

STATUTORY REPORT

Public statement by the Police Ombudsman in accordance with Section 62 of the Police (Northern Ireland) Act 1988.

Relating to public complaints:

THE CIRCUMSTANCES OF THE
MURDER OF CONSTABLE COLLEEN
McMURRAY AND THE ATTEMPTED
MURDER OF POLICE OFFICER 1 AT
MERCHANTS QUAY, NEWRY, ON 27
MARCH 1992

Index

	Executive Summary	2-4
Chapter 1	Introduction	5-7
Chapter 2	The Circumstances of the Merchants Quay Attack	8-10
Chapter 3	The Complaint and Scope of the Police Ombudsman Investigation	11-16
Chapter 4	The Escalating Terrorist Threat Prior to 27 March 1992	17-23
Chapter 5	The 27 March 1992 Threat	24-32
Chapter 6	Person A	33-38
Chapter 7	Intelligence Available Prior to and Post 27 March 1992	39-45
Chapter 8	The RUC Investigation	46-56
Chapter 9	Complaints, Questions and Concerns Raised by the Families of Constable McMurray and Police Officer 1.	57-63
Chapter 10	Relevant Rules and Standards	64-65
Chapter 11	Procedural Fairness	66-70
Chapter 12	Conclusions	71-84

Executive Summary

At approximately 11.35pm, on 27 March 1992, an unmarked armoured police car was struck by a Provisional Irish Republican Army (PIRA) mortar bomb as it travelled along Merchants Quay towards Corry Square Police Station in Newry, County Down.

Constable Colleen McMurray was the passenger in the vehicle and died as a result of the injuries she sustained. Police Officer 1 was the driver of the vehicle and he sustained serious, life-changing injuries.

The mortar bomb was detonated remotely by a *'flash initiated'* technique and was fired horizontally towards the police vehicle from a stolen Toyota Corolla which had been modified for the purposes of facilitating the attack.

The following day, 28 March 1992, a male caller telephoned Downtown Radio stating that PIRA's South Down Brigade carried out the attack.

A murder investigation was commenced by the Royal Ulster Constabulary (RUC) and although a number of arrests were subsequently made, no individuals have been made amenable for the murder of Constable McMurray and attempted murder of Police Officer 1.

In early 2000, the man identified as Person A in this public statement first made public that he had been a PIRA member and a police informant. He further alleged that, prior to the Merchants Quay attack on 27 March, he told his RUC Special Branch handlers about the *'flash initiated'* technology used in the attack. Person A stated that, had police acted on this information, they could have prevented the murder of Constable McMurray and the attempted murder of Police Officer 1.

In February 2004, the former Police Ombudsman, Nuala O'Loan, received complaints from the families of Constable McMurray and Police Officer 1.

The complaints consisted of questions and concerns regarding the circumstances of the mortar bomb attack and subsequent police investigation.

Central to these complaints were allegations that members of the RUC may have known about the attack prior to it occurring but did nothing to prevent it.

A Police Ombudsman investigation was commenced to address the questions and concerns raised by the families of Constable McMurray and Police Officer 1. The original RUC investigation papers were secured and reviewed as part of the investigation.

In 2004, Police Ombudsman investigators met with Person A and he confirmed comments attributed to him. However, since this meeting, Person A's solicitor stated in correspondence that, *'until such times as [Person A] has assurances he shall not face prosecution for any disclosures made by him he is unable to co-operate with the [Police] Ombudsman's Office or any public body investigating the past.'* The Police Ombudsman has had no further contact with Person A.

Conclusion

I have identified failings in the RUC investigation into the murder of Constable McMurray and the attempted murder of Police Officer 1. These include failures in the suspect and arrest strategies and failures to investigate evidential opportunities.

I have also identified failures, by RUC Special Branch, to disseminate, in a timely manner, relevant intelligence.

I am of the view that Person A ought to have been identified as a potential suspect because Special Branch had intelligence linking him to the development and use of *'flash initiated'* technology. Police also had intelligence he was in Newry Town Hall at the time of the attack.

I have identified instances where intelligence was not disseminated, that I consider may have been of value to the police investigation into the murder of Constable McMurray and attempted murder of Police Officer 1. This included intelligence linking

Person A to the technology used in the attack. The dissemination of other relevant intelligence was delayed which may have hindered the police investigation.

In response to the complaints and concerns raised by the families of Constable McMurray and Police Officer 1, I have assessed the intelligence which was in the possession of RUC Special Branch prior to the attack. I am of the view that police were not in possession of intelligence that could have forewarned of, or, if acted upon, prevented the attack.

I am mindful that this attack occurred while Constable McMurray and Police Officer 1 were carrying out policing duties and serving their community in circumstances where the threat level in Newry was high. The dedication of many police officers, often at great personal risk, to protect the public and colleagues, represents high standards of professionalism. It is indicative of the sacrifice that many RUC officers, including Constable McMurray and Police Officer 1, made during the 'Troubles.'

1 Introduction

- 1.1 In 1992, there were 91 deaths attributed to the ‘Troubles’ in Northern Ireland, five of them in March of that year. On 27 March 1992 at 11:35pm, the Provisional Irish Republican Army (PIRA) carried out a mortar bomb attack on an unmarked armoured police car as it travelled along Merchants Quay in Newry, County Down. Constable Colleen McMurray, the front seat passenger in the car, was killed as a result of injuries sustained in the attack. The driver, Police Officer 1, survived but sustained serious, life-changing injuries.
- 1.2 The former Police Ombudsman, Nuala O’Loan, received complaints from the families of Constable McMurray and Police Officer 1 in February 2004. These consisted of questions and concerns regarding the circumstances of the mortar bomb attack and subsequent police investigation. Central to these were allegations that members of the Royal Ulster Constabulary (RUC) may have known about the attack prior to it occurring but did nothing to prevent it.
- 1.3 This document is a public statement detailing my reasons for actions, decisions, and determinations in respect of these complaints. The investigation conducted by my Office into the allegations of police misconduct connected with the murder of Constable McMurray and attempted murder of Police Officer 1 is also outlined in this statement.
- 1.4 The technology and methodology used to detonate the mortar bomb at Merchants Quay on 27 March 1992 had been developed over a number of years by South Down PIRA. This *‘flash-initiated’*¹ technology had been used in a series of PIRA attacks prior to, and following, the murder of Constable McMurray and attempted murder of Police Officer 1. Intelligence during this period identified a member of South Down PIRA, Person A, as having been involved in the design and development of this technology.

¹ *‘Flash-initiated’* technology referred to the PIRA development and use of explosive devices which were detonated by a photographic flashgun.

- 1.5 Person A, in later years, publicly identified himself as having been a police informant² at the time of the Merchants Quay attack on 27 March 1992. He claimed that he supplied RUC Special Branch with advanced warning of the attack, stating that if police had acted on this information, then it could have been prevented.
- 1.6 This investigation has examined the relationship between Person A and RUC Special Branch. This included the circumstances surrounding his recruitment and the quality of intelligence provided by him both prior to, and following, the Merchants Quay attack. I have also considered the wider intelligence picture at that time. This related to the activities of South Down PIRA and a newly-created PIRA Active Service Unit (ASU),³ based in Dundalk, County Louth.
- 1.7 In undertaking this investigation, it was necessary to obtain generic information about the activities of South Down PIRA during the relevant period. This information informed necessary investigative decisions and actions undertaken by my Office in relation to police conduct. I have detailed much of this information as it demonstrated the heightened threat posed by South Down PIRA and the development of *'flash-initiated'* technology.
- 1.8 This investigation generated over 280 investigative actions, securing and reviewing over 530 pieces of documentation and a significant amount of intelligence material held and managed by RUC Special Branch at the time. A total of 91 witness statements were recorded, including accounts from members of the public and a number of former police officers. The latter provided accounts as to their roles, decisions, and actions during relevant police investigations. A number of other former police officers either declined or were unable to assist. I am grateful to those who assisted with this investigation.

² Informants are now known as Covert Human Intelligence Sources (CHIS)

³ Active Service Unit (ASU) – An ASU was a small, largely self-contained grouping or 'cell' that carried out terrorist attacks. The cell structure was aimed at minimising the risk of infiltration and exposure by the security forces.

- 1.9 At the conclusion of this investigation my predecessor, Dr Michael Maguire, considered whether or not it was necessary to submit a file to the Director of Public Prosecutions (DPP). As there was insufficient evidence to conclude that any identifiable officer may have committed a criminal offence, Dr Maguire decided that a file would not be submitted. I am unable to consider the question of disciplinary proceedings relating to any potential misconduct as all of the relevant police officers are now retired.
- 1.10 In this public statement I have criticised the actions of a number of RUC officers serving at the time. However, given the passage of time, it has not been possible to identify all of those responsible for actions or omissions criticised by me. I have provided an opportunity for any identifiable officer, subject to criticism, to respond. I have considered these responses and incorporated them into this public statement, where I consider it appropriate.
- 1.11 Prior to the release of this public statement it was forwarded in full to the Police Service of Northern Ireland (PSNI), Ministry of Defence (MOD), and Security Service. Responses were received from these agencies which again I have reflected, where I consider it appropriate, in this public statement.

2 The Circumstances of the Merchants Quay Attack

- 2.1 At approximately 11:35pm on 27 March 1992, an unmarked police Ford Sierra Sapphire was travelling along Merchants Quay, Newry, when it was struck by a Mark 12 mortar bomb. The front seat passenger, Constable McMurray, died later in hospital as a result of injuries sustained in the attack. The driver, Police Officer 1, survived but sustained serious, life-changing injuries.
- 2.2 On the evening of 27 March 1992, prior to the attack, police patrols in Newry were recalled to Corry Square Police Station in the town centre for a number of hours, following the receipt of a threat against security forces in the area. I will detail the nature and relevance of the threat later in this public statement. Police resumed patrols later in the evening.
- 2.3 At approximately 10:00pm on 27 March 1992, Constable McMurray and Police Officer 1 were tasked to perform a Vehicle Checkpoint (VCP) at Downshire Road Police Station, on the outskirts of Newry. At approximately 11:00pm, they were instructed to *'go mobile'* and provide security cover along the main routes into the town for colleagues travelling into Newry to commence duty at midnight.
- 2.4 While performing these duties they received a radio transmission from their Communications Room to assist a female motorist who was locked out of her car at Sugar Island in the town centre. Constable McMurray responded that they were on their way to this location.
- 2.5 Upon arriving at Sugar Island another police patrol consisting of Police Officers 2 and 3 were already assisting the motorist. Constable McMurray and Police Officer 1 continued towards Corry Square Police Station as it was nearing the end of their shift. As they travelled along Merchants Quay towards the police station, a Mark 12 mortar bomb was detonated at close range from a parked Toyota Corolla, striking the driver's side of the police car. The police

vehicle continued for a short distance before colliding with another parked vehicle and coming to a halt.

- 2.6 Police Officers 4 and 5, who were travelling a short distance behind, witnessed the attack and its aftermath. Despite their own vehicle being damaged, they immediately made a radio transmission, informing their authorities of the attack.
- 2.7 The Toyota Corolla, which had been previously stolen, had been altered for use in the attack. A hole had been cut in its boot panel, through which the mortar bomb was horizontally fired. The hole had been covered with cardboard and painted over, to disguise the alteration. The mortar bomb was detonated from a distance of approximately two metres as the police car drew alongside it, causing substantial damage.
- 2.8 Both Constable McMurray and Police Officer 1 were taken to Daisy Hill Hospital, Newry, where, despite further treatment, Constable McMurray died from her injuries. She was 34 years old. Police Officer 1 survived the attack but sustained serious, life-changing injuries.
- 2.9 The mortar bomb had been detonated remotely by a *'flash initiated'* technique. This involved an individual, positioned nearby, pointing a photographic flashgun at the Toyota Corolla, which contained a photoflash slave unit in its front passenger seat sun visor. This activated a battery pack concealed in the car's glove compartment that, in turn, detonated an electrical charge in the base of the mortar tube. This propelled the mortar bomb from the tube and through the hole in the boot panel.
- 2.10 Police enquiries concluded that the mortar bomb was most likely detonated by an individual standing on the opposite side of Newry Canal, which runs alongside Merchants Quay, approximately 20 metres away. Similar technology and tactics had been used by PIRA in previous attacks in the South Down area.

- 2.11 At 11:20am on 28 March 1992, a male caller telephoned Downtown Radio stating that PIRA's South Down Brigade carried out the attack.
- 2.12 Although a number of arrests were subsequently made, no individuals have been made amenable for the murder of Constable McMurray and attempted murder of Police Officer 1.

3 The Complaint and Scope of the Police Ombudsman Investigation

- 3.1 In early 2000, Person A publicly claimed that he had been a PIRA member and a police informant. He alleged that prior to the Merchants Quay attack, he told his RUC Special Branch handlers about the *'flash-initiated'* technology subsequently used in the Merchants Quay attack. He stated that, had police acted on this information, they could have prevented the murder of Constable McMurray and attempted murder of Police Officer 1.
- 3.2 In October 2003, Person A met with Police Officer 3 and a Member of Parliament (MP). During this meeting he again stated that he provided his police handlers with prior warning of the attack. He stated that PIRA were planning to attack the security forces, using a *'flash-initiated'* explosive device, which he referred to as a *'doodlebug'*.⁴
- 3.3 In February 2004, Complainant 1 and Complainant 2, relatives of Constable McMurray, met with the former Police Ombudsman, Nuala O'Loan, following which they made statements of complaint to this Office. Police Officer 1 also attended this meeting. As he was a serving police officer at the time, his relative, Complainant 3, made a statement of complaint on his behalf. The complaints raised a number of questions and concerns in respect of police actions before and after the Merchants Quay attack. These allegations are set out in full later in this public statement, However, in summary, they are concerned with the following issues:

⁴ A 'doodlebug' was PIRA slang for a horizontally-fired mortar bomb.

Complainant 1

- I. That police officers knew an attack was planned, prior to it occurring, but did nothing to prevent it;
- II. That following Person A's public allegations Police Officer 6 visited his home and informed Complainant 1 that Person A was not involved in the Merchants Quay attack and was not known to RUC Special Branch at that time. Complainant 1 alleged that Police Officer 6 lied to him about his knowledge of Person A and had been sent to visit him by more senior police in order to '*appease*' the McMurray family;
- III. Was Person A recruited by RUC Special Branch as an informant prior to the Merchants Quay attack?
- IV. If Person A provided police with information relating to '*flash-initiated*' technology prior to 27 March 1992, why was this information not disseminated to police officers in Newry to allow them to take steps that may have prevented the Merchants Quay attack? and
- V. Why were police patrols in Newry withdrawn for four hours on the evening of 27 March 1992 before being deployed again prior to the attack? Who made these decisions and were they linked to intelligence at that time?

3.4 The complaint made by Complainant 2 shared a number of concerns raised by Complainant 1 and Complainant 3. She wished to know why police were recalled to Corry Square Police Station on 27 March 1992, and whether Constable McMurray's death was avoidable.

