed part of the intelligence part will also not accompany the intelligence part. So when people speak about 'all' intelligence being shared, that is not declaring or stating that everything has been shared. From a police investigator's perspective, investigators try to turn information into evidence, not intelligence into evidence. Intelligence should point investigators to where the information which can be translated into evidence can be found.*¹²³

It should be noted that this evidence supports the submission that claims by state parties to have provided full material to the Inquiry should be viewed with caution.

119. So far, these submissions have focused on intelligence sharing within the state authorities operating within Northern Ireland. However, the problems with intelligence sharing were obviously enhanced by the need to ensure intelligence cross-border. Following the Omagh Bomb,

¹²³ *Omagh – A Decade After The Bomb. Minutes of evidence taken before NIAC, 11 November 2009, Q 291, [INQ000626].*

the Taoiseach stated the following in relation to cooperation between the Garda and the RUC:

*the big problem with me trying to get these two, the Guards and the RUC, to cooperate on the ground, is that there is all these old bits on trust ...*¹²⁴

PSNI's corporate statement states:

*... the provision of information by the AGS to the RUC - of the type which would allow for pre-emptive operational action by the RUC against subversives - was very rare. However, this improved after the Omagh bombing.*¹²⁵

120. The potential importance of sharing intelligence cross-border is one reason why the Memorandum of Understanding ('the MoU') between the Inquiry and the Government of the Republic of Ireland is particularly important. Although it is accepted that the Tribunal's jurisdiction does not allow it to criticise the actions of the Government of the Republic of Ireland, the adequacy of the response of United Kingdom's security forces must depend upon matters such as whether the United Kingdom had taken all reasonable steps to obtain all relevant material from the Republic of Ireland. That implies a need to consider, among other matters, whether more information could have been obtained. It is not yet known if the MoU will result in the full disclosure of all documentation and the attendance of all relevant witnesses, but this will become clear within a relatively short period of time. The CPs urge the Inquiry to keep the effectiveness of the MoU under review. The credibility of the Inquiry's work does, at least to some extent, depend on the MoU.

¹²⁴ Transcript of a telephone conversation between Bertie Ahern (Republic of Ireland Taoiseach) and Tony Blair (United Kingdom Prime Minister), 20 August 1998, [INQ000295].

¹²⁵ *Corporate Witness Statement on Behalf of the Police Service of Northern Ireland*, May 2025, [378], [INQ012954].

121. The submissions above about the importance of linking intelligence so it is considered in the round raise concerns that are relevant. There is reason to believe that material relevant to the Bomb was not shared:

- a. It is known that David Rupert sent an email, dated 11 April 1998, to MI5 which identified Omagh as a potential target,
*Since he is so involved with the present operation we are speaking of and the last known location of the car (Letterkenny)Derry or Omagh would be 2 suspect viable targets.*¹²⁶

While this intelligence may not have been of the greatest significance on its own, the suggestion that Omagh might be a target might inform the response to subsequent intelligence such as that from Kevin Fulton suggesting something was to be moved North. However, it is unclear whether this was ever linked with other material.

- b. It has been accepted by the former Chief Constable, Sir Ronnie Flanagan, that intelligence obtained from Kevin Fulton was not passed by RUC Force Intelligence Bureau to Special Branch (see below).
- c. The 2001 Ombudsman's report was critical that '*significant intelligence*' was not shared by Special Branch, and which may have had the potential to make a difference in the investigation that followed the bomb¹²⁷. While it is accepted that this intelligence was not directly related to preventability, it is further evidence of silos not being shared. If even after the atrocity of the Bomb intelligence was not being shared, there is reason to believe that it was not shared before the Bomb.
- d. When giving evidence to NIAC, Mr Baxter stated that:

¹²⁶ *Report Compiled for the British and Irish Governments in Support of a Full Public Inquiry into the Omagh Bombing 15 August 1998*, Bridger and Polaine, 2012, pp18, [INQ000645].

¹²⁷ *Statement by the Police Ombudsman for Northern Ireland on Her Investigation of Matters Relating to the Omagh Bombing on 15 August 1998*, December 2001, [6.22] [INQ000274].

