



FREEDOM OF INFORMATION REQUEST

Please note the text of this request has been reproduced exactly as received.

FOI Reference number: FOI 42/2022

Date: 15 February 2023

Request:

Please could you provide all information about Operation KLINA, particularly when the final report will be released and why it was not released at the original 2020 deadline.

Answer:

The Policing Board can confirm that it holds information that falls within the scope of your request. A total of 9 documents are enclosed. A number of redactions have been made as the following exemptions are engaged.

- Redactions have been made to remove information that is deemed to be the personal data of a third party. This personal information is exempt from disclosure to you under section 40(2) by virtue of section 40(3)(a)(i) of the FOIA.

Section 40(2) allows a public authority to withhold information from a response to a request for information under the FOIA when the information requested is personal information relating to someone other than the requester and its disclosure would contravene one of the data protection principles.

The first data protection principle requires personal data to be processed fairly and lawfully. This personal data is exempt from disclosure under section 40(2) of the FOIA as, in our view, it would be unfair to provide it to you, and therefore disclosure would be in contravention of the first principle of the UK General Data Protection Regulation. This is an absolute exemption and there is no requirement to conduct a public interest test.

- Certain police telephone numbers have been redacted on the basis of the application of section 31(1) (a) of the FOIA (prejudice to law enforcement functions and prevention of crime). This is because a release under FOI is a release into the public domain and this is not a publicly available/front facing number. The police have designated points of contact for the public including emergency 999 and 101 numbers which are resourced accordingly. Releasing alternative contacts of direct dial numbers could have the potential to clog that line, divert calls and resources from more appropriate channels or risk a call from the public not being answered.

In addition some information has been redacted as it is outside the scope of your request.

In regard to the specific query 'when the final report will be released and why it was not released at the original 2020 deadline' the Policing Board does not hold this information.

If you have queries about this request or the decision please contact the Board quoting the reference number above. If you are unhappy with the service you have received and wish to make a complaint or request a review you should write to the Board's Chief Executive at the following address:

Northern Ireland Policing Board
Waterside Tower
31 Clarendon Road
Clarendon Dock
Belfast BT1 3BG

Email: foi@nipolicingboard.org.uk

You should contact the Board within 40 working days of this response.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner. Generally, the Information Commissioner's Office cannot investigate or make a decision on a case unless you have exhausted the complaints procedure provided by the Board. The Information Commissioner can be contacted at: -

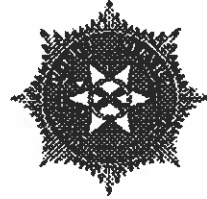
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Telephone: - 0303 1231114
Email: - ni@ico.org.uk

Please be advised that Policing Board replies under Freedom of Information may be released into the public domain via our website @ www.nipolicingboard.org.uk.

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

Keeping People Safe



**GEORGE HAMILTON
CHIEF CONSTABLE**

Our Ref: Com Sec 15\854

/4 January 2015

Dear Anne,

SECTION 35(5) JUSTICE ACT 2002 REFERRAL

I write to notify the Policing Board that I have received a referral under Section 35(5) of the Justice Act 2002 from the Director of Public Prosecutions who has requested that the Police Ombudsman and the Police Service of Northern Ireland carry out full investigations into the actions of former RUC and Security Service personnel in relation to the withholding, concealment and destruction of surveillance evidence.

The evidence includes two audio tapes, an original and a copy, which were produced during a surveillance operation at a hayshed at Ballynerry Road North, Lurgan on 24 November 1982, where Michael Tighe was shot dead and Martin McCauley was wounded by members of the RUC.

The concealment and destruction of these tapes was later investigated by the Criminal Cases Review Commission (CCRC) and subsequently led to the quashing of the conviction of Mr McCauley by the Court of Appeal for the offence of possession of firearms in suspicious circumstances.

The responsibility for progressing matters relating to former police officers lies with the Police Ombudsman for Northern Ireland and the investigation into those who are not police officers is the responsibility of the Police Service of Northern Ireland.

In the interests of transparency and public confidence, I have decided to invite an external Police Service to carry out the investigation on behalf of the PSNI. The external Police Service will carry out a full investigation and I will then forward a report to the Director of Public Prosecutions.

I have asked HMIC to facilitate an open and transparent approach to an external Police Service to supply an Enquiry Team and overseeing Chief Officer to carry out the investigation.