Complainant 3

- I. Was Person A an RUC Special Branch informant prior to the attack?
- II. Did Person A meet with his handlers in London prior to 27 March 1992 and provide them with information regarding '*flash-initiated*' explosive devices?
- III. Why was intelligence provided by Person A at this meeting not disseminated to police in Newry?

- IV. Why were police recalled to Corry Square Police Station prior to the attack, who made this decision, and what intelligence led to this happening?
- V. Why did Police Officer 6, when he later met with Police Officer 1 to discuss the attack, refer to Person A as a '*Walter Mitty*'⁵ character?
- VI. Why were the family not regularly updated by police during the investigation?

3.5 These complaints were accepted for investigation under section 56 of the Police (Northern Ireland) Act 1998 (the 1998 Act). This investigation has examined the RUC investigation in accordance with the Terms of Reference set out below:

- I. To ensure all lines of enquiry in respect of examination of the RUC suspect strategy have been exhausted, including suspects identified by Police Officer 1;
- II. To ensure all lines of enquiry in respect of the RUC forensic strategy have been exhausted with an emphasis on opportunities that have developed since the 1990s, particularly DNA, and as far as possible clarity is secured in relation to the RUC's loss of exhibits;
- III. To ensure all lines of enquiry have been exhausted in respect of examination of Person A's status, relationship with the RUC, and/or culpability in the attack that resulted in the murder of Constable McMurray;
- IV. To ensure all lines of enquiry in respect of police possession of intelligence relating to the plan for the attack, including development of the light sensor technology, and aftermath of the attack have been thoroughly pursued;
- V. To ensure all lines of enquiry in respect of RUC responsibilities to alert police officers to the development of light sensor technology have been pursued;

⁵ Walter Mitty was a fictional character created by American author, James Thurber. The term has entered modern-day language to describe an individual who is regarded as a fantasist.

- VI. To ensure all lines of enquiry in respect of threats/risks pertinent to the events at Newry on 27 March 1992 have been thoroughly pursued, including the loss of the Threat Book at Newry and extending to new information from Police Officer 1 that the Army received information concerning a threat at 8:02pm on the evening of the attack; and
- VII. To ensure information from Police Officer 1 and Police Officer 3 that police were recalled to Newry Police Station on the evening of 27 March 1992 before being instructed to resume patrol, and the implications of that series of events, has been thoroughly investigated.

3.6 An investigation was commenced to address the questions and concerns raised by the families of Constable McMurray and Police Officer 1, as reflected in the Terms of Reference. The original RUC investigation papers were secured and reviewed as part of the Police Ombudsman investigation.

3.7 The former Police Ombudsman, Al Hutchinson, prepared a draft public statement which he shared with the families in September 2009. Following concerns raised by them regarding its contents, he later withdrew this document prior to its publication. This resulted in a number of further enquiries being conducted by my Office, which have provided the evidential basis for my conclusions outlined in this public statement.

3.8 Further to the questions and concerns raised by the families of Constable McMurray and Police Officer 1, my Office was made aware in November 2015 that a former police officer alleged that a security force operation was in place in Newry on 27 March 1992 and that police witnessed the attack. This former police officer also alleged that an opportunity existed to prevent the attack. This is dealt with later in this public statement.

3.9 In June 2016, my predecessor, Dr Michael Maguire, issued a public statement concerning the murders of six men at the Heights Bar, Loughinisland, on 18

June 1994. This public statement was challenged as being '*ultra vires*'⁶ by the Northern Ireland Retired Police Officers Association (NIRPOA).

- 3.10 Following prolonged legal proceedings, on 18 June 2020 the Northern Ireland Court of Appeal delivered a ruling on the Police Ombudsman's role as provided for in Part VII of the 1998 Act. The Court ruled that the Ombudsman's role was investigatory and not adjudicatory in nature. Decisions as to whether a police officer's actions amounted to criminality or misconduct were for other forums such as a criminal court or disciplinary panel.
- 3.11 Paragraph 40 of the Court of Appeal judgment stated, '*It is clear that the principal role of the Ombudsman is investigatory. The complaint defines the contour of the investigation and in this case informed the terms of reference about which no complaint has been made. There is no power or duty created by the statute for the Ombudsman to assert a conclusion in respect of criminal offences or disciplinary misconduct by police officers. The Ombudsman is required to provide recommendations to the DPP if he considers that a criminal offence may have been committed. Such a recommendation is a decision which could form part of a PS [Public Statement]. Once he makes such a recommendation he has no role thereafter apart from supplying information on request.*'
- 3.12 The Court, in explaining the legal framework of the 1998 Act, outlined at Paragraph 43, '*That framework specifically excluded any adjudicative power for the Ombudsman in the determination of criminal matters. The confidence of the public and police force was to be secured by way of the independence, efficiency and effectiveness of the investigation coupled with an adherence to the requirements of the criminal law before any finding of a criminal offence could be made against a police officer and the conduct of a disciplinary hearing with all the protections afforded within that system before disciplinary misconduct could be established. The thrust of the appellants' case is that the statutory scheme could be undermined if the Ombudsman was entitled to use section 62 as a vehicle for the making of such findings. We agree that the*

⁶ A legal term meaning to act beyond the power or authority of the body.

legislative steer is firmly away from the Ombudsman having power to make determinations of the commission of criminal offences or disciplinary misconduct but will address later how this affects the content of a PS.'

3.13 At Paragraph 55, the Court outlined the powers of the Police Ombudsman in respect of officers, where there was a question of criminality and/or misconduct, should a police officer have resigned or retired. *'There may well be circumstances, of which this appeal may be an example, where a police officer will have resigned as a result of which the officer would no longer be subject to any disciplinary process. By virtue of section 63(1)(e) of the 1998 Act the Ombudsman has limited powers in a PS to identify a person to whom information relates if it is necessary in the public interest. That is a strict test. We accept that a person can be identified by inference, a so-called jigsaw identification. We do not consider that the power to make a PS provides the Ombudsman with the power to make determinations in respect of retired officers. We accept, however, that the statutory scheme does enable the Ombudsman in respect of such officers to indicate what recommendations might have been made, what reasons there were for the making of such recommendations and whether disciplinary proceedings would have been appropriate.'*

3.14 My interpretation of this judgment is that, in the absence of determinations of criminality or misconduct by the appropriate authority, my role is limited to commenting on the matters raised in a complaint. My conclusions in respect of the complaints made by the families of Constable McMurray and Police Officer 1, are outlined later in this public statement.

4 The Escalating Terrorist Threat Prior to 27 March 1992

- 4.1 This investigation examined intelligence received by police prior to, and following, the murder of Constable McMurray and attempted murder of Police Officer 1. This was to establish whether information existed, which, if acted upon, could have prevented the attack and/or assisted the subsequent police investigation.
- 4.2 This investigation established that, in the period prior to 27 March 1992, police were in receipt of intelligence that indicated a growing PIRA threat against the security forces in the South Down area. This chapter will examine the nature of that intelligence and the actions taken by police to deal with the threat in order to minimise the risk to the general public and members of the security forces.
- 4.3 It is important to clarify that intelligence is information and may constitute evidence that is admissible in court proceedings. Admissibility of intelligence is subject to relevant legal constraints that may apply depending on the circumstances of how it has been acquired. Intelligence is information that has been assessed and graded as to its relevance and quality, before a decision is taken as to how it can best be acted upon, used to inform assessments about a group, target, or threat, or developed further. It can allow police to initiate and develop new lines of enquiry in respect of both combating terrorist activity and progressing investigative strategies. These lines of enquiry may, in turn, generate new or enhanced evidential opportunities.

PIRA and 'Flash-Initiated' Technology

- 4.4 Police received intelligence from 1989 onwards, indicating that PIRA were involved in the development of *'flash-initiated'* technology for use in detonating explosive devices, aimed at killing members of the security forces. This included information that Person A and other members of South Down PIRA

and Dundalk PIRA were involved in the design, construction, and testing of *'flash-initiated'* explosive devices. The intelligence indicated that Person A was also instructing South Armagh PIRA and Belfast PIRA in the construction and use of these devices.

Backdrop to *'Flash-Initiated'* Attacks in Newry

- 4.5 Information obtained by my investigators indicated that the evolution of *'flash-initiated'* technology was an attempt by PIRA to combat improved security forces blocking of radio signals. As a result, remotely operated explosive devices were becoming increasingly difficult to detonate. Intelligence also indicated that PIRA were reluctant to rely solely on command wire operated devices as these placed their members at greater risk of arrest.
- 4.6 *'Flash-initiated'* devices could be cheaply manufactured at the time and were easy to construct, requiring only a limited technical knowledge. They could also be detonated from greater distance, thereby reducing the risk of arrest or injury to PIRA members.
- 4.7 This investigation established that, by March 1992, efforts were made by police to inform all uniformed officers in Newry about *'flash-initiated'* explosive devices. Information was shared with officers via security briefings and instructional videos. A number of police officers had also attended crime scenes and therefore had first-hand knowledge of the tactics and technology involved.
- 4.8 In May 1989, police received intelligence that Person A planned to detonate a *'flash-initiated'* explosive device in the Newry area. Further intelligence, received in June 1989, indicated that he had unsuccessfully attempted to detonate a similar device in the same area.
- 4.9 In December 1989, Person A was stopped by the security forces in the Merchants Quay area of Newry. When his vehicle was searched, scratch marks and rust were located in the interior of the boot. A piece of metal tubing was also recovered. The Scenes of Crime Officer (SOCO) who attended the

scene concluded that there had been a considerable amount of metal in the vehicle. He added that the measurements of the metal tubing suggested that it *'...may be a cut off piece from a possible mortar.'*

- 4.10 Police received intelligence in February 1990, describing Person A as the Technical Officer for Newry PIRA. It stated that he had been involved in several attempts to perfect a *'flash-initiated'* explosive device.

The *'Bicycle Bomb'* Attack – 30 March 1990

- 4.11 At 10:53pm on 30 March 1990, police received an anonymous telephone call stating that there was a bomb inside a bicycle outside the Ulster Bank at Margaret Street, Newry. The area was sealed off and an examination of a bicycle chained to a street sign outside the bank located an explosive device capable of being detonated by *'flash-initiated'* technology.
- 4.12 Police had received intelligence on 30 March 1990 indicating that South Down PIRA intended to detonate an explosive device concealed within a bicycle when a police foot patrol passed.
- 4.13 Police later received intelligence indicating that Person A was linked to the development of the technology used in this attack. Police officers investigating the murder of Constable McMurray and attempted murder of Police Officer 1 were aware of the *'bicycle bomb'* as a number of them were involved in both investigations.
- 4.14 The following day, 31 March 1990, the RUC circulated a force-wide message describing the device as a *'remote control improvised explosive device.'* This message made no reference to the *'flash-initiated'* technology which would have been used to detonate the device.
- 4.15 In April 1990, intelligence was received that Newry PIRA had devised a method of detonating explosive devices using *'flash-initiated'* technology. They had unsuccessfully attempted, on several occasions, to detonate a device by this means. Person A was heavily involved in the development of this technology.

Weapons Find at Derrybeg Housing Estate, Newry – 2 July 1990

- 4.16 On 2 July 1990, police recovered weapons and bomb-making equipment from an address on the Derrybeg housing estate in Newry. The bomb-making equipment included component parts necessary for the construction of a *'flash-initiated'* explosive device. Four individuals, including Person A, were arrested following the recovery. He was released without charge three days later. My investigators have been unable to locate the relevant police interview records.
- 4.17 Police circulated the details of Person B as also being sought in connection with the recovery. However, he was not arrested.
- 4.18 In late September 1990, intelligence stated that Persons A and C were involved in the development and manufacture of *'flash-initiated'* explosive devices. Intelligence from late 1988 onwards indicated that the two were close associates.
- 4.19 In March 1991, police received information that Newry PIRA were planning to detonate a Mark 12 mortar bomb against security forces in the South Down area. The threat level at that time against the security forces was described as *'high.'* In early July 1991, the security forces found a vehicle in a barn in South Armagh that had been adapted to carry a Mark 12 mortar.

Attack on Warrenpoint Police Station – 8 September 1991

- 4.20 At 1:02am on 8 September 1991, PIRA carried out a Mark 12 mortar bomb attack at Warrenpoint Police Station in County Down. The mortar bomb was detonated horizontally from a Renault 19 car through a hole that had been cut in its front passenger door. The mortar bomb missed the police station, striking a pizza parlour approximately 20 metres away. There were no injuries, but the pizza parlour sustained substantial structural damage.
- 4.21 The car had been stolen from the Dundalk area on 12 May 1991 and fitted with false vehicle registration plates. *'Flash-initiated'* technology was used to detonate the device.

- 4.22 On 7 September 1991 Person D, a suspected member of South Down PIRA, was sighted twice in the Warrenpoint area. He was later arrested in connection with the Merchants Quay attack that killed Constable McMurray and seriously injured Police Officer 1. Intelligence obtained in January 1992 linked him to an earlier failed attack at Merchants Quay on 29 November 1991.
- 4.23 In the hours leading up to the attack, a car was sighted three times near to where the Renault 19 was parked. This car was registered to Person E, another suspected member of South Down PIRA. Persons D and E had previously both been linked by intelligence to the *'bicycle bomb'* attack in Newry on 30 March 1990.
- 4.24 In late October 1991, further intelligence was received that Newry PIRA were planning an attack, where an explosive device would be detonated from inside a vehicle through a false panel. Local police were made aware of the increased threat, but not the nature of the intelligence.

Attack at Merchants Quay – 29 November 1991

- 4.25 At 4:05am on 29 November 1991, an anonymous caller telephoned Daisy Hill Hospital, Newry, stating that a car bomb had been left outside Newry Tax Office on Merchants Quay. A second call was made to Ulster Television (UTV) at 4:07am, relaying the same information. Security forces attended the scene and a controlled explosion was carried out on a vehicle at 6:40am.
- 4.26 The vehicle contained a *'flash-initiated'* explosive device similar in its construction to the one later used in the murder of Constable McMurray and serious injury of Police Officer 1. In early January 1992, police received intelligence linking Person F to the 29 November 1991 attack.
- 4.27 Person A later provided intelligence linking Person D to the attack. My investigators also viewed an intelligence assessment, dated September 1992, naming a number of individuals as having been involved. These included Persons D and E. No individuals were arrested in respect of the 29 November 1991 attack.

Attack at Merchants Quay – 12 February 1992

- 4.28 On 12 February 1992, a second car bomb was left at the same location on Merchants Quay but failed to detonate. Although this device did not involve '*flash-initiated*' technology it was the second time that the area had been targeted in three months. Intelligence was received later that month that Persons B, D, G, and H were involved in this failed attack.
- 4.29 From January 1992 onwards, police began to receive intelligence about the formation of a new PIRA Active Service Unit (ASU) based in Dundalk, County Louth. They were planning imminent attacks using a range of explosive devices. Later intelligence indicated that this ASU was involved in the Merchants Quay attack on 27 March 1992 and other attacks involving the use of '*flash-initiated*' explosive devices.
- 4.30 In late February 1992, Special Branch received intelligence that South Down PIRA were in possession of a large quantity of explosives for use in a car bomb. It indicated that an attack could take place over the coming weekend, with an unidentified security force premises being the most likely target.
- 4.31 In early March 1992, police received intelligence that security force premises in nine towns, including Newry, were at high risk of PIRA attack. The attack was anticipated to take the form of a vehicle bomb, mortar bomb, or machine-gun attack. This information was to be disseminated by police by secure means to the relevant security force premises.
- 4.32 This investigation was unable to locate any police documentation evidencing that this information was shared with police in Newry. My investigators, however, interviewed the RUC Special Branch officer linked with the dissemination of the relevant intelligence who stated that he would have shared it.

