

16th January 2009

**REVIEW OF INTERCEPTED INTELLIGENCE IN RELATION TO THE OMAGH
BOMBING OF 15 AUGUST 1998**

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Introduction

1. Following the BBC Panorama programme broadcast on 15 September, the Prime Minister invited me, as the Intelligence Services Commissioner, to “review any intercepted intelligence material available to the security and intelligence agencies in relation to the Omagh bombing and how this intelligence was shared”.

2. In preparing my Report, which I presented to the Prime Minister on 18 December 2008, I drew on a range of very sensitive and highly classified material made available to me by those agencies involved in the production of intercept intelligence. Some of this material is subject to important legal constraints on its handling and disclosure. Such material, if released more widely, would reveal information on the capabilities of our security and intelligence agencies. Knowledge of these capabilities would benefit those who currently seek to cause harm.

3. Accordingly I would not recommend that my report be published in the form in which it was presented on 18 December as to do so would damage national security and would be in breach of legal restrictions on disclosure of material relating to security and intelligence. However, very serious and damaging allegations have been made publicly, as a result of which expectations may have been raised among the families of the victims of the bombing. In the circumstances the Government has decided that it is necessary and lawful to publish the following summary of my review, justified by the exceptional and serious matters raised and the weight of public interest. This summary contains as much information as it is possible to publish in light of the restrictions on disclosure mentioned above and the general requirement of national security to maintain secrecy in relation to the work of the security and intelligence agencies. The conclusions set out in this summary represent, nonetheless, a proper reflection of my conclusions in the protectively-marked version of my report as presented on 18 December.

Context

4. At 1504 hours on Saturday, 15 August 1998, a 500 lb bomb in a car parked in Market Street in the quiet market town of Omagh in County Tyrone was detonated. The car had been stolen in Carrickmacross, County Monaghan on 13 August. At 1429 and 1431 hours respectively bomb warning calls were made from telephone kiosks in South Armagh to Ulster Television in Belfast and to the Samaritans in Omagh (the call was diverted to Coleraine) but the information given was inaccurate. The calls referred to a bomb in Main Street (there is no such street in Omagh) and to the courthouse. The police moved people away from the courthouse area but the bomb went off more than 350 yards from the courthouse. 29 men, women and children and two unborn babies were killed. Some 250 others were hospitalised while many hundreds more received less serious injuries. To the acute distress of the police on duty at the time and as a result of the inaccurate information given in the bomb warning calls, they found that in clearing the area round the courthouse they had moved some victims into the area of the blast. On 18 August the Real IRA (“RIRA”) issued a statement admitting responsibility for the attack, blaming the security forces for failing to respond to its warnings adequately, stating that Omagh had been a “commercial target” and offering apologies. It was the single worst terrorist incident since the start in 1969 of what are commonly called “the Troubles”.

5. The bombing and its investigation by the police have attracted much media interest. A Panorama programme, “Who bombed Omagh?”, appeared on BBC television on 9 October 2000. This named four persons as suspects. However, although a number of arrests have been made on both sides of the border between Northern Ireland and the Republic of Ireland since the bombing, most of those arrested were released without charge. One suspect, Colm Murphy, was convicted in the Republic of Ireland in January 2002, on a charge of conspiracy to cause an explosion. However, he successfully appealed against his conviction. Subject to that short-lived exception, no one has thus far been successfully prosecuted for the bombing. Only one man, Sean Hoey, was charged and prosecuted in Northern Ireland, but on 20 December 2007 he was found not guilty by Mr Justice Weir in Belfast Crown Court.

6. On 15 September 2008 another Panorama programme relating to Omagh, “Omagh: what the police were never told”, was broadcast by BBC television. As with the earlier Panorama programme the presenter was the experienced journalist, John Ware. He wrote an article about the second programme which was published in the Sunday Telegraph the day before the broadcast. In the article and the second programme specific new allegations were made. They included that at the relevant time vital intercept intelligence had not been passed on to the police promptly to prevent the bombing or to assist the police investigating the bombing to bring the perpetrators to justice.

7. Following those allegations the Prime Minister on 17 September invited me, as the Intelligence Services Commissioner, to carry out the review the terms of which are set out in paragraph 1 above.

