



**Public Statement by the Police Ombudsman pursuant
to Section 62 of the Police (Northern Ireland) Act 1998**

Relating to a public complaint:

**INVESTIGATION INTO POLICE CONDUCT
RELATING TO THE CIRCUMSTANCES OF
THE MURDER OF JOHN DEVINE ON 23
JULY 1989**

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1.0

Introduction

- 1.1. On Sunday 23 July 1989, at approximately 2:00pm, Mr John Devine, a married father of three, was murdered at his home in Fallswater Street, Belfast. Mr Devine and his 13 year old son, Sean, were alone in the house, when armed men entered through the unlocked front door and shot him a number of times at close range. He died at the scene.
- 1.2. The former Police Ombudsman for Northern Ireland, Nuala O'Loan, received a complaint from Mr Devine's son, Sean, in September 2005. This consisted of questions and concerns regarding the circumstances of his father's murder and the subsequent Royal Ulster Constabulary (RUC) investigation. It included an allegation that RUC officers may have '*colluded*' with loyalist paramilitaries in the murder of Mr Devine.
- 1.3. There was a delay between receiving this complaint and the commencement of the investigation. This was mainly due to the lack of resources available to this Office to investigate, and report on, historical cases. Successive Police Ombudsmen have been open about the challenges that face legacy investigations and have repeatedly spoken about significant periods of underfunding and limited resources to conduct and conclude these complex criminal investigations, which date back decades. This investigation was further delayed by lengthy criminal proceedings in respect of Person 1, who was charged with the murder of Mr Devine and a number of other offences. Person 1 died on 1 December 2023, and consequently, the criminal proceedings against him did not proceed any further.

- 1.4. From 1 May 2024, as a consequence of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (the Legacy Act), the Police Ombudsman's jurisdiction to investigate complaints about police conduct during the Troubles has ceased. The Police Ombudsman is, however, permitted to complete investigation reports and issue public statements in respect of investigations completed prior to 1 May 2024.
- 1.5. The investigation of complaints about historical matters is also challenging due to the passage of time and unavailability of relevant witnesses and documentation. Despite these challenges, substantial information has been gathered and 245 investigative actions generated. This investigation has reviewed over 900 documents, including the available RUC files, information held by the Police Service of Northern Ireland (PSNI), and additional material from the Ministry of Defence (MOD), the Northern Ireland Court Service (NICS), and the Coroners Service for Northern Ireland (CSNI).
- 1.6. Due to the passage of time, a number of police officers involved in the investigation of Mr Devine's murder are either deceased, declined to assist, or were unable to recall their roles in the investigation. However, over 20 assisted and provided accounts as to their roles, decisions, and actions during the relevant police investigation. I thank those who took the time to assist this investigation.
- 1.7. At the conclusion of this investigation, my predecessor, Dr Michael Maguire, considered whether it was necessary to submit a file of evidence to the Director of Public Prosecutions (DPP) in respect of any police officer's conduct.¹ As there was insufficient evidence to conclude that any police officer may have committed a criminal offence, Dr Maguire decided

¹ Police and Northern Ireland Act 1998 Section 58: Steps to be taken after investigation – criminal proceedings.
(1)The Ombudsman shall consider any report made under section 56(6) or 57(8) and determine whether the report indicates that a criminal offence may have been committed by a member of the police force.

that a file would not be required. 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.

- 1.8. In this public statement, I have identified failings regarding the actions of a number of RUC officers serving during the relevant period. However, given the passage of time, it has not been possible to identify all those responsible for actions or omissions highlighted by me. I have provided an opportunity for any identifiable officer, subject to potential criticism in this public statement, to respond. I have considered these responses and incorporated them into this public statement, where I consider it appropriate. Criticism levelled at any individual officer should not be taken to amount to an adjudication by me of any disciplinary wrongdoing on the retired officer's part: this is the sole jurisdiction of a disciplinary panel. As I have pointed out above, as all officers are now retired, no disciplinary proceedings are capable of being brought.
- 1.9. This document is a public statement detailing my reasons for actions, decisions, and determinations in respect of this complaint and related matters. The investigation conducted by my Office about RUC officer conduct and the allegations made by Mr Sean Devine are also detailed in this public statement.
- 1.10. I am grateful to the family of John Devine for their patience in awaiting the publication of this report. A key reason for the significant delay in this case was the protracted criminal proceedings initiated against Person 1 in respect of his involvement in the murder. To avoid any prejudice to those proceedings, this public statement was pended until they had concluded.

2.0

The Circumstances of John Devine's Murder

- 2.1. Mr Devine was 37 years old at the time of his murder. He was married, with three children, worked as a coalman, and lived in Fallswater Street, West Belfast. Fallswater Street, off the Falls Road, is a predominantly nationalist area adjacent to the loyalist 'Village' area of the Donegall Road. It was a warm, sunny day and many local residents were outside, enjoying the weather. On Sunday 23 July 1989, at approximately 11:45am, Mr Devine's wife had left for a day trip to Carnlough, County Antrim, with their younger two children while their eldest son, Sean, stayed with his father.
- 2.2. At approximately 1:40pm, two men entered the City Cabs taxi depot at Carlisle Circus, Belfast, and asked the depot receptionist, Witness A, for a taxi to take them to the Donegall Road. They then sat down in the public waiting area.
- 2.3. At approximately 1.45pm, their taxi, a blue Vauxhall Cavalier, arrived and the two men got into the back seat. They asked the taxi driver, Witness B, to take them to Richview Street, off the Donegall Road. When they arrived in Richview Street, the men asked Witness B to park near an alley that led to the Empire Social Club. A third man then got into the back seat of the taxi and a handgun was placed against Witness B's head. He was told to get out of the taxi and not to report its theft for a few hours or he and his family would *'suffer'*.
- 2.4. At approximately 2:00pm, Mr Devine and his 13 year old son, Sean, were at home when a number of armed men entered the house and told Sean

they were from the IRA and were taking over the house. Although Sean Devine believes that three armed men were involved, other witnesses stated that two men entered the address, while a third waited in a car outside.

- 2.5. The armed men then went into the living room, where Mr Devine was watching television, and shot him a number of times at close range. They then left the house and ran down Fallswater Street, where another man was waiting for them in the stolen taxi. It was driven away at speed, turning left onto Iveagh Street, then right onto the Donegall Road. It was last seen driving in the direction of the 'Village' area of the Donegall Road.
- 2.6. The emergency services were contacted, and police and ambulance personnel attended the scene a short time later. Upon arrival, a paramedic examined Mr Devine but could find no signs of life. Mr Devine was pronounced dead at 3:43pm. Police commenced a murder investigation. Mrs Devine returned home at 7:00pm to be informed that her husband had been murdered.
- 2.7. Witness C stated that she later observed the stolen taxi being parked on Olympia Drive, off Tates Avenue, in South Belfast. She stated that a man then got out of the car and ran off in the direction of Windsor Park football stadium. At 4:05pm, security forces found the stolen taxi abandoned in Olympia Drive.
- 2.8. On 24 July 1989, the Ulster Freedom Fighters (UFF)² claimed responsibility for the murder, stating, "*We assassinated an active member of the IRA terror machine late yesterday and will continue to do so against active members.*" Mr Devine's family refute that he was connected to any paramilitary organisation. Police Officer 1, a Detective Sergeant, told the

² Whenever it carried out a terrorist attack, the Ulster Defence Association (UDA) used the cover name of the Ulster Freedom Fighters (UFF) when claiming responsibility. The UFF was proscribed as a terrorist organisation in November 1973, but the UDA was not proscribed until August 1992. I consider that the UDA and UFF were the same organisation.

Coroner's Inquest there was no indication that Mr Devine had been involved in any paramilitary or republican activity.

- 2.9. On 25 July 1989, at approximately 10:05pm, the Protestant Action Force (PAF)³ claimed responsibility for the murder in a telephone call to the British Broadcasting Corporation (BBC). The male caller stated, *"This is the Protestant Action Force. We wish to claim responsibility for the killing of John Devine on Sunday. He was a well-known activist in the republican movement. This should serve as a warning."*
- 2.10. On 25 July 1990, the Coroner's Inquest into Mr. Devine's death was held. Witness depositions were heard from Sean Devine, Mrs Marian Devine, Witness B, and five other witnesses. Police Officer 1 informed the Inquest that the relevant postmortem examination had established that Mr Devine died due to *'bullet wounds of the head and trunk.'* He added, *"To date, a number of persons have been interviewed but no one has been made amenable for this murder."* Also, at the Inquest, Police Officer 1 told the Coroner that mistaken identity was a possibility. He said, *'the police do not believe that the deceased had any connection with the Republican movement. All our enquiries show that he was a respectable family man who socialised with both sides of the community. His coal round took him into both Protestant and Catholic areas, and we found no one there or where he worked at the coal quay who showed any animosity towards him. It is possible that this was a case of mistaken identity.'*

³ The Ulster Volunteer Force (UVF) often used the cover name of the Protestant Action Force (PAF) when claiming responsibility for a terrorist attack.

3.0

The Complaint and Scope of the Police Ombudsman Investigation

3.1. There has been a delay in concluding the investigation and issuing this public statement. This has been mainly due to the lack of resources available to my Office to investigate, and report on, historic cases. It is a matter of public record that successive Police Ombudsmen have raised the issue of chronic underfunding for legacy investigations during their time in office.

3.2. Sean Devine first contacted this Office in September 2005. My investigators subsequently recorded a statement of complaint from him, where he raised a number of questions and concerns regarding the actions of police before, and after, his father's murder. These were as follows:

Police Harassment of Mr Devine

3.3. Sean Devine alleged that, in the 18 months prior to his father's murder, Mr Devine was harassed by the security forces on a regular basis. This mainly happened when he was making coal deliveries. He was regularly stopped and questioned by police and military patrols, often in an abusive and aggressive manner. Members of the security forces would mix up the different types of coal he was delivering, meaning that it could not then be sold. Sean Devine stated that this harassment was unjustified, and his father had no links with any paramilitary organisation.

3.4. Sean Devine stated that, approximately two months before the murder, his parents were stopped in their car near Glenavy, County Antrim, by an Ulster Defence Regiment (UDR) patrol. He stated that, when stopped, a car containing three men pulled up alongside his parents and looked into their car before driving off again. He believed that these men were targeting his father and were involved in his subsequent murder.

3.5. Sean Devine stated that, on another occasion, police called to the family home to establish ownership of his father's car. During this visit, an unidentified police officer told his father, "*Well, you know we're keeping an eye on you, don't you?*" The police officer then gestured towards a military observation post at the top of the nearby Broadway Nursing Tower that overlooked the area.

Police Facilitated the Murder

3.6. Sean Devine stated that the security forces assisted Mr Devine's murderers by allowing them to enter and leave the Fallswater Street area undetected. He stated that there was usually a heavy security force presence in the area, but this was not the case on the day of the murder. He added that a security barrier at Broadway was left open to facilitate the murderers' escape, when normally it would have been closed at that time on a Sunday afternoon. This allowed the murderers to '*come and go with ease.*'

Police officers behaved in an unprofessional manner on the day of the Murder

3.7. Sean Devine stated that a number of police officers behaved in an unprofessional manner on the day of the murder. He stated that police officers were uncooperative and aggressive towards Fallswater Street residents at the scene, and one police officer offered to fight with them. Another police officer, who later recorded witness statements from

members of the Devine family, had little interest in what they were saying and seemed to be *'going through the motions'*. Sean Devine described this conduct as inadequate and unprofessional.

Suspect Identification

- 3.8. Sean Devine stated that, following his father's murder, police asked him to attend Grosvenor Road RUC Station to view a photo album of potential suspects. He stated that he viewed the photo album and identified one of his father's murderers, but police conducted no enquiries in respect of this positive identification. His uncle, who was with him at the time, later received a telephone call from police asking Sean Devine to attend an Identification Parade in Armagh, where they had detained three suspects. This identification parade did not proceed.

Family Updates and Unanswered Questions

- 3.9. Sean Devine stated, *'One of the main concerns of our family is the lack of contact we had with the murder investigation detectives. We were never kept up to date with developments. It seems that we were kept in the background and not important to their inquiries in my father's murder.'* They were left with a number of unanswered questions about the original RUC investigation. These were as follows:

- I. Who was arrested and what evidence was there linking them to Mr Devine's murder?
- II. What did any arrested individual say during police interviews?
- III. What was the ballistic history of the weapons used in the murder?
- IV. What did key witnesses tell police and were they shown suspect photograph albums or asked to attend Identification Parades?

- V. What intelligence did police hold in respect of the murder and identified suspects? and
- VI. Was the murder linked to the investigation conducted by Sir John Stevens regarding Brian Nelson?

Allegation of ‘Collusion’

3.10. Sean Devine stated in his September 2005 correspondence, *'My belief is that for operational, political, or more sinister reasons, my father's murder was at best not investigated in a professional or thorough manner and, at worst, there were elements within the RUC that actively thwarted such an investigation.'* In his January 2006 statement of complaint, he asked if there was *'collusion'* in his father's murder.

3.11. His complaint was accepted for investigation under section 52 of the Police (Northern Ireland) Act 1998 (the 1998 Act). The RUC (Complaints etc) Regulations 2001 (the 2001 Regulations) permit the Police Ombudsman to investigate public complaints, which are outside the normal time, namely made within twelve months of the alleged conduct, if they *'should be investigated because of the gravity of the matter or the exceptional circumstances.'* The former Police Ombudsman Nuala O'Loan was of the view that the complaint made by Sean Devine met this *'grave or exceptional'* definition and his complaint was accepted for investigation.

Definitions of ‘Collusion’

3.12. Allegations of *'collusion'* are a feature of this public complaint. In order to properly address this issue, I have considered the various definitions of *'collusion'* provided by the court, judges overseeing tribunals and inquiries, and former Police Ombudsmen. There is no definitive definition of *'collusion'*. *'Collusion'* has been described as *'having many faces.'*⁴ The

⁴ Dr Hannah Russell, *The Use of Force and Article 2 of the ECHR in Light of European Conflicts*, Hart Publishing, Oxford & Portland Oregon, 2017.

term has been described as being anything from deliberate actions to a more passive *'wait and see'* attitude or looking the other way and keeping a discrete, if not malicious, silence.⁵

3.13. A number of independent inquiries and investigations have sought to define or describe what constitutes *'collusion'*. In his first inquiry report into alleged *'collusion'* between paramilitaries and state security forces, in the commission of serious criminal offences, Lord Stevens stated that *'collusion'* can be evidenced in many ways and *'ranges from the wilful failure to keep records, the absence of accountability, the withholding of intelligence and evidence, through to the extreme of agents being involved in murder.'*

3.14. He further stated, *'The failure to keep records or the existence of contradictory accounts can often be perceived as evidence of concealment or malpractice. It limits the opportunity to rebut serious allegations. The absence of accountability allows the acts or omissions to go undetected. The withholding of information impedes the prevention of crime and the arrest of suspects. The unlawful involvement of agents in murder implies that the security forces sanction killings.'*⁶

3.15. *'The co-ordination, dissemination, and sharing of intelligence were poor. Informants and agents were allowed to operate without effective control and to participate in terrorist crimes.'*⁷

3.16. Canadian Judge Peter Cory was asked to investigate allegations of *'collusion'* by members of the British and Irish security forces in Northern Ireland in the commission of serious criminal offences and to report on his recommendations for any further action, such as whether a public inquiry was required. Judge Cory's investigation was carried out in the context of six particular cases, one of which related to the murders of two RUC

⁵ Alf Lüdtke, *Everyday Life in Mass Dictatorship: Collusion and Evasions*, Palgrave Macmillan, 2015.

⁶ Stevens Enquiry 3: Overview and Recommendations, Metropolitan Police Service, 2003, para 4.8.

⁷ Ibid, para 4.9.

officers, Chief Superintendent Harry Breen and Superintendent Bob Buchanan in March 1989. In his report, published in October 2003, he stated, *'How should collusion be defined? Synonyms that are frequently given for the verb to collude include: to conspire; to connive; to collaborate; to plot; to scheme; The verb connive is defined as to deliberately ignore; to overlook; to disregard; to pass over; to take notice of; to turn a blind eye; to wink; to excuse; to condone; to look the other way to let something ride.'*⁸

3.17. Judge Cory investigated allegations of 'collusion' in the context of a number of other murders, to determine if there was sufficient evidence to warrant public inquiries into the deaths. In his 2004 report into the murder of Patrick Finucane,⁹ he reprised his earlier definition of 'collusion,' adding that there must be public confidence in government agencies and that there can be no such confidence when those agencies are *'guilty of collusion or connivance.'*¹⁰ For these reasons, he was of the view that any definition of 'collusion' must be *'reasonably broad.'* He stated that *'army and police forces must not act collusively by ignoring or turning a blind eye to the wrongful acts of their servants or agents. Supplying information to assist them in their wrongful acts or encouraging them to commit wrongful acts. Any lesser definition would have the effect of condoning or even encouraging state involvement in crimes, thereby shattering all public confidence in these important agencies.'*¹¹

3.18. In his report into the murder of Robert Hamill, also published in 2004, Judge Cory defined 'collusion' as, *'...substantially the same as that set out in the Finucane case. The only difference is that in the Finucane case more than one Government agency was involved while in this case only one agency, the police force, was involved.'*¹²

⁸ Cory Collusion Inquiry Report: Chief Superintendent Breen and Superintendent Buchanan, The Stationery Office, 2003 para 2.55-2.56.

⁹ Cory Collusion Inquiry Report: Patrick Finucane, The Stationery Office, 2004.

¹⁰ Ibid para 1.39.

¹¹ Ibid para 1.39.