4.33 In late March 1992, police received intelligence that a PIRA attack was imminent in H and J Divisions,⁷ and that town centres and security force premises in those areas were being targeted.

Summary

4.34 From 1989 onwards, police received intelligence indicating that South Down PIRA were engaged in the research and development of '*flash-initiated*' explosive devices for use in attacks against the security forces. Person A was described as being heavily involved in this process. Intelligence also indicated that Person A had been involved in the construction and detonation of '*flash-initiated*' devices.

4.35 From March 1990 onwards, South Down PIRA carried out a series of attacks using both '*flash-initiated*' and other forms of explosive devices. The Merchants Quay area was targeted in November 1991 and February 1992 prior to the attack on 27 March 1992 which killed Constable McMurray and seriously injured Police Officer 1.

4.36 This investigation has established that police in Newry were aware of this technology and the threat it posed. However, not all relevant intelligence was shared with police officers investigating the attacks that took place prior to 27 March 1992. I have been unable to establish why a full intelligence picture was not shared.

4.37 I am of the view that the failure to share this intelligence impeded the relevant police investigations. This intelligence, if shared, could have been utilised by police officers to formulate lines of enquiry and identify evidential opportunities that may have disrupted the activities of South Down PIRA and a number of its members who were subsequently linked to the murder of Constable McMurray and attempted murder of Police Officer 1.

⁷ In 1992, Northern Ireland was geographically divided into a number of policing areas, known as '*Divisions*.' H and J Divisions covered areas of Counties Down and Armagh, including the towns of Newry, Banbridge, Lurgan, and Portadown.

5 The 27 March 1992 Threat

The 7:45pm Threat

- 5.1 On the afternoon of 27 March 1992, Witness 1, a former member of the Ulster Defence Regiment (UDR), telephoned police regarding a conversation he had overheard earlier that day in a County Down public house. During this conversation, two individuals discussed a car bomb attack planned in Newry for that coming weekend.
- 5.2 Witness 1, now deceased, informed my investigators in 2004 that, upon hearing this conversation, he telephoned police in Newry to make them aware of it. Witness 1, suspecting that police had not believed him, then telephoned Ballykinler UDR Barracks to pass on the same information. He was with a friend at the time, Witness 2, who supported this account when interviewed by my investigators.
- 5.3 My investigators located a copy of an entry made at 7:45pm on 27 March 1992 in the C6 Station Register⁸ at Corry Square Police Station. This related to information received from the military that a former UDR member had overheard a conversation in a County Down public house about a car bomb attack in Newry that coming weekend. I believe that this was the information provided by Witness 1. Although this copy was retained within the relevant RUC investigation papers, my investigators were unable to locate the original C6 Station Register. As this could not be located, this investigation has been unable to establish if his initial telephone call to police in Newry was recorded.
- 5.4 This investigation has identified no other record of the information provided by Witness 1. None of the former police officers interviewed as witnesses by my investigators had any knowledge of the relevant telephone call. A number of them, however, recalled an unidentified threat which led to police patrols being

⁸ A C6 Station Register was an official ledger located in the Enquiry Office of a police station. It was used to record the details of all reported incidents and the police response to them.

recalled to Corry Square Police Station prior to the attack on the evening of 27 March 1992.

- 5.5 Witness 1 and Witness 2 were interviewed by police officers following the attack. Police Officer 7, the Deputy Senior Investigation Officer (DSIO) investigating the murder of Constable McMurray and attempted murder of Police Officer 1, documented that Witness 1 was unreliable. Police neither recorded a statement from Witness 1 nor asked him to look at photo-fits or suspect photo albums in an effort to identify the two individuals he had overheard talking about an attack in Newry.
- 5.6 I am of the view, given the available evidence, that it was the information provided by Witness 1 that led to police patrols being recalled to Corry Square Police Station for a period of time on 27 March 1992. Patrols resumed when required to provide cover for police officers travelling into Newry to commence duty at midnight. This investigation has been unable to establish the exact length of time that officers were confined to the station. The general threat level against security forces in the town at the time was regarded as being *'very high.'*

The 8:02pm Threat

- 5.7 Police Officer 1 informed my investigators that he was aware of a second piece of information relating to a car bomb attack in Newry on 27 March 1992. This was recorded in a military log at 8:02pm. Given its similarity to the information recorded in the 7:45pm entry, I am of the view that this was the same piece of information duplicated for the purposes of dissemination to military patrols in the Newry area that evening.

The *'Out of Bounds'* Area

- 5.8 This investigation established that an area outside of Newry was placed *'out of bounds'* between 6:30pm on 27 March 1992 and 1:00am the following morning for a specific, security-related reason. I am of the view that this was not related to the attack at Merchants Quay.

- 5.9 This investigation considered two meetings that occurred on 27 March 1992 between RUC Special Branch and Police Officers 8 and 9, the Sub-Divisional Commander and Operations Manager for Newry at that time.
- 5.10 My investigators interviewed Police Officers 8 and 9 about their recollection of these meetings. The first meeting took place at 1:00pm on 27 March 1992. Police Officer 8 could not recall either meeting. Police Officer 9 referred to a diary entry he made, which stated that the meeting was about a series of armed robberies in the area at that time and how police planned to deal with them. This investigation has been unable to identify the Special Branch officers who attended either meeting.
- 5.11 The second meeting occurred at 6:30pm on 27 March 1992. The relevant diary entry of Police Officer 9 indicated that this was about the movement of explosives within the Newry area. He believed that this related to an earlier meeting he had that day with An Garda Síochána officers from County Monaghan.
- 5.12 Having considered the available evidence and information, I am of the view that neither meeting was relevant to the attack at Merchants Quay later that evening.

Corry Square Police Station – 27 March 1992

- 5.13 In March 1992, there were two police stations in Newry. One was at Corry Square and the other was at Downshire Road. However, Corry Square Police Station no longer exists. Corry Square Police Station was situated in Newry town centre. On 28 February 1985, nine police officers were killed in a PIRA mortar bomb attack on the station.
- 5.14 At the time of the attack in March 1992, Corry Square Police Station was under permanently high threat of attack from republican paramilitaries. As stated earlier in this public statement, intelligence and prior incidents indicated that PIRA were intent on attacking members of the security forces using a variety of methods, including *'flash-initiated'* explosives devices.

5.15 'B' Section, including Constable McMurray and Police Officer 1, were on duty at the time of the attack. They commenced at 4.00pm and were due to finish at midnight. My investigators interviewed a number of police officers who were on duty on the evening of 27 March 1992 to obtain information as to what they knew at the time about a threat and decisions to recall and resume police patrols from Newry prior to the attack.

Supervisory Ranks

Police Officer 10

5.16 Police Officer 10 was performing supervisory duties at Corry Square Police Station on the night of the attack. He informed my investigators that, at approximately 3:30pm, his supervisor, Police Officer 11, told him that a threat had been received and patrols were only to leave the station if they had '*specific tasks*' to perform. He updated the Station C6 Register to this effect.

5.17 He stated that he did not believe this information related to the 7:45pm threat later received from the military regarding Witness 1. Despite the recall, he stated that security cover was still required for police officers travelling into Newry to commence their duties. This investigation has found no intelligence relating to an earlier threat being received on 27 March 1992.

Police Officers 9, 11, and 12

5.18 Police Officer 11 was the Duty Inspector covering the Newry area at the time of the attack. He informed my investigators that the information he received regarding a threat would not have been sufficient for him to have made a decision regarding the removal or reduction of police patrols. He stated that he informed two senior colleagues, Police Officers 9 and 12, of the received threat. Any decision to remove patrols would have been upon the advice of Special Branch. He could not recall whether or not this happened but believed that all necessary action was taken.

5.19 Police Officer 9, when interviewed by my investigators, could not recall the 7:45pm threat or patrols being recalled to the police station. Police Officer 12

recalled Police Officer 11 phoning him some time during the evening to make him aware of the 7:45pm threat. He ensured that all relevant security force personnel were made aware of it. However, he could not recall if patrols were recalled to the police station.

Police Officer 13

5.20 Police Officer 13 was performing supervisory duties on the night of the attack. He returned to the station for a break at around 7:00pm. During this break he received a message to *'put on seals.'* He could not specifically recall who told him to do so, but assumed the instruction originated from the Duty Inspector or Communications Room.

5.21 He could not recall a specific threat on 27 March 1992, adding that the general threat level in Newry was always very high. He recalled a *'seal'* being placed around Downshire Road Police Station at around 9:00pm and Constable McMurray and Police Officer 1 being involved in this operation. He could not recall police being recalled to the police station during the evening. However, even if they had been, they would have been expected to perform security cover for the oncoming shift.

5.22 The *'seal'* was a security operation where a police station would be *'locked down'* for a period of time when it was considered as being under imminent threat of attack. VCPs would be placed at strategic locations throughout the town to control vehicle and pedestrian movements. These operations were resource intensive and could last up to twenty-four hours. One police officer interviewed by my investigators described it as akin to placing a *'ring of steel'* around a police station.

Patrol Officers

Police Officer 1

5.23 Police Officer 1 was aware that a threat message had been received and that police were not to leave the station. Police Officer 13 had informed him that this was because of a *'major threat.'* Complainant 3 informed my investigators

that Police Officer 1 telephoned at 9:10pm to say that he would be working late as a bomb threat had been received and police were not allowed to leave the station.

- 5.24 At 10:00pm, Police Officer 1 and Constable McMurray were tasked to perform a VCP outside Downshire Road Police Station for security purposes. At 11:00pm, they were instructed to pay attention to the main roads into Newry to provide security cover for colleagues arriving to commence duty at midnight. This was standard practice in the period leading up to a shift change.

Police Officers 2 and 3

- 5.25 Police Officers 2 and 3 were in the police vehicle that assisted the stranded motorist at Sugar Island in the town centre prior to the attack. Police Officer 2 informed my investigators that, although he could not recall any specific threat, patrols were recalled to the station at some point on the evening of 27 March 1992. He could not recall when police resumed patrols but assumed it was because security cover was required for colleagues travelling into the town to commence duty at midnight. Security forces in Newry at the time were always in a heightened state of alert.

- 5.26 Police Officer 3 informed my investigators that patrols were recalled to the station during the evening by their station's Communications Room. Upon returning to the station, Police Officer 10 informed him that police were to be confined indefinitely to the station following a report from Bessbrook UDR Barracks that a PIRA attack was planned. He added that, despite this, police patrols would have continued to provide security cover for colleagues travelling into Newry.

Police Officers 4 and 5

- 5.27 Police Officers 4 and 5 were in the police vehicle that was travelling behind Constable McMurray and Police Officer 1 along Merchants Quay at the time of the attack. Police Officer 4 informed my investigators that he could not recall a specific threat on 27 March 1992. However he stated that police were

recalled to the station for 'a couple of hours' due to 'heightened tension' in the town.

- 5.28 Police Officer 5 informed my investigators that he could not recall any specific threat on 27 March 1992, but that the threat level at the time was always high. He stated that he was tasked to perform a VCP at Downshire Road Police Station between 9:45pm – 10:45pm, as part of creating a 'seal.' He added that patrol recalls were a regular occurrence and usually related to a threat.

Other Police and Security Force Witnesses

- 5.29 My investigators interviewed a number of other police officers regarding the events of 27 March 1992. Although they could not recall specific information regarding a threat having been received on that date or whether or not patrols were recalled, they stated that such recalls would have been common given the permanently high threat level in Newry at that time from republican paramilitaries.
- 5.30 My investigators interviewed a number of military personnel who were attached to Corry Square Police Station at the time of the attack. Their Commanding Officer stated that they were aware of PIRA 'flash-initiated' attacks. Other military personnel who were on foot patrol in Newry on the evening of 27 March 1992 were aware of a heightened threat, but could not recall its specific nature.

RUC Policy for the Handling of Threats to Life on 27 March 1992

- 5.31 RUC Force Order 60/91 was in place at the time of the 27 March 1992 attack, having been introduced on 3 July 1991. This provided guidance regarding 'Threats against the Lives of Members of the Security Forces, VIPs or other Individuals.' It primarily referred to specific threats against identified individuals. It also stated that any threat should be forwarded to RUC Special Branch. Special Branch would notify the relevant Sub-Divisional Commander who would inform the Divisional Commander.

5.32 The Divisional Commander would then '*...take any further action considered appropriate for the member's protection...*' They were also required to '*...bring into operation a threat log which will contain brief details of any threat...*'

5.33 RUC Force Order 99/91, relating to '*General Threat Messages*' was introduced on 5 November 1991. It stated that '*On receipt of a general message, the sub-divisional commander, his deputy or in their absence the duty inspector must be immediately informed of its content in order that the appropriate action can be initiated...Sub-divisional commanders and the heads of headquarters departments will ensure that messages of this nature are filed in a separate 'Threat Message Folder' which will be suitably displayed in all police stations...*'

The Threat Message Folder/Log

5.34 My investigators were unable to locate any dedicated threat message folder/log as described in RUC Force Orders 60/91 or 99/91. This also applied to any Briefing Book covering the relevant date. A number of police officers interviewed by my Office stated that threat messages were retained in folders kept in either the Communications Room or Sergeant's Office at Corry Square Police Station. Enquiries conducted by my investigators were unable to locate these folders. The relevant radio transmissions relating to 27 March 1992 are no longer in existence.

Summary

5.35 I am of the view that it was information provided by Witness 1 which resulted in police patrols being recalled to Corry Square Police Station for a period of time on 27 March 1992. This investigation has been unable to establish for how long this recall lasted. However, patrols resumed later that evening in order to provide security cover for police officers travelling into Newry to commence duty at midnight.

5.36 Based on all the available evidence and intelligence, I am of the view that police could not have taken any action to prevent the murder of Constable McMurray and the attempted murder of Police Officer 1. In my view, there

was not sufficient information to provide grounds for police to remain in the police station when security cover was required for police officers travelling into the town.

5.37 I am of the view that the RUC operational response to the threat received on the 27 March was appropriate. The decision to recall officers to the station was proportionate given the nature of the threat. The decision to resume patrol duties was necessary in order to provide security cover for officers travelling into Newry to commence their duties. The murder of Constable McMurray and attempted murder of Police Officer 1 occurred as they were returning to Corry Square Police Station having performed these duties.