8. The assertions made in the Sunday Telegraph article and in the second Panorama programme in large part relate to what GCHQ did and did not do. My report is therefore in substantial part directed to an examination of the role played by GCHQ. But my terms of reference are not confined to GCHQ and I have investigated the existence or otherwise of relevant intercept intelligence generally, and not only what intercept intelligence was shared with Special Branch of the Royal Ulster Constabulary (“RUC”) and RUC HQ but also, to the extent it was so shared, what sharing there was by Special Branch and RUC HQ with the police investigating the bombing.

Background to the bombing

9. In the summer of 1998 the political and security situation in Northern Ireland had seemed more promising than for many years. The Belfast (Good Friday) Agreement had been signed on 10 April 1998; a referendum on both sides of the border had endorsed it; and the major terrorist groupings were broadly adhering to the ceasefires they had declared.

10. However, the threat posed by dissidents on both sides remained a major concern. There was particular concern over those who had broken away from the Provisional Irish Republican Army ("PIRA"). PIRA declared its first ceasefire on 31 August 1994, but that ended with the Canary Wharf bomb on 9 February 1996. A second ceasefire followed in July 1996. It was known that dissident republicans were unhappy with that ceasefire and members of one group were prepared to support or transfer to another group in order to resist the peace process. The Continuity IRA, which had split from PIRA in September 1986, had declared its intention to continue its campaign against British rule in Northern Ireland. It exploded a large bomb at a South Armagh police station on 6 September 1996. Several members of the PIRA executive in October 1997 called for an end to the PIRA ceasefire and PIRA's participation in the peace process. Shortly afterwards they resigned from the PIRA executive and later that year formed the 32 Counties Sovereignty Movement which is seen as the political wing of RIRA. In the period January to August 1998 vehicle-borne bomb attacks were made in Moira (20 February), Portadown (9 May) and Banbridge (1 August). A device in Lisburn was defused (30 April) and a car bomb in Newry was neutralised (13 July). There had also been an unsuccessful mortar attack at Newry on 21 July. Among the dissident republicans were members of the Irish National Liberation Army.

11. In August 1998 security forces across Northern Ireland were alert to the risk of terrorist attacks, but not to the fact that any particular town was at immediate risk. It is to be noted that the attacks referred to in the previous paragraph were all in towns to the southwest of Belfast well distant from Omagh. There was no obvious reason why Omagh should be attacked.

The Investigations and Actions taken after the Bombing

12. Immediately after the bombing the RUC set up an incident room and an Investigation Team led by Detective Chief Superintendent Eric Anderson with Detective Chief Superintendent Hamilton Houston as the Senior Investigating Officer (“SIO”). The first intelligence provided by Special Branch to the Investigation Team resulted in the arrest of 5 men from the Omagh area on 17 August 1998. All were later released. After further intelligence was given by Special Branch to the Investigation Team 14 men were arrested on 21 and 22 September 1998 by the RUC and the Republic of Ireland police, An Garda Siochana (“the Garda”). Again those suspects were later released. The product of the investigation was placed on the Home Office Large Major Enquiry System (“HOLMES”), a computer system used to help manage the enormous amount of information relevant to the investigation. In March 2000, as part of the investigation and as requested by the SIO, a Murder Review conducted by Detective Chief Superintendent McVicker commenced and, after reviewing the investigation, he reported in November 2000. In his report he recorded that at the commencement of his review a total of 54 arrests had been made by the Garda and 21 by the RUC.

13. In August 2001 the Police Ombudsman for Northern Ireland, Mrs Nuala O’Loan, commenced an investigation of matters relating to the Omagh bombing with the assistance of police investigators. The Security and Intelligence Agencies co-operated with the Ombudsman within the limit of their statutory powers. The Police Ombudsman’s report published on 12 December 2001 made no specific mention of interception activity or of intelligence derived from interception, but amongst the Ombudsman’s criticisms of the RUC was one that Special Branch did not pass relevant intelligence to the Investigation Team until 9 September 1998 and that evidential opportunities would have been lost as a consequence of the delay in passing such intelligence. One of her recommendations was that an investigation team led by an SIO independent of the PSNI should be asked to conduct the investigation and that all relevant intelligence should be made available to the SIO. Another was that a focused review should take place into the role and function of Special Branch with a view to ensuring that in future there were clear structures and procedures for the management and dissemination of intelligence between Special

Branch and other parts of the PSNI. The Ombudsman's report was controversial and many of the findings in it were challenged by the PSNI.