¹² Cory Collusion Inquiry Report: Robert Hamill, The Stationery Office, 2004 para 2.222.

3.19. He further stated, *'In the narrower case how should collusion be defined for the purposes of the Robert Hamill case? At the outset it should be recognised that members of the public must have confidence in the actions of Government agencies, particularly those of the police force. There cannot be public confidence in a Government agency that is guilty of collusion or connivance in serious crimes. Because of the necessity of public confidence in the police, the definition of collusion must be reasonably broad when it is applied to police actions. That is to say police forces must not act collusively by ignoring or turning a blind eye to the wrongful acts of their officers or of their servants or agents. Nor can the police act collusively by supplying information to assist those committing wrongful acts or by encouraging them to commit wrongful acts. Any lesser definition would have the effect of condoning, or even encouraging, state involvement in crimes, thereby shattering all public confidence in important Government agencies.'*¹³

3.20. Judge Cory then turned to consider whether the action or inaction of police either directly or indirectly contributed to the death of Mr Hamill. He stated, *'In this regard it is necessary to examine collusive acts which may have directly contributed to the killing by generally facilitating or encouraging or turning a blind eye...That is evidence may reveal a pattern or behaviour by a Government agency that comes within the definition of collusion. This evidence may add or form part of the cumulative effect which emerges from a reading of the documents. Both perspectives will be considered in determining whether the evidence indicates that there may have been acts of collusion by the police. However the aspect of a direct contribution by the police will have a greater significance of my consideration of what may constitute collusive acts in this case.'*¹⁴

3.21. *'The vital importance of the police force in the community as a whole and to the administration of justice cannot be over emphasised. The first*

¹³ Ibid, para 2.226.

¹⁴ Ibid, para 2.227.

*contact members of a community have with the justice system is through police officers. As members of the justice system, police officers must act judiciously. They must also strive to enforce and apply the law fairly, evenly, without bias or discrimination. It can never be forgotten that the role of the police is to serve and protect the entire community not just one segment of it.*¹⁵

3.22. The Smithwick Tribunal into the murders of Chief Superintendent Breen and Superintendent Buchanan was headed by Judge Peter Smithwick and was prompted by the recommendations of Judge Cory in his 2003 report on the murders. At the first public sitting of the Tribunal, on 16 March 2006, Judge Smithwick offered the following definition of ‘collusion’: *‘The issue of collusion will be considered in the broadest sense of the word. While it generally means the commission of an act, I am of the view that it should also be considered in terms of an omission or failure to act. In the active sense, collusion has amongst its meanings to conspire, connive or collaborate. In addition I intend to examine whether anybody deliberately ignored a matter, turned a blind eye to it, or to have pretended ignorance or unawareness of something that one ought morally, legally or officially to oppose.*¹⁶

3.23. In her book, *‘The Use of Force and Article 2 of the ECHR in Light of European Conflicts and Suspicious Deaths,’*¹⁷ Dr Hannah Russell offered Sir Desmond de Silva’s definition of ‘collusion’ from his report into the murder of Patrick Finucane as the preferred definition:

- I. *‘Agreements, arrangements or actions, intended to achieve improper, fraudulent or underhand objectives’; and*

¹⁵ Ibid, para 2.228.

¹⁶ Report of the Tribunal of Inquiry into Suggestions that Members of An Garda Síochána or other Members of the State Colluded in the Fatal Shootings of RUC Chief Superintendent Harry Breen and RUC Superintendent Robert Buchanan on 20th March 1989, The Stationery Office, 2013.

¹⁷ Dr Hannah Russell, *The Use of Force and Article 2 of the ECHR in Light of European Conflicts*, Hart Publishing, Oxford & Portland Oregon, 2017.

II. *Deliberately turning a blind eye or deliberately ignoring improper unlawful activity.'*

3.24. Sir Desmond de Silva stated the following in respect of 'collusion' and the activities of Brian Nelson ':

'Within six months of re-joining the UDA, therefore, Nelson had made a significant impact in increasing the UDA's targeting capacity. His FRU handlers had advance warning of Nelson's actions but appear to have placed no restrictions on his dissemination of targeting information...Over the next two years, Nelson's work as a FRU agent was characterised by his repeated dissemination of dangerous targeting information.'

3.25. *'Nelson's dissemination of targeting information across the UDA and the UVF was a sustained and consistent course of conduct. The manner in which he carried this out materially influenced the targeting capacity of both the UDA and UVF.'*

3.26. *'In terms of accountability, however, the most serious issue of all related to the failure of the RUC SB to respond to Nelson's intelligence. The RUC at this time enjoyed a primacy over other agencies in the exploitation of intelligence from all sources to protect individuals under threat.'*

3.27. *'Collusion must be considered to include members of the security forces knowingly providing information to terrorist groups intent on assassinating individuals.'*

3.28. *'In this context, I agree with the view expressed by Sir John Stevens in 1990 that: 'It must be acknowledged, that in the present climate, leakages of information from the security services may never be completely eliminated.'*

- 3.29. *'...270 separate instances of assistance provided by members of the security forces to loyalist paramilitaries during the period 1987 to September 1989.'*
- 3.30. Previous Police Ombudsmen have relied on the Judge Cory and Judge Smithwick definitions of *'collusion'* when applying them to the facts of particular murders of the 'Troubles'. Former Police Ombudsman Al Hutchinson described *'collusion'* as something that may or may not involve a criminal act. I broadly concur with their views. I am also mindful of the judgment of the then Lady Justice Keegan¹⁸ at paragraph 44 of *Re Hawthorne and White's Application*. She stated, *'Collusion is another feature of the historical landscape. Whilst this term denotes sinister connections involving State actors it is not a criminal offence in itself. It has also been notoriously difficult to achieve a universal, accepted definition. In this case the definition adopted was that of Judge Smithwick which frames the concept in the broadest sense emphasising that it includes legal and moral responsibility.'*¹⁹
- 3.31. In the matter of an application by John McEvoy for judicial review, Mr Justice Humphries stated at paragraph 37, *'In the instant case, the investigation of the material relevant to the issue of collusion and referenced in the PONI report and the documentary will only be carried out long after the critical date. This will necessarily engage with the question as to whether there was state collusion in the attack and/or collusive behaviour in the carrying out of the original investigation.'*²⁰
- 3.32. He continued at paragraph 42, *'The article 2 investigative obligation exists to protect the rights of individual victims but also to secure the wider public interest not only in the exposure of culpable conduct but also the maintenance of confidence in the rule of law. Allegations of collusion by*

¹⁸ Appointed as The Right Honourable Dame Siobhan Keegan, Lady Chief Justice of Northern Ireland (September 2021).

¹⁹[2018] NIQB 94, at para 44.

²⁰ [2022] NIKB 10, at para 37.

*security forces in the deaths of citizens bring this issue into particularly sharp focus. A failure by the state to investigate such allegations, promptly and effectively, can only serve to either reinforce the claims of collusion or, at best, signify a tolerance of collusive behaviours in the past. In this regard, see the decisions of the ECtHR in El-Masri v Macedonia [2013] 57 EHRR 25 at paras [191] to [193] and Al Nashiri v Romania [2019] 68 EHRR 3 at para [641].*²¹

3.33. I have carefully considered each of the definitions and am aware that there are areas of overlap and also different emphases. While these definitions are useful, I recognise that there is no definitive definition of ‘*collusion*’, and where consideration of the issue by me is required, I am constrained by the provisions in Part VII of the Police (Northern Ireland) Act 1998. However, I have identified a number of common features, as follows:

- I. ‘*Collusion*’ is context and fact specific;
- II. It must be evidenced but is often difficult to establish;
- III. ‘*Collusion*’ can be a wilful act or omission;
- IV. It can be active or passive (tacit). Active ‘*collusion*’ involves deliberate acts and decisions. Passive or tacit ‘*collusion*’ involves turning a blind eye or letting things happen without interference;
- V. ‘*Collusion*’ may, by its nature, involve an improper motive but in the context of police conduct, these would be issues for a court or a properly constituted disciplinary panel to adjudicate on;
- VI. If proven, ‘*collusion*’ can constitute criminality or improper conduct (amounting to a breach of the ethical Code of the

²¹ Ibid, para 42.

relevant profession). I am not empowered to adjudicate on whether any evidence of ‘*collusion*’ amounts to either a criminal or disciplinary offence; and

VII. Corrupt behaviour may constitute ‘*collusion*’.

3.34. In the context of my role as Police Ombudsman, I am mindful that different Ombudsmen have applied varying definitions of ‘*collusion*’ to the facts of each complaint or case. I do not intend to rehearse all of these definitions, but I am in favour of broad definitions encompassing ‘*collusive behaviours*,’ by which I mean behaviours indicative, but not determinative, of ‘*collusion*’ in the criminal or disciplinary sense. This applies to acts and omissions, which can encompass collaboration, agreements, or connivances. It can also include the more passive ‘*turning a blind eye*’.

3.35. In June 2016, my predecessor, Dr Michael Maguire, applying the Smithwick definition, found that ‘*collusion*’ played a significant role in respect of police actions concerning the murders of six men at the Heights Bar, Loughinisland, on 18 June 1994.

3.36. His public statement was challenged as being ‘*ultra vires*’ by the Northern Ireland Retired Police Officers Association (NIRPOA). Following prolonged legal proceedings, the Northern Ireland Court of Appeal delivered its judgment on 18 June 2020. It was determined that the role of the Police Ombudsman, as provided for in Part VII of the 1998 Act, was investigatory, and not adjudicatory, in nature. Decisions as to whether a police officer’s actions amounted to criminality or misconduct were decisions for other forums such as the criminal courts or a disciplinary panel.

3.37. Paragraph 40 of the judgment stated, ‘*It is clear that the principal role of the Ombudsman is investigatory. The complaint defines the contours 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. Once he makes such a recommendation he has no role thereafter apart from supplying information on request.*²²

3.38. The Court, in explaining the legal framework in the 1998 Act, outlined at Paragraph 43, stated, *‘That framework specifically excluded any adjudicative power for the Ombudsman in the determination of criminal matters or disciplinary 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 would be undermined if the Ombudsman was entitled to use section 62 as a vehicle for the making of such findings. We agree that the 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.*²³

3.39. 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*

²² Re Hawthorne and White’s Application for Judicial Review. [2020] NICA 33, para 40.

²³ Ibid, para 43.

*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.*²⁴

3.40. In relation to the Police Ombudsman's role in deciding on a case where there was a complaint by the family of 'collusion,' the Court clarified at paragraph 63 as follows: *'Apart from the passages set out at paragraph 4.200, 9.9 and 9.40 the nine chapters of the substantive PS provide what the Ombudsman stated at paragraph 1.12, namely as comprehensive a narrative as possible. The determinations he made in the three offending paragraphs were not in our view decisions or determinations to which section 62 applied and overstepped the mark by amounting to findings of criminal offences by members of the police force. The remaining paragraphs were part of the narrative. We do, however, accept that in light of the families' complaint in the context of Article 2 it would have been appropriate for the Ombudsman to acknowledge the matters uncovered by him were very largely what families claimed constituted collusive behaviour.'*²⁵

3.41. It is my view that 'collusion' is conduct between at least two individuals and, in cases of state 'collusion,' one of the individuals must be a representative or agent of government. 'Collusion' or 'collusive behaviours' by police officers, in the absence of a correlation to the commission of a criminal or disciplinary offence, is no more than conduct, either by its nature or circumstances, that is of a type demanding, requiring, or

²⁴ Ibid, para 55.

²⁵ Ibid, para 63.

deserving of inquiry. Where the conduct forms part of a criminal or disciplinary offence it is, on its face, capable of amounting to proof of this. In such circumstances, I can recommend prosecution and/or disciplinary proceedings are brought or subsequently report on my reasons for making such recommendations.

3.42. My interpretation of the Loughinisland 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. This investigation, having established the detailed narrative based on the complaint, can conclude whether the evidence identifies '*collusion*' or '*collusive behaviours*' on the part of police, as alleged. Findings as to the existence of evidence of '*collusion*' or '*collusive behaviours*,' particularly where there is no relationship with a criminal or disciplinary offence, are not determinations of conduct amounting to either the commission of a criminal offence or professional misconduct (I have made appropriate recommendations, where I am satisfied that there is evidence to support this) but that there was some evidence of '*collusion*,' '*collusive behaviour*,' or behaviours falling short of the commission of a crime or disciplinary offence to justify bringing criminal or disciplinary proceedings.

3.43. Discrete '*collusive behaviours*' may be indicative of '*collusion*' but do not, individually or cumulatively, amount to '*collusion*,' and even then, in the absence of the identification of a criminal or disciplinary offence, may provide evidence to be considered by others in deciding whether to institute criminal or disciplinary proceedings. Where the evidence falls short of enabling a recommendation, I consider my role, as one of the public authorities responsible for discharging the state's article 2 obligations, having given any persons who might be adversely affected the right to provide their comments, is to set out my findings on whether the actions of police (including inaction) were indicative of '*collusion*' or '*collusive behaviour*'. This will not include findings of criminal or disciplinary behaviour. By doing so, this provides some remedy to the complainant,

state accountability, and the opportunity for lessons to be learned or past mistakes to be acknowledged.

3.44. Following the Loughinisland judgment, a further challenge was brought by the NIRPOA to the limits on what can be said in a public statement issued under section 62 of the Police (Northern Ireland) Act 1998. On 6 February 2025, Mr Justice Scofield handed down judgment in *Re: Fitzsimons and others Application* [2025] NIKB 7. Scofield J held:

- I. A finding of ‘*collusion*,’ even where no related criminal offence is identified, ‘*almost certainly represents a finding that police misconduct has occurred*’ and is ‘*highly likely*’ to amount to a finding that a criminal offence has been committed;
- II. The Court of Appeal in the Loughinisland case did not make it permissible for me to make findings of ‘*collusive behaviour*,’ but I was entitled to set out ‘*certain facts*’ as part of my narrative;
- III. I could confirm in appropriate cases that my investigation ‘*supported the occurrence of facts upon which the complainants relied, and which founded their belief that there was collusion*’;
- IV. However, I was not permitted to express ‘*any qualitative view*’ of my own on this issue;
- V. I may ‘*nonetheless...provide a narrative which includes a measure of fact-finding*’;
- VI. In article 2 cases, a ‘*more fulsome explanation of the investigation and its results*’ is permissible; and
- VII. A public statement provides an avenue for me to explain what I have done and the referrals and recommendations I made (or would have in certain circumstances), and the reasons for those, but does not allow me to ‘*make or publish determinations in substance as to allegations of misconduct or criminal conduct.*’

- 3.45. I have, after careful consideration and consultation with my Chief Executive and legal team, determined that I should appeal the decision in *Re: Fitzsimons and others Application*. However, until such time as this appeal is determined, I will attempt to follow the ruling of Scofield J in this case.
- 3.46. In light of this, my views, in respect of the complaints that instigated this investigation, are outlined later in this public statement.

4.0

Intelligence

- 4.1. It is important to clarify that, in general, intelligence is not initially treated as evidence by the police even if it would be presumptively admissible in later legal proceedings. 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 utilised. It can allow the Senior Investigating Officer (SIO) to initiate and develop lines of enquiry that are capable of progressing the overall investigative strategy. These lines of enquiry may, in turn, generate further evidential opportunities outside the intelligence gathering processes.
- 4.2. Intelligence sources are many and varied and can include information provided by an informant, an anonymous caller, or an identified member of the public. Intelligence sources can be reliable or unreliable, but all intelligence needs to be corroborated to strengthen its value.
- 4.3. Sir Desmond de Silva, in his report relating to the murder of Patrick Finucane on 12 February 1989, commented on the activities and impact of the UDA's Intelligence Officer at the time, Brian Nelson. He stated, *'...Nelson relied on a wider variety of leaked information from a number of individuals within the UDA who had their own security force contacts.'*
- 4.4. *'Nelson's intelligence dump itself illustrated the scale of the leak of security force information reaching the UDA. A large quantity of the information in the dump clearly originated from the security forces.'*
- 4.5. *'It is clear that there were extensive 'leaks' of security force information to the UDA and other loyalist paramilitary groups...Such leaks were not*

institutional nor systemic, though they could be certainly described as widespread.'

- 4.6. This investigation examined the intelligence that was available to the RUC prior to, and following, Mr Devine's murder. This was to establish whether intelligence existed that, if acted upon, could have prevented his murder. This investigation also sought to establish whether relevant intelligence was shared by RUC Special Branch to assist police investigating the murder.
- 4.7. Person 1, when interviewed as part of Boston College's 'Belfast Project,' stated that, from the late 1980s onwards, loyalist paramilitaries were receiving intelligence from members of the security forces that was then used for targeting purposes. He stated that this was '*collusion*' but it was being carried out by individual members of the security forces and was not a co-ordinated organisational issue. He stated that the intelligence was detailed, accurate, and was '*coming in left, right, and centre...like confetti.*'

The Bellevue Street Find

- 4.8. On 1 September 1987, police recovered weapons and documentation from an address in Bellevue Street, off the Shankill Road, in West Belfast. The relevant documentation was examined for fingerprint marks and those belonging to a relative of the house owner were recovered. This individual was arrested and stated, during police interview, that the documentation formed part of a loyalist intelligence cache that he had been storing at the address, without the knowledge of the house owner. This individual was subsequently convicted of a number of criminal offences, including a murder in 1984, and received a lengthy prison sentence. None of these offences related to the murder of John Devine.