6 Person A

- 6.1 From early 2000 onwards, Person A made public his role and activities within South Down PIRA and as a police informant. He specifically detailed his involvement in the development of *'flash-initiated'* explosive devices. Person A stated that he provided his handlers with prior warning of the attack that resulted in the murder of Constable McMurray and attempted murder of Police Officer 1.
- 6.2 I am of the view, given the available evidence and information that Person A was in the process of being recruited as an informant in the weeks prior to the 27 March 1992. I am also of the view that Person A, by 27 March 1992, was a *'de facto'* informant.

The Claims of Person A

- 6.3 Person A alleged that he warned his handlers that a PIRA attack was imminent, stating that a senior PIRA member, Person C, was planning to use a horizontally-fired mortar, known as a *'doodlebug'*, in an attack on police. The explosive device would be activated by a photographic flashgun. He added that, had Person C been watched by the security forces, the attack could have been prevented but his handlers did nothing with the information.
- 6.4 Person A claimed that he did not know when or where the attack would take place. He stated, *'Two days before the attack on [Police Officer 1] and Constable McMurray, I knew my Officer Commanding was using what we called a 'doodlebug', a horizontal mortar. I told my [handlers] and they took me to London for two days. The day I came back the bomb went off. The police were taken off the streets to allow the bomber to get in, set the device and get out.'*
- 6.5 My investigators met with Person A in February 2004, where he confirmed comments attributed to him. He stated that he had been involved in the construction of bombs with Person C, including experimenting with an

explosive device known as a 'doodlebug.' He stated that he attended a three-day meeting in London with his handlers, at which he warned them that Person C was planning to use a 'doodlebug' in an attack on the security forces. The murder of Constable McMurray and attempted murder of Police Officer 1 took place on the night he returned from London.

6.6 This investigation has established that Person A met with RUC Special Branch officers earlier in March 1992. However, this was a number of weeks before the attack and not, as he claimed, on 27 March 1992.

6.7 Since this meeting in 2004, my investigators have made further attempts to engage with Person A. His solicitor stated, however, in correspondence that, *'until such times as [Person A] has assurances he shall not face prosecution for any disclosures made by him he is unable to co-operate with the [Police] Ombudsman's Office or any other public body investigating the past.'* My Office has had no further contact with Person A.

The Background to Person A

6.8 From late 1981 onwards, police were in possession of intelligence linking Person A to South Down PIRA. He was regarded as an explosives expert and, from 1988 onwards, was identified as being involved in the development and construction of 'flash-initiated' explosive devices. He was also linked, by police intelligence, to two murders in 1990 and identified as an associate of Persons C and D, both suspected leading PIRA members. Intelligence, received after 27 March 1992, indicated that Person A was in Newry Town Hall at the time of the murder of Constable McMurray and attempted murder of Police Officer 1.

The London Meeting

6.9 From early 1991 onwards, police received intelligence indicating that Person A was becoming dissatisfied with the republican movement. RUC Special Branch conducted an assessment of his viability as a potential informant, concluding that it was an opportune time to make an attempt to recruit him. He was regarded as having the potential to provide, given his position within

South Down PIRA, high quality intelligence. This led to Person A meeting with two RUC Special Branch officers, Police Officers 6 and 14, in London a number of weeks before the 27 March 1992 attack.

- 6.10 My investigators reviewed the intelligence reports relating to this meeting. Person A provided information regarding the activities of South Down PIRA that were assessed by police as being mostly accurate. This included details on the development of *'flash-initiated'* technology and its use in a number of attacks, including the *'bicycle bomb'* in Newry on 30 March 1990.
- 6.11 He subsequently provided information about Persons C and D and their roles and activities within PIRA. However, he provided no information that could have forewarned of, or prevented, the murder of Constable McMurray and attempted murder of Police Officer 1. This included any reference to Person C planning an attack with a horizontally-fired mortar, known as a *'doodlebug.'*
- 6.12 My investigators interviewed Police Officers 6 and 14. Police Officer 14 is now deceased. They both confirmed that they met with Person A in London. Their recollection was that it was after 27 March 1992. Both stated that he provided no information that could have forewarned of, or prevented, any attack on the security forces. Police Officer 6 stated that Person A was of interest to them given their lack of intelligence regarding PIRA's development of *'flash-initiated'* technology.
- 6.13 Following the London meeting, it was agreed that another meeting would be held with Person A on 27 March 1992 but this meeting did not take place. My investigators have established that this meeting was not cancelled by Person A.
- 6.14 Police Officer 6 stated that he did not, at the time of the murder of Constable McMurray and attempted murder of Police Officer 1, consider Person A to be an informant. He stated that he was not formally registered until early April 1992, although he was provided with a unique registration number following the original London meeting.

- 6.15 Police received intelligence following the attack that Person A attended the John Mitchel Historical Society function at Newry Town Hall on the evening of 27 March 1992. It continued that he was relishing the successful detonation of the *'flash-initiated'* device.
- 6.16 Police Officers 6 and 14 met Person A again in early April 1992. My investigators reviewed the intelligence reports relating to this meeting. During it, he provided detailed information regarding the design, construction, and detonation of *'flash-initiated'* explosive devices. Person A stated that the mortar bomb used in the 27 March 1992 attack had been activated by a *'flashgun.'* There was no record of him having been asked to provide the identities of those involved in the attack or being tasked to obtain this information.
- 6.17 Police Officer 6 stated that when an informant provided a negative reply to a question during a meeting, the response would not be recorded. Police Officer 14, however, stated that all replies were recorded. I have been unable to establish the reason for these differing accounts.
- 6.18 Police Officer 6 stated that, following the 27 March 1992 attack, he repeatedly asked Person A about it, but received no relevant information. He believed that Person A did not know the identities of those responsible for the murder of Constable McMurray and attempted murder of Police Officer 1.
- 6.19 Police Officer 6 informed my investigators that, by 2000, he viewed Person A as a *'Walter Mitty'* character. This assessment was supported by the former Chief Constable, Sir Ronnie Flanagan, following the release of a public statement into the Omagh Bomb by former Police Ombudsman, Nuala O'Loan, in December 2001.
- 6.20 My investigators reviewed all intelligence provided by Person A to police. I am of the view that Person A initially provided his handlers with 'good' quality information when first recruited in 1992. This included information that may have saved the lives of members of the security forces and general public. The quality of this information deteriorated in later years. However, during the

early stages of his recruitment, I am of the view that he was a credible intelligence asset.

- 6.21 Following the 27 March 1992 attack, Person A continued to meet with, and provide, police with intelligence relating to the activities of South Down PIRA and other units. In early April 1992, he reported that senior PIRA figures were eager to carry out more attacks using *'flash-initiated'* explosive devices. Person A stated that he provided advice to other PIRA Brigades about the construction and use of these devices.
- 6.22 In October 1994, Person A was de-registered as a RUC Special Branch informant. This was due to him providing inaccurate information that his handlers believed he fabricated for financial gain. He was regarded as increasingly unreliable and difficult to manage. In mid-1996, however, he was recruited again by both RUC Drugs Squad and CID. He provided information mainly relating to criminal activities in the South Down and Dundalk areas and also concerning dissident republican activities prior to the Real IRA bombing of Omagh on 15 August 1998.

Summary

- 6.23 By March 1992, police had gathered a considerable volume of intelligence on Person A. He was regarded as an active member of South Down PIRA, who had been linked to a number of attacks on security forces in the area. He was an explosives expert who was involved in the development of *'flash-initiated'* explosive devices.
- 6.24 Having reviewed the relevant intelligence, I am of the view that Person A provided police with no information prior to 27 March 1992 that could have prevented, or forewarned of, the murder of Constable McMurray and attempted murder of Police Officer 1.
- 6.25 There is no record that any of the intelligence relating to *'flash-initiated'* explosive devices provided by Person A was shared with the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1.

- 6.26 I am of the view that Person A was an informant at the time of the murder of Constable McMurray and attempted murder of Police Officer 1. Given the intelligence linking him to the development and use of 'flash-initiated' technology and that he was in Newry Town Hall at the time of the attack, he ought in my view to have been identified as a potential suspect.
- 6.27 In my view he ought to have been de-registered as an informant immediately, and the relevant intelligence shared with the investigation team, in order to allow objective enquiries to have been conducted. Following that, if there had been no evidence to link him to the attack, he could have been re-registered as an informant.
- 6.28 There is no record that intelligence linking Person A to the 27 March 1992 attack was shared with the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1.

7 Intelligence Available Prior to and Post 27 March 1992

- 7.1 In addition to intelligence provided by, and relating to, Person A this investigation examined other intelligence received by police prior to, and following, the attack on 27 March 1992. This was to establish whether information existed which, if acted upon, could have prevented the murder of Constable McMurray and attempted murder of Police Officer 1, and/or assisted the subsequent police investigation.
- 7.2 Following the 27 March 1992 attack, Police Officer 15 instructed that an enquiry be made with RUC Special Branch as to what information they held relating to previous PIRA attacks involving *'flash-initiated'* explosive devices. He sought to link the 27 March 1992 attack with other *'failed but similar attacks in recent/past months...'* RUC Special Branch referred to six previous attacks, including the attacks at Warrenpoint and Merchants Quay on 8 September 1991 and 29 November 1991 respectively.
- 7.3 The police officer instructed to liaise with RUC Special Branch reported that, *'they are unable to give any information which has been gleaned from previous similar attacks.'* No further action was taken regarding this investigative enquiry. The RUC Special Branch officer who attended the daily case conferences did not assist this investigation.
- 7.4 My investigators have viewed intelligence indicating that the attacks at Warrenpoint on 8 September 1991, Merchants Quay on 29 November 1991, and Merchants Quay on 27 March 1992 involved a number of the same PIRA members.

Persons F, I, and J

- 7.5 In January 1992, police received intelligence linking Person F to the attack at Merchants Quay on 29 November 1991. I have found no evidence that this

was shared with the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1.

- 7.6 In early February 1992, police received intelligence that a new PIRA ASU had been formed in Dundalk, County Louth. It was created to carry out attacks in County Down, independent of South Down PIRA. Persons F and I were named as members of this newly-formed ASU. Intelligence indicated that the unit were preparing to carry out attacks in the near future. I have found no evidence that this was shared with the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1.
- 7.7 In late April 1992, police received intelligence that Persons F and I detonated the *'flash-initiated'* explosive device used in the attack. This was accompanied by intelligence about the construction and movement of the mortar bomb. I have found no evidence that this was shared with the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1.
- 7.8 Police received further intelligence in September 1993, naming Persons F, I, and J as having been involved in the attack. However, it was not until early February 1994 that this intelligence was shared with the SIO investigating the attack. I have been unable to establish why the dissemination of this intelligence was delayed.
- 7.9 At this time, Person F was residing in the Republic of Ireland. His details were added to the Police National Computer (PNC) database, but removed in November 2011. I have been unable to establish why his details were removed, other than an unsigned, handwritten note stating it was due to *'no evidence.'* Person F has, to date, not been arrested regarding the murder of Constable McMurray and attempted murder of Police Officer 1.
- 7.10 Person I was arrested in May 1996 and interviewed five times but did not make any comment and was subsequently released without charge. Person J was arrested in early February 1994 but denied being involved and was subsequently released without charge.

Persons D and E

- 7.11 Person D, and a vehicle registered to Person E, were both observed in Warrenpoint on 8 September 1991, the date of a *'flash-initiated'* PIRA mortar bomb attack on its police station. Intelligence would later link both to the Merchants Quay attack on 29 November 1991. Person A also named Person D as having been involved in this attack. I have found no evidence that the information provided by Person A was shared with the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1.
- 7.12 Person D was significant as the police investigation team established that he was involved in the booking of Newry Town Hall for the John Mitchel Historical Society function on 27 March 1992. A witness stated that they observed him at the event but he left at approximately 11:35pm, around the time of the attack, before returning later.
- 7.13 Intelligence was received a number of days after the attack that Person D and another unidentified male carried out the attack, before returning to the Town Hall where Person K let them in via a side door.
- 7.14 This intelligence was shared promptly with the murder investigation team. Persons D and K were arrested and their homes searched, in addition to the Town Hall itself. Both were subsequently released without charge. This was indicative of the arrest strategy implemented by the SIO throughout the course of the police investigation.

Person L

- 7.15 Within days of the attack, police received intelligence that Person L had been observed at a phone box near Merchants Quay on 27 March 1992 around the time of the attack. It was suggested that he may have been acting as a *'lookout.'* This information was passed on the same date to the murder investigation team.
- 7.16 Police researched Person L, establishing that he was a suspected member of South Down PIRA. Police Officer 7 documented that a decision whether or not

to arrest Person L would remain pending, awaiting further intelligence being received. Person L was arrested in early November 1992, following receipt of further intelligence linking him to the attack. He did not answer any questions during interview and was subsequently released without charge.

- 7.17 A photo album of suspects, including Person L, was shown to a witness who saw a male acting suspiciously near the telephone box at that time. They did not identify Person L. Police established that no telephone calls were made to, or from, the relevant telephone box around the time of the attack.

Person M

- 7.18 Police received intelligence in May 1992 that Person M had stayed away from home for a period of time following the arrests of Persons D and K, as they feared they would also be arrested. This information was passed to police officers investigating the attack the following day.
- 7.19 Police Officer 7 documented that Special Branch be asked to provide any intelligence they held linking Person M to the 27 March 1992 attack. Person M was arrested in early November 1992, following receipt of intelligence linking them to the attack. Person M was interviewed but declined to answer any questions prior to being released without charge.

Person G

- 7.20 Following the attempted bomb attack at Merchants Quay on 12 February 1992, police received intelligence later that month that Person G was involved. I have found no evidence that this was shared with the SIOs investigating either the 12 February 1992 or 27 March 1992 attacks.
- 7.21 At approximately 11:20pm on 26 March 1992, police stopped a three vehicle convoy which had been observed entering the Derrybeg housing estate in Newry. One of the vehicles, a dark coloured Toyota Corolla, evaded police and, despite a search of the area, could not be located. A similar make and model of vehicle was used in the attack at Merchants Quay the following night.

7.22 The other two vehicles and their occupants were stopped and searched. Nothing of significance was recovered. One of the occupants was Person G, a suspected South Down PIRA member.

7.23 At approximately 3:00pm on 27 March 1992, a military VCP stopped a car outside Newry Town Hall containing Person G and another individual. The vehicle was registered to Person D.

Persons B and H

7.24 Following the attack on 27 March 1992, Police Officer 1, although critically ill, informed his family that prior to turning onto Merchants Quay he recalled seeing Persons B and H standing on the pavement near Newry Tax Office. On 2 April 1992, this information was passed to police investigating the attack.

7.25 Based on this information, Police Officer 15 designated Persons B and H as suspects but instructed that they were not to be arrested until Police Officer 1 was well enough to provide a more detailed account.

7.26 Police Officer 16 spoke with Police Officer 1 on 11 April 1992. Following this, he reported that Police Officer 1 could not be specific as to where the suspects had been standing or the exact circumstances of the sighting. Given this information, Police Officer 7 instructed that neither suspect was to be arrested unless intelligence or further evidence was received linking them to the attack.