‘... I am not laying blame with any particular organisation. There seems to have been a policy and that policy was not to disseminate.’¹²⁸

Consistent with this, he made it clear that relevant intelligence relating to earlier incidents had not been shared. That intelligence was potentially useful:

... to ensure that the investigators after those incidents we have had an opportunity to look at suspects and to have them arrested prior to the Omagh bomb.’¹²⁹

- e. The day following the bomb in Banbridge on 1 August 1998 information was received within the Intelligence Community that the Continuity IRA had reduced the warning time given in relation to the detonation of car bombs to 20 minutes, and that this would apply in the future. This information was not passed to the RUC.¹³⁰ As noted above, this suggests the need to adjust the response to threats such as that received in Omagh.

- f. In 2008, the team investigating the Bomb stated that:

... intelligence indicating Omagh as a potential target before August 1998 should have been passed to the RUC and thereafter to the Sub-divisional Commander. That would probably have changed the response of the police to the coded message they received on 15 August 1998...military resources were not deployed to assist police in evacuation because there was nothing known prior to August 1998 indicating that Omagh was a specific target.’¹³¹

¹²⁸ *Omagh – A Decade After The Bomb. Minutes of evidence taken before NIAC, 11 November 2009, Q 348, [INQ000626].*

¹²⁹ *Ibid.*, Q 330.

¹³⁰ *Briefing paper: Omagh victims self-help group, 22 February 2008, p22 [INQ000427_0022].*

¹³¹ *Ibid.*

- g. When the Army withdrew from Northern Ireland in July 2007, it transferred control of its intelligence database to the PSNI, but their logins did not allow access to all of the stored information; this only came to light in 2017 during the Kenova investigation, which identified that the MOD logins provided additional significant information which was previously invisible to the PSNI.¹³²
- h. In his evidence to the NIAC on the issue of further dissemination of material from GCHQ, Mr Baxter stated,
- ...I do not know what the procedures were in 1998 because I was not in Special Branch nor was I working with GCHQ, so I cannot help you. What I would say is that it is hard to believe that any state organisation with information which would help solve the murder of 29 people would not ensure that it was passed or given to investigators. I think any organisation which had information and did not do that is culpable.*¹³³

The absence of rules/guidelines on the use of intelligence

122. It appears that despite various requests and reports that sought a ‘proper set of bespoke guidelines for the management and use of agents in Northern Ireland,’ there was no formal protocol put in place.

¹³⁴ As stated in the Interim Report on Kenova,

*The use of agents by the security forces in Northern Ireland was not the subject of any meaningful, effective or enforceable legal or policy framework during the course of the Troubles.*¹³⁵

¹³² *Operation Kenova Northern Ireland ‘Stakeknife’ Legacy Investigation, Interim Report of Jon Boucher*, October 2023, p25, [INQ000321].

¹³³ *Omagh – A Decade After The Bomb. Minutes of evidence taken before NIAC*, 11 November 2009, Q 321, [INQ000626].

¹³⁴ *Operation Kenova Northern Ireland ‘Stakeknife’ Legacy Investigation, Interim Report of Jon Boucher*, 2023, [11.7], [INQ000321].

¹³⁵ *Ibid*, [11.1].

The corporate statement of PSNI states that:

*There were no SB guidelines for Northern Ireland issued by the executive arm of HMG, which would include guidance on gathering and managing intelligence in a Northern Ireland terrorist related policing context. This was an issue repeatedly raised by the RUC with HMG. In particular, the absence of guidelines and/or legislation on agent handling. It is clear the RUC was unhappy with the situation as it stood at the time, and that it continued to raise the issue with HMG ...*¹³⁶

123. The absence of any rules or guidance governing the use of informers, potentially had several consequences including:

- a. As noted above, it potentially permitted the development of intelligence silos based on intelligence that was not shared.
- b. As set out below, it potentially allowed risks to be taken with the public safety despite intelligence suggesting risk.