The Rockview Street Find

- 4.9. On 6 October 1988, police recovered firearms, ammunition, and documentation from a house in Rockview Street, off the Donegall Road in South Belfast. This was as a result of information received from a member of the public. The recovered documentation contained loyalist intelligence files on known republicans and other members of the nationalist community. A number of the seized documents subsequently formed part of the Stevens Inquiry²⁶ and were attributed to Brian Nelson.²⁷
- 4.10. One of the documents referred to a 'John Devine'. Although the date of birth on the document matched that of the deceased, the corresponding address and photograph were not those of Mr Devine. My investigators showed Mrs Devine the relevant photograph, who confirmed it was not her husband. The address related to another individual with the same surname as Mr Devine.
- 4.11. In March 1990, following his arrest in January 1990, investigators from the Stevens Inquiry Team interviewed Brian Nelson in prison. During this interview, he was shown the 'John Devine' document recovered during the search of the Rockview Street property on 6 October 1988. When shown it, he stated that he had created the relevant document and attached the photograph to it.

²⁶ The Stevens Inquiries were three police inquiries that investigated allegations of '*collusion*' in Northern Ireland between loyalist paramilitaries and the security forces. In September 1989, Sir Hugh Annesley, the then RUC Chief Constable, commissioned the first inquiry, following the sectarian murder of Loughlin Maginn the previous month.

²⁷ Brian Nelson was a loyalist paramilitary who, according to the Sir Desmond de Silva report, worked as an agent for the army's Force Research Unit (FRU) in the 1980's, while a member of the UDA. Sir Desmond de Silva investigated state collusion in loyalist killings and Brian Nelson is referenced extensively in his report. He operated in the role of an Intelligence Officer for the UDA, compiling information on republican targets. He passed this intelligence to the UDA and other loyalist paramilitaries. In 1992, he was convicted of terrorist offences, including conspiracy to murder and possession of information likely to be of use to terrorism.

- 4.12. At the Inquest, Police Officer 1 stated he believed Mr Devine may have been the victim of mistaken identity. Although my investigation has established that the RUC considered whether Mr Devine may have been a victim of mistaken identity, there are no records within the police murder investigation papers which clarify the outcome of their enquiries in respect of this matter.
- 4.13. During a search of offices at Grosvenor Road PSNI Station for relevant police material, my investigators located the same document recovered at Rockview Street. This document was part of another loyalist intelligence cache recovered by police on 1 September 1987 during a search of a property in Bellevue Street, off the Shankill Road in West Belfast. Again, although the date of birth on the document matched that of the deceased, the corresponding address and photograph were not those of Mr Devine.
- 4.14. The documentation seized at Rockview Street was examined for fingerprint marks by police and Person 3's fingerprints were identified. He was arrested in February 1989 and subsequently charged with Possession of Information Likely to be of Use to Terrorists and Possession of a Firearm. However, following a review of the case, the DPP later withdrew the charges against Person 3.
- 4.15. Three other individuals, Persons 4, 5, and 6, were arrested by police in October 1989 in relation to the Rockview Street find and other matters. They all denied any involvement and were later released without charge.
- 4.16. The Rockview Street investigation was referred to the Stevens Inquiry, who carried out further forensic examinations of a number of items seized. This resulted in Persons 3, 4, 5, and 6 being arrested again in January 1990, in addition to Person 7. They were all subsequently charged with offences relating to the find. Persons 3, 4, 5, and 6 were on

a list of 36 persons of interest generated by police during the investigation of Mr Devine's murder.

4.17. My investigators reviewed the relevant police interview records and established that only Person 2 and Person 3 were interviewed under criminal caution about Mr Devine's murder. When arrested and interviewed by police in December 1989, Person 2 stated that he had no knowledge of the murder. In January 1990, Person 3 was arrested and interviewed under criminal caution about a number of non related matters. He refused to answer any questions put to him by police, including those relating to Mr Devine's murder.

4.18. In November 1989, two police officers attached to the Stevens Inquiry, Stevens Inquiry Officer 1 and Stevens Inquiry Officer 2, attended Lisburn Road RUC Station, where they met with Police Officer 5 at the RUC Collator's Office²⁸ regarding Person 2. At that stage, Person 2 was regarded as a suspect in respect of the Rockview Street find. During this enquiry, the Stevens Inquiry officers informed Police Officer 5 that Person 2 resembled one of the photofit images circulated after Mr Devine's murder. In early November 1989, Stevens Inquiry Officer 1 submitted a report to his authorities stating that the relevant photofit image was '*almost identical to the photo of [Person 2].*' My investigators recorded witness statements from Stevens Inquiry Officer 1 and Stevens Inquiry Officer 2 but neither could recall the relevant enquiry. My investigators also identified Police Officer 5, but he did not co-operate with this investigation.

The Coal Yard and Christmas Party Incidents

4.19. Following the murder, police received information from identified members of the public that Mr Devine had an argument with Person 1 at

²⁸ A Collator was a police officer, attached to each police station, who gathered and disseminated local intelligence. They would have acted as a conduit between Special Branch and uniformed police.

a Belfast coal yard, where Mr Devine had punched Person 1. Information was also received that the two men initially '*fell out*' after Mr Devine had refused to stand for 'God Save The Queen' at the end of a coal yard Christmas party.

4.20. Following Mr Devine's murder, police spoke to a number of individuals regarding the alleged incidents at the coal yard and the Christmas party. These were primarily obtained from coal yard staff or 'coal men' who bought their coal at the yard. These enquiries proved inconclusive regarding what, if anything, occurred at either location and the nature of the relationship between Mr Devine and Person 1.

4.21. My investigators, when reviewing the available RUC investigation papers, identified a list of the individuals who attended the Christmas party. This established that police did not interview all those who attended the party, including Mrs Devine. When spoken to by my investigators, she stated that her husband had refused to stand for 'God Save The Queen' at the end of the night, but there had been no argument. She added that Mr Devine told her that Person 1 and he had once been involved in a '*scuffle*' at the coal yard.

Pre-Incident Intelligence

4.22. This investigation did not identify any intelligence, specific to Mr Devine that, if acted upon, would have been capable of preventing his murder.

Post Incident Intelligence – Person 1 – July 1989

4.23. Special Branch received intelligence that Person 1 was involved in Mr Devine's murder and that it was carried out by the Red Hand Commando (RHC). This intelligence was marked as '*Not for Downward*

Dissemination' (NDD)²⁹ by Special Branch. My investigators found no record that it was shared with the murder investigation team.

4.24. Following the murder, Special Branch received intelligence stating that, on 20 July 1989, Mr Devine and Person 1 had been involved in a physical fight at a coal yard after which Person 1 had threatened to have Mr Devine shot. The intelligence stated that the two men were '*old enemies*'. This intelligence was marked as NDD by Special Branch. My investigators found no record that it was shared with the murder investigation team.

4.25. Special Branch also received intelligence that Mr Devine and Person 1 had fought at the coal yard, following which Person 1 told Mr Devine that he would '*get him for this*'. This was part of a '*long-running feud*' between the two men. This intelligence was marked as NDD by Special Branch. My investigators established that it was shared with the murder investigation team.

Post Incident Intelligence – Person 1 – Post-July 1989

4.26. In August 1989, Special Branch forwarded the murder investigation team a number of intelligence reports considered relevant to the investigation. One of these stated that Person 1 was responsible for the murder, which followed an incident at a coal yard in April 1989 when he had threatened Mr Devine following a physical altercation between them. The report concluded that Person 1 was a member of the RHC. The murder investigation team liaised with Special Branch in an effort to obtain more details about this, but Special Branch could provide no further information.

²⁹ NDD stands for No Downward Dissemination. However, this does not mean that intelligence was not disseminated. Documents from the time indicated that intelligence marked NDD could only be viewed by senior officers, including Chief Superintendents and their deputies, in the appropriate region where the offence had taken place. Intelligence marked NDD was not circulated to local CID officers to act upon without prior consultation with senior officers. This was to ensure that the source of the intelligence was protected and not put in danger, prior to any arrests, or other action, taking place.

- 4.27. In August 1989, police received further intelligence that Mr Devine had been murdered by the RHC after being '*targeted*' by Person 1. The intelligence added that Person 1 was concerned that republican paramilitaries now knew his name.

Other Intelligence

- 4.28. In July 1989, Special Branch received intelligence that a RHC unit from 'The Village' murdered Mr Devine and named two of the individuals involved. This intelligence was shared with the murder investigation team, who established that one of the named individuals was Person 3, who was then added to the list of 36 persons of interest. Police identified the other individual as Person 8, but my investigators found no record of any further enquiries being conducted by police in respect of him. Further, this investigation has established that Person 8 was not added to the list of 36 persons of interest.
- 4.29. In July 1989, Special Branch received intelligence that Person 9, known to them as a loyalist paramilitary, may have been involved in Mr Devine's murder. This intelligence was marked as NDD by Special Branch. My investigators found no record that it was shared with the murder investigation team and Person 9 was not added to the list of persons of interest.
- 4.30. In early August 1989, Special Branch received intelligence providing the surname of an individual was involved in the murder following a fight with Mr Devine at the coal yard. This individual, who was not Person 1, was believed to be a loyalist paramilitary. My investigators established that this intelligence was shared with the murder investigation team, who conducted research as to the identity of this individual. This research concluded that the individual could be either Person 10 or Person 11.

4.31. In late August 1989, Special Branch received intelligence that *PIRA* were seeking to kill two named individuals, Person 12 and Person 13, in retaliation for Mr Devine's murder. This intelligence was marked as NDD by Special Branch. My investigators found no record that it was shared with the murder investigation team.

5.0

The RUC Investigation into the Murder of John Devine

Initial Police Action

- 5.1. In 1989, policing in Belfast took place within a highly volatile and violent environment. That year, a total of 81 individuals lost their lives in the conflict. The fatalities included 38 civilians, 9 police officers, 26 members of the army and 6 individuals identified as paramilitaries. Responsibility for 57 deaths lay with republican paramilitaries and loyalist paramilitaries killed 19 people. Two deaths were attributed to the security forces. In the three months preceding the murder of Mr Devine, there were six other reported murders in Belfast, including that of solicitor Patrick Finucane in North Belfast in February. In the three months following his death, a further four murders occurred. This illustrates the consistently high level of violence that police were dealing with during 1989.
- 5.2. The RUC investigation's Serious Incident Log has not been located although it is referred to in other RUC investigation papers viewed by my investigators. The absence of these documents coupled with the lead investigators' inability to recollect their investigation has meant that I am unable to determine what impact the policing context of 1989 had upon Mr Devine's murder investigation.
- 5.3. Upon being notified by Ambulance Control of a shooting in Fallswater Street at 2:00pm, the first police officers to attend the scene arrived at 2:10pm. The scene was identified, secured, and a Serious Incident Log was commenced. Various RUC agencies attended the scene, including

Scenes of Crime Officers (SOCO), Photography, and Mapping. A number of senior police officers and the military also attended, and searches as well as house-to-house enquiries were initiated in the adjacent area. The scene was also forensically examined.

5.4. On 23 July 1989 at 2:10pm, an RUC radio transmission circulated the Vehicle Registration Mark (VRM) of the vehicle believed to have been used in the attack as TIA 6135; this VRM was incorrect. At 2:20pm, the military were made aware of the incident, when a radio transmission informed all patrols in the area that a blue Vauxhall Cavalier car, linked to the murder, with three males on board, was last seen heading citywards. At this time, the car's VRM was correctly circulated as TIA 3155.

5.5. An investigation team was established to investigate Mr Devine's murder. A Major Incident Room (MIR) was set up at Grosvenor Road RUC Station. 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). The Senior Investigating Officer (SIO), Police Officer 2, was supported by Police Officer 3, a Deputy Senior Investigating Officer (DSIO). A dedicated enquiry team was formed; however, due to the absence of relevant RUC documentation, my investigators have been unable to definitively establish the number of police officers involved in the murder investigation. My investigators reviewed the available police documentation and established that 103 investigative actions were allocated to nine police officers during the course of the RUC investigation.

5.6. This investigation engaged with Police Officer 2 and Police Officer 3, both now retired, but they stated that they could not assist as they had no recollection of Mr Devine's murder or the subsequent police investigation. PSNI confirmed to my investigators that they were unable

to locate the police journals or policy records of either officer. Police Officer 3 later confirmed to my investigators, as part of the Maxwellisation process, that he was not responsible for the retention and storage of police records.

- 5.7. Police Officer 4 was referred to within police documentation as a senior detective who attended the scene after the shooting. My investigators established that he was the senior detective on duty in the area at the time of the murder. Following that, he had no further involvement in the police investigation. Police Officer 4 did not assist this investigation. The PSNI were unable to provide any relevant police journal or policy records relating to him.

Postmortem Examination

- 5.8. A postmortem examination established that Mr Devine died as a result of *'bullet wounds to the head and trunk'*. The injuries he sustained would have been *'rapidly fatal'*. He had been shot eight or nine times. The examining pathologist could not determine whether an injury to Mr Devine's forearm was caused by a ninth bullet or a bullet that had previously passed through his body. It was likely that a number of the shots were fired when Mr Devine was on the ground.

Ballistics

- 5.9. Police recovered eight bullets that were submitted for forensic examination. These examinations established that six of them were .455 calibre bullets that had been fired from a Smith & Wesson type revolver with no history of previous use. It was later used in an attempted murder in the Greater Belfast area in February 1991. The other two bullets had been fired from a Webley type revolver that had no history of previous, or subsequent, use. Neither weapon has ever been recovered.

- 5.10. My investigators reviewed the RUC murder investigation papers in relation to the attempted murder in February 1991 but could find no further connection between it and Mr Devine's murder, other than both involved stolen taxis. An investigative action was raised, during the RUC investigation, to ascertain whether there were any links between the two attacks. My investigators were unable to establish the outcome of this line of enquiry.

CCTV Enquiries

- 5.11. My investigators established that there was no CCTV in the Fallswater Street area in July 1989. There was CCTV at the nearby Royal Victoria Hospital, but this was for monitoring purposes only and did not record any images. Similarly, there was no CCTV in the Broadway, Donegall Road, or Olympia Drive areas that could have captured the stolen taxi leaving the scene of the murder before being abandoned at the latter location.
- 5.12. In July 1989, the military had an observation post at the top of the Broadway Nursing Tower, overlooking Fallswater Street. My investigators established that Police Officer 1 was tasked to conduct an enquiry with military personnel, who would have been staffing the observation post at the time of Mr Devine's murder. None of these military personnel witnessed the murder.
- 5.13. Following the murder, a military spokesperson informed the media that, *'If the Army had any information or evidence which was relevant, this would be handed over to the RUC.'*

Fingerprints

Fallswater Street

- 5.14. Immediately after the murder, a number of people entered Mr Devine's house before the arrival of police. My investigators established that none of them were subsequently asked by police to provide their fingerprints for elimination purposes. RUC Fingerprints Branch requested that elimination prints be obtained from members of Mr Devine's family. This investigative action was allocated to Police Officer 6. While elimination prints were obtained from Sean Devine, there is no record of them having been obtained from other family members.
- 5.15. A forensic examination identified six fingerprint marks on the outer side of Mr Devine's front inside door. Three of these marks had sufficient detail to be compared against the fingerprint marks of suspects. However, these marks were only compared against the fingerprint marks of three individuals, of whom only one, Person 2, was on the list of 36 persons of interest. All three comparisons proved negative.
- 5.16. This investigation has been unable to establish the relevance of the other two individuals to the police investigation. My investigators were unable to identify any evidence or intelligence linking them to Mr Devine's murder.
- 5.17. My investigators reviewed correspondence from RUC Fingerprints Branch to the murder investigation team, dated 12 September 1989. This stated that the three relevant fingerprint marks were available for comparison against other persons of interest. At that time, RUC Fingerprints Branch held the fingerprints of all 36 persons of interest. My investigators found no record that the three fingerprint marks found on the door were compared against any of the remaining 35 persons of interest.

Witness B's Taxi

- 5.18. Ten fingerprint marks were recovered from Witness B's taxi. These were submitted to RUC Fingerprints Branch. On 25 July 1989, a member of RUC Fingerprints Branch contacted Police Officer 2, informing him that *'good quality'* fingerprints had been recovered from Witness B's taxi. They requested elimination prints from Witness B and a list of 36 persons of interest. Police obtained elimination prints from Witness B. The ten fingerprint marks were compared against 17 of the 36 persons of interests. They were also compared against two individuals not included on the list of 36 persons of interest. All 19 comparisons proved negative.
- 5.19. The fingerprint marks of these 19 individuals were not compared against the marks recovered from Mr Devine's front door. RUC Fingerprints Branch stated that this was because of an *'administrative error.'*
- 5.20. This investigation has been unable to establish why the fingerprint marks of some persons of interest were compared against those recovered from Witness B's taxi, but others were not. The available RUC documentation contained no explanation for this.

The Taxi Depot

- 5.21. My investigators could find no record of a fingerprint examination at the Carlisle Circus taxi depot, despite the taxi used in Mr Devine's murder having been ordered at this location by two men.
- 5.22. This investigation found no record that police submitted additional fingerprint marks to RUC Fingerprints Branch for comparison with marks recovered during the relevant forensic examinations.

Forensic Examinations

Witness B's Taxi

- 5.23. Witness B's taxi was conveyed to the Northern Ireland Forensic Science Laboratory (NIFSL) for forensic examination. On 22 May 1990, a NIFSL scientist forwarded correspondence to Police Officer 2, stating that a number of tape lifts had been taken from the taxi. A planed wood shaving had also been recovered from the driver's footwell and a number of cigarette butts from the ashtray. The scientist stated, *'Nothing further has been received for comparison with the remaining items and these will be returned.'*
- 5.24. There is no record that the cigarette butts recovered from the taxi were ever the subject of DNA examination. DNA profiling was not introduced in Northern Ireland until 1996, but its processes were being studied by NIFSL from 1992. Therefore, as the exhibits have not been preserved, this evidential opportunity has now been lost.
- 5.25. On 23 July 1989, police seized the clothing that Witness B had been wearing on the day of the murder. It was forensically examined but nothing of evidential value was found.