7.27 When interviewed by my investigators, Police Officer 7 stated that Police Officer 1 was uncertain as to whether he saw Persons B and H at the time of the attack, or the previous night. He was also uncertain where they had been standing when he observed them. He added that there was no intelligence linking them to the attack and it would not have been unusual to see them together in Newry town centre. He stated that, even had he arrested them, police had no evidence to put to them. This rationale was supported by a policy decision he made in May 1992 that *'...it is pointless to effect these arrests unless you have factual information.'*

7.28 Person A later provided intelligence linking Person B to the Merchants Quay attack on 29 November 1991. I have found no evidence that this was shared with the SIO investigating this attack or the murder of Constable McMurray and attempted murder of Police Officer 1.

Person N

7.29 Police received intelligence in May 1990 that Person N was observed acting in suspicious circumstances with Person A. This involved shining a torch through the palm of their hands to establish from how far away the light could be seen. I have found no evidence that this was shared with the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1.

7.30 Person N also had connections with a folk group that performed at Newry Town Hall on the evening of 27 March 1992. On 1 April 1992, police received intelligence that at approximately 11:00pm on the night of the attack, a fire exit door at the Town Hall was opened to allow the group to bring equipment inside. This door allowed access to the side of the canal from where police believed the flashgun was activated to detonate the mortar bomb. The information continued that Person N closed the door approximately ten minutes later.

7.31 In August 1992, police searched the homes of Person N and another individual with connections to the folk group. A number of items were recovered but nothing that assisted the police investigation. No further action was taken by police in respect of Person N.

Summary

7.32 I am of the view that, although some intelligence was shared by Special Branch with the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1, other intelligence was either not shared or its dissemination delayed. This related to information received both prior to, and following the 27 March 1992 attack, concerning Person A and other South Down and Dundalk PIRA members. These individuals were linked to the

development of *'flash-initiated'* technology, the 27 March 1992 attack, and other linked incidents. The failure to disseminate this intelligence prevented the SIO from making an informed decision as to whether Person A and other identified individuals should be treated as suspects.

7.33 Police Officer 7 informed my investigators that a RUC witness appeal telephone line set up to gather information relating to the attack received only one call. It was, therefore, in my view, essential that all relevant intelligence was shared with the SIO in a timely manner. This would have allowed him to develop lines of enquiry which could have led to evidential opportunities necessary to advance the investigation.

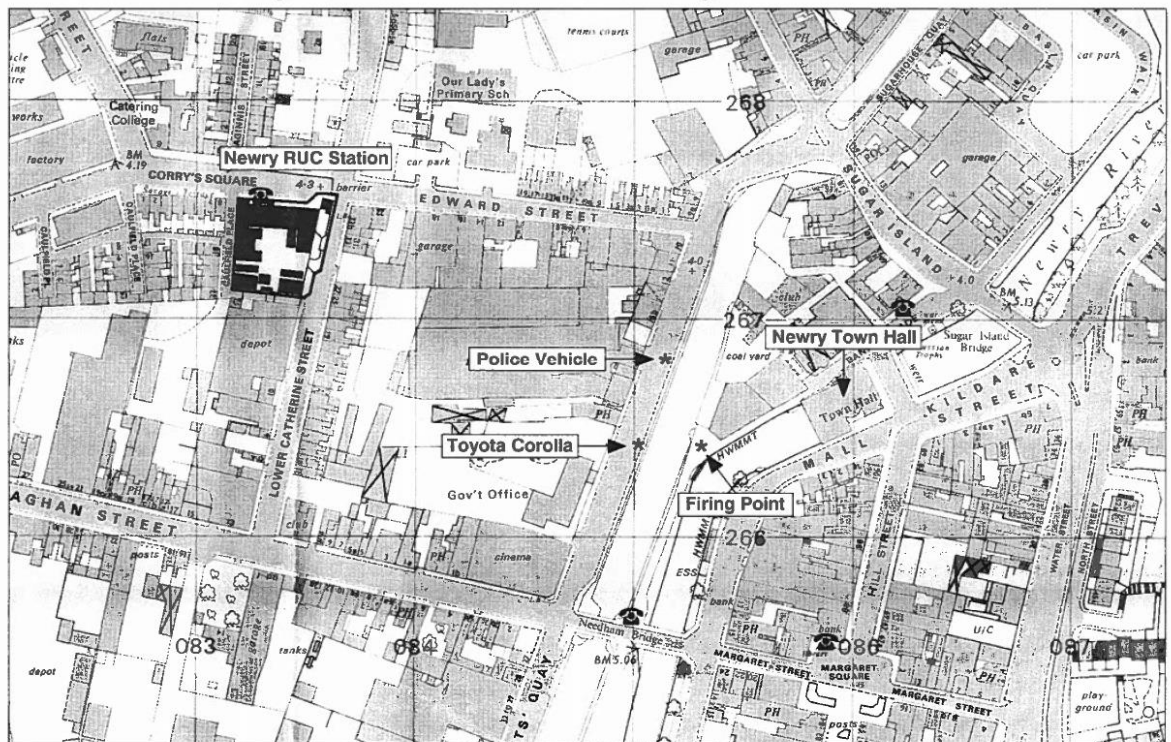
8 The RUC Investigation

- 8.1 On 28 March 1992 Police Officer 15, the Head of CID South Region, instructed that a Major Incident Room (MIR) be established at Corry Square Police Station to investigate the murder of Constable McMurray and attempted murder of Police Officer 1. Police Officer 17 was appointed as the Senior Investigation Officer (SIO). His Deputy Senior Investigation Officer was Police Officer 7. Police Officers 15 and 17 are deceased.
- 8.2 The recording of information entering the MIR was managed by a manual, paper-based system known as MIRIAM (Major Incident Room Indexing and Action Management). A computerised HOLMES⁹ system was to be introduced when one became available. Police Officer 16 was appointed Office Manager. The murder investigation team held case conferences twice a day, at 9:00am and 5:00pm. A RUC Special Branch liaison officer attended these briefings. Although enquiries continued as and when new evidence and intelligence came to light, the MIR was closed on 22 January 1993, to allow limited police resources to be allocated to other investigations.
- 8.3 My investigators interviewed Police Officers 7 and 16, in addition to reviewing the relevant case conference notes. Enquiries made by my investigators were unable to locate the relevant journals of Police Officers 15 and 17. While Police Officer 17 was named as the SIO, a review of the available police documentation indicated that Police Officer 7 became increasingly responsible for the daily management of the police investigation as it progressed.

⁹ HOLMES (Home Office Large Major Enquiry System)

8.4 Map of the area made by the RUC at the time¹⁰

Scene map of Merchants Quay - 27th March 1992



Initial Police Action

- 8.5 Following the attack on 27 March 1992, both police and army personnel were attacked by a crowd in the vicinity of Newry Town Hall as they attempted to secure the crime scene. Missiles were thrown and the security forces responded by discharging a total of eight baton rounds. A number of individuals were subsequently convicted of public order offences relating to the disturbances.
- 8.6 This investigation reviewed the relevant police interview records for these individuals. Four of them stated that they had been at the Town Hall function earlier that evening. Despite this, none of them were questioned about the murder of Constable McMurray and attempted murder of Police Officer 1.

¹⁰ This map was produced during the RUC investigation of the attack. It should be noted that 'Newry RUC Station' is the station referred to throughout this report as 'Corry Square RUC Station'.

Their fingerprints were not compared against those later recovered from Newry Town Hall.

Post Mortem

- 8.7 A post mortem examination was conducted which concluded that Constable McMurray died '*...due to the effects of an explosive device striking the car in which she was travelling causing multiple injuries due to shrapnel and flying debris.*'

Witness Enquiries

- 8.8 CCTV and house-to-house enquiries in the area identified nothing of evidential value. Witness appeals were made via the media and a reconstruction conducted on 3 April 1992. Police traced and interviewed a number of men who had been drinking at the rear of the Town Hall at the time of the attack. Other witnesses, who had been socialising in the area at the time, were also interviewed. No information was obtained that progressed the police investigation.

Anonymous Telephone Calls

- 8.9 Police received a number of anonymous telephone calls following the attack, naming individuals who the callers believed were involved. This included one caller who stated that he was told by an identified individual not to park where the Toyota Corolla was subsequently positioned. Enquiries were conducted in respect of these individuals but no evidence was gathered linking them to the murder of Constable McMurray and attempted murder of Police Officer 1. Police Officer 7 documented that an arrest would not be made solely on the basis of an anonymous telephone call.

House Searches

- 8.10 On 28 March 1992, police searched a number of addresses in the South Down area. These included the properties of Persons G and L. No arrests were made and nothing was found that progressed the investigation. Police Officer 17 instructed that the addresses be searched, following consultation with RUC

Special Branch. All of the addresses were linked to members of South Down PIRA.

The RUC Forensic Strategy

Vehicles

- 8.11 The Merchants Quay scene was held overnight and a forensic examination conducted. The Toyota Corolla used in the attack was examined at the scene by a forensic scientist. It had been parked in a line of parking spaces, with its front facing the canal and its rear facing the one-way traffic system on Merchants Quay.
- 8.12 Enquiries established that it had been stolen in the Dundalk area on 9 February 1992. The owner identified a number of items recovered from the vehicle that did not belong to him. This investigation identified no record of police having conducted checks on relevant police and military databases in an attempt to ascertain the movements of the Toyota Corolla between 9 February 1992 and 27 March 1992.
- 8.13 The owner added that a new battery had been fitted to the vehicle since it had been stolen. Police conducted enquiries regarding the origin of the battery but these did not progress the investigation. The battery was examined for fingerprint marks but none were identified.
- 8.14 The Toyota Corolla was conveyed to the Northern Ireland Forensic Science Laboratory (NIFSL) for further examination. A total of 21 items were recovered from the car. These were examined but nothing of any evidential value was identified. No fingerprint marks were recovered. Tape fibre lifts¹¹ were taken from the seats and carpets but these, again, contained nothing of an evidential value.

¹¹ The use of tapes to recover trace evidence from a surface is referred to as 'tape lifting.' Transparent adhesive tape is used to obtain evidence such as fibres, hairs, and other small particles that may not be easy to identify or see.

- 8.15 The armoured police car was also examined but nothing of evidential value was identified. Despite being fitted with ballistic bodywork and glass it had been severely damaged, given the explosive capacity of the mortar bomb and the close range from which it was detonated.

The Mortar Bomb

- 8.16 An Ammunitions Technical Officer (ATO) examined the device at the scene. He stated that it contained approximately two kilogrammes of Semtex explosive and had been detonated from a range of approximately 20 metres, using '*flash-initiated*' technology. A photoflash slave unit in the front seat of the Toyota Corolla passenger sun visor had been activated by a flashgun which had initiated an electronic circuit. This had powered, via a battery pack situated in the front seat glove compartment, a charge in the base of the mortar tube. This propelled the mortar bomb towards the passing police car, which was no more than two metres away when struck.
- 8.17 A section of metal had been cut from the rear boot panel. The edges of this hole contained deposits of blue filler material which had been painted blue, the same colour as the Toyota Corolla. The mortar tube had been secured to the floor of the boot by two pieces of welded metal which were held in place by nuts.
- 8.18 The photoflash slave unit attached to the front seat passenger sun visor of the Toyota Corolla was identified as having been manufactured by a company in England. They were widely available to purchase and did not contain unique serial numbers, which meant further investigative enquiries could not be progressed in respect of the origins of the slave unit.
- 8.19 An underwater search unit recovered a flashgun during a search of Newry Canal on 28 March 1992. Police believed that this was used to detonate the mortar bomb by an individual standing on the other side of Newry Canal, facing Merchants Quay. Enquiries established that the relevant make and model of flashgun was manufactured by a German company. None had been delivered to the United Kingdom in the previous four to five years. However,

prior to that, a number were distributed to businesses in Belfast and Newry. Enquiries with both these companies did not advance the police investigation.

8.20 A company based in the Republic of Ireland also imported a number of units between 1990 and 1992. The relevant make and model of flashgun had a unique serial number. Police requested that An Garda Síochána conduct enquiries with the relevant company. This, however, did not progress the police investigation as the company did not retain records or issue receipts for flashgun sales.

8.21 A piece of company headed notepaper containing a possible telephone number was recovered from the Toyota Corolla. Enquiries with the relevant company and variations of the possible telephone number did not progress the police investigation.

Newry Town Hall

8.22 Police searched Newry Town Hall on 31 March 1992, following receipt of the intelligence which led to the arrests of Persons D and K. A door which led onto the roof was found to be unlatched, the roof itself providing a clear view of the scene of the attack. Police interviewed the Town Hall caretaker who stated that the last time he checked, two weeks prior to the attack, the relevant door had been locked.

8.23 Newry Town Hall, including the roof, was examined for fingerprints. A partial fingerprint mark was recovered from the unlatched door which led onto the roof, in addition to fingerprints from a number from drinks glasses in the main function room. These were compared against the fingerprints of a number of suspected PIRA members, including Person A, but no matches were made. The comparison, however, did not include a number of other identified suspects and other PIRA members linked to *'flash-initiated'* technology and similar attacks.

8.24 My investigators subsequently tasked PSNI to compare the recovered fingerprints against all suspects identified during the course of the investigation. No matches were made.

The RUC Suspect Strategy

8.25 Police Officer 15 documented, at the start of the police investigation, that no arrests would be made unless supported by evidence and/or intelligence. This was to '*...ensure a measured, intelligent and professional approach*' that made optimum use of the available police resources. When interviewed by my investigators, Police Officer 7 stated that the majority of arrests and searches had to be sanctioned by RUC Special Branch before they could take place. This was standard practice at the time.

8.26 Police investigating the murder of Constable McMurray and attempted murder of Police Officer 1, therefore, relied on the timely dissemination of intelligence in order to implement an effective arrest strategy.

8.27 At time of the 27 March 1992 attack, the recommendations contained within the 1980 Walker Report¹² impacted upon SIO suspect strategies. The report, written by a senior MI5 officer, Sir Patrick Walker, was commissioned in January 1980 by the then Chief Constable, John Hermon. It set out guidelines for the management and exchange of intelligence between Special Branch and the RUC's Criminal Investigations Department (CID). The recommendations contained within the report came into effect in early 1981.

8.28 The Walker Report introduced a system whereby Special Branch had primacy in respect of all intelligence gathering activities. Any terrorist arrests made by CID, other than those directly relating to an incident, had to be first cleared by the relevant Regional Head of Special Branch. This was to ensure that arrest operations did not inadvertently compromise informants.

¹² The Walker Report (1980) A Report on the Interchange of Intelligence Between Special Branch and CID and on the RUC Units Involved, Including Those in Crime Branch C1(1).

8.29 My investigators reviewed the relevant police documentation and established that a Special Branch officer attended the investigation team's daily case conferences. His role was to act as a liaison between the two police departments and assist the police investigation accordingly. This officer did not assist this investigation.

RUC Suspect Strategy: Vehicles

8.30 Police received a number of anonymous telephone calls from members of the public about suspicious vehicles observed in Newry on the night of the attack. Enquiries relating to these vehicles gathered no evidence of value to the police investigation. These included interviews of witnesses and research of individuals linked to sighted vehicles.

