

PSNI RESPONSE TO OMBUDSMAN'S REPORT ON THE OMAGH BOMB INVESTIGATION

- 20 KEY POINTS

Many complex and sensitive legal and security issues lie at the heart of the Omagh bomb investigation. A detailed reading of the full PSNI statement is required to acquire even a rudimentary grasp of the sheer size and intricacy of the full story. Listed below are some of the main points in the PSNI response to the Ombudsman's report.

GENERAL

1. The statement provides an unprecedented insight into many of the methods and practices employed by police in the Omagh bomb investigation and the prevention of terrorist crime generally. We have been careful to ensure this response should not reduce in any way the opportunities available for any subsequent legal proceedings. The commitment of PSNI to bring those responsible for Omagh to justice remains as absolute as ever, and every investigative opportunity will continue to be explored to achieve that objective.

SPECIAL BRANCH

2. Special Branch is not 'a force within a force' - it provides a crucial service to the rest of the police service and the wider community. In the financial year 1998/99, Special Branch received some 14,000 items of information, all of which were assessed. In the six months up to the end of August 1998 more than 500 potential terrorist or criminal operations were thwarted as a result of SB intelligence to the police service.

3. In July and August 1998, Special Branch officers handled 2,375 intelligence reports on possible terrorist-related activity. In the five-month period before, during and after Omagh, more than 50 separate covert and specialist operations against suspected active dissident republican terrorists were mounted, some lasting several weeks. Intelligence provided by SB has formed one of the main strands of the police investigation on both sides of the border.

KEVIN FULTON

4. Kevin Fulton's information could not have prevented the Omagh attack. The information was rightly treated with great caution, not just because of his past unreliability but also because significant parts of it were either wrong or implausible.

5. PSNI fully accepts there was a breakdown in the internal dissemination of some of Fulton's information. This represented an unacceptable failure of procedures. This breakdown related to his claims that at one time man 'A' had smelt of fertilizer and that the Real IRA was "about to move something north" over the next few days on contact sheets of 23 July and 12 August. But, even if these had been correctly processed, this information was not relevant to the Omagh bombing. Systems have been changed to ensure there can be no recurrence.

6. The individuals 'A' and 'B' named by Fulton are not being treated as firm suspects for the Omagh bombing for compelling reasons. For more than a week prior to the Omagh attack a security force surveillance operation had been running against 'B' and others suspected of planning terrorist crimes, of whom 'A' was a central associate. Media speculation that 'A' was a police informant is completely untrue: he is not and never has been. The operation continued right through August and for some time afterwards. This operation, on which the Ombudsman's investigators were briefed, enabled police to conclude Fulton's information was not relevant to the Omagh bomb.

ANONYMOUS CALL OF 4 AUGUST 1998

7. Special Branch did check out the information supplied about individuals 'C' and 'D', a nicknamed individual 'E' and a family address 'F' in an anonymous call to police in Omagh on 4 August about a gun attack on police. Checks were made with CID and the Garda. Nothing further came up on 'C' and 'D'. Gardai had no knowledge of a nickname 'E'. Preliminary preparations were made for a possible surveillance operation on an address mentioned in the call ('F') but this was aborted because of significant practical difficulties. All the names were formally assessed before being rejected as firm suspects. The 4 August information was available to the investigation team within hours of the bombing. The annotation on the intelligence sheet to which the Ombudsman makes reference - 'intelligence does not relate to Omagh' - was in fact written by the Senior Investigating Officer following completion of that assessment process some months after the atrocity.

8. Those named were smugglers with no previous known involvement with dissident republicans. In the year preceding the Omagh bomb, there was a single sighting placing 'D' associating with PIRA suspects in a pub frequented by republican sympathizers. Nothing that happened subsequently calls into question the accuracy of the SB assessment. The two retired SB officers who made the 4 August assessments were willing to be interviewed; but the Ombudsman decided not to go ahead. Had these interviews taken place, the Ombudsman's investigators would have been made aware of the comprehensive action taken on receipt of the 4 August information.

THREAT WARNINGS

9. The Ombudsman's statement criticizes the decision not to issue a threat warning after the 4 August call on the grounds that it contravened RUC Force Orders. It did not. The Ombudsman's statement misinterprets the Force Order on General Threat Messages which relates to the handling and receipt of such messages on issue. It is not a mandatory instruction to circulate any information obtained by police receiving a supposed threat.

10. In the five days prior to the Omagh bomb, Special Branch issued threat warnings across the province, including Omagh, relating to the possible use by dissidents of a 4x4 vehicle in an operation of some kind (the Omagh bomb was in a standard Vauxhall Cavalier car) and to the risk of incendiary attacks. There was no intelligence whatsoever prior to 15 August that republican dissidents were planning a car bomb attack in Omagh.