RUC Approach to Witnesses

Statement of Sean Devine – 25 July 1989

- 5.26. Sean Devine was at home with his father on 23 July 1989. He stated that he was about to go out and get some food, when they heard a knock at the front door. He went into the hall to answer the door, but before he could, three men opened it and walked into the living room, where his father was sitting. He stated that the men said they were 'IRA' and that

they were taking over the house. He stated that the first man was carrying a *'dull silver coloured revolver'*.

5.27. Sean was still in the hall when he heard a gunshot. He immediately ran from the house shouting for help. He heard two or three more shots, and then, a matter of seconds later, saw three men run out of his house and down the street, where they got into a waiting blue Cavalier with the VRM TIA 3155.

5.28. He then ran back into the house and found his father lying on the floor, bleeding from a wound to his right side. He phoned '999' from the telephone that was in the living room. The telephone was then taken from him by a neighbour, who had entered the house, and he was taken outside by someone else.

5.29. Sean described the first man who entered the house (carrying the gun) as approximately 5'5" tall with short, spikey fair hair, clean shaven, normal build, and aged between 25-30 years old. He stated that the man was wearing a shirt and a pair of trousers. Sean described the second man as taller than the first, approximately 5'9"-5'10" tall, with dark, spiked collar length hair, and aged in his mid-thirties. He stated that he was normal build, had stubble, and was wearing trousers and a long sleeved top of some sort. He could not describe the third man.

Statement of Mrs Marian Devine – 17 August 1989

5.30. Police recorded a statement from Mrs Devine on 17 August 1989. It read, *'I am the wife of John Devine who was murdered on Sunday 23 July 1989. I last saw John alive at about 12.45pm on that date and he was fit and well.'*

Statement of Mrs Marian Devine – 23 November 1989

- 5.31. Mrs Devine stated that she was married to John Devine, and they had three children, aged 13, 10, and 3 years old. On 23 July 1989 at approximately 12:30pm, she had left home and taken her two youngest children to the seaside. Her eldest son, Sean, and her husband had stayed at home.
- 5.32. At 7:00pm, Mrs Devine returned to her home in Fallswater Street and was told by her sister that her husband had been murdered. When she had left home that day, Mr Devine was reading the paper and her Sean was watching television.

Statement of Witness A

- 5.33. Witness A provided police with descriptions of the two men who entered the City Cabs depot and asked for a taxi to take them to the Donegall Road. She described one of the men as, *'fat build about 6 feet in height he had dark brown long hair which came to his collar at the back he also had a dark brown thick moustache which came to the bottom of his upper lip he was about 25-26 years of age. He had a white round necked tee shirt (plain white) and I think he had blue jeans on.'*
- 5.34. She described the second man as, *'5'2" to 5'3" tall thin build about 22-23 yrs of age he was wearing blue jeans with a denim jacket on and a dark brown checked peaked cap.'*

Statement of Witness B

- 5.35. Witness B provided police with descriptions of the two men that he collected from the taxi depot and then drove to the Empire Social Club. He described one of the men as aged in his late twenties or early thirties, *'medium height,'* with collar-length fair hair. He was wearing a black

'bomber-type' leather jacket. He could only describe the second man as having dark hair and could not describe the third man he saw upon arriving at the Empire Social Club.

- 5.36. Mr Devine's murder took place in a terraced street on a sunny Sunday afternoon, when many of the residents were outside in their front gardens enjoying the good weather. His murderers made no effort to conceal their identities, so a number of witnesses subsequently came forward and were able to provide descriptions to police.

Witness D

- 5.37. Witness D observed the stolen taxi in Richview Street and described a man, who was standing in an alleyway that led to the Empire Social Club. He stated that the man was aged in his thirties and was wearing a blue denim jacket. He had *'greyish'* hair and *'seemed to be clean cut.'*

Witness E

- 5.38. Witness E stated that she had been sitting in her front garden, when she heard a *'young fella'* shouting and the *'screeching of car tyres'*. She stood up and saw a blue Cavalier car *'flying down'* Fallswater Street towards Iveagh Street. There were three men in the car: the driver and two passengers in the back seat. She described the driver as being aged in his thirties with neat, collar-length blonde hair that was *'swept back at the front like a middle shade.'* He was clean-shaven and was *'round faced but didn't look fat.'* She was unable to describe what this individual was wearing or the other two men in the back seat. When the car passed her, it turned left onto Iveagh Street and headed towards Broadway.

Witness F

- 5.39. Witness F was a resident of Fallswater Street. He described the two men who ran from Mr Devine's house as being both aged in their twenties. The first man was stocky, clean-shaven, and had brown hair. He was wearing either a blue or a white shirt. She stated that the second man was dressed in dark clothes. He was slimmer than the first man and was also clean-shaven with brown hair.

Witness G

- 5.40. Witness G was a resident of Fallswater Street. He stated that the man who got into the front passenger seat of the getaway car was aged in his late teens or early twenties, was approximately 5'6" tall, and had short *'fair/ginger hair'*. The man who got into the back seat was *'older in his thirties I can't describe him further.'* When re-interviewed by my investigators, Witness G stated that he told police in 1989 that this man had dark features, a black moustache, and dark-rimmed glasses.

Witness H

- 5.41. Witness H observed the stolen taxi on Broadway and described the driver of the getaway car as aged in his late thirties and well built. He was *'dark featured with a full head of dark hair and he may have had a moustache.'*

Witness C

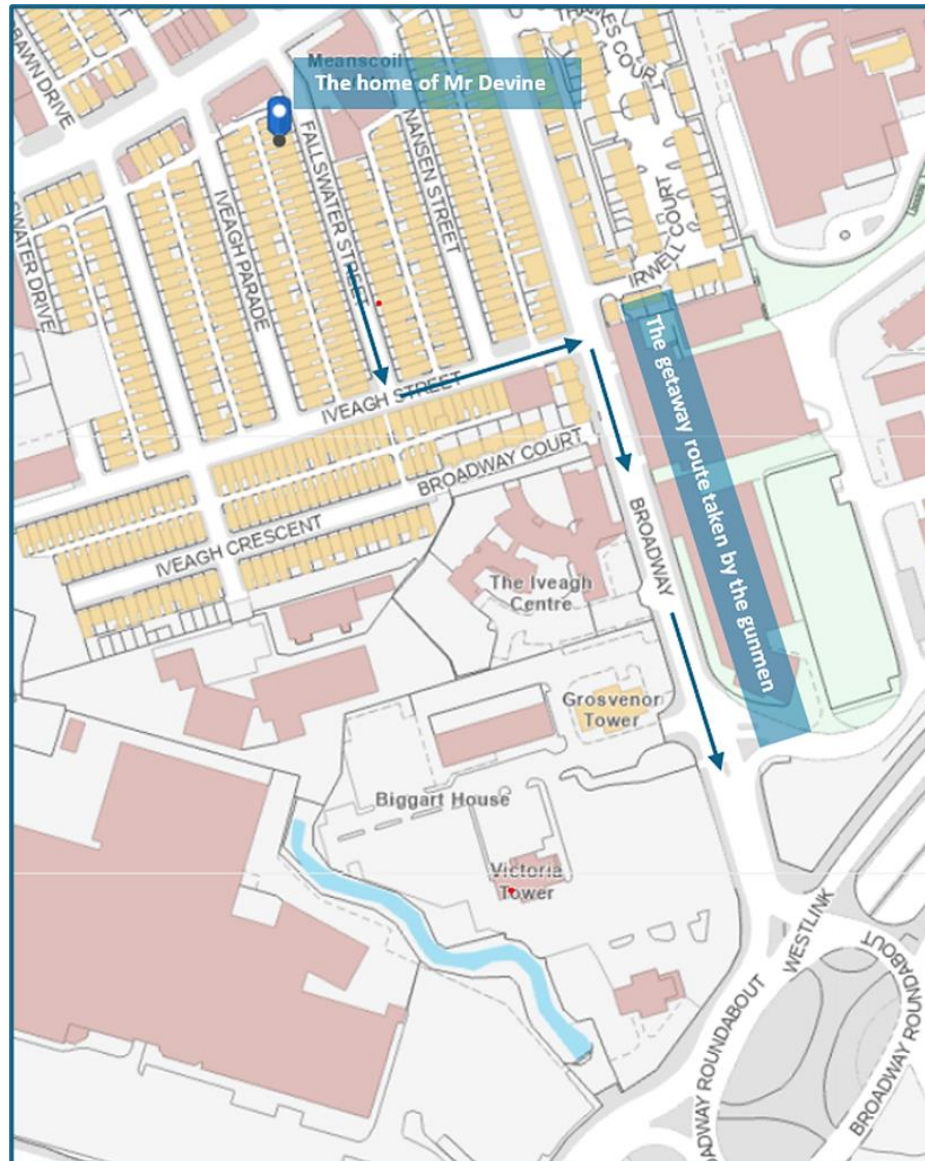
- 5.42. Witness C described one of the men who abandoned the stolen taxi in Olympia Drive. He was aged in his twenties, approximately 5'10" tall, with dark, collar-length hair. He was wearing a green jacket, white or cream trousers, and a *'bandage or a white thing on his left hand.'*

House-to-House Enquiries

- 5.43. On the day of the murder, police conducted house-to-house enquiries in the Fallswater Street, Iveagh Street, Richview Street, and Olympia Drive areas. My investigators reviewed the relevant house-to-house documentation. There is no record of house-to-house enquiries having been conducted in the Broadway or Carlisle Circus areas. The available police documentation contained no explanation as to why these areas were not included within the house-to-house parameters.
- 5.44. The house-to-house enquiries identified a number of witnesses who were subsequently interviewed by police. However, a number of addresses were unoccupied when police attended. This investigation found no evidence that follow-up enquiries were later conducted at these addresses.

Map of the area

5.45.



Fallswater Street

5.46. Police completed 23 questionnaires in respect of house-to-house enquiries in Fallswater Street. Householders were spoken to at 19 of these addresses. Three of the addresses were unoccupied at the time that police called. This investigation found no evidence that police

returned to these three addresses at a later date. In total, nine residents from Fallswater Street provided witness statements.

- 5.47. Police attempted to speak to other individuals who were in Fallswater Street at the time of the murder. Detectives traced and interviewed three teenage girls who were believed to have been playing in the street at the time. These enquiries established that the girls were not in the street at the time of Mr Devine's murder but arrived 15-30 minutes afterwards.

Iveagh Street

- 5.48. Police completed 14 questionnaires in respect of house-to-house enquiries in Iveagh Street. These addresses were at its junction with Fallswater Street. My investigators found no record that other addresses on Iveagh Street were visited. Householders were spoken to at eight of these addresses but could offer nothing of evidential value. Potential witnesses were identified at two other addresses. Of the remaining addresses, one was unoccupied, and one described as '*bricked up*'. The two other addresses contained a business that was closed at the time and the Pigeon Club, a licensed premise.
- 5.49. Witness I was standing outside a shop on Iveagh Street at the time of the murder. He observed a car with three people in it driving away from the murder scene. He told police that he was willing to provide a witness statement and could describe the car's rear seat passenger. His telephone number was recorded on the relevant questionnaire. This investigation found no record that a statement was recorded from this witness. My investigators were unable to trace the relevant witness.

Witness J

- 5.50. The house-to-house enquiries also identified two men who were working at a house in Iveagh Street at the time of the murder. They informed

Police Officer 7 that they saw the stolen taxi leaving Fallswater Street and could describe the passengers in it. Their telephone number was listed on the relevant questionnaire. Police Officer 7 could not recall speaking to the men, when interviewed by my investigators. One of the men was Witness J, who was later interviewed as part of the Police Ombudsman investigation.

Olympia Drive

- 5.51. Police completed 25 questionnaires in respect of house-to-house enquiries in Olympia Drive. Householders were spoken to at 16 of these addresses. There was no answer at six of the addresses, and the other three were described as '*derelict*.' These enquiries identified Witness C, who saw the stolen taxi being abandoned on Olympia Drive by a male. My investigators found no evidence that police re-visited the unoccupied six addresses.

Donegall Avenue

- 5.52. Donegall Avenue runs adjacent to Olympia Drive. On 23 July 1989, police conducted house-to-house enquiries at six addresses at the junction of these two streets. He spoke to four householders. Of the other two addresses, one was listed as unoccupied and there was no answer at the other address. My investigators found no record that police re-visited this latter address.

Richview Street

- 5.53. Richview Street is a terraced street off the Donegall Road, where Witness B's taxi was initially hijacked. Police completed 19 questionnaires in respect of house-to-house enquiries in Richview Street. They spoke to 12 householders; two houses were listed as '*vacant*', and there was no answer at the other five addresses. My

investigators found no record that these five addresses were re-visited by police.

The Empire Social Club

- 5.54 The Empire Social Club was located in an alley off Richview Street. The third man involved in the theft of Witness B's taxi was observed standing at the entrance to this alley by Witness D, prior to the taxi's arrival. Police established that the social club was open between 12:00pm and 2:30pm on 23 July 1989. They seized the club's membership register and established that over 100 people were in the club during this period. Police subsequently interviewed five of these individuals.
- 5.55. This investigation reviewed the relevant membership register. This revealed that a number of the 36 persons of interest had links to the Empire Social Club, although none of them were listed as having been in the club on 23 July 1989.
- 5.56. Police interviewed a member of the club's staff, who stated that there had been approximately 100 people in the club between 12:00pm – 2:30pm on 23 July 1989. She did not recall anything suspicious on the date in question or was aware of any person leaving the club at approximately 2:00pm. This witness is now deceased.

Information Received by the RUC Investigation Team

- 5.57. On 25 July 1989, Special Branch provided the murder investigation team with information about Person 1, who was described as the Officer Commanding (OC) of the RHC.
- 5.58. In late July 1989, following the murder, police received an anonymous telephone call from a member of the public, who the telephone operator described as '*drunk*'. The caller stated that Mr Devine had been involved

in an argument with a '*Protestant*' from the Village area of the Donegall Road that had led to Mr Devine punching the other man so hard he was knocked unconscious. The caller did not name this other individual.

5.59. In late July 1989, police received an anonymous telephone call from a man providing the surname of Mr Devine's murderer and the road where he lived in Belfast. Police traced the telephone call to a public payphone on the same road and obtained a list from local police of individuals with the same surname. My investigators could find no record of what, if any, further enquiries were conducted by the murder investigation team in respect of this information. The relevant surname did not feature in the list of 36 persons of interest created by the murder investigation team.

5.60. In late July 1989, police received an anonymous telephone call following the 'Police 6' television programme that had featured Mr Devine's murder. The caller provided the first name of an individual, whom he stated resembled the photofit image shown on the programme. The caller added that this individual lived in a specified area of South Belfast. The murder investigation team identified two persons of interest with the same first name, who were both associates of Person 2. My investigators were unable to identify any additional enquiries conducted by police in respect of these two individuals, and they did not feature on the list of 36 persons of interest.

5.61. In early August 1989, police received an anonymous telephone call. The caller named Person 14 from East Belfast as having been involved in Mr Devine's murder. The caller added that the murder had been organised by Person 1, who had been punched by Mr Devine after they had an argument. The caller stated that Person 1 worked with Mr Devine at Belfast Docks.

5.62. My investigators have been unable to establish the rationale as to why individuals linked to Mr Devine's murder by intelligence and other

anonymous information were not treated as persons of interest or potential suspects. Efforts to do so have been hindered by the unavailability of management records relating to the investigation (including policy, strategy, and briefing documents) and a number of police officers choosing not to assist this investigation.

RUC Approach to Suspects

- 5.63. Despite the number of witnesses who provided descriptions of the murderers to police, only Witness A and Witness E were asked to assist with the preparation of suspect photofit images. Witness A assisted in the preparation of images of the two men who initially booked the taxi used in the murder. Witness E assisted in the preparation of an image of the 'getaway' driver.
- 5.64. On 27 July 1989, the photofit image of the 'getaway' driver was shown on the 'Police Six' television programme as part of an appeal for witnesses. My investigators have been unable to establish why the other photofit images of the two men who booked the taxi were not featured in the programme. All three photofit images were circulated internally within the RUC.
- 5.65. The SIO also had photo albums compiled. My investigators found records that Sean Devine and Witness E were shown suspect photograph albums. There are no records of whoM, if anyone, was identified by Witness E. There is no record of whom Sean Devine identified, nor did my investigators find any record of the identities of individuals featured in the photograph albums.
- 5.66. The police investigation established a list of 36 persons of interest, and files were created for each of them. My investigators examined these files but were unable to locate relevant policy records from Police Officer 2 or Police Officer 3 that may have assisted in explaining how and why

this list was compiled. As stated previously in this public statement, Police Officer 2 and Police Officer 3 informed my investigators that they had no recollection of the murder investigation.