Linked Attacks

8.31 On 6 April 1992, RUC Special Branch notified the police investigation team of a number of previous PIRA attacks which had similarities to the murder of Constable McMurray and attempted murder of Police Officer 1. These included attacks in Warrenpoint, Silverbridge, and the failed attack at Merchants Quay on 29 November 1991.

8.32 Police Officer 17 documented that Special Branch were unable to provide the investigation team with any additional information about these attacks. No further action was, therefore, taken on the instruction of Police Officer 7.

8.33 My investigators reviewed the relevant intelligence available to police at this time relating to, and provided by, Person A. My investigators also reviewed intelligence held by police relating to the development of '*flash-initiated*' technology, attacks, and suspects.

8.34 This investigation has established that not all of the available and relevant intelligence was shared with the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1. The intelligence picture provided by RUC Special Branch relating to PIRA and its development and use of '*flash-initiated*' explosive devices was incomplete.

- 8.35 Between March 1990 and January 1994, there were 19 PIRA attacks or attempted attacks involving *'flash-initiated'* technology. Other than the 29 November 1991 Merchants Quay attack, I have found no evidence that any of these attacks were linked by police to the murder of Constable McMurray and attempted murder of Police Officer 1.
- 8.36 The attacks and attempted attacks occurred across Northern Ireland, supporting intelligence that South Down PIRA members, including Person A, were providing training in the construction and use of *'flash-initiated'* explosive devices. Other PIRA units were keen to avail of the technology, following the 27 March 1992 attack.
- 8.37 Following the murder of Constable McMurray and attempted murder of Police Officer 1 in 1992, there were a series of attacks or attempted attacks involving *'flash-initiated'* technology in Belfast, Lisnaskea, Omagh, and Warrenpoint. Component parts for *'flash-initiated'* explosive devices were also recovered from a number of hides in Belfast, as well as Maghera and Dungannon.
- 8.38 Police Officer 7 informed my investigators that he made efforts to trace the component parts used in the construction of the *'flash-initiated'* explosive device used on 27 March 1992. He also liaised with NIFSL and specialist police and military units regarding PIRA and its development and use of *'flash-initiated'* technology. He stated that these enquiries would have been documented within the relevant police investigation papers. This investigation has been unable to locate this documentation.

The John Mitchel Historical Society

- 8.39 Police obtained a list of over 200 individuals who attended the function at Newry Town Hall on the evening of 27 March 1992. They also identified who had booked the event. Five Town Hall employees who were working at the Town Hall on 27 March 1992 were interviewed by police. However, this investigation found no evidence that efforts were made by police to interview all of the individuals who attended the event. Intelligence received after the attack indicated that Person A attended the function.

- 8.40 Police established that no telephone calls were made to, or from, a public payphone in the Town Hall on the night of the attack.
- 8.41 Police sought to engage with members of the folk group who performed at the function after establishing that one of their entourage, Person N, had video recorded part of the event. Intelligence indicated that Person N was a suspected PIRA member who had been observed acting suspiciously with Person A in April 1990.
- 8.42 In August 1992, police searched the addresses of Person N and another individual connected to the folk group. A number of video cassettes were seized and viewed, but the footage contained nothing of an evidential value.
- 8.43 Police Officer 7 informed my investigators that the function was a main line of enquiry but added, *'that to believe those people would assist this investigation is folly.'* He stated that efforts were made to interview individuals who attended the function but *'not a scrap of information was received.'* This included those identified as having parked their vehicles on Merchants Quay prior to attending the function.
- 8.44 Police Officer 7 added that between 4 March 1992 and 1 July 1992 he was either the SIO or DSIO on four other murder investigations. I am mindful of the pressures and challenges faced by police investigating serious crime during this period of the 'Troubles.'
- 8.45 This investigation established that police sought to ascertain if Newry Town Hall was being used for a similar function on the evening of the 29 November 1991, the date of a failed attack at Merchants Quay. I have found no evidence, however, of a similar enquiry being made for 12 February 1992, the date of a second attempted attack.
- 8.46 This investigation has established that at the time of the attack, police held no intelligence regarding the John Mitchel Historical Society. Police were not aware that the function was taking place in Newry Town Hall on 27 March 1992.

Exhibits

8.47 This investigation sought to locate all the exhibits seized during the course of the police investigation into the death of Constable McMurray and attempted murder of Police Officer 1. In May 2016, PSNI informed my investigators that a number of exhibits were destroyed during a PIRA mortar attack on Corry Square Police Station in May 1993. This removed the possibility of these exhibits being re-examined in light of advances in forensic science.

9 Complaints, Questions, and Concerns Raised by the Families of Constable McMurray and Police Officer 1

- 9.1 The families of Constable McMurray and Police Officer 1 made statements to the former Police Ombudsman, Nuala O'Loan, expressing their dissatisfaction with the standard of the police investigation and other matters. They raised a number of questions and concerns. These were as follows:

Was Person A a police informant prior to the attack at Merchants Quay on 27 March 1992?

- 9.2 This investigation established that Person A met with RUC Special Branch officers in London a number of weeks before the attack on 27 March 1992. At this meeting he provided information relating to PIRA activities in the South Down area. Police Officer 6 informed my investigators that Person A was not a registered informant at that time, and was not formally registered until after 27 March 1992. I am of the view, however, given the nature of the engagement at the London meeting and the information provided by Person A, that he became a police informant at this time. I am aware that, at this time, he was not formally registered and that this registration took place after the attack.

Did police have prior warning of the attack, yet did nothing to prevent it?

- 9.3 My investigators have reviewed the information provided by Person A during the London meeting and I am of the view that he provided nothing that could have forewarned police of the 27 March 1992 attack or provided them with an opportunity to prevent it.

9.4 My investigators have reviewed all the other relevant intelligence and I am also of the view that there was no information that could have forewarned police of the attack or provided them with an opportunity to prevent it.

Did Person A meet with RUC Special Branch officers before 27 March 1992 and provide them with information about the ‘mechanics’ of the attack and the mortar device that was to be used? If so, why was this intelligence not disseminated to police in Newry, so as to allow them to take steps to prevent the attack?

9.5 This investigation established that Person A did meet with RUC Special Branch officers in London a number of weeks before the attack. During this meeting he provided information regarding ‘*flash-initiated*’ technology and its development by PIRA. Police, at this time, were aware that PIRA were developing this technology. Police were also aware that it had previously been used in a number of attacks on security forces in the South Down area.

9.6 Person A did not provide information to indicate that he was involved in, or had prior knowledge of, the 27 March 1992 attack. His solicitor, in January 2002, stated that Person A was not involved in the attack and had no prior knowledge of it.

9.7 However, police possessed significant intelligence linking Person A to the PIRA development of ‘*flash-initiated*’ technology and previous attacks where it was used. This intelligence was not disseminated to the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1. I am of the view that it should have been shared so as to allow him to develop lines of enquiry that may have identified evidential opportunities.

9.8 Police also held other intelligence relating to the development of ‘*flash-initiated*’ technology, linked attacks using ‘*flash-initiated*’ explosive devices, and other PIRA suspects that, in my view, was relevant to the 27 March 1992 attack. This was either not disseminated to the SIO investigating the attack, or its dissemination delayed.

A senior RUC Special Branch officer visited a member of the McMurray family following the attack. He informed the family member that Person A was not known to Special Branch at that time and was not involved in the attack. He lied during this meeting about his knowledge of Person A and was sent there by senior RUC Special Branch officers to ‘appease’ the family.

9.9 Police Officer 6 informed my investigators that he met with the family member, of his own volition, to reassure them that police held no intelligence prior to the attack that could have prevented it. He stated that the meeting took place eight years after the murder of Constable McMurray and attempted murder of Police Officer 1.

9.10 Police Officer 6 informed my investigators that Person A was not a registered informant before 27 March 1992 and that, accompanied by Police Officer 14, he met with him in London a number of weeks before the attack. This was part of a scoping exercise to assess Person A and his potential viability for recruitment. He stated that he did not intend to mislead the family member, but attempted to provide this information to explain that Person A was not an informant at the time of the attack.

Why did Police Officer 6 later refer to Person A as a ‘Walter Mitty’ character when he met with Police Officer 1?

9.11 Police Officer 6 stated that when he met Police Officer 1, he viewed Person A as a ‘*fantasist*’, and not a credible source. This was eight years after the murder of Constable McMurray, at a time when Person A had made a number of public claims that had been subsequently discredited.

Why were police officers removed ‘from the ground’ for four hours on the evening of the attack? Who made this decision and why were police allowed to resume patrols later in the evening? Were these decisions linked to intelligence?

9.12 Based on all available evidence and information, I am of the view that police patrols were recalled on 27 March 1992 as a result of information supplied by

Witness 1, following a conversation he overheard earlier that day in a public house. I have been unable to establish who made the decision to recall patrols to the police station, or the exact length of this recall.

9.13 This investigation was unable to obtain a record of the initial telephone call made by Witness 1 to Newry police on the afternoon of 27 March 1992. I am of the view, however, that this is the information referred to in the C6 Station Register entry at 7:45pm. I am of the view that a '*second threat*' at 8:02pm was the same information disseminated to military patrols in the area.

9.14 This investigation established that police patrols resumed in order to provide security cover for colleagues travelling into Newry to start work at midnight. This was a recognised and accepted procedure at the time, irrespective of the threat level, which was high in Newry at all times during the relevant period.

Did police take all reasonable steps to bring those responsible for the murder of Constable McMurray and attempted murder of Police Officer 1 to justice?

9.15 Police Officer 15 documented that arrests would only take place if evidence and/or intelligence was gathered linking individuals to the attack. This was in order to ensure a '*measured, intelligent and professional approach*' was adopted that made best use of the available police resources. Police relied on the timely dissemination of intelligence to inform and shape their arrest strategy.

9.16 I am of the view that this approach was not consistently applied. Intelligence relating to the PIRA development of '*flash-initiated*' technology, previous '*flash-initiated*' attacks, and suspects was either not shared with the SIO or its dissemination delayed. These failures also applied to intelligence linking a number of PIRA members, including Person A, to the 27 March 1992 attack. This was despite RUC Special Branch officers attending daily investigation conferences.

9.17 It is my view that the timely dissemination of this intelligence would have allowed the SIO to make informed decisions regarding suspect and arrest

strategies. This may have resulted in the development of new lines of enquiry, leading to the collation of important evidence. I have been unable to establish why intelligence was not shared, or its dissemination delayed, and who made the relevant decisions.

- 9.18 Intelligence linking Persons F, I, and J to the attack was received in mid-September 1993. However it was not shared with the investigation team until early February 1994. This investigation has been unable to establish the reason for this delay. Upon receipt of this intelligence, Person J was arrested in a timely manner.
- 9.19 Person F was linked to the newly-formed Dundalk ASU, in addition to the attacks at Merchants Quay on 29 November 1991 and 27 March 1992. The police investigation was supplied with intelligence linking him to the latter attack but, despite his details being circulated on the PNC database, he was not arrested. Person I was arrested, but not until May 1996.
- 9.20 Police did make a number of enquiries regarding a function being held on the night of the attack at Newry Town Hall. However, while I accept that those attending the event may have been unwilling to assist the police investigation, I am of the view that more robust and concerted efforts should have been made to trace and interview those present. This may have identified individuals who could have provided information regarding the attack itself, or events prior to and following it.
- 9.21 On the evening of 26 March 1992, Person G was stopped and spoken to by police as part of a three vehicle convoy entering the Derrybeg housing estate in Newry. One of the vehicles, a dark coloured Toyota Corolla, evaded the VCP. It was similar in appearance to the car used in the attack at Merchants Quay the following night.
- 9.22 Person G was sighted looking from a window at Newry Town Hall on 27 March 1992 by a member of the security forces. He was also in a vehicle registered to Person D that was stopped at a VCP outside the venue earlier that day.

Person D was arrested on 31 March 1992, following the receipt of intelligence linking him to the attack.

- 9.23 Despite the above information, Person G was not arrested by police investigating the murder of Constable McMurray and attempted murder of Police Officer 1. My investigators could find no record that intelligence linking Person G to the failed attack at Newry Tax Office on 12 February 1992 was disseminated to police investigating the 27 March 1992 attack.
- 9.24 Fingerprint marks recovered from Newry Town Hall were not compared against those of identified PIRA suspects or other individuals who stated that they were there on the night of the attack.
- 9.25 Between 31 March 1990 and 19 January 1994, there were 19 PIRA attacks involving *'flash-initiated'* technology. Police Officer 7 informed my investigators that enquiries were made with specialist police and military units regarding the technology. He added that both he and members of his team worked on a number of these linked incidents. This investigation, however, found no evidence that the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1 made any enquiries with police officers investigating these other attacks.

Why were regular updates not provided to families during the police investigation?

- 9.26 Police Officer 16 informed my investigators that he attempted to update the families of Constable McMurray and Police Officer 1 when significant information came to light. A review of his police journal indicated that he contacted Police Officer 1's family on 1 April 1992, 2 April 1992, 11 April 1992, 3 May 1992, 13 August 1992, and 11 December 1992. He updated Constable McMurray's family on 3 April 1992, 26 October 1992, and 26 January 1993.
- 9.27 My investigators also established that other police officers liaised with the families during the course of the investigation.

- 9.28 In the past, Family Liaison was significantly different to the current service provided to bereaved families. It was the responsibility of the SIO to engage with the family at an early stage of the investigation. However, after this engagement there was no structured contact system in place unless a significant development occurred. No formal guidance or bespoke training existed. This changed following the murder of Stephen Lawrence in London on 22 April 1993. A public inquiry into Stephen's death highlighted significant failings in the police investigation, including the manner in which police communicated with the Lawrence family.
- 9.29 The inquiry, headed by Sir William MacPherson, stated '*That police services should ensure that at a local level there are readily available designated and trained Family Liaison Officers.*' He added that, where possible, such officers should be dedicated primarily, if not exclusively, to the role.
- 9.30 The MacPherson recommendations laid the foundation for modern-day Family Liaison which nowadays lies at the core of any SIO Investigation Strategy. The deployment of specialist trained officers to bereaved families is an important investigative tool as well as ensuring that the SIO can communicate effectively with them and provide, as well as acquire, information in a timely, accurate, and empathetic manner.

Allegations relating to a Police Surveillance Operation in Newry on 27 March 1992

- 9.31 My Office was informed that a retired police officer had indicated that a security force surveillance operation was taking place in Newry on 27 March 1992. My investigators interviewed the police officer alleged to have made this comment. He stated that he knew nothing about a surveillance operation having been in place.
- 9.32 My investigators also reviewed police documentation which evidenced that this police officer was on duty in Portadown on 27 March 1992. No evidence was gathered to support the allegation that a security forces surveillance operation was in place in Newry at the time of the attack.