124. The submission that risks could be taken with public safety is supported by clear findings in the past that the focus of intelligence handling was on protecting agents and, that as a consequence, there was a degree of tolerance to terrorist activity. For example, it was said that:

*... the operational priority for security forces was the continued acquisition of counter terrorist intelligence and this meant the protection of established agents from compromise. If acting on intelligence about a risk to life might bring its source under suspicion or blow their cover, the intelligence would often be withheld or, at least, not acted upon.*¹³⁷

¹³⁶ Corporate Witness Statement on Behalf of the Police Service of Northern Ireland, May 2025, [77], [INQ012954].

¹³⁷ Operation Kenova Northern Ireland 'Stakeknife' Legacy Investigation, Interim Report of Jon Boucher, 2023, [11.11], [INQ000321].

125. Consistent with this, in his evidence to the NIAC,¹³⁸ Mr David McWilliams, former Detective Chief Inspector stated, in relation to sharing intelligence,

... there could always be reasons why information/intelligence could not be shared, whether it is to protect the source of that intelligence or the methodology. There could well be a reason, or whether it has been assessed and it is of no value, or thought to be of no value.

126. The CPs are not in a position to know on the state of the evidence whether it is arguable that any inaction in relation to intelligence was motivated by a desire to protect state agents. However, the CPs submit that the evidence regarding prioritising agent safety over public protection is potentially relevant for the following reasons:

- a. It demonstrates that there is a need to subject any apparent inaction to careful scrutiny. It cannot be assumed that state agents were always primarily motivated by a desire to protect the public. For example, evidence regarding the handling of intelligence from Kevin Fulton should be considered taking account of the possibility that the protection of Kevin Fulton may be seen as a priority.
- b. In particular, it demonstrates that there may have been motives for declining to share key intelligence.

The loss of records (particularly in relation to intelligence)

127. It has already been noted above how Kevin Fulton provided intelligence on 12 August that the Real IRA was to move something North over the next few days. The contact sheet for this meeting and

¹³⁸ *Omagh – A Decade After The Bomb. Minutes of evidence taken before NIAC, 11 November 2009, Q 320, [INQ000626].*

for 23 July 1998 could not be located in Special Branch records.¹³⁹ In his response to the Ombudsman's Report,¹⁴⁰ the former Chief Constable, Sir Ronnie Flanagan, admitted that due to '*an unacceptable breakdown in procedure*' and '*an administrative error*', 2 of the 5 intelligence reports based on information from Kevin Fulton in the period from June to August 1998, were never passed by the RUC Force Intelligence Bureau to Special Branch.¹⁴¹

128. Although the implication of Sir Ronnie Flanagan's statement was that material had been lost accidentally, there are possible motives for it being deliberately destroyed:

- a. A Detective Sergeant in RUC CID (referred to as 'W71'), who was Fulton's handler at the time of the Omagh Bomb, gave evidence to the Smithwick Tribunal that he was informed by Special Branch on 20 August 1998 (5 days after the Omagh Bomb), and by Sir Ronnie Flanagan during a telephone call, that Keeley was an '*intelligence nuisance*.'¹⁴² That raises issues as to whether Fulton's intelligence was discounted wrongly. If that is the case, records may have demonstrated that and there was an incentive to withhold them.
- b. W71 gave evidence that '*I also phoned [intelligence] through to various departments*.'¹⁴³ It would be surprising if the '*various departments*' had not kept records. It is surprising that all records have been lost.

¹³⁹ *Statement of the Police Ombudsman for Northern Ireland on her Investigation of Matters Relating to the Omagh Bombing on 15 August 1998*, December 2001, [6.3], [INQ000274].

¹⁴⁰ *Statement in response to the Police Ombudsman for Northern Ireland Report on matters relating to the Investigation of the Omagh Bomb on 15 August 1998*, 2002, [INQ000710].

¹⁴¹ *Ibid.*, [4.9].

¹⁴² *Report of the Smithwick Tribunal*, [15.7.5], [INQ000258].

¹⁴³ *Ibid.*, p.1472, Q421.