The Arrest of Person 2

- 5.67. Following the identification of Person 2 by Stevens Inquiry Officers as bearing a strong resemblance to one of three photofit images prepared in respect of Mr Devine's murder, and his alleged involvement in the Rockview Street find, he was arrested under terrorist legislation in early December 1989. As Mr Devine's murder did not fall within the remit of the Stevens Inquiry, it was decided that the arrest and interview of Person 2 would be conducted by RUC officers. He was interviewed at Gough Barracks, Armagh, about Mr Devine's murder and the Rockview Street find. During interview, Person 2 denied being involved in the murder and was subsequently released without charge. The Stevens team obtained forensic samples from him, including fingerprint marks and blood samples.
- 5.68. Stevens Inquiry Officer 3 asked to review the RUC investigation papers and policy records of Police Officers 2 and 3. They did not supply any records or material; instead, Police Officer 3 provided a two page statement to the Stevens Inquiry.
- 5.69. Mr Devine's family made reference to receiving a phone call from police asking if Sean Devine could go to Armagh for an Identification Parade. My investigators found no documentation relating to this proposed Identification Parade or why it subsequently did not take place.
- 5.70. My investigators researched every individual included on the list of 36 persons of interest but could find no recorded rationale as to why they were included. However, it is evident that police suspected these individuals were either members of, or connected to, the RHC in 'the

Village' area. The research established that, although significant enquiries were conducted by police regarding a number of these individuals, there is no record of police action in respect of a number of others.

Person 1

- 5.71. Person 1 was one of the 36 persons of interest that police linked to Mr Devine's murder. The RUC investigation identified a number of witnesses who stated that Person 1 had been in conflict with Mr Devine prior to his murder. Mr Devine's wife informed my investigators that Mr Devine informed her once that he had been involved in '*a scuffle*' with Person 1. However, other witnesses disputed this, stating that there had been no conflict.
- 5.72. On 25 July 1989, RUC Special Branch provided the murder investigation team with a profile of Person 1, detailing his links to loyalist paramilitaries. This led to Police Officer 2 requesting a full background check on him. This check was completed on 31 July 1989, resulting in Person 1 being added to the list of suspects.
- 5.73. On 26 July 1989, police received intelligence that Person 1 and Mr Devine had a physical altercation at a Belfast coal yard on 20 July 1989, culminating in Person 1 informing Mr Devine that he would arrange for him to be 'shot'. The intelligence stated that the two men were '*old enemies*' and was marked NDD. My investigators found no record that this intelligence was passed to the murder investigation team.
- 5.74. In mid-August 1989, police interviewed Person 1 as a witness at a police station in the Greater Belfast area. He informed police that he was not involved in Mr Devine's murder and was annoyed at rumours linking him to it. He declined to provide police with a witness statement. This

investigation found no evidence that consideration was given to arresting Person 1 as a suspect at this time.

6.0

The Police Ombudsman Investigation

- 6.1. Police Ombudsman investigators conducted a thorough investigation, securing and reviewing all the available evidence and intelligence. The purpose of this investigation was to answer the questions and concerns raised by Sean Devine and to assess the overall quality of the RUC investigation. An investigation strategy was devised and implemented by the Police Ombudsman's SIO that sought to address these questions and concerns, in addition to the issues raised in the relevant Terms of Reference.
- 6.2. The Police Ombudsman SIO raised 245 investigative actions. This included writing to over 35 retired police officers asking that they assist my investigators. A number of these assisted and accounts were obtained from them, in addition to other members of the public who held information relevant to this investigation. The accounts of those officers and witnesses who assisted are referred to in this public statement.
- 6.3. My investigators made efforts to trace and interview these police officers. The accounts of those who assisted are referred to in this public statement.
- 6.4. As part of this investigation, my investigators reviewed in excess of 140 pieces of intelligence held by the PSNI. Other material was obtained and reviewed from the Ministry of Defence (MOD), Forensic Service Northern Ireland (FSNI), Coroners Service for Northern Ireland (CSNI), and Public Prosecution Service (PPS).

- 6.5. However, my investigators were unable to locate relevant RUC documentation that, if it were available, would have assisted in attaining significant information, including the rationale for key decisions and actions taken during the murder investigation. This documentation included police notebook entries and journals, the Serious Incident Log, suspect interview records, results of raised investigative actions, and policy records of senior officers.

Witness J

- 6.6. Witness J was one of the two men that Police Officer 7 spoke to in Iveagh Street. My investigators took an account from this witness. He stated that, at the time of the murder, he had been standing at the junction of Iveagh Street and Fallswater Street, looking up Fallswater Street towards the Falls Road. He stated that he observed a car drive down Fallswater Street towards him before turning left onto Iveagh Street. It then passed him and headed towards the junction of Iveagh Street and Broadway. He stated that the people in the car were crouched down as it drove past him. Therefore, he may have been able to describe what they were wearing at the time but not what they looked like.
- 6.7. Witness J stated that he then ran up Fallswater Street to comfort a hysterical boy (Sean Devine) before going into Mr Devine's house. A woman then joined him, followed by four or five other people. He did not know any of them. He stated that he may have touched the front door when entering the house. He did not think that he was wearing work gloves at the time.
- 6.8. Witness J stated that, several hours later, a police officer spoke to him for 10-15 minutes. He told the police officer what he had observed and provided his contact details. He was not asked to provide a statement, and police did not contact him again. He stated that he would have been

easy to locate as he had continued to work in Iveagh Street for several months afterwards.

- 6.9. The account provided to my investigators by Witness J is slightly at variance with that which is recorded on the original house to house questionnaire. Witness J was shown the original document and stated that the account recorded on the questionnaire was incorrect and he could only ever have given a description of the car and what the occupants were wearing.

Interviews of Police Officers involved in the Murder Investigation

Police Officer 1

- 6.10. Police Officer 1 was part of the murder investigation team. He described the period as '*...very busy, I was working horrendous hours and three out of four weekends. We would have been dealing with terrorist stuff such as bombings, shootings, and murders... As a Detective Sergeant I didn't have the luxury of only working on one incident at a time, I may have worked on a murder enquiry for a few hours then moved on to another incident, for example an explosion. I was stretched constantly.*'
- 6.11. This investigation reviewed the available police documentation and established that the murder investigation team held daily briefings until 2 August 1989. Police Officer 1 stated that briefings were held twice a day and that minutes were taken. This investigation has been unable to obtain any minutes or other records of these briefings.
- 6.12. In respect of enquiries conducted at the City Cabs taxi depot, Police Officer 1 informed my investigators, '*I would have expected elimination fingerprints to have been taken if there were any outstanding fingerprints at the scene.*' He could offer no explanation as to why this did not

happen, adding that it would have been reasonable to have expected the taxi depot to have been forensically examined by police.

Police Officer 2 and Police Officer 3

- 6.13. My investigators spoke to both Police Officer 2 and Police Officer 3 as the SIO and DSIO in charge of Mr Devine's murder; however, neither could recall Mr Devine's murder so could not assist with this investigation.

Police Officer 8 and Police Officer 9

- 6.14. Police Officer 8 was identified as one of the RUC officers who conducted enquiries at the taxi depot. He did not respond to contact from my investigators. Police Officer 9, who accompanied Police Officer 8, could not recall conducting enquiries at City Cabs or interviewing Witness A. However, the police file contains a statement from Witness A.

Police Officer 10

- 6.15. My investigators interviewed Police Officer 10, one of the house-to-house enquiries team in Fallswater Street. He stated that he recalled working on the murder investigation but could not remember specific details.
- 6.16. My investigators interviewed one resident, Witness K, who stated that he entered Mr Devine's house after the attack but left shortly afterwards, when he realised that Mr Devine was dead. This investigation found no record that this individual was ever interviewed by police.

Police Officer 7

- 6.17. Police Officer 7, who spoke to Witness J during the relevant house-to-house enquiries, was interviewed by my investigators but declined to provide a written statement. He had no recollection of conducting witness enquiries after Mr Devine's murder or of speaking to this particular witness. He stated that house-to-house enquiries would have been conducted with military cover but this would not have prohibited unoccupied houses from being re-visited. This investigation was unable to locate his relevant police notebook.

Police Officer 11

- 6.18. My investigators interviewed Police Officer 11, who conducted house-to-house enquiries in Olympia Drive. He stated that he had no recollection of the murder investigation or of recording a statement from Witness C. This investigation obtained and reviewed his relevant police notebook entry. It records that he was involved in the relevant house-to-house enquiries.

CCTV Enquiries

- 6.19. My investigators made enquiries with the MOD to trace and interview the military personnel, who would have been on duty in the Broadway Nursing Tower observation post at the time of Mr Devine's murder. The MOD replied that it held no records as to who would have been on duty. It also held no CCTV, or other information, relating to the murder.
- 6.20. Witness A stated to my investigators that there was no CCTV system at the Carlisle Circus taxi depot in July 1989. My investigators also traced and interviewed the owner of the depot at the time of Mr Devine's murder. He stated that he could not recall the murder but confirmed that the taxi depot did not have CCTV in July 1989. My investigators made

enquiries with businesses at Carlisle Circus that were in existence in 1989. Those identified stated that there was no CCTV covering the area at the time.

The Carlisle Circus Taxi Depot

- 6.21. Witness A confirmed to my investigators that no forensic examination took place at the taxi depot. This investigation has been unable to establish why this did not occur. Police attended the taxi depot at 5:00pm on the day of murder and recorded a statement from Witness A, in addition to seizing the depot's bookings register.

Witness B's Taxi

- 6.22. During a search of records stored at Grosvenor Road PSNI Station, my investigators located a police document stating that Witness B was a smoker and that a rabbit had been transported in his taxi prior to the murder. The author of this document is unknown, but this information could account for the presence of a wood shaving in the taxi. Witness B confirmed to my investigators that he was a cigarette smoker in 1989.
- 6.23. My investigators liaised with PSNI's Historical Enquiries Team (HET), highlighting the existence of additional evidence that could be submitted for further forensic examination. My investigators, in particular, identified to PSNI that not all exhibits had been swabbed by the SOCO, and also not all fingerprints had been examined. This led to a HET case review, which resulted in the identification of two partial DNA profiles that were added to the National DNA database. The HET did not issue its reports, which this investigation has established remain in draft form.
- 6.24. Witness B informed police in 1989 that the men who hijacked the taxi took his Public Service Vehicle (PSV) badge and driving licence before he was told to get out of the vehicle. He informed my investigators that

he was contacted by police in 1990 and told that the badge had been handed in by a member of the public. Witness B subsequently collected the badge from police but did not inform the murder investigation team. Therefore, evidential opportunities regarding the badge were not pursued. This investigation could find no record of the badge having been handed in to police.

The Empire Social Club

6.25. My investigators interviewed the doorman who was on duty at the social club on the relevant date. He could not recall anything of note regarding the day, but following the murder, a police officer spoke briefly to him and agreed to attend his home later that evening to record a witness statement. The doorman stated that he remained at home all that evening, but police did not attend. He informed my investigators that, in 1989, the club had CCTV covering only its entrance. My investigators obtained and reviewed the relevant journal of Police Officer 12, which stated that he interviewed the doorman at his home address on 26 July 1989 with '*Neg result.*' Police Officer 12 was interviewed by my investigators but could not recall this enquiry.

6.26. My investigators conducted enquiries at the Empire Social Club but none of the other staff who worked there in 1989 were still employed at the club. When spoken to by my investigators, the current management stated that no records remained from that period, and there was no CCTV at the club in 1989. My investigators spoke to a number of individuals, who were involved in the management of the club in 1989, but they could offer nothing of an evidential value.

The Rockview Street Find

6.27. My investigators interviewed Stevens Inquiry Officer 1 and Stevens Inquiry Officer 2. Neither recalled the conversation with Police Officer 5

about Person 2's resemblance to a photofit of one of the suspects for Mr Devine's murder. They had no recollection of the Rockview Street investigation or Mr Devine's murder. They both confirmed that they would have regularly liaised with RUC Collators to gather intelligence in respect of their enquiries.

- 6.28. My investigators interviewed Stevens Inquiry Officer 3, a senior police officer attached to the Stevens Inquiry. When made aware of the similarity between Person 2 and the photofit image, he had instructed Stevens Inquiry Officer 1 to inform the RUC SIO investigating Mr Devine's murder aware of this. Stevens Inquiry Officer 3 stated he made it clear that *'Person 2 was a suspect for the Devine murder and that there was a witness on record. It was my view that this murder had outstanding lines of enquiry and it was agreed that the RUC investigating officers would arrest and question Person 2 for the murder.'*

Security Force Presence

- 6.29. My investigators conducted enquiries to establish the location of police and military patrols in, and around, the Fallswater Street area on the day of the murder.
- 6.30. They conducted house-to-house enquiries in the Fallswater Street, Iveagh Parade, and Broadway areas. Witness statements were recorded from a number of residents who lived in the area at the time of Mr Devine's murder. However, no relevant information was obtained regarding the movements of security force patrols on 23 July 1989.
- 6.31. A review of military logs established that a military foot patrol was in the Fallswater Street area around the time of the murder. They were recorded as being nearby on the Falls Road at 2:00pm. At 2:15pm, they were recorded as being in Iveagh Street (adjacent to Fallswater Street). It was further noted that they conducted a search of Fallswater Street

following Mr Devine's murder. This investigation found no evidence that security patrols were removed, or reduced, on 23 July 1989.

- 6.32. This investigation identified the patrol's Commanding Officer and made efforts to interview him. However, the MOD informed my investigators that they were unable to trace this individual.

The Security Barrier

- 6.33. During house-to-house enquiries, my investigators obtained conflicting information regarding when the security barrier at Broadway was open and closed. Although some stated that the barrier was permanently closed, others said that it was always open. Other witnesses stated that the barrier was open during the day but closed at night. Mr Devine's family stated the barrier would normally have been closed on a Sunday afternoon.

Police Officer 13

- 6.34. My investigators interviewed Police Officer 13, who was a supervisor based at Springfield Road RUC Station in June 1989. Police Officer 13 stated that the security barrier at Broadway was not controlled by Springfield Road RUC Station and believed that this was the responsibility of Grosvenor Road RUC Station. He believed that security barriers in nationalist areas, such as Broadway, were normally opened and closed by the military. He also stated that he believed that the Broadway barrier was generally kept open for access to the Royal Victoria Hospital. My investigators conducted enquiries with the MOD, but it was unable to provide any information relating to this matter.

Police Officer 14

- 6.35. My investigators interviewed Police Officer 14, who was a supervisor based at Grosvenor Road RUC Station in July 1989. Police Officer 14 recalled that the security barrier was only closed during '*emergency situations*.' She did not know who was responsible for the opening and closing of the security barrier.

Witness B

- 6.36. Witness B, whose taxi was stolen and used in Mr Devine's murder, informed my investigators that, given his job, he had a good knowledge of the opening and closing times of security barriers in the Greater Belfast area. His recollection was that the Broadway security barrier was open during the day and closed at night.

Police Six

- 6.37. My investigators made enquiries with Ulster Television (UTV) but were unable to obtain a recording of the 'Police Six' programme that featured Mr Devine's murder. However, a transcript of its contents was obtained and reviewed. This investigation has been unable to establish why the photofit images prepared by Witness A were not featured in the programme.

Suspect Identification

- 6.38. My investigators were unable to locate any suspect photograph albums in the available police investigation papers. In 2008, Police Officer 1 informed my investigators that he recalled the relevant viewing taking place on 15 August 1989. He stated that he had a journal entry relating to this appointment. Efforts by my investigators to obtain a copy of this journal entry were unsuccessful. Police Officer 1 informed my

investigators that he had no recollection of Sean Devine viewing suspect photographs.

- 6.39. My investigators traced and interviewed Police Officer 12, who was tasked to obtain the relevant suspect photograph album. He stated that he had no recollection of having been asked to prepare the album. His relevant police notebook entry documented that he obtained the photograph album from RUC Headquarters on 3 August 1989. My investigators were unable to obtain a copy of the photograph album from the PSNI.

7.0

The Boston Tapes

- 7.1. The prosecution of Person 1 for the murder of John Devine largely hinged on admissions he made during a series of tape recorded interviews that became known as 'The Boston College Tapes' or 'Boston Tapes'. These interviews were conducted and recorded by faculty members and researchers at Boston College, Massachusetts, as part of a project to provide an oral history of Northern Ireland's 'Troubles'. The wider academic study was known as 'The Belfast Project'.
- 7.2. The recordings were made between 2000 and 2006, with the caveat that they were not to be released until after the death of the relevant interviewee. A number of those interviewed were self-confessed republican and loyalist paramilitaries, who claimed they were involved in paramilitary activity during the 'Troubles'.
- 7.3. The existence of the 'Boston Tapes' was widely reported in the media, and in 2013, the PSNI commenced legal proceedings to obtain the interviews of Person 1, which contained details about Person 1's involvement in a number of terrorist attacks. Following lengthy legal proceedings, the United States Appeals Court ruled that the PSNI were entitled to have access to the tapes, allowing the PPS to use them as the evidence in the subsequent prosecution of Person 1.
- 7.4. Upon reviewing the contents of the relevant interviews, the PPS directed that Person 1 be charged with 19 criminal offences believed to have been committed between 1973 and 1996, including the murder of John Devine on 23 July 1989. Person 1 was charged with aiding, abetting, counselling, or procuring the murder. It was alleged that, although not

one of the gunmen, he had instructed it be carried out as leader of the Red Hand Commando.

7.5. Person 1 denied all the charges, stating that it was not his voice on the relevant interview tapes. During his trial, a forensic handwriting expert compared two signatures from Person 1, relating to the 'Boston Tape' interviews, with signature samples that he had previously provided police. The handwriting expert stated that the first signature '*corresponded closely*' with the signature samples and that, in his opinion, '*it was written by [Person 1].*'

7.6. The handwriting expert stated that the second signature sample also '*corresponded closely*' with the signature samples and it was his '*opinion the handwriting evidence strongly supports the proposition*' that they were both written by Person 1. The Court accepted that the tapes recorded an individual whose voice it was established was that of Person 1.

7.7. The trial of Person 1 in Belfast was further delayed by the coronavirus pandemic of 2020 and subsequent issues regarding his fitness to stand trial, relating to his physical and mental health. Person 1 died on 1 December 2023, and consequently, the criminal case against him did not proceed any further.