THE BOMB, THE INVESTIGATION AND THE REVIEW

11. Police believe the Omagh attack was carried out by a 16-member Real IRA unit operating largely from Co Louth and South Armagh, most of whose identities are known to detectives. Police also believe they know how the gang operated but, sadly, this knowledge has not yet succeeded in bringing the Omagh murderers to justice.

12. More than one billion telephone calls were captured during the investigation and 6.4 million calls analyzed, identifying the four key mobile phones used by the bombers. Three of those phones were seized in a joint RUC/Garda arrest operation in February 1999. In the first 10 months of the investigation, some 980 police and forensic personnel were involved. At no stage in the investigation did the Chief Constable or ACC Crime refuse any request for additional resources. All available intelligence resources were committed to support the investigation.

13. The Army viewed video recordings from some of its bases at the Senior Investigating Officer's (SIO) request to help focus the inquiries of the investigation team. There was never any question of the investigation team being denied access to these videos. However, PSNI accepts the bomb

car was left under a tarpaulin. But it should be noted that the rusting process was accelerated by the corrosive effects of the explosives. Nevertheless, two and a half years after the explosion, scientists were still able to conduct further tests, using new techniques.

14. A vital point which the Ombudsman appears to have failed to appreciate is that the review of the Omagh bomb investigation was requested by the senior management team itself, precisely to help identify areas where improvements or new thinking were required. PSNI acknowledges that errors have been made in aspects of the investigation, but does not accept the majority of the Ombudsman's criticisms.

15. The review report contained 274 recommendations. Of these, 180 are relevant to the investigation. Others were either duplicates or related to policy and training.

CO-OPERATION

16. PSNI absolutely rejects accusations of a lack of co-operation with the Ombudsman's investigators. On the contrary, investigators were given unprecedented access to systems and information. There was no question of attempting to conceal the existence of the review report. A Press release was issued at the time of its launch in spring 2000 and reference was made to it in the Chief Constable's annual report 2000/01, published two months before the Ombudsman's investigation began and of which her office had several copies. The material is still available on the PSNI website.

17. Police accept there was a degree of confusion which arose during an exchange of letters with the Ombudsman about intelligence relating to the Omagh bomb insofar as a reply from Special Branch was never intended as a comprehensive reply to each of the aspects raised in previous correspondence from the Ombudsman. It is regrettable that this confusion arose. Perhaps the letter at issue, if phrased slightly differently, might have removed any chance of misinterpretation about what was being covered. But PSNI completely rejects an apparently sinister interpretation being placed on what was a simple misunderstanding which was rectified as soon as police became aware of it.

LEADERSHIP, JUDGEMENT AND URGENCY

18. The Ombudsman accuses the Chief Constable and ACC Crime of "defective leadership, poor judgment and a lack of urgency". These accusations are rejected absolutely. The investigation has been driven forward with energy, professionalism and determination. The enormous scale of the investigation has been accompanied by the use of a whole range of techniques and procedures which represent 'firsts' in Northern Ireland policing. There has been no lack of urgency in following up the recommendations of the Omagh bomb review. The Ombudsman's charge of "failure of leadership" is, quite simply, unsustainable.

CONDUCT OF OMBUDSMAN'S REVIEW

19. PSNI agrees with the Ombudsman that she must be able to have confidence that police will deal honestly, openly and willingly with her requests. PSNI is committed to the principle of independent oversight which should act as an important reassurance to the public and, when necessary, as a safeguard for the police. But the police service in its turn is entitled to expect from the Ombudsman's office the same high standards of professionalism, rigour, openness and fairness. The Chief Constable and other officers criticized in the Ombudsman's report were denied a fair and reasonable opportunity to make a considered and informed response to the draft report. Requests that such an opportunity be provided were unreasonably refused. PSNI does not believe that the requirements of natural justice have been met by the procedures used in compiling the Ombudsman's report. In the same way that PSNI has always recognized that it

would have lessons to learn from its handling of the Omagh investigation, it hopes that the Ombudsman will accept that her office has lessons to learn from the way her own investigation was conducted.

RECOMMENDATIONS

20. The Ombudsman's report makes six recommendations. They are listed below (in italics) with the PSNI response (in bold):

1. *External SIO to conduct Omagh bomb investigation* - **A senior detective from Merseyside Police has been appointed to act as adviser to SIO**
2. *External OIOC to investigate potentially linked incidents identified in Omagh bomb review report* - **The Merseyside officer will advise on an appropriate approach to linked incidents**
3. *SIOs to get access to all relevant intelligence, 'relevance' being decided by SIO* - **PSNI agrees appropriate access should be given but the 'relevance' test is impractical**
4. *HMI to review terrorist-linked murder inquiries* - **Accepted**
5. *Review of role and function of SB* - **Major work is already being done on foot of the Patten Report under the supervision of the Oversight Commissioner**
6. *PSNI to adopt ACPO policy on murder reviews* - **Adopted in principle April 2001**