129. The CPs have also raised queries pertaining to the whereabouts of the Threat Book, which has never been located, and should have contained all information about threats received, including the content of anonymous phone call on 4 August 1998.
130. As noted above, there are good reasons to believe that sensitive material has been withheld in the past from official investigations. It has already been submitted that this means that claims to have provided full disclosure should be scrutinised with care. That is supported by the fact that material has been mislaid in this case.
131. Further, any claims to have accidentally mislaid material should not necessarily be taken at face value. Material suggesting systemic withholding of information may suggest that has happened deliberately in order to avoid criticism or stronger action. The submissions above suggest that there is reason to question the approach to handling agents. Obviously, contemporaneous intelligence records might highlight significant evidence that should have prompted action but did not. For example, the contemporaneous records of what Kevin Fulton said in July and August 1998 might identify material that should have but did not prompt action. That suggests a motive to withhold material.

Concluding remarks regarding intelligence

132. The matters above demonstrate how important it is to investigate with rigour:
- a. The extent of intelligence gathered before the Bomb.
 - b. The extent to which intelligence was properly shared.
 - c. The extent to which there was an appropriate response to intelligence. That includes whether the response to bomb threats was adequately updated in light of intelligence.

Linked Incidents

133. The Omagh Bomb was not a one-off isolated incident and followed a series of linked attacks in 1997/1998 with an increase of violent dissident Republican activity.
134. While publicly it may have been claimed that these attacks were undertaken by separate entities, the experts would suggest that there was active co-operation and co-ordination between these groups. It has been suggested that in his role as Director of Operations of the RIRA, Liam Campbell had developed an '*operational coalition*' with the Continuity IRA and the INLA.¹⁴⁴ It has also been suggested that following the split, there was evidence of co-operation between the Real IRA and the Provisional IRA when Semtex-based detonating cord and 2 Ireco detonators were found in a 230kg bomb defused at Banbridge and attributed to the IRA.¹⁴⁵ These matters demonstrate the importance of adopting an inclusive approach to prior incidents. Prior incidents should be considered even if not attributed to RIRA.
135. It is recognised that the evidence gathering in relation to these earlier incidents is at an early stage. The CPs are grateful that priority is being given by PSNI to that evidence gathering. At this early stage, the CPs highlight the following matters as being potentially indicative of the fact that the earlier incidents need to be fully investigated by the Inquiry and/or may demonstrate that the Bomb could have been prevented:
- a. An issue addressed at other points of these submissions is the issue of whether there was differential policing and/or a greater tolerance of terrorist violence in Northern Ireland. That means that there is a need to consider whether the prior incidents would have resulted in greater action had they occurred in Great Britain.

¹⁴⁴ *Submission to the Omagh Bombing Inquiry*, Dr John F Morrison, December 2024, [9.66], [INQ004365].

¹⁴⁵ *IRA: The Bombs and the Bullets*, Oppenheimer AR, 2008, 1999, p171, [INQ013306].

- b. The concerns expressed in the sub-paragraph above are supported by the fact that in his evidence to NIAC, Mr Baxter, who was in charge of the bomb investigation from 2000, stated that the Omagh Bomb might have been prevented had earlier action been taken against those believed to be involved in the other incidents. He said:

*...there could have been opportunities to arrest this gang after Lisburn, after bombs in May, July and even after Banbridge...If we take Lisburn, which is one of the linked incidents, a car bomb, there was an opportunity, had the investigators been given the identities of the bomb team, to carry out searches of the properties or the homes of suspects.*¹⁴⁶

He also stated that :

*... certainly disruption could have prevented it.*¹⁴⁷

- c. The submissions above demonstrate that the state had both the powers and resources necessary to both gather relevant intelligence and then take disruptive action.

Need for an overall assessment

136. One key issue that may arise depending upon what the evidence regarding the issues above demonstrates is whether there was a need for a designated decision maker with responsibility to assess all of the material that may have been available to determine what steps were needed to protect the public. For example, was there a need to develop a better response plan to threats such as those received in Omagh before the Bomb.