14. Two of the recommendations were quickly implemented in substantial part. In early 2002 the Policing Board of Northern Ireland and the PSNI appointed Deputy Chief Constable Michael Tonge (from the Merseyside Police) to act as independent scrutineer of the Omagh bomb investigation with a Detective Chief Superintendent from the Merseyside Police as the External Senior Officer. The latter investigated the available intelligence relating to the Omagh bombing. GCHQ cooperated with the External Senior Officer and provided him with such material as might have been relevant to his enquiries, the provision of which had been requested by him.

15. In February 2002 the Policing Board requested Her Majesty's Inspector of Constabulary to carry out the review of Special Branch recommended by the Police Ombudsman. This was carried out by Mr Dan Crompton CBE, QPM, who in his report published on 29 October 2002 ("the Crompton report") referred to the relationship between the CID and Special Branch as "an issue of debate both before and since [the Ombudsman's report]". The Crompton report, after referring to the focus on terrorism in Northern Ireland and to the success of Special Branch in the use of intelligence investigative techniques, continued:

"4.27 The particular circumstances of policing in Northern Ireland make it especially difficult to secure convictions from post incident investigations. For this reason the majority of Special Branch work has concentrated on proactive disruption operations. This approach has proved successful in the past with an estimated four out of five intended terrorist attacks being frustrated..."

4.29 The sources of information received by Special Branch are many and varied and require careful protection.

4.30 Source protection, whilst understandable, has led to a tension between Special Branch and CID. This is often reflected in a lack of trust between the two areas of expertise. Evidence gathered during the course of the Inspection highlights that on occasion, Special Branch is reluctant to divulge sensitive

intelligence for fear of compromising a source and ongoing disruption activities, and there is evidence that security measures for the management of Intelligence outside Special Branch needs to be strengthened. Conversely, senior CID officers are frustrated by the belief that Special Branch does not disclose all relevant intelligence that may assist them in the course of investigations....

4.33 Paragraph 21 [of the UK national guidelines on Special Branch work] states:

‘Access to information held by Special Branch should be strictly limited to those who have a particular need to know.’

5.30 There is also a perception within CID that Special Branch deliberately withholds intelligence. During the course of this Inspection Her Majesty’s Inspector has had unrestricted access to intelligence material within Special Branch. Both paper based and computerised records have been scrutinised at all regions and headquarters. He has found no evidence that intelligence has not been appropriately disseminated.”

The Crompton report then suggested how “to relieve the tension within PSNI in cases of serious crime”.

Roles and relationships

16. By convention within Northern Ireland the RUC, as the policing body for the Province until 4 November 2001, and thereafter until October 2007 its successor, the PSNI, took the lead role in, and responsibility for, gathering intelligence on threats to national security from Irish republican and loyalist terrorism, and directing intelligence operations to counter those threats. The Security Service, which took over the national security role in Northern Ireland in October 2007, and GCHQ provided assistance to the RUC or PSNI when that police body had the lead national security intelligence role.

17. The RUC had its headquarters in Knock, Belfast. The Chief Constable in August 1998 was Sir Ronnie Flanagan. He was assisted by Assistant Chief Constables (“ACCs”) including the ACC Crime who was Head of the CID and the ACC who was the head of Special Branch, then called E Department. Special Branch was accorded a formal primacy with regard to all intelligence on terrorist activity. Special Branch’s duties included the gathering and collation of intelligence concerning the activities, plans, policies, personnel and resources of terrorist organisations. There were three regional commands: Belfast, North (at Ballykelly) and South (at Portadown). Omagh is in the North Region. A Tasking and Coordination Group had sole responsibility for taking executive action in the South Region. The South Region was recognised as of particular importance in the fight against Irish republican terrorism. Thus for example within the RUC the first terminal to receive secure emails from GCHQ was installed in Special Branch South. GCHQ’s role was to provide timely intelligence to meet Special Branch’s requirements which included intelligence on activity connected with imminent terrorist operations.

18. The most senior Security Service officer in Northern Ireland was the Director and Coordinator of Intelligence (“DCI”). He had no operational responsibilities. Essentially he acted as a security adviser to Government in a policy coordination role. Among DCI’s principal responsibilities was the provision of an effective reporting service to Ministers and officials in the Northern Ireland Office, for imparting high level policy direction and advice relating to intelligence activity in Northern Ireland and for providing support to the two other principal security advisers of the Secretary

of State, the Chief Constable of the RUC and the General Officer Commanding Northern Ireland, on intelligence matters. He also provided the Secretary of State with advice on the authorisation of warrants under the Interception of Communications Act 1985.