Relevant Extract from the Boston Tapes: Part of Crown Court Transcript

7.8. Person 1 denied that it was his voice on the tapes. During his relevant interviews, he stated that an old Official IRA acquaintance was in a West Belfast social club on a Sunday night when he heard a group of PIRA men talking about a plan to murder him the following day. The next morning, the Official IRA man telephoned the father-in-law of Person 1, as they had great respect for each other, and informed him of the plot.

Person 1's father-in-law informed him and instead of driving his coal lorry to the location where the murder was to take place, they went instead in his car, where they saw the PIRA unit waiting in place for him. Person 1 identified one of the members of this PIRA unit as an individual from the Markets area of the Ormeau Road. He stated that this individual was identifiable, as he had previously viewed loyalist intelligence files relating to him.

7.9. Following this, Person 1 stated that he was determined that he was going to 'get' this PIRA member. Subsequently, there was an attempt to murder the PIRA member, but he was not in his house at the time, and instead the gunman 'sprayed' the front of his house with an 'AK47'. This weapon was then hidden in an electrical box in the 'Village' area of South Belfast, where it was found a few days later by an electrical worker. The electrical worker informed the Security Forces, and the weapon was subsequently recovered.

7.10. Person 1 was later informed, through his contacts, that a coalman from Fallswater Street called John Devine had set him up. Person 1 stated that he went on a 'continental holiday' and that when he returned John Devine had been shot dead. When he returned from his holiday, Person 1 stated that he was arrested and questioned about John Devine's murder. He stated that he denied any involvement and informed police that he had been out of the country at the time. He was later informed by a leading UDA member that he hoped that the murder had not been a one-off and that there would be more. It should be noted that my investigators found no record that Person 1 was arrested by police and this issue is commented on later in this report.

8.0

Complaints, Questions, and Concerns Raised by Sean Devine

- 8.1. In September 2005, Sean Devine made a complaint to the former Police Ombudsman, Nuala O'Loan, raising a number of questions and concerns regarding the police investigation and other matters relating to his father's murder. In January 2006, he made a statement re-iterating these questions and concerns. These were as follows:

Complaint of RUC Harassment of Mr Devine

- 8.2. Sean Devine stated that, for approximately 18 months, up until his murder, his father was subjected to '*sustained harassment*' from police and army patrols as he was making coal deliveries. This occasionally took the form of them mixing up the types of coal on his lorry, meaning the coal could not then be sold. Sean Devine stated that he would have helped his father on his delivery rounds and witnessed police officers and military personnel detaining him for up to 20 minutes at a time and being '*very abusive and aggressive*' towards him.
- 8.3. My investigators reviewed all the available police documentation relating to Mr Devine for the 18 month period prior to his murder. This established that the only documented police stop of him occurred on 18 July 1989, when his car was stopped at a Vehicle Check Point (VCP) outside Newry, County Down. Police records also indicated that his lorry was stopped in 1981 in West Belfast, 1984 in West Belfast, and 1987 at a VCP in Newry.
- 8.4. Sean Devine stated that, approximately two months prior to the murder, his father and mother were stopped by an Ulster Defence Regiment (UDR) patrol

near Glenavy, County Antrim. He believed this was so his father could be targeted by loyalist paramilitaries who drove past at the time. My investigators obtained and reviewed military records that revealed Mr Devine was stopped on 10 July 1989 at approximately 9:10pm by a military patrol in Glenavy. Two other vehicles were stopped by the patrol at around the same time. As Police Ombudsman, I have no jurisdiction to deal with the military. My investigators reviewed the relevant records but none of the individuals stopped had connections with loyalist paramilitary organisations.

- 8.5. My investigators could find no record of police having attended the Devine home address to establish ownership of his father's car. Harassment by police can be distressing and impactful for any individual. It can include unlawful actions by police as well as aggressive and intimidating behaviour. My investigators found no evidence to discount Sean Devine's recall of these events, which given his young age at the time, was clear and cogent. The absence of police records and the challenges of investigating historical matters has meant that I am unable to conclude on this aspect of Sean Devine's complaint.

Complaint that Police Facilitated the Murder

Movements of Security Force Patrols

- 8.6. My investigators reviewed all the available documentation relating to police activity in the Fallswater Street area on 23 July 1989. There was no evidence that police patrols were reduced or altered on that date. The relevant RUC radio transmissions are no longer available.
- 8.7. My investigators also obtained and reviewed military patrol records for 23 July 1989. Again, there was no evidence that patrols were reduced or altered on that date. Between 8:00am and 9:00am, a military foot patrol passed through the Fallswater Street area.

- 8.8. A second military patrol was in the area at the time of Mr Devine's murder. At 2:00pm, military records documented that this patrol was on the Falls Road. By 2:15pm, the patrol had moved to Iveagh Street, adjacent to the bottom of Fallswater Street. At 2:40 pm, military patrols were informed that John Devine had been shot dead on Fallswater Street.

Complaint about the Security Barrier at Broadway

- 8.9. My investigators obtained photographs of the relevant security force barrier at Broadway. Although these were taken some years after Mr Devine's murder, I am satisfied that the barrier would have been situated at the same location in July 1989.

8.10.



- 8.11. My investigators found no police or military documentation that could assist with my consideration of this complaint. One possible explanation explored was that the barrier was opened and closed by police officers attached to the nearest police station at Springfield Road RUC Station, given conflicting accounts outlined previously in this public statement.

Police Officers behaved in an unprofessional manner on the day of the Murder

- 8.12. This investigation did not examine in detail the allegation that police were uncivil and aggressive towards residents at the Fallswater Street scene. That is because my investigators were unable to identify all of the police officers in the street at the time. This is a complaint of misconduct, and in any event, had this investigation identified the relevant retired police officers, no misconduct investigation could have been conducted by my Office.
- 8.13. However, this investigation identified two police officers who recorded witness statements from Sean Devine and Mrs Devine. Neither of these police officers assisted my investigators.

Inadequate Police Investigation - Suspect Identification

Witness Descriptions of the Murderers

- 8.14. Mr Devine was murdered in a terraced street on a sunny Sunday afternoon. At the time, a number of residents were outside enjoying the good weather. The two gunmen and their driver were not wearing masks. Therefore, a number of witnesses were able to provide descriptions of the three men who carried out the attack.
- 8.15. Sean Devine provided police with detailed descriptions of the two gunmen. He was unable to describe a third person, whom he stated entered the house. Six other witnesses provided police with descriptions of either the two gunmen or the driver. No single witness could describe both the driver and the two gunmen, but the witness accounts provided descriptions of them individually.
- 8.16. Witness A, the receptionist at the Carlisle Circus taxi depot, provided police with descriptions of the two men who ordered the taxi on 23 July 1989 at 1:40pm.

Witness B, the taxi driver who drove the two men to Rockview Street, prior to his car being stolen at gunpoint, also provided police with descriptions of them.

- 8.17. This investigation reviewed the relevant police documentation and could find no record that an Identification Parade was organised, or considered, following the detention of three suspects at Armagh RUC Station. Similarly, there was no record that Sean Devine attended Grosvenor Road RUC Station and identified one of the murderers from an album of suspect photographs.

Suspect Photofit Images

- 8.18. My investigators established that police asked Witness A to assist in producing photofit images of the two men who ordered the taxi. Witness E, a Fallswater Street resident, also assisted in producing a photofit image of the driver. This latter photofit image was shown on the 'Police Six' television programme aired by UTV on 27 July 1989.
- 8.19. Sean Devine informed my investigators that he attended Grosvenor Road RUC Station with his uncle to view photographs of potential suspects. He stated that, when viewing these photographs, he identified a male, whom he believed resembled one of the gunmen.
- 8.20. My investigators interviewed Sean Devine's uncle. He stated that he recalled taking his nephew to Grosvenor Road RUC Station to view 'suspect' photograph albums. He stated that Sean identified a male, whom he believed was involved in Mr Devine's murder.
- 8.21. My investigators interviewed Sean Devine's uncle again at a later stage of this investigation. He confirmed that he took his nephew to Grosvenor Road RUC Station to view suspect photographs but could not now recall whether or not Sean identified any person.

8.22. Witness E recalled being shown a suspect photograph album by police but was unable to make a positive identification. Witness G, who provided a description of the gunmen to police, informed my investigators that he was never asked to view suspect photographs. Enquiries by my investigators to interview other witnesses, who provided descriptions of the gunmen and driver to police, have proven negative. One witness could not be positively identified. As a result, my investigators wrote to every person in Northern Ireland with the same name. Unfortunately, this failed to identify the witness.

8.23. The specialist RUC department that prepared suspect photograph albums in 1989 is no longer in existence. My investigators have been unable to locate the relevant suspect photograph album. This is a further instance of missing records.

Identification Parades

8.24. Sean Devine's uncle informed my investigators that, following Mr Devine's murder, he received a telephone call from police asking Sean to attend an Identification Parade at Armagh RUC Station. The police officer, whose identity he could not recall, told him that police had three suspects in custody.

8.25. He stated that, before the family decided whether or not Sean could attend, he received a further telephone call from a police officer, whose identity he could again not recall, stating that the Identification Parade had been cancelled and the three suspects released from custody. No explanation was provided to him as to why the three suspects had been released.

8.26. Later in the investigation, my investigators interviewed Sean Devine's uncle again. On this occasion, he stated that a police officer, whose identity he could not recall, informed him that police had a suspect at Armagh RUC Station and asked that Sean attend an Identification Parade. He stated that he discussed this matter with another family member, and they decided not to allow Sean to

participate in the Identification Parade. He then contacted police and informed them of this decision.

8.27. My investigators have been unable to identify the relevant suspects, who were in custody at Armagh RUC Station. In 1989, the RUC did not have a dedicated Identification Parade facility. The relevant RUC investigation papers contained no reference to an Identification Parade having been organised or considered. This investigation has been unable to locate the specific RUC procedures that existed for Identification Parades in 1989.

8.28. During the course of the murder investigation, police created a list of 36 persons of interest. My investigators reviewed the available evidence and intelligence relating to each of these suspects. Only two individuals on this list were interviewed under caution; a third individual on the list was treated as a witness but declined to make a witness statement. Due to missing RUC records, this investigation has been unable to establish why others on that list were not interviewed.

Family Updates and Unanswered Questions

8.29. My investigators reviewed the available police documentation and found minimal documentation relating to police updating Mr Devine's family about the progress of the murder investigation.

8.30. 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 initial 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 Lawrence's death highlighted significant failings in the police investigation, including the manner in which police communicated with the Lawrence family.

8.31. 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.’*³⁰ He added that, where possible, such officers should be dedicated primarily, if not exclusively, to the role.

8.32. The MacPherson recommendations laid the foundation for modern-day Family Liaison that nowadays lie at the heart 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.

8.33. The witness statement recorded by police from Mrs Devine consisted of two sentences. I am of the view that, even by the standards of the time, this was wholly inadequate. Mrs Devine held significant information about her husband that would have been relevant to the police investigation. Failure to record such detail from Mrs Devine was unacceptable, even by the standards of a murder investigation in 1989.

Who was arrested and what evidence was there linking them to Mr Devine’s murder?

8.34. Person 2 was the only individual arrested on suspicion of Mr Devine’s murder. In November 1989, he was linked to the murder when two members of the Stevens Inquiry informed Police Officer 5 that he resembled a photofit image of a suspect. Person 3 was also arrested as part of the Rockview Street investigation. During police interviews, he was questioned on a range of matters, including Mr Devine’s murder, but refused to answer any of them.

What did any arrested individuals say during police interviews?

8.35. During their police interviews, Person 2 denied being involved in Mr Devine's murder and was subsequently released without charge. Person 3, although not arrested on suspicion of Mr Devine's murder, was questioned about it during interviews that formed part of the Rockview Street investigation. He denied being involved in Mr Devine's murder.

What was the ballistic history of the weapons used in the murders?

8.36. Police recovered eight bullets, which were submitted for forensic examination. These examinations established that six of them were .455 calibre bullets that had been fired from a Smith & Wesson type revolver with no history of previous use. It was later used in an attempted murder in the Greater Belfast area in February 1991. The remaining two bullets had been fired from a Webley type revolver that had no history of previous, or subsequent, use. Neither weapon has ever been recovered.

What did key witnesses tell police and were they shown suspect photograph albums or asked to attend Identification Parades?

8.37. These questions are addressed in the '*Suspect Identification*' section of this chapter.

What intelligence did police hold in respect of the murder and identified suspects?

8.38. This question is addressed in Chapter 4 of this public statement, where intelligence linking Person 1 and other individuals to Mr Devine's murder is outlined.

Was the murder linked to the investigation conducted by Sir John Stevens regarding Brian Nelson?

8.39. The Stevens Inquiries were three Government inquiries into allegations of ‘*collusion*’ between loyalist paramilitaries and the security forces. They were led by the then Deputy Chief Constable of Cambridgeshire Constabulary, John Stevens. The first inquiry was commissioned by the then RUC Chief Constable, Sir Hugh Annesley, following the UDA murder of Loughlin Maginn in August 1989. Following the murder, the UDA had circulated security force documentation to support their inaccurate claim that Mr Maginn had been a PIRA member. As part of this investigation, the Stevens Inquiry arrested a former British soldier, Brian Nelson, who claimed that he was an informant for the Security Service and had been performing this role while operating as a UDA Intelligence Officer. In 1992, Nelson pleaded guilty to 20 criminal charges, including five counts of conspiracy to murder, and was sentenced to ten years imprisonment.

8.40. Mr Devine’s murder did not form part of the Stevens Inquiry into the activities of Brian Nelson. However, following the seizure of weapons, ammunition, and documentation from an address in Rockview Street in October 1988, a document was recovered relating to a John Devine. The police investigation in respect of the Rockview Street find was referred to the Stevens Inquiry. At the direction of the Stevens Inquiry, Person 2 was arrested and interviewed about the Rockview Street find and Mr Devine’s murder. Person 3 was also questioned about the murder during police interviews arising from Stevens investigation.

9.0

Relevant Rules and Standards

- 9.1. The Association of Chief Police Officers (ACPO) first published a '*Murder Investigation Manual*' in September 1998. This set out a framework for murder investigations and is designed to aid and guide the SIO throughout the investigation process. However, this was not in place at the time of Mr Devine's murder.
- 9.2. The RUC implemented the '*Major Investigation Incident Room Standardised Administrative Procedures*' (MIRSAP) on 1 January 1984. This formalised management structures and processes within Major Incident Rooms, acknowledging that it was essential for major investigations to have a structure of management that was immediately recognisable and understood by all police officers.
- 9.3. 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.*'
- 9.4. 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.

- 9.5. My investigators established that a number of these procedures were implemented during the investigation into Mr Devine's murder. A SIO (Police Officer 2) and DSIO (Police Officer 3) were appointed, and the investigation was managed on the MIRIAM system. Investigative actions were raised and allocated to individual officers.
- 9.6. 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:
- a. '*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.*
- 9.7. In 1989, at the time of the murder, there was no RUC Code of Ethics in place for police officers. However, the overarching duty of police was, and remains, to protect life and property. When considering matters of police conduct in this public statement, I have applied the relevant standards of the time.
- 9.8. The investigative duty under Article 2 of the European Convention on Human Rights imposes minimum requirements on the state that its investigation must meet. There are as follows:
- I. **Independence** – the investigation must be wholly independent of those implicated in the fatality from the earliest stage;
 - II. **Involvement of the deceased's family** – the family of the deceased must be able to effectively participate in the investigation;
 - III. **Public Scrutiny** – there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice;
 - IV. **Promptness** – the investigation must be prompt; and

V. **Effective** – the investigation must be capable of leading to a identifying those involved.

9.9. The principles relating to the state's duty to protect life under Article 2 were established in the case of *Osman v United Kingdom* (1998), which was applied in United Kingdom law in *Van Colle v Chief Constable of Hertfordshire Police* (2008).

9.10. The fundamental principle for a duty to protect life to arise or for a positive obligation³¹ under Article 2 of the Convention to be engaged, is that it must be shown that police knew or ought to have known of a real and immediate risk to the life of an identified individual from the acts of one or more third parties.

9.11. The European Convention of Human Rights came into force in 1953, and the UK was one of its first signatories. The Human Rights Act 1998 gave further effect to the Convention rights in UK domestic law. The Human Rights Act 1998 came into force on 2 October 2000. Article 2, known as 'the Right to Life,' is as follows:

- I. Everyone's right to life shall be protected by law. No one shall be *deprived of his life intentionally save in the execution of a sentence of the court following a conviction for a crime for which the penalty is provided by law.*
- II. *Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than is absolutely necessary:*
 - *In the defence of any person from unlawful violence;*
 - *In order to effect a lawful arrest or to prevent the escape of a person lawfully detained; and*

³¹ A 'positive' Article 2 obligation under the European Convention on Human Rights (ECHR) refers to the states duty to take proactive steps to protect the right to life.

- *In action lawfully taken for the purpose of quelling a riot or insurrection.*

9.12. In the context of threats to life, several human rights principles have evolved through Strasbourg case law:

- I. Article 2 requires the State to take appropriate steps to safeguard the lives of those within its jurisdiction;
- II. Appropriate steps extend in certain cases to a positive obligation on the authorities to take preventative operational measures to protect an individual or individuals whose life or lives is at risk from the criminal acts of another individual. *Osman v United Kingdom* 1998;
- III. The scope of the obligation must not impose an impossible or disproportionate burden on the authorities. *Osman v United Kingdom*;
- IV. For the obligation to arise, it must be shown that the authorities knew, or ought to have known, of a real and immediate risk to the life of an identified individual from the criminal acts of a third party. *Osman v United Kingdom*;
- V. The extent of the obligation is to then take such measures within their powers as were reasonable to avoid the risk. *Osman v United Kingdom*;
- VI. This can extend to an obligation to take reasonable steps to prevent self-inflicted deaths in custody. *Keenan v United Kingdom*; and
- VII. Where an identifiable individual is at risk of paramilitary attack (or attack from organised crime groups or similar) there may be a duty to provide protection but not for an indefinite period. *X v Ireland* (1973).