10 Relevant Rules and Standards

- 10.1 The Association of Chief Police Officers (ACPO)¹³ first published a *'Murder Investigation Manual'* in September 1998. This set out a framework for murder investigations and is designed to aid and guide SIOs during the investigation process. However, this was not in place at the time of the investigation into the murder of Constable McMurray and attempted murder of Police Officer 1.
- 10.2 The RUC implemented the *'Major Investigation Incident Room Standardised Administrative Procedures'* (MIRSAP)¹⁴ on 1 January 1984. This formalised management structures and processes within major incident rooms, acknowledging that it was essential that major investigations had a structure of management which was immediately recognisable and understood by all police officers.
- 10.3 MIRSAP was designed to provide the SIO with *'an accurate record of all relevant information relating to the investigation, together with the enquiries made and results obtained.'* The system was also responsible for *'recording and linking all information...so that it may be readily retrieved to aid the SIO and their team to establish priorities. This will ensure that all enquiries are made efficiently, and the results analysed.'*
- 10.4 The recording of information entering major incident rooms was undertaken by a standardised manual procedure known as MIRIAM (Major Incident Room Indexing and Action Management). In March 1988, the RUC introduced a computerised system known as HOLMES (Home Office Large Major Enquiry System), for the investigation of serious crimes.
- 10.5 On 28 March 1992, Police Officer 15 directed that a Major Incident Room be set up at Corry Square Police Station. An SIO and DSIO were appointed. He instructed that the investigation be managed on MIRIAM initially, until a HOLMES unit became available. At the time of the attack, HOLMES was not

¹³ ACPO has since been replaced by the National Police Chiefs' Council.

¹⁴ Major Incident Room Standardised Administrative Procedures (MIRSAP), 17.

available due to other policing demands. The investigation was later uploaded to a HOLMES account.

10.6 The procedures for the exchange of intelligence between RUC Special Branch and CID were established by the 1980 Walker Report.¹⁵ Special Branch were to have primacy over all intelligence gathering activities and terrorist arrests, other than those directly relating to an incident, had to be approved by the Regional Head of Special Branch before taking place.

10.7 The Royal Ulster Constabulary (Discipline and Disciplinary Appeals) Regulations 1988 applied at the time of this investigation. These regulations detailed that Offence 4 – ‘Neglect of Duty’ was committed where a police officer without good and sufficient cause:

- I. Neglects or omits to attend to or carry out with due promptitude and diligence anything which it is his duty as a member to attend to or carry out;
- II. Fails to work his beat in accordance with orders, or leaves the place of duty to which he has been ordered, or having left his place of duty for an authorised purpose fails to return thereto without undue delay;
- III. Is absent without leave from, or is late for, any duty;
- IV. Fails properly to account for, or to make a prompt and true return of, any money or property received by him in the course of his duty.

10.8 At the time of the murder in 1992 there was no RUC Code of Ethics in place for police officers. However, there were Force Orders that applied, two of these are referred at paragraphs 5.31 and 5.33 above. Also, police were subject to the overarching duty to protect life and property. When considering matters of police conduct in this public statement, I have applied the relevant standards of the time.

¹⁵ See footnote 12

11 Procedural Fairness

Introduction

11.1 In concluding, I am mindful of the need to ensure procedural fairness to those who may be affected by the content of this public statement. Mr Justice McCloskey (as then) in the High Court in *Re Hawthorne & White*¹⁶ provided guidance to this Office as to what was generally required. In particular I have considered relevant passages from that judgment which I outline here for ease of reference, highlighting the requirements of procedural fairness in this context:

[113] In my judgement, it matters not that the police officers thus condemned are not identified. There is no suggestion that they would be incapable of being identified. Further, and in any event, as a matter of law it suffices that the officers condemned by the Police Ombudsman have identified themselves as the subjects of the various condemnations. Procedural fairness, in this kind of context, cannot in my view depend upon, or vary according to, the size of the readership audience. If there is any defect in this analysis it is of no consequence given that the overarching purpose of the conjoined challenge of the second Applicant, Mr White, belongs to the broader panorama of establishing that reports of the Police Ombudsman couched in the terms considered exhaustively in this judgment are unlawful as they lie outwith the Ombudsman's statutory powers.

[114] The somewhat different challenge brought by Mr White, imbued by corporate and broader ingredients, gives rise to the following conclusion, declaratory in nature. Where the Police Ombudsman, acting within the confines of his statutory powers, proposes to promulgate a "public statement" which is critical of or otherwise adverse to certain persons our fundamental requirements, rooted in common law fairness, must be observed. First, all passages of the draft report impinging directly or indirectly on the affected individuals must be disclosed to them, accompanied by an invitation to make representations. Second, a reasonable period for making such representations

¹⁶ [2018] NIQB 5

must be permitted. Third, any representations received must be the product of conscientious consideration on the part of the Police Ombudsman, entailing an open mind and a genuine willingness to alter and/or augment the draft report. Finally, the response of the individual concerned must be fairly and accurately portrayed in the report which enters the public domain.'

11.2 This process, sometimes called 'Maxwellisation', involves four fundamental requirements as outlined by Mr Justice McCloskey:

- I. That all passages of the draft public statement impinging directly or indirectly on the affected individuals must be disclosed to them, accompanied by an invitation to make representations;
- II. A reasonable period for making such representations must be permitted;
- III. Any representations received must be conscientiously considered, entailing an open mind and a genuine willingness to alter and/or augment the draft report; and
- IV. The response of the individual concerned must be fairly and accurately portrayed in the statement that is published.

The 'Maxwellisation' Process

11.3 In order to give the officers concerned a fair opportunity to respond to any proposed criticisms in this public statement, correspondence was sent on 21 September 2015 from this Office to Police Officers 6, 7, and 16 along with extracts from the draft public statement that impinged directly or indirectly on those individuals, seeking their comments. A period of 21 days from receipt of that correspondence was provided in order for the individuals to respond.

11.4 Police Officers 6 and 7 forwarded written responses to my Office, dated 20 October 2015 and 6 November 2015 respectively, raising a number of issues and concerns. No response was received from Police Officer 16. The contents of the correspondence from Police Officers 6 and 7 was the subject of careful and conscientious consideration by me. Following their responses, my Office responded in writing to their issues and concerns.

Police Officer 6

- 11.5 Police Officer 6 responded, as part of the Maxwellisation process, that Person A was not recruited as an informant until after the murder of Constable McMurray and attempted murder of Police Officer 1. He stated that, following the attack, he questioned Person A about his knowledge of it but Person A replied that he had no knowledge of the attack or those involved in it. He would not have recorded negative responses as this was not the procedure at the time.
- 11.6 He stated that the comments he made to a member of the McMurray family about Person A were not intended to mislead. He made these comments eight years after the attack. By then, Person A had, in his view, made a number of false claims in the media and was later described by Sir Ronnie Flanagan as a '*Walter Mitty*' character. This led Police Officer 6 to conclude that Person A was '*fantasising*' about certain events. The comments he made to the member of the McMurray family were his honestly-held beliefs at the time.
- 11.7 Police Officer 6 stated that initial intelligence provided by Person A in the early part of 1992 was considered valuable at the time. However, in light of later false claims made by Person A in the media, and inaccurate and misleading intelligence provided by him after the 27 March 1992 attack, Police Officer 6 had serious doubts when he met with the member of the McMurray family.

Police Officer 7

- 11.8 Police Officer 7 confirmed that he was appointed as DSIO but denied that he was ever SIO, stating that Police Officer 17 performed this role. Both of them, were in turn, supervised by Police Officer 15 who was Regional Head of CID South Region at the time. Police Officer 7 added that he was in England on a training course between 24 March 1993 and 20 May 1993, prior to transferring to 'G' Division on 9 August 1994. He did not return to 'H' Division following this transfer, and played no further part in the police investigation.

- 11.9 He stated that between 4 March 1992 and 1 July 1992 he performed SIO or DSIO duties on four murder investigations, in addition to the murder of Constable McMurray and attempted murder of Police Officer 1.
- 11.10 Police Officer 7 stated that his rationale for not arresting Persons B and H was that it was based solely on the account provided by Police Officer 1 that he observed them on Merchants Quay prior to the attack. He stated that the relevant draft paragraphs of the public statement were inaccurate in their suggestion that Police Officer 1 definitively placed these two individuals on Merchants Quay at the time of the attack.
- 11.11 Police Officer 7 stated it was *'untrue'* that police investigating the 27 March 1992 attack did not consider linked incidents. He stated that this was a major line of investigation and enquiries were made with NIFSL, as well as police and military specialist units. Enquiries were also conducted in respect of the availability of the relevant component parts used in the *'flash-initiated'* explosive device detonated on 27 March 1992.
- 11.12 He stated that it was *'folly'* to expect that individuals who attended the function at Newry Town Hall would have assisted the police investigation. A number of individuals who attended the function, however, were traced and interviewed as they were owners of vehicles parked on Merchants Quay at the time of the attack. Intelligence checks were also conducted in respect of these individuals but no evidence was obtained. He stated that numerous media appeals for witnesses resulted in only one telephone call which reflected *'the reality of what life was like in Newry in 1992.'*
- 11.13 Police Officer 7 stated that, if true, he found it *'distasteful'* that RUC Special Branch would have withheld, or delayed the dissemination of, intelligence relevant to the investigation. He had concerns that the names of suspects that were supplied by Special Branch to the investigation team may have been a *'smokescreen'* to divert attention away from other individuals. This investigation did not find any evidence that supported this contention. He stated that intelligence relating to linked incidents was, at best, *'drip fed'* to the RUC investigation. He stated that Special Branch officers attended all the

investigation conferences and were aware of how keen the investigation team were to receive actionable intelligence.

Responses to Police Officers 6 and 7

- 11.14 I have carefully considered these comments and have incorporated them, where I believe it appropriate, within the body of this public statement. I believe that the contents of this public statement accurately reflect the police investigation into the murder of Constable McMurray and attempted murder of Police Officer 1. The views I have expressed in relation to the police investigation are based on evidence and other information, including intelligence, gathered during the course of this investigation.
- 11.15 At every stage of this investigation, my investigators have sought to engage with former police officers in order to understand the environment within which they investigated serious crime. I accept that former RUC officers faced significant challenges and pressures. I have also sought to obtain and review the relevant legislation, standards, and guidance that existed in order to understand policing procedures and policies. I believe that this has resulted in a fair and impartial investigation, underpinned by evidence-based conclusions.

12 Conclusions

The Role of the Police Ombudsman

- 12.1 My role as Police Ombudsman is set out clearly in Part VII of the 1998 Act. In the Court of Appeal judgment in *Re Hawthorne and White's application*¹⁷ the Court ruled that the Police Ombudsman has no role in adjudicating on a complaint of criminality or misconduct. The decisions and determinations of these issues are matters for the Public Prosecution Service (PPS) and criminal courts in relation to allegations of criminality. In this instance there was no evidence to justify a recommendation to the PPS that criminal proceedings be brought against any police officer. The main purpose of this public statement, therefore, is to address the matters raised by the families of Constable McMurray and Police Officer 1.
- 12.2 In accordance with my statutory functions, I am also obliged to consider the question of disciplinary proceedings. However, due to the relevant police officers being retired, a misconduct investigation was not possible. This would normally include a misconduct interview where the relevant officers would be asked to account for their relevant decisions and actions after a misconduct caution. As stated by the Court of Appeal, it is not my role to determine whether or not police officers are guilty of misconduct. That is a matter for PSNI's Professional Standards Department (PSD) and the relevant police disciplinary panel in respect of serving police officers.
- 12.3 The investigation of complaints about historical matters is challenging due to the passage of time and unavailability of relevant witnesses and documentation. However, in this investigation, considerable evidence was gathered. This included witness statements, police documentation, and other material within the public domain. I am unable to compel retired police officers to assist investigations in a witness capacity. However, a number of former

¹⁷ *Re Hawthorne and White's Application for Judicial Review*. NICA [2020] 33.

police officers co-operated with this investigation. I am grateful for their assistance.

Person A and the Preventability of the Attack

- 12.4 Central to the investigation of the families' complaints were public claims made by Person A. Namely that he met with police prior to 27 March 1992 and provided information which, if acted upon, could have prevented the murder of Constable McMurray and attempted murder of Police Officer 1. This raised the possibility that RUC Special Branch officers withheld intelligence that may have prevented the murder of one colleague and serious injury of another.
- 12.5 In 2002, Person A's solicitor issued correspondence to the PSNI stating that his client was not involved in the 27 March 1992 attack and had no prior knowledge that it was going to take place. Despite engaging in an initial meeting with Police Ombudsman investigators in 2004, Person A did not further assist with the investigation of these complaints.
- 12.6 Person A met with RUC Special Branch officers in London a number of weeks before the 27 March 1992 attack. My investigators interviewed Police Officers 6 and 14, the two RUC Special Branch officers who met with Person A in London. They both stated that Person A provided no information that could have forewarned of the attack and, if he had, they would have acted upon it accordingly. Police Officer 14 is now deceased.
- 12.7 My investigators reviewed all the intelligence records relating to that meeting. This contained information relating to South Down PIRA activities and the development of *'flash-initiated'* technology. I am of the view, however, that Person A did not provide any information at this meeting that could have forewarned of the Merchants Quay attack on 27 March 1992, or provided police with an opportunity to prevent it.
- 12.8 This investigation has reviewed other intelligence that was in the possession of RUC Special Branch prior to the attack. I am of the view that, having

considered this intelligence, police were not in the possession of intelligence that could have forewarned of, or, if acted upon, prevented, the attack.

The Recruitment and Value of Person A as an Informant

12.9 Police Officer 6 informed my investigators that Person A was not a registered informant at the time of the London meeting. During the meeting, police obtained information from him which they then assessed as to its accuracy and value. This, in turn, allowed the officers to make a decision as to whether or not Person A was a viable option as an informant. Based on this assessment, he was formally recruited in early April 1992, after the 27 March 1992 attack.

12.10 However, I am of the view that given the nature of the London meeting and the matters discussed Person A became a RUC Special Branch informant on that date. Prior to, and following, the 27 March 1992 attack, he provided his handlers with 'good' quality, actionable intelligence regarding the activities of PIRA both in South Down and further afield. Although the quality of this intelligence may have deteriorated with time, I am of the view that he was, at the time of the attack, a valuable intelligence asset.

Person A as a Suspect in the 27 March 1992 Attack

12.11 Police held significant intelligence relating to the role Person A played in the development of '*flash-initiated*' technology for use by PIRA in attacks on the security forces. He was also linked to a number of previous attacks where '*flash-initiated*' technology was used. None of this intelligence was shared with the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1.

12.12 Intelligence was received following the attack indicating that Person A attended the function at Newry Town Hall on 27 March 1992. This was not shared with the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1.

12.13 I am of the view that, had this intelligence relating to Person A been disseminated, he ought to have been treated as a suspect in respect of the 27 March 1992 attack. The investigation team were relying on the timely dissemination of intelligence to inform and direct their suspect and arrest strategies. This information, if disseminated and acted upon, would have allowed lines of enquiry to have been developed. These enquiries may have resulted in important evidence being gathered and allowed the SIO to determine Person A's involvement in the attack. This investigation has been unable to establish why this intelligence was not disseminated, or who made the decision not to share it.