19. DCI was assisted by Assessments Group (“AsGp”) comprising a small team of intelligence analysts who were desk officers in the Security Service. AsGp provided a wide range of strategic intelligence reports for Government. It acted as a focus for strategic intelligence and ensured that the Northern Ireland intelligence community produced shared and agreed assessments for Government.

20. In April 1997 a recommendation in a report, the Warner Report, made by the Cabinet Office Intelligence Coordinator was implemented and a central Intelligence Management Group (“IMG”) was created at RUC HQ to be responsible for, among other things, the collation, analysis and distribution of all RUC intelligence. Security Service and GCHQ officers were seconded to the IMG and were based at RUC HQ, working to RUC management. In February 1998 a Memorandum of Understanding was agreed between the IMG and AsGp outlining their respective roles in the assessment and dissemination of intelligence. One of the IMG’s key roles was to ensure that RUC intelligence was passed to AsGp for assessment and onward dissemination.

21. The Security Service provided the RUC with specialist support on the basis of operational tasking from the RUC which was mounted by the operational branch of the Security Service based in Great Britain in conjunction with the RUC and the Army, and a small team of Security Service officers based in Northern Ireland also provided support. Any intelligence obtained was owned, controlled and distributed by the RUC.

22. GCHQ has carried out various operations providing Signals Intelligence in support of the agencies dealing with issues relating to Northern Ireland and to counter Irish republican terrorist activities in Great Britain. The action taken by GCHQ on interception was governed by procedures agreed between GCHQ and RUC Special Branch and documented in written guidance for the relevant GCHQ team.

Intercepts relating to the telephone numbers designated by Special Branch as having highest priority were monitored live.

23. Once intercept material reached RUC HQ and Special Branch South, any further publication and release of that material, even to another part, or other members, of Special Branch, was subject to strict conditions imposed by GCHQ designed to achieve a balance between providing support to customers like Special Branch and protecting GCHQ's capabilities, sources and methods. GCHQ also sought to ensure compliance with its legal obligations, in particular that required of the Director of GCHQ by section 4(2)(a) of the Intelligence Services Act 1994, viz to ensure that no information was disclosed by GCHQ except so far as necessary for the proper discharge of its functions or for the purpose of any criminal proceedings. If those persons within the RUC HQ and Special Branch South who received intelligence from GCHQ wanted to disseminate it within the RUC or even within Special Branch a set procedure had to be followed. GCHQ's permission had to be sought for the use of intelligence in a 'sanitised' form, that is without revealing its source, to carry out some authorised action. Thus the release of intelligence intended to be acted on by other officers had to be requested of GCHQ and a form of words cleared with GCHQ.

Sources of information relating to my review

24. For the purposes of my review I have obtained from all relevant departments and bodies any and all extant documentation which is capable of being relevant to it, together with statements from certain individuals, including both serving and former police officers. The bodies which provided documentation are:

- GCHQ
- The Security Service
- PSNI

I also sought such documentation from the Ministry of Defence and the Secret Intelligence Service but neither had any relevant material.

25. Most of those persons who, I considered, might have relevant evidence but had not given me statements or whose statements may not completely have covered the evidence they could give, have been interviewed by me. Those interviewed include persons outside the intelligence and security services and PSNI. I received written evidence from 24 individuals, of whom I have interviewed thirteen. I have interviewed another eleven from whom I did not receive written material. On this basis I am satisfied that I have been able to carry out a comprehensive review of the relevant facts and that I am able to report in accordance with my terms of reference.

Conclusions

26. By 1998 dissident republicans were well aware that telephone communications were not secure. It was normal for the dissidents to use guarded language and code words in their conversations by phone. They rarely identified themselves or those to whom they spoke or named clearly those about whom they spoke. Voice identification of those participating in a telephone call was imprecise. There was never complete certainty in the identification of a voice by listening to it or as to the real nature of the matters under discussion; for example smuggling activity by dissident republicans was commonplace.