¹⁴⁶ *Omagh – A Decade After The Bomb. Minutes of evidence taken before NIAC, 11 November 2009, Q 337, [INQ000626].*

¹⁴⁷ *Ibid, Q 332.*

Differential policing

137. There are concerns that a different policing response would have been adopted in England. In his evidence to NIAC, Mr Baxter stated that:

*I think it is inconceivable on mainland United Kingdom if you had had a series of bombs happening every week or two weeks that there would not have been arrests and there would not have been government intervention to ensure that this team was disrupted.*¹⁴⁸

138. One reason to be concerned about potential differential policing is that MI5 appears to claim particular success in relation to the disruption of terrorism in London (see above).

139. A further reason to be concerned about this issue is that the PSNI's corporate statement appears to suggest that a different approach may have been adopted to the handling of intelligence in Britain to that adopted in Northern Ireland.¹⁴⁹

140. This is obviously a matter of particular concern that needs to be investigated with care.

Co-operation with the Republic of Ireland

141. There appears to be little or no doubt that dissident Republican activity linked to the Bomb took place in the Republic of Ireland. That suggests that effective prevention of the Bomb potentially required the assistance of the Irish authorities. The CPs encourage the Government of the Republic of Ireland to establish a procedure that will enable findings to be reached regarding any failings that may have occurred within the South of Ireland.

¹⁴⁸ Ibid, Q335.

¹⁴⁹ Corporate Witness Statement on Behalf of the Police Service of Northern Ireland, May 2025, [78], [229] and [402], [INQ012954].

142. There is reason to believe that intelligence was known by the Garda but not the RUC. The Omagh Bomb Investigation Team presented a briefing paper to some of the families of the bereaved and injured (the Omagh Support & Self Help Group) on 22 February 2008¹⁵⁰, which stated, among other matters that:

- a. Intelligence material indicated that in November 1997 dissident republicans discussed the military and police bases in Omagh. The information was not passed onto the RUC, and therefore the Sub-Divisional Commander in Omagh was not made aware of this information regarding the military bases or his own station. The Investigation Team assessed that this information should have been passed onto the RUC at that time bearing in mind the number of terrorist bombs and attempted bombs in 1997.
- b. Following an operation by the Garda in April 1998 to disrupt a dissident operation, a generalised document was provided to the RUC that lacked sufficient detail.

143. There would appear to be mixed descriptions of the cooperation between the police forces on both sides of the border. The Smithwick Tribunal suggests that there was close cooperation at a local level around the border, particularly between police forces in Newry and Dundalk.¹⁵¹ The Nally Report refers to '*close counter terrorism cooperation, both formally and on a personal basis,*' and that '*cooperation was excellent,*' and the positive tones about the '*quality of the intelligence the PSNI coming from the Garda*'.¹⁵² However, as noted above, in the corporate statement of PSNI, suggests that key preventative material was not shared.

¹⁵⁰ *Briefing paper: Omagh victims self-help group*, 22 February 2008, p22 [INQ000427_0022].

¹⁵¹ *Report of the Smithwick Tribunal*, pp.90-91, [INQ000258].

¹⁵² *The Nally Report*, [1.23], [INQ014752].

144. As noted above, although findings regarding the conduct of Irish state authorities are not a matter for the Inquiry, there are clearly findings open to the Inquiry. These include whether:
- a. Information of value was received from the Republic of Ireland.
 - b. Whether more could have been done to improve the supply of information from the Republic of Ireland.
 - c. Whether any information of value was effectively deployed.

Concluding remarks

145. As noted above, at this stage the CPs are not seeking to argue the particular findings that should be made. The CPs accept that it is important that the Inquiry keeps an open mind. However, the CPs argue that it is clear that there are difficult issues that need to be reviewed with care.
146. The range, complexity and importance of the issues mean, among other matters, that:
- a. It is important that the CPs are able to participate fully in questioning the witnesses including by asking questions directly.
 - b. The CPs' interests are advanced in closed by Special Advocates.
 - c. There is full engagement by the Irish Government.

HUGH SOUTHEY KC
EAMON FOSTER BL
AIDAN McGOWAN BL
JOHN FOX
FOX LAW
9 June 2025
Amended 20 June 2025