9.13. It is important to note the following:

- I. Article 2 of the Convention is only engaged where an individual's life is at risk from a real and immediate threat;
- II. Article 2 does not just mean that individuals have a right to life but that the State is required to ensure that life is protected;
- III. The obligation to protect life only arises where the individual is at risk is identifiable;
- IV. The requirement in those circumstances is to take appropriate and proportionate measures to protect life; and
- V. The requirement to protect life does not mean that life in every case will in fact be protected.

9.14. From these features there are three obligations that must be met by the police:

- I. The need to protect life;
- II. The need to equip officers of all ranks with the necessary skills to discharge their minimum obligations; and
- III. The requirement to ensure that police resources are used properly and effectively in this area.

RUC Guidance and Legislation regarding Threats to Life

9.15. The RUC Force Order, at the time, in respect of warning individuals at risk was set out in Force Order 33/86 entitled, *'Threats against the Lives of Members of the Security forces, VIPs or other Individuals'*. This stated that when a threat was received, *'Local Special Branch (SB) concerned will inform the Sub-Divisional Commander (SDC) in whose area the subject resides or works and the SDC will take whatever action he wishes necessary. If the information received indicates that an attack on any person is imminent, the member receiving the information will immediately take all necessary action to inform the person at risk.'* On 3 July 1991, it was

replaced by Force Order 60/91, which contained the same instructions as quoted above.

- 9.16. The Force Order placed a clear responsibility on the local RUC Sub-Divisional Commander to assess whether threat warnings to identified individuals were necessary. If the threat against the individual was considered imminent, in accordance with the Force Order, a threat warning ought to have been issued. If the threat was not considered imminent, the Sub-Divisional Commander could take whatever action they considered appropriate.

10.0

Procedural Fairness

Introduction

- 10.1. In concluding this public statement, I am mindful of the need to ensure procedural fairness to those who may be affected by its content. Mr Justice McCloskey (as then) in the High Court in *Re Hawthorne & White*³² 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 judgment, 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

³² [2018] NIQB 5.

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 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.’

10.2. 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.

10.3. In his judgment of 6 February 2025, Judge Scofield indicated that a Maxwell letter to an individual ought to include reference to both express or implied criticism.

The 'Maxwellisation' Process

- 10.4. In order to give the police officers concerned a fair opportunity to respond to any proposed criticisms in this public statement, correspondence was forwarded to six police officers referred to in this report; namely, Police Officers 1, 2, 3, 6, 7 and 11, with extracts from this public statement that impinged directly or indirectly on them, seeking their comments. As is standard practice in my Office, a period of 30 days, from receipt of that correspondence, was provided in order for the individuals to respond. I would emphasise that any proposed criticisms do not amount to an adjudication of whether the conduct subject of the criticism constituted a disciplinary offence. My role is to make recommendations to the Chief Constable as to whether disciplinary proceedings should be brought. The adjudication of disciplinary matters is the sole jurisdiction of a disciplinary panel. As all of the officers concerned are now retired, none can be subject to the disciplinary process.
- 10.5. Three police officers, Police Officers 3, 6, and 7 forwarded written responses to my Office. The contents of the correspondence from them was the subject of careful and conscientious consideration by the Police Ombudsman. No responses were received from Police Officer 1, Police Officer 2, and Police Officer 11.
- 10.6. Police Officer 3 confirmed that he had no role in the storage of documents or records and made the point that the murder of Mr Devine was over 35 years ago, and he had been involved in many murder investigations and the investigation of other serious crimes throughout his service. I have reflected on the written response from Police Officer 3, and where appropriate, I have amended my comments or reflected his comments in the body of this report.

- 10.7. Police Officer 6 and Police Officer 7 had no recollection of the murder of Mr Devine. Police Officer 7 did refer to circumstances whereby no witness statement would be recorded from a member of the public, where that person or information could not assist the police investigation. I accept this assertion.
- 10.8. Police Officer 7 stated that if a police officer speaks to a potential witness regarding a serious crime such as murder and then does not record a witness statement from them it may be because the police officer has made a professional judgment that such a statement would be unlikely to assist the investigation. However, he could not recall Mr Devine's murder.

Summary

- 10.9. I have carefully considered the comments of Police Officers 3, 6, and 7. I believe that the contents of this public statement accurately reflect the relevant police investigation. The conclusions I have reached in relation to the RUC investigation are based on evidence and other information, including police officer accounts, historic and court records, and intelligence gathered during the course of this investigation.
- 10.10. I would like to thank Police Officers 3, 6, and 7 for bringing these matters to my attention and for assisting this investigation.

11.0

Conclusions

The Role of the Police Ombudsman

- 11.1. 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,³³ 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 and a properly constituted disciplinary panel in relation to matters of misconduct relating to serving officers.
- 11.2. At the completion of this investigation, my predecessor, Dr Michael Maguire, considered whether it was necessary to submit a file of evidence to the Director of Public Prosecutions (DPP) in respect of any police officer's conduct.³⁴ As there was insufficient evidence to conclude that any police officer may have committed a criminal offence, Dr Maguire decided that a file would not be required.
- 11.3. 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 decisions and actions after a

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

³⁴ Police (Northern Ireland) Act 1998 Section 58: Steps to be taken after investigation – criminal proceedings.
(1) The Ombudsman shall consider any report made under section 56(6) or 57(8) and determine whether the report indicates that a criminal offence may have been committed by a member of the police force.

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 the PSNI's Professional Standards Department (PSD) and the relevant police disciplinary panel in respect of serving police officers.

- 11.4. The investigation of complaints about historical matters is challenging due to the passage of time and unavailability of relevant witnesses and documentation. However, my investigators gathered substantial evidence and other information during the course of this investigation. This included witness statements, police documentation, court records 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 police officers co-operated with this investigation. I am grateful for their assistance. A number of former police officers did not co-operate with this investigation.
- 11.5. Although the murder occurred in 1989, having considered the relevant case law, I have been advised that the 'genuine connection test'³⁵ is met for the purposes of applicability of Article 2 of the European Convention on Human Rights. That is because the murder occurred within the temporal limit of 12 years from the coming into force of the Human Rights Act 1998, and I consider the original RUC investigation to be seriously defective, to the extent that it was not Article 2 compliant. An Article 2 compliant investigation involves providing the means whereby suspects are identified and, if possible, brought to account.³⁶ The investigation should also provide an opportunity where lessons can be learned so that

³⁵The 'genuine connection' test, relevant to Article 2 of the European Convention on Human Rights (ECHR), is a judicial test used to determine when a state's duty to investigate a death under Article 2 is triggered, particularly when dealing with historic murders. It assesses whether there is a sufficient temporal link between the death and the state's subsequent obligations under the Convention. The test helps determine if a death or ill-treatment that occurred before the relevant state fully embraced the Convention or its individual petition rights should still be subject to Article 2's investigative duty. Case law has established the relevant date is the coming into force of the Human Rights Act 1998 on 2 October 2000.

³⁶ Para 138 in the matter of an application by Geraldine Finucane for Judicial Review (Northern Ireland), [2019] UKSC 7.

a similar event can be prevented in the future. In *Jordan v UK*³⁷ the ECtHR stated:

‘The investigation must also be effective in the sense that it is capable of leading to a determination of whether the force used in such cases was or was not justified...and to the identification and punishment of those responsible. This is not an obligation of result but of means...and deficiency in the investigation which undermines its ability to establish the cause of death or the person or persons responsible will risk falling foul of this standard.’

11.6. I am mindful of the context within which the original police investigation was conducted and the rules and standards that existed in 1989, particularly relating to the use of intelligence. At the time of Mr Devine’s murder, there was a less developed regulatory framework governing policing practice. Since 1993, dramatic changes have taken place within the political environment, legal frameworks governing policing in Northern Ireland, and police accountability mechanisms. Those changes include:

- I. The Police (Northern Ireland) Act 1997;
- II. The Good Friday Agreement 1998;
- III. The Human Rights Act 1998;
- IV. The Police (Northern Ireland) Act 1998;
- V. The Patten Report 1999, which resulted in the creation of the PSNI;
- VI. The Regulation of Investigatory Powers Act 2000 (repealed in part by the Investigatory Powers Act 2016);
- VII. The creation of the Police Ombudsman for Northern Ireland in 2000;
- VIII. The creation of the Northern Ireland Policing Board (NIPB) in 2001;

³⁷ Case of Hugh Jordan v. The United Kingdom (Application no. 24746/94)

- IX. The formation of PSNI's Crime Operations Department in 2004;
- X. PSNI's Code of Ethics, launched in 2003 and amended in 2008; and
- XI. The Covert Human Intelligence Source (Criminal Conduct) Act 2021.

11.7. Sean Devine made a complaint to the former Police Ombudsman, Nuala O'Loan, in September 2005, raising a number of questions and concerns regarding the police investigation and other matters relating to his father's murder. My investigators subsequently recorded a statement of complaint from him in January 2006. This included reference to '*collusion*' in the murder of his father.

11.8. 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*³⁸ has unanimously ruled on the powers of the Police Ombudsman under that legislation. This includes how the Ombudsman will address complaints about the actions of RUC officers.

11.9. In that context, I have considered the questions and concerns raised by Sean Devine. I have carefully assessed the evidence and other information gathered during this investigation. This evidence and other information support a number of his concerns about the original RUC investigation, the handling of intelligence, and contact with the family, which I find to be legitimate and justified. I will now detail these under a number of headings for ease of reference, in addition to other matters I have identified during the course of this investigation.

³⁸ [2020] NICA 33.

Complaint about Investigative Failings

11.10. I have identified a number of significant investigative failings on the part of police in respect of their investigation of Mr Devine's murder as set out below.

- I. Scene management and Forensic Strategy;
- II. House-to-House enquiries;
- III. Witness Strategy;
- IV. Suspect and Arrest Strategy;
- V. Handling of Intelligence; and
- VI. Missing records.

I have also considered Sean Devine's complaint of '*collusion*' in respect of police actions relating to his father's murder.

11.11. The Court of Appeal in *Re Hawthorne and White* has held that the Police Ombudsman cannot make a determination of criminality or misconduct on the part of any police officer. However, the Court identified that, in respect of a complaint about '*collusion*,' the Police Ombudsman may acknowledge whether the matters '*uncovered*' by an investigation are '*very largely*' what Sean Devine claimed constituted '*collusive behaviour*'. In February 2025, Mr Justice Scofield determined³⁹ that the Police Ombudsman cannot express any qualitative view of their own in relation to complaints of '*collusion*' or '*collusive behaviour*'. That judgment related to legal challenges to the Police Ombudsman's public statements in relation to '*Investigation into police handling of loyalist paramilitary murders and attempted murders in South Belfast in the period 1990-1998*' and '*Investigation into police handling of certain loyalist paramilitary murders and attempted murders in the North West of Northern Ireland*'

³⁹ [2025] NIKB 7.

during the period 1989 to 1993'. The Police Ombudsman and Chief Executive have decided to appeal this judgment.

Failures in Scene Management and Forensics

- 11.12. This investigation found no record that police obtained fingerprint marks from individuals who entered Mr Devine's house after his murder for the purpose of eliminating them from the RUC enquiry. This included residents, ambulance personnel, and other police officers. The significance of this failing is highlighted by the fact that the PSNI reviewed outstanding fingerprint marks recovered from the murder scene and established that one of them belonged to a uniformed police officer, who had attended Mr Devine's home in the hours following the murder.
- 11.13. RUC Fingerprints Branch also requested that elimination fingerprint marks be obtained from members of Mr Devine's family. This investigative action was allocated to Police Officer 6. Although elimination prints were obtained from Sean Devine, there is no record of them having been obtained from other family members. Mrs Devine informed my investigators that police did not ask her to provide fingerprint marks.
- 11.14. Six fingerprint marks were recovered from the outer side of Mr Devine's front inside door. Three of these marks had sufficient detail to be compared against the fingerprint marks of suspects. However, these marks were only compared against the fingerprint marks of three individuals, of whom only one, Person 2, was on the list of 36 persons of interest. All three comparisons proved negative.
- 11.15. My investigators viewed correspondence, dated 12 September 1989, from RUC Fingerprints Branch to the murder investigation team. This stated that the three relevant fingerprint marks were available for comparison against other suspects. At that time, RUC Fingerprints Branch held the fingerprint marks of all 36 persons of interest. My investigators

found no record that the three marks found on the door were compared against any of the remaining 35 persons of interest.

- 11.16. Ten fingerprint marks were recovered from Witness B's taxi. These were submitted to RUC Fingerprints Branch. On 25 July 1989, a member of RUC Fingerprints Branch contacted Police Officer 2, informing him that 'good quality' fingerprints had been recovered from Witness B's taxi. They requested elimination prints from Witness B and a list of persons of interest. The ten fingerprint marks were compared against 17 of the 36 persons of interest. They were also compared against two individuals not included on that list. All 19 comparisons proved negative. My investigators found no record that the ten fingerprint marks were compared against the other 19 individuals on the list of 36 persons of interest.
- 11.17. The fingerprint marks recovered from the taxi were not cross-referenced against the marks recovered from Mr Devine's front door. RUC Fingerprints Branch stated that this was because of an '*administrative error*.' My investigators made enquiries with PSNI but were unable to establish the nature of the '*administrative error*'.
- 11.18. Police Ombudsman investigators could find no record of a fingerprint examination at the Carlisle Circus taxi depot. The taxi used in Mr Devine's murder was ordered from this location by two men and a fingerprint examination of the depot would have been a standard enquiry of the time. However, Witness A confirmed to my investigators that no examination took place. This investigation has been unable to establish why this did not occur because Police Officers 2 and 3 were unable to assist this investigation due to their lack of recall of the murder. It is noteworthy that police attended the taxi depot at 5:00pm on the day of the murder and recorded a statement from Witness A, in addition to seizing the depot's bookings register.

- 11.19. DNA profiling was not introduced in Northern Ireland until 1996, but its processes were being studied by NIFSL from 1992. However, since 1986, investigators have been able to use evidence from scientists who have identified people from their DNA/genetic fingerprint. In England, the first person to be convicted of rape and murder using DNA was in 1988. The recovery of saliva from the cigarette butts could have been carried out by laboratories in England. This would have been at the discretion of the SIO. The HET had the cigarette butts examined for DNA, two of which matched Witness B, but the others were unsuitable for searching on the DNA database. However, due to missing records and Police Officer 2 not being able to assist this investigation, I cannot conclude on this matter.
- 11.20. I am satisfied that the failure to fully exploit all the available forensic opportunities evidenced an incomplete police investigation. A more thorough forensic strategy may have gathered important evidence that could have been used by police to connect suspects to the murder.

Failures in House-to-House Enquiries

- 11.21. Police conducted house-to-house enquiries in the following areas on the day of the murder: Fallswater Street, Iveagh Street, Richview Street, and Olympia Drive. This investigation found no evidence that police conducted house-to-house enquiries in the Broadway area, part of the 'getaway route' that the gunmen took after the attack, or around Carlisle Circus, from where the stolen taxi used in the attack was initially booked from. This would have been a reasonable line of enquiry, given that police believed two men involved in the murder got a taxi from Carlisle Circus, and after the murder the driver of the car drove along Broadway as part of the getaway route. These locations may have yielded potential witnesses, who may have provided descriptions of the assailants or opened additional lines of enquiry for the SIO. The available police documentation contained no explanation as to why these areas were not included within the house-to-house parameters. My investigators have

been unable to seek an explanation for this with Police Officer 2 as he could not recall the murder.

- 11.22. The house-to-house enquiries identified a number of witnesses, who were subsequently interviewed by police. However, there were no residents available at a number of addresses when police attended. This investigation found no record that follow-up enquiries were conducted at these addresses. I am satisfied that the failure to conduct follow-up visits to addresses, where police had no initial response, resulted in a gap in the investigation relating to witness evidence.

Failures in Witness Strategy

- 11.23. Two witnesses were identified as a result of house-to-house enquiries, one of whom was Person J. These men had been working at a house in Iveagh Street at the time of the murder. They informed Police Officer 7 that they saw the stolen taxi leaving Fallswater Street and could describe its occupants. Their telephone number was listed on the relevant questionnaire. Police Officer 7, when interviewed by my investigators, could not recall speaking to the men and has subsequently (in response to the Maxwellisation process) confirmed to my Office that he does not recall the incident. Police Officer 7 stated that in general terms a witness statement may not be recorded from a potential witness if the information they provided could not progress the police investigation.
- 11.24. My investigators traced and interviewed one of the men, Witness J. The other did not assist with this investigation. Witness J stated that he was carrying out construction work at an address in Iveagh Street on the day of Mr Devine's murder. He had a clear view up Fallswater Street towards its junction with the Falls Road. He stated that he was standing outside the address, when he observed a taxi exit Fallswater Street and turn left onto Iveagh Street. As it travelled past him towards Broadway, the taxi's occupants crouched down. Witness J stated that he could not describe

these individuals, other than perhaps what they were wearing. He then looked back up Fallswater Street, where he saw a hysterical boy standing in the street. This was probably Sean Devine.