27. Throughout 1998, before, on and after 15 August, GCHQ ensured that intelligence from any interception that might have been relevant to RUC Special Branch for its operational purposes was promptly being made available to them; this included near real time provision of information by telephone (that is almost immediately after a call had been listened to itself in near real time) in accordance with pre-agreed criteria. In addition, written intelligence reports were issued within hours of interception again in broad accordance with procedures agreed between GCHQ and Special Branch South. **I am satisfied that in the days surrounding 15 August, and on the day itself, to the extent that any relevant intelligence was derived from interception, it was shared with RUC HQ and Special Branch South promptly and fully, and done so with the latter in accordance with procedures agreed with Special Branch South.**

28. The evidence that I have reviewed is consistent and clear to the effect that there was nothing to suggest either that a bomb attack was going take place on 15 August or that the town of Omagh was to be the target of any bomb attack. **There is no evidence whatever before me to make good the assertion in the Sunday Telegraph and the Panorama programme that, on 14 August, the Garda had warned the police of a likely attack. Special Branch did not identify to GCHQ any particular phone number as being of particular importance or relevance to a potential bombing (in Omagh or elsewhere) nor is there any evidence that Special Branch believed that GCHQ could pinpoint the location of a particular mobile phone.**

29. The conclusion reached by Special Branch, even immediately after the bombing, was that there was no locational material such as would have enabled the RUC to direct any response by the security forces or prevent the bombing. **Any intelligence derived from interception as might have existed could not have prevented the bombing.**

30. An allegation was made in the Panorama programme that GCHQ had intercepted a call in relation to the Banbridge bombing on 1 August from which, and from what was known to GCHQ on 15 August, it could have been deduced that a further attack was under way that day. **My conclusion is that there was no information on or before 15 August that could reasonably indicate by reference to the events of Banbridge that a further bombing attack was about to take place.**

31. **The portrayal in the Panorama programme of the tracking on a screen of the movement of two cars, a scout car and a car carrying a bomb, by reference to two “blobs” moving on a road map has no correspondence whatever with what intercepting agencies were able to do or did on 15 August 1998.** On the basis of evidence from an independent expert witness from a mobile communications service provider I am satisfied that, in 1998 it was neither possible to track mobile phones in real time nor to visualise the location and movement of mobile phones in the way that was shown in the Panorama programme. Information on the location of a mobile telephone only existed within the mobile phone network in respect of “communications events” – when a phone was switched on or off, or during a call, for instance – and even then would have been limited to information about the cell (the area covered by a particular mast) in which the phone was active. It is clear therefore that no intelligence or security agency or law enforcement agency did see or could have seen what was suggested by the Panorama programme in its representation. On the basis of this, and other material received by me, assertions in the programme that, if live monitoring was taking place, from 1250 hours the picture of a bomb run in progress should have begun to materialise, that those monitoring were seeing two cars, just like a bomb run heading towards Omagh, and that by 1420 hours on 15

August those monitoring should have been in little doubt about what was going to happen, are incorrect and unsupported by any evidence.

32. Assertions were made in the Panorama programme that GCHQ did not pass its intercepted intelligence to the Investigation Team to help the enquiry. I would repeat my conclusion in paragraph 27 as to the timely passing of any relevant material to RUC HQ and Special Branch South. As described in paragraph 23 above, **the arrangements in place at the time allowed for RUC Special Branch to make requests in respect of further dissemination of any GCHQ material that might have existed. The records show that no such request was made.** No police witness before me was aware of any request to GCHQ being refused and there was warm praise from the Head of Special Branch and the Regional Head of Special Branch South for the work done by GCHQ in Northern Ireland.

33. In addition to the provision of intelligence by Special Branch to the Investigation Team to which reference is made in the second sentence of paragraph 12 and which took place on 16 August, Special Branch South briefed the Investigation Team on the basis of an all-source intelligence picture on only two occasions. They were: on 20 August, when it identified to the Investigation Team those persons it believed to have been involved in the bombing, and on 9 September when it provided further details of those persons to the Investigation Team. The Garda was also similarly briefed by Special Branch South on 21 August. It was not part of the terms of my review that I should investigate, nor have I investigated, the reasons why Special Branch South acted in the cautious way it did, nor have I investigated the soundness of those reasons, although I do not doubt that Special Branch South took the actions it did for what it considered to be good operational reasons.

Acknowledgments

34. I cannot conclude my report without recording my thanks to all who have assisted me in my review. They include all who have made searches to provide documentation relating to the subject matter of the review, those who have provided statements for me and those who have allowed me to interview them. They also include the members of the PSNI who have so diligently helped me contact police officers past and present with relevant information. Special thanks are owed by me to members of my secretariat.