Dissemination of Intelligence

12.14 This investigation identified that the dissemination of intelligence from RUC Special Branch to police officers investigating the 27 March 1992 attack was inconsistent. Police Officer 7 informed my Office that intelligence was '*drip fed*' to the investigation team.

12.15 There were instances identified of the timely sharing of intelligence leading to prompt arrests. For example, Persons D and K were arrested a number of days after the attack, following prompt dissemination of relevant intelligence to the SIO.

12.16 This investigation, however, also identified instances where intelligence that I consider could have been of value to the police investigation was either not shared with the SIO or its dissemination delayed.

12.17 An example of the delayed dissemination of intelligence relates to the arrest of Person J. This occurred promptly after intelligence was shared with the SIO in February 1994, linking him to the attack. However, Special Branch had received this intelligence in September 1993.

12.18 In April 1992, police received intelligence that Persons F and I were involved in the 27 March 1992 attack. This was accompanied by intelligence about the construction and movement of the mortar bomb. I have found no evidence that

this intelligence was shared with the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1.

12.19 In September 1993, further intelligence was received linking Persons F, I, and J to the attack. This was not shared with the police investigation team until early February 1994. I have been unable to establish the reason for the delayed dissemination of this intelligence.

12.20 Although Person D was arrested in late March 1992, intelligence provided by Person A linking him to the attack was not shared with the SIO investigating the murder of Constable McMurray and Police Officer 1.

Arrest Strategy

12.21 At an early stage of the police investigation, Police Officer 15 directed that arrests would only take place if supported by evidence and/or intelligence. This was to '*...ensure a measured, intelligent and professional approach*' that made best use of the available police resources. This rationale resulted in police adhering to a largely intelligence-led arrest strategy during the course of the investigation. This resulted in the prompt arrests of Persons D, J, K, L, and M following the sharing of intelligence linking them to the attacks.

12.22 Persons B and H were not arrested by police, following information from Police Officer 1 that he observed them on Merchants Quay prior to the attack. A decision was taken not to arrest them based solely on the evidence of Police Officer 1 alone. This was because he could not be certain as to the circumstances of the sighting. This decision was to be reviewed if further evidence and/or intelligence was obtained linking them to the attack. However, I am not critical of this decision. This was another example of police adhering to the arrest strategy as directed by Police Officer 15.

12.23 There were instances, however, where this strategy was not adhered to by police. Intelligence was received by Special Branch in April 1992 that linked Persons F and I to the mortar attack. Intelligence linking Persons F and I was shared with the investigation team in February 1994. However, Person I was

not arrested until May 1996. Person F has not been questioned about the murder of Constable McMurray and attempted murder of Police Officer 1 despite attempts by police to arrest him in February 1994.

The 27 March 1992 Threat

- 12.24 I am of the view that the threat which resulted in patrols being recalled on 27 March 1992 originated from a telephone call made by Witness 1 earlier that day. The call related to a conversation he overheard in a County Down public house that afternoon where two individuals talked about a bomb attack in Newry that coming weekend.
- 12.25 RUC Force Orders 60/91 and, more specifically, 99/91 were in place at the time of the attack. These provided instructions as to which senior police officers should be notified when a specific or general threat was received. The relevant senior officers were then expected to take the appropriate steps necessary and ensure that a record of all threats was maintained.
- 12.26 Witness 1, a former UDR member, informed my investigators that he initially telephoned police in Newry but thought they did not believe him. He then telephoned Ballykinler UDR Barracks to relay the same information. I believe it was this information that led to the 7:45pm entry in Newry's C6 Station Register.
- 12.27 I am of the view that this information led to patrols being recalled to the police station for a period of time on the evening of 27 March 1992. My investigators have been unable to establish for how long this recall lasted and who made the relevant decision. My investigators have also been unable to establish who made the decision for police patrols to resume later in the evening.
- 12.28 My investigators interviewed police officers who were on duty in Newry at the time of the recall. A number of these officers did not remember any specific threat that night. However, others did remember patrols being recalled. The general consensus among those officers interviewed was that recalls were not

uncommon, given the high threat level in Newry at the time against members of the security forces.

- 12.29 A number of the police officers interviewed stated that, even with a threat in place that necessitated a recall, patrols would have been expected to resume to provide security cover for colleagues travelling into Newry to commence duties at midnight.
- 12.30 I am of the view, based on the available evidence and information, that this was the reason police resumed patrols on 27 March 1992. This investigation was unable to establish the exact time that these patrols resumed. I am of the view that Constable McMurray and Police Officer 1 were providing security cover for colleagues traveling into Newry. The attack took place as they were returning to Corry Square Police Station, having completed these and other duties.
- 12.31 I am of the view that the relevant senior police officers were made aware of the 7:45pm threat, which led to patrols being recalled to Corry Square Police Station. I believe that this was the correct and proportionate operational decision given the nature of the threat against police. However, I am also aware that security cover was required for police officers travelling into Newry to commence duties at midnight, who were even more vulnerable to this threat. This was the reason why patrols were allowed to resume.
- 12.32 This investigation has been unable to identify the police officer/s who made the difficult decision to resume patrols. My investigators interviewed a number of police officers who were based in Newry at the time of the attack. They all stated that the threat level against members of the security forces in Newry at the time was high but it was an accepted course of action that patrols would provide security cover for colleagues travelling into Newry to commence duties.

The RUC Investigation

- 12.33 Considerable resources were deployed to bring to justice those responsible for the murder of Constable McMurray and attempted murder of Police Officer 1. In this public statement I have highlighted examples of professional, diligent and resourceful investigative enquiries. These included efforts to trace individuals and vehicles sighted in Newry town centre at the time of the attack. There were also efforts to trace the component parts used in the construction of the *'flash-initiated'* explosive device. Police liaised with colleagues in England, Germany, and the Republic of Ireland in an effort to progress these lines of enquiry.
- 12.34 Based on the available information and evidence, however, I also identified the following failings in respect of the RUC investigation.
- 12.35 Fingerprint marks recovered from Newry Town Hall were compared against those of a number of suspected PIRA members, including identified suspects. However, the fingerprints of other identified suspects were not compared against the recovered marks. The same applied to four individuals interviewed about public disorder following the attack who stated that they had been in the Town Hall at the John Mitchel Historical Society function. None of these four individuals were questioned about the murder of Constable McMurray and attempted murder of Police Officer 1.
- 12.36 My investigators found no record that police researched relevant security force databases in an attempt to ascertain the movements of the Toyota Corolla between its theft on 9 February 1992 and the attack on 27 March 1992.
- 12.37 As stated, police failed to arrest Persons F and I in February 1994, when provided with intelligence linking them to the attack. Although Person F may have been out of the jurisdiction at that time, a decision was taken in 2011 to remove him from the PNC database for questioning in respect of the 27 March 1992 attack.

12.38 I have found no evidence that police investigating the murder of Constable McMurray and attempted murder of Police Officer 1 linked the attack to a number of other *'flash-initiated'* attacks both prior to, and following, 27 March 1992. This thematic approach may have identified new lines of enquiry that could have generated evidential opportunities to advance the police investigation of both this and other attacks.

12.39 If relevant intelligence about the relationship between Person A, South Down and Dundalk PIRA along with his role in developing the *'flash initiated'* technology, had been shared by Special Branch, this could have informed the SIO's suspect strategy.

Failure to Keep the Families Updated

12.40 This investigation established that police updated the families of Constable McMurray and Police Officer 1 on nine occasions over the period 1 April 1992 to 26 January 1993. Other police officers also had contact with the families during the course of the police investigation. As I have stated earlier in this public statement, there was no structured contact system in place between police and bereaved families until the MacPherson recommendations were adopted. This followed a public inquiry into the murder of Stephen Lawrence. These recommendations laid the foundations for modern-day Family Liaison as it exists today.

The Police Ombudsman's Powers

12.41 I must act lawfully and fairly in the exercise of my functions as provided for under Part VII of the 1998 Act. The Court of Appeal in *re Hawthorne and White*¹⁸ has unanimously ruled on the powers of the Police Ombudsman under that legislation. This includes how the Ombudsman will address complaints generally and, more particularly, in relation to complaints about the actions of retired RUC officers.

¹⁸ [2020] NICA 33

12.42 In that context, I have considered the complaints, questions, and concerns raised by the families of Constable McMurray and Police Officer 1. I have carefully considered the evidence and information gathered during this investigation. The evidence uncovered during this investigation supports a number of the families' complaints and concerns. I will now detail these under a number of headings below for ease of reference.

Overall Conclusion

Why were the families not regularly updated by police during the course of the police investigation?

12.43 In relation to the complaint of a lack of family contact and engagement, I am not critical of police actions. This investigation established that Police Officer 16 attempted to update the families of Constable McMurray and Police Officer 1 when significant information came to light. A review of his police journal indicated that he contacted Police Officer 1's family on 1 April 1992, 2 April 1992, 11 April 1992, 3 May 1992, 13 August 1992, and 11 December 1992. He updated the family of Constable McMurray on 3 April 1992, 26 October 1992, and 26 January 1993. Other police officers also liaised with the families during the course of the police investigation.

12.44 As I have stated earlier in this public statement, there was no structured contact system in place between police and bereaved families until the MacPherson recommendations were adopted. This followed a public inquiry into the murder of Stephen Lawrence. These recommendations laid the foundations for modern-day Family Liaison as it exists today.

Was Person A recruited by RUC Special Branch prior to the Merchants Quay attack on 27 March 1992?

12.45 I have established that Person A met with RUC Special Branch officers in London a number of weeks before the attack. My investigators interviewed the RUC Special Branch officers who attended this meeting. At this meeting Person A provided them with information relating to PIRA activities in the South Down area. Police Officer 6 informed my investigators that Person A was not a registered informant at that time, and was not formally registered

until after 27 March 1992. I am of the view, however, that given the nature of the London meeting and the information provided at it, Person A became a police informant at that time.

Did Person A forewarn police of an attack prior to 27 March 1992?

- 12.46 Following an initial meeting in 2004, Person A did not assist with this investigation. He made a number of public claims during the 2000-2006 period. One of these was that, prior to the 27 March 1992 attack, he informed police that Person C was planning an attack on the security forces using a horizontally-fired mortar known as a *'doodlebug.'* He stated that had Person C been *'watched'* by the security forces, the attack could have been prevented.
- 12.47 This investigation reviewed the intelligence reports relating to the London meeting. These detailed that Person A provided police with information regarding *'flash-initiated'* technology and its development by PIRA. Police were aware that PIRA were developing this technology and it had previously been used in a number of attacks on security forces in the South Down area.
- 12.48 However Person A did not provide police with information relating to Person C, or any other individual/s, planning an imminent attack on security forces using a horizontally-fired mortar or any other type of explosive device. In January 2002, his solicitor stated that Person A was not involved in the attack and had no prior knowledge of it.
- 12.49 Police Officers 6 and 14, when interviewed by my investigators, both denied that Person A provided any such information.
- 12.50 It is my view that Person A did not provide police with information prior to the 27 March 1992 attack that could have forewarned of, or prevented, the murder of Constable McMurray and attempted murder of Police Officer 1.

If Person A did provide police with information about ‘flash-initiated’ explosive devices, why was this not disseminated to police in Newry so they could have taken steps to prevent the attack?

- 12.51 My investigators interviewed police officers who were based in Newry during the early 1990s. A number stated that they were aware of ‘flash-initiated’ technology, having attended scenes where PIRA attempted to detonate devices. These included the ‘bicycle bomb’ in Newry on 30 March 1990 and the failed attack at Merchants Quay on 29 November 1991.
- 12.52 Other police officers based in Newry during this time stated they attended briefings where they were made aware of ‘flash-initiated’ technology. They also read briefing documents and watched instructional videos.
- 12.53 Special Branch, however, had significant intelligence linking Person A to the PIRA development of ‘flash-initiated’ technology and previous attacks where it was used. This intelligence was not disseminated to the SIO investigating the murder of Constable McMurray and attempted murder of Police Officer 1.
- 12.54 Special Branch also held other intelligence relating to the development of ‘flash-initiated’ technology, linked attacks using ‘flash-initiated’ explosive devices, and other PIRA suspects that, in my view, was relevant to the 27 March 1992 attack. This was either not disseminated to the SIO investigating the attack, or its dissemination delayed.
- 12.55 Had the SIO been aware of the relevant intelligence, Person A and other PIRA members linked to the development and use of ‘flash-initiated’ explosive devices ought to have been treated as suspects.
- 12.56 The arrest strategy adopted by the SIO was mainly intelligence-led. Therefore the failure to share this information deprived him of the ability to make informed decisions regarding his suspect, arrest, and search strategies. This investigation has been unable to identify the reasons why this intelligence was not shared by Special Branch.

12.57 I am of the view that the failure to disseminate, or delayed dissemination of, this intelligence impeded the police investigation into the murder of Constable McMurray and attempted murder of Police Officer 1.

Why were patrols recalled to Corry Square Police Station on the evening of 27 March 1992, prior to being deployed again before the attack? Who made these decisions and were they linked to intelligence at the time?

12.58 This investigation has established that police patrols were recalled on 27 March 1992 as a result of information supplied by Witness 1, following a conversation he overheard earlier that day in a public house. This investigation was unable to establish who made the decision to recall patrols to the police station, or the exact length of this recall.

12.59 My investigators were unable to find records of the initial telephone call made by Witness 1 to Newry police on the afternoon of 27 March 1992. I believe, however, that this is the information referred to in the C6 Station Register entry at 7:45pm. I am of the view that a '*second threat*' at 8:02pm was the same piece of information being disseminated to military patrols in the area.

12.60 This investigation established that police patrols resumed in order to provide security cover for colleagues travelling into Newry to start work at midnight. This investigation was unable to establish who made this decision. My investigators interviewed a number of police officers who were on duty in Newry on 27 March 1992. They confirmed to my investigators that this was a recognised and accepted procedure at the time, irrespective of the threat level, which was high in Newry at all times during the relevant period.

Concluding Comments

12.61 I am mindful that this attack occurred while Constable McMurray and Police Officer 1 were carrying out policing duties and serving their community in circumstances where the threat level in Newry was high. The dedication of many police officers, often at great personal risk, to protect the public and colleagues, represents high standards of professionalism. It is indicative of the

sacrifice that many RUC officers, including Constable McMurray and Police Officer 1, made during the 'Troubles.'

12.62 Finally, I thank the families of Constable McMurray and Police Officer 1 for their patience and co-operation during the lengthy and protracted investigation of their complaints.

Marie Anderson

Police Ombudsman for Northern Ireland

30 September 2021

Additional copies of this and other publications are available from:

Historical Investigations Directorate
Police Ombudsman for Northern Ireland
New Cathedral Buildings
Writers' Square
11 Church Street
Belfast
BT1 1PG

Telephone: 028 9082 8600

Witness Appeal Line: 0800 0327 880

Email: info@policeombudsman.org

These publications and other information about the work of the Police Ombudsman for Northern Ireland are also available on the Internet at:

Website: www.policeombudsman.org



INVESTOR IN PEOPLE