- 11.25. Following the murder, Witness J stated that he told a police officer what he had observed and provided his contact details. He stated that police never contacted him again to obtain a witness statement and that, as he worked at the Iveagh Street address for several months following Mr Devine's murder, he would have been easily contactable.
- 11.26. My investigators interviewed a Fallswater Street resident, Witness K, who stated that he entered Mr Devine's house, following the attack, but left shortly afterwards, when he realised that Mr Devine was dead. This investigation found no evidence that police recorded a witness statement from this individual, despite raising an action to do so.
- 11.27. Witness I was standing outside a shop on Iveagh Street at the time of the murder. He saw a car with three persons in it driving away from the murder scene. He told police that he was willing to provide a witness statement and could describe the car's rear seat passenger. His telephone number was recorded on the relevant house-to-house questionnaire. This investigation found no record that a statement was recorded from this individual. My investigators were unable to trace the relevant witness.
- 11.28. Police interviewed a member of the club's staff, who stated that there had been approximately 100 people in the club between 12:00pm – 2:30pm on 23 July 1989. She did not recall anything suspicious on the date in question or was aware of any person leaving the club at approximately 2:00pm. This witness is now deceased.
- 11.29. Police identified and interviewed a significant number of witnesses following the murder. These enquiries included tracing teenagers who were believed to have been playing in Fallswater Street at the time of the

attack. However, witness statements ought to have been obtained from Witness J, and other identified witnesses, whose evidence may have assisted police in identifying and apprehending those responsible for Mr Devine's murder.

Handling of Intelligence

- 11.30. My investigators reviewed all the intelligence made available to this investigation both pre and post the murder of Mr Devine. I am satisfied that there was no specific intelligence available to police that, if acted upon, could have prevented the murder of Mr Devine.
- 11.31. On 1 September 1987, police recovered weapons and documentation from an address in Bellevue Street, off the Shankill Road, in West Belfast. The relevant documentation was examined for fingerprint marks and those belonging to a relative of the house owner were recovered. This individual was arrested, and during police interview, stated that the documentation formed part of a loyalist intelligence cache that he had been storing at the address, without the knowledge of the house owner. This individual was subsequently convicted of a number of criminal offences, including a murder in 1984, and received a lengthy prison sentence. None of these offences related to the murder of John Devine.
- 11.32. However, on 6 October 1988, police recovered firearms, ammunition, and documentation from a house in Rockview Street, South Belfast. The recovered documentation contained loyalist intelligence files on known republicans and other members of the nationalist community. A number of the seized documents subsequently formed part of the Stevens Inquiry and were attributed to Brian Nelson.
- 11.33. One of the documents referred to a 'John Devine'. Although the date of birth on the document matched that of the deceased, the corresponding address and photograph were not those of Mr Devine. In March 1990,

when interviewed by Stevens Inquiry officers, Brian Nelson informed them that he created this document when working as the UDA's Intelligence Officer.

- 11.34. My investigators located a copy of the same document when conducting searches at Grosvenor Road PSNI Station as part of the Police Ombudsman investigation. This document was part of another loyalist intelligence cache recovered by police on 1 September 1987 during the search of a property in Bellevue Street, off the Shankill Road in West Belfast. Again, although the date of birth on the document matched that of the deceased, the corresponding address and photograph were not those of Mr Devine.
- 11.35. The RUC policy at the time in respect of warning individuals at risk was set out in Force Order 33/86 entitled, 'Threats against the Lives of Members of the Security forces, VIPs, or other Individuals'. This stated that when a threat was received, *'Local Special Branch (SB) concerned will inform the Sub-Divisional Commander (SDC) in whose area the subject resides or works and the SDC will take whatever action he wishes necessary. If the information received indicates that an attack on any person is imminent, the member receiving the information will immediately take all necessary action to inform the person at risk.'*
- 11.36. My investigators found no evidence to indicate that Mr Devine had been advised of the potential threat to his personal security by police, following the Rockview Street find in October 1988. My investigators sought to establish with the Devine family whether Mr Devine had been advised of the potential threat to his security. The family confirmed that they had no knowledge of police alerting Mr Devine to this threat.
- 11.37. There are also examples of non-dissemination of intelligence by Special Branch to the murder investigation team. This included three specific pieces of intelligence that implicated Person 1 in the murder of Mr Devine.

This may have deprived the SIO, Police Officer 2, of the opportunity to develop new or further lines of enquiry.

- 11.38. In late July 1989, Special Branch received two further pieces of intelligence linking two other individuals to Mr Devine's murder. Both these pieces of intelligence were marked NDD, and my investigators found no record that they were shared with the murder investigation team. My investigators could find no explanation as to why this intelligence was not shared with the murder investigation team.
- 11.39. In late July 1989, RUC Special Branch received further intelligence, naming Person 3 and another individual as having been involved in the murder. This intelligence was passed to the murder investigation team, who conducted research on the named individuals. Person 3 was subsequently added to the list of 36 persons of interest, but the other was not.
- 11.40. I am satisfied that these pieces of intelligence, had they been shared with the murder investigation team, may have assisted the SIO in developing new lines of enquiry that could have been developed into evidential opportunities. This could have advanced the police investigation and led to the arrest and conviction of those responsible for Mr Devine's murder.

Suspect and Arrest Strategy

- 11.41. Police created a list of 36 persons of interest during the course of the murder investigation. Only two individuals, Person 2 and Person 3, were interviewed under criminal caution about Mr Devine's murder. Forensic samples were taken from Person 2, but my investigators found no record that an Identification Parade was considered in respect of him.
- 11.42. My investigators researched each individual on the list of 36 persons of interest but could find no recorded rationale as to why each was included

on the list. This research established that, while significant enquiries were conducted by police regarding a number of individuals, there is no record of action being taken in respect of other potential suspects on that list. As stated previously, only two of these individuals, Person 2 and Person 3, were interviewed under criminal caution about Mr Devine's murder.

11.43. In late July 1989, police received an anonymous telephone call. The caller stated that a photofit image of one of the gunmen, shown on the 'Police Six' television programme, resembled an individual they knew. The caller only provided the first name of the individual and a non-specific address. This information was passed to the murder investigation team, who identified five individuals of interest that shared the same first name and lived in the non-specific address. Two of the five individuals were identified as associates of Person 2. However, they were not added to the list of the 36 persons of interest. One of the other three individuals was added to the list. My investigators have been unable to establish the rationale as to why individuals linked to Mr Devine's murder were not declared suspects. In the absence of policy logs or any documented decision making, I am unable to conclude on this matter. The issue of missing records is dealt with below; however, when combined with the lack of assistance from some police officers and the inability of others to recall this case, this investigation has been significantly impeded.

Person 1

11.44. I have concluded that Person 1 ought to have been a significant suspect in the murder of Mr Devine.

11.45. On 25 July 1989, RUC Special Branch provided the murder investigation team with a profile of Person 1, detailing his links to loyalist paramilitaries and describing him as the Officer Commanding (OC) of the RHC. This led to Police Officer 2 requesting a full background check on Person 1. This check was completed on 31 July 1989

- 11.46. In late July 1989, RUC Special Branch received intelligence naming Person 1 as the person who sanctioned the murder of Mr Devine. This intelligence was passed to the murder investigation team.
- 11.47. The RUC investigation identified a number of witnesses, who stated that Mr Devine had been engaged in a personal feud with Person 1 prior to his murder. In late July 1989, police received an anonymous telephone call from a member of the public who stated that Mr Devine had been involved in an argument with a '*Protestant*' from the Village area of the Donegall Road that had led to Mr Devine punching the other man so hard he was knocked unconscious. The caller did not name this other individual although I am satisfied this was mostly likely Person 1.
- 11.48. I have previously referred to the list of 36 persons of interest to the RUC investigation team. Person 1 was named on this list.
- 11.49. Despite being in receipt of the above intelligence and information that referred to a dispute between Person 1 and Mr Devine, Person 1 was interviewed by police as a 'witness' at Tennent Street RUC Station in August 1989. He informed police that he was not involved in Mr Devine's murder and was annoyed at rumours linking him to it. Person 1 declined to make a statement to police and no further action was taken in respect of him. I also note that prior to speaking with Person 1 police had made an entry on an action form relating to him that read, '*the above [Person 1] does have previous for murder.*'
- 11.50. I am satisfied that, given the available evidence, intelligence, and information known to the SIO, grounds existed for the arrest of Person 1 as a suspect at that time. This would have allowed police the opportunity to interview him under criminal caution and gather evidence that could have either eliminated him from their enquiries or further advanced the investigation into Mr Devine's murder.

- 11.51. My investigators were unable to locate any journal entries or policy decisions made by Police Officer 2 and Police Officer 3 that may have explained their rationale in respect of suspects and arrests. Missing documentation has hindered my ability to properly assess this issue fully in respect of the RUC investigation. I outline these instances of lack of records in an earlier section of this public statement.
- 11.52. There is also an example where intelligence was received but not disseminated to the SIO. In early August 1989, RUC Special Branch received three pieces of intelligence, linking Person 1 to Mr Devine's murder. Had this information been disseminated, it would have corroborated other intelligence and information known to the SIO about Person 1's suspected involvement.

Missing Records

- 11.53. The investigation of complaints about historical matters is challenging due to the passage of time and unavailability of relevant witnesses and documentation. In particular, the unavailability of relevant RUC records, in respect of SIO decision making, has caused difficulties during this investigation. These relate to understanding the rationale for key decisions made, and actions taken, by the SIO, Police Officer 2.
- 11.54. My investigators were unable to locate any policy records within the archived RUC investigation papers. Therefore, it has not been possible to establish why some persons of interest were arrested and others not arrested, why there was no follow up by police regarding the positive identification of one of the gunmen by Sean Devine, or why the identification parade at Gough Barracks did not proceed. Of significant concern, is that there is no rationale for treating Person 1 as a witness, when he ought to have been treated as a suspect and interviewed under criminal caution. This was challenging for my investigators, who were

therefore unable to assess the rationale for a number of key decisions made during the RUC investigation.

- 11.55. I have not established what consideration was given to information received by the murder investigation team. That is because Police Officers 2 and 3 have both confirmed that they do not recall this murder investigation. My investigators were also unable to retrieve, from the PSNI, any notebooks or journals issued to Police Officers 2 and 3 that may have contained such details.
- 11.56. Further, my investigators were unable to locate the photograph albums that Sean Devine stated he viewed. There were no photograph albums contained within the original archived material and no record of what photographs were contained in the albums. There were also no records of any witness viewing the albums or what the outcome was. One police officer made a notebook entry relating to the viewing by Sean Devine. However, it does not contain any information about what photographs were contained in the album or the identity of the suspect identified by Sean Devine.
- 11.57. Daily briefings for the police investigation team were held until at least 2 August 1989. Officer 1 informed my investigation team that briefings were held twice a day and minutes recorded. My enquiries have been unable to locate any minutes or other records of these briefings.
- 11.58. Stevens Inquiry Officer 3 asked, at the time of the Rockview Street investigation, to review the RUC investigation papers pertaining to the murder of Mr Devine and any related policy records of Police Officers 2 and 3. They were unable to supply any, and instead, Police Officer 3 provided a witness statement.
- 11.59. I have commented previously about how the absence of relevant documentation, in this case missing records, has hindered my

investigators from providing to families a fulsome account of the murder investigation. I have found this to be a recurring, systemic issue.

Lack of Threat Assessment

- 11.60. The RUC Force Order, at the time, in respect of warning individuals at risk was set out in Force Order 33/86 entitled, *'Threats against the Lives of Members of the Security forces, VIPs or other Individuals'*. This stated that when a threat was received, *'Local Special Branch (SB) concerned will inform the Sub-Divisional Commander (SDC) in whose area the subject resides or works and the SDC will take whatever action he wishes necessary. If the information received indicates that an attack on any person is imminent, the member receiving the information will immediately take all necessary action to inform the person at risk.'*
- 11.61. The Force Order placed a clear responsibility on the local RUC Sub-Divisional Commander to assess whether threat warnings to identified individuals were necessary. If the threat against the individual was considered imminent, in accordance with the Force Order, a threat warning should then be issued. If the threat was not considered imminent, the Sub-Divisional Commander could take whatever action they considered appropriate.
- 11.62. I am satisfied that a threat assessment ought to have been undertaken of the risk to Mr Devine's personal security following the intelligence finds at Bellevue Street and Rockview Street. The collation of this documentation indicated that Mr Devine was of interest to loyalist paramilitaries, as the intelligence caches comprised targeting information compiled by the UDA/UFF.
- 11.63. On two occasions, the RUC recovered personal details that could be directly attributed to Mr Devine from loyalist paramilitary intelligence caches. These were in September 1987 and October 1988. This

information linked Mr Devine's date of birth to the name John Devine. Police not only suspected that this information was being used for the purposes of targeting republicans but also that some of the information was derived from the security forces, thereby indicating an illicit source of such personal information. It is noteworthy that Person 2, one of two suspects interviewed for the murder of Mr Devine, was also interviewed at Gough Barracks by police about the Rockview Street find. My investigators found no evidence that John Devine was alerted to this information or that police gave consideration to the potential risk it presented to him, including whether a 'threat to life' warning was appropriate.

Complaint of 'Collusion'

- 11.64. In September 2005, in his original correspondence to my predecessor, Nuala O'Loan, Sean Devine listed the issues that subsequently formed his complaint, as recorded in his statement in January 2006. In his September 2005 correspondence he stated that these issues *'point towards a feeling of hostility towards my father by members of the security forces which could provide a reason for the lack of activity; an even less generous view would be that there was some collusion between some members of the security forces and the murderers.'*
- 11.65. Sean Devine alleged, *'My belief is that for operational, political, or more sinister reasons, my father's murder was at best not investigated in a professional or thorough manner and, at worst, there were elements within the RUC that actively thwarted such an investigation.'*
- 11.66. I am mindful of the limitation of my powers to make a determination of 'collusion' or 'collusive behaviours', as clarified in the Court of Appeal judgment. I am also mindful of the judgment of Scofield J on 6 February 2025, in which he determined that I am unable to express a qualitative view of my own as to whether 'collusion' or 'collusive behaviours' have

occurred in any case. As indicated earlier in this public statement, I have agreed with my Chief Executive to appeal the latter judgment.

Overall Conclusions

- 11.67. I acknowledge that the RUC investigation of John Devine's murder was conducted at a time when policing resources were extremely stretched. In particular, its Criminal Investigations Department (CID) was under significant pressure, given the number of murders, attempted murders, and other serious criminal offences being committed in Northern Ireland at that time.
- 11.68. The initial police response to the murder was thorough and appropriate. However, based on the available evidence and other information gathered during this investigation, I conclude that the RUC investigation of Mr Devine's murder was seriously deficient and therefore incapable of leading to the identification of those responsible.
- 11.69. The RUC investigation received information from a number of sources that Person 1, who was identified as the leader of the Red Hand Commando in the 'Village' area of South Belfast, had been in conflict with Mr Devine. One source stated that Person 1 had threatened to have Mr Devine 'shot' following an altercation. However, the RUC murder investigation then treated him as a witness, requesting that he make a statement, which he declined to do. There is no record of any further engagement by the RUC investigation with Person 1, who decades later, was prosecuted for the murder, following his earlier admission of involvement in the murder of Mr Devine.
- 11.70. A photofit image on display at Lisburn Road RUC Station, a short distance from the 'Village' area of South Belfast, was identified by Stevens Inquiry officers as bearing a striking resemblance to Person 2. My investigators recovered the photofit image and a contemporaneous photograph of

Person 2 and the similarity is evident. When the Stevens Inquiry officers made their observation, Person 2, at that time known to be a member of the Red Hand Commando in South Belfast, had not been identified by local police as a suspect in Mr Devine's murder. Person 2 was one of only two suspects subsequently interviewed under criminal caution by police investigating the murder. Police identified a number of witnesses to the murder, some of whom provided descriptions of the perpetrators. There is no record that an Identification Parade was pursued in respect of Person 2.

- 11.71. Mr Devine's then 13 year old son, Sean Devine, witnessed the murder of his father and was invited to view photograph albums of potential suspects, from which he remembered making a positive identification. Sean Devine recalled being invited by police to attend an Identification Parade at Gough Barracks, Armagh, but this was subsequently cancelled. There are no police records regarding this proposed Identification Parade, who it involved, or why it was cancelled.
- 11.72. The failings in the RUC investigation of Mr Devine's murder were so fundamental that I conclude this was a murder investigation incapable of detecting potential offenders and supporting a prosecution at the time. Although the murder occurred in July 1989, having considered the relevant case law, I conclude that the genuine connection test is met for the purposes of the obligations enshrined in Article 2 of European Convention on Human Rights (the Convention). In light of the significant investigative failings outlined above, I conclude that the original RUC investigation was not compliant with Article 2 of the Convention.
- 11.73. This investigation has identified that a number of the family's complaints about investigative failings and lack of family contact with the family are legitimate and justified. The failure to keep the family of a murder victim informed of the progress of an investigation cannot be excused by the lack of a Family Liaison policy. Although the family have complained about

'collusion' between the security forces and those who murdered Mr Devine, I am not permitted to express any view of my own on this issue, in consequence of a recent High Court judgment. The detailed narrative outlined in this public statement of the circumstances of Mr Devine's murder must be read in the context of that judgment and in light of my obligations under Article 2 of the European Convention to provide an independent and fulsome investigation of the family's complaints. I thank them for their patience in awaiting the outcome of this protracted investigation. I have attempted to answer their specific questions within the limits of my powers.

- 11.74. I believe that John Devine was the victim of a campaign of sectarian violence mounted against the nationalist community. Loyalist paramilitaries alone were responsible for Mr Devine's murder. Given the significant failings in the RUC investigation, which I have identified in this public statement, I believe that Mr Devine's family were failed by police in their search for the truth regarding his murder.



Marie Anderson
Police Ombudsman for Northern Ireland
12 June 2025