Private Office, PSNI Headquarters, 65 Knock Road, Belfast, Northern Ireland BT5 6LE

 **CRIMESTOPPERS**
0800 555 111

Call anonymously with information about crime

Telephone: [REDACTED] Fax: [REDACTED] Email: [REDACTED]

Sect 31(1)(a)

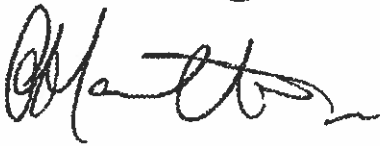
ACC Mark Hamilton has been appointed as the Gold Commander for the PSNI and his role will be to ensure effective delivery of the investigation and engage with the relevant stakeholders. ACC Hamilton will not direct the investigation rather his role will be to facilitate access for the Enquiry Team and to manage consequences. The Enquiry Team will have unfettered authority to make whatever investigative decisions they deem necessary.

I can assure the Board that the PSNI led element of the investigation will fully co-operate with that led by the Police Ombudsman.

The Police investigation will be known as Op Klina. While an initial scoping exercise will need to be carried out when the external police team has been appointed, it is not possible at this early stage to estimate the scale, length or cost of the enquiry.

As this is now a live criminal investigation I will of course be restricted in detailed information which I can provide. I do however hope to be able to provide general updates when appropriate to the Board.

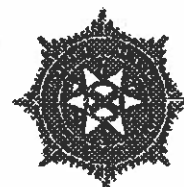
Sincerely



GEORGE HAMILTON

Anne Connolly
Chair
Northern Ireland Policing Board
Waterside Tower
31 Clarendon Road
Clarendon Dock
Belfast
BT1 3BG

Keeping People Safe



**GEORGE HAMILTON
CHIEF CONSTABLE**

Our Ref: Com Sec 15\854

17, March 2015

Dear Anne

SECTION 35(5) JUSTICE ACT 2012 REFERRAL - OP KLINA

I write further to my letter of 14 January with regard to the Section 35(5) referral I received previously from the Director of Public Prosecutions in relation to events concerning the death of Michael Tighe and the wounding of Martin McCauley on 24 November 1982.

As you are aware I asked HMIC to facilitate an open and transparent approach to an external Police Service to supply an investigation team to carry out the enquiry.

I can now confirm that Police Scotland have agreed to conduct the investigation in relation to the actions of any individuals who are not police officers. Of course the Police Ombudsman for Northern Ireland will carry out an investigation in relation to the conduct of a number of former RUC officers.

The Police Scotland team will report directly to myself to enable me to oversee the investigation and report to the Director of Public Prosecutions.

I can assure the Board that the PSNI will also work with the Office of the Police Ombudsman to ensure that they are provided with any information they might require to conduct their investigation as speedily as possible

Of course I will continue to provide the Policing Board with updates.

Yours sincerely

GEORGE HAMILTON

Ref No:	
Received:	31. 3. 15
Scanned:	✓
Allocated To:	PC/Team
Action:	

Anne Connolly
Chair
Northern Ireland Policing Board
Waterside Tower
31 Clarendon Road
Clarendon Dock
Belfast BT1 3BG

Private Office, PSNI Headquarters, 65 Knock Road, Belfast, Northern Ireland BT5 6LE

CRIMESTOPPERS
0800 555 111
Call anonymously with information about crime

Telephone: [redacted] Fax: [redacted] Email: [redacted]

Sect 31 (1)(a)

[Redacted]

From: [Redacted]@psni.pnn.police.uk
Sent: 01 April 2015 10:47
To: [Redacted]@nipolicingboard.gsi.gov.uk
Subject: 1.NOT PROTECTIVELY MARKED-All Networks: Op Klina

Hi [Redacted]

Apologies for the delay but please see line re Op Klina which will be issued this afternoon.
If there are any issues, please give me a shout – I have my mobile with me today!!!!!!
Thanks,
[Redacted]

The Police Service of Northern Ireland can now confirm that Police Scotland will conduct the investigation into the actions of Security Service Personnel in relation to the withholding, concealment and destruction of surveillance evidence concerning an operation at a hayshed at Ballynerry Road North, Lurgan on November 24 1982, where Michael Tighe was shot dead and Martin McCauley was wounded by members of the RUC.

Assistant Chief Constable Mark Hamilton explained: "This follows a referral under Section 35(5) of the Justice Act 2002 from the Director of Public Prosecutions in January 2015 requesting that the Chief Constable undertook an investigation into this. In the interests of transparency and public confidence, the Chief Constable decided that the police investigation should be conducted by an external police service and asked Her Majesty's Chief Inspectorate to identify a service to undertake the investigation on behalf of the PSNI.

"Police Scotland will conduct the investigation in relation to the actions of individuals who are not police officers. The Police Ombudsman for Northern Ireland will carry out an investigation in relation to the conduct of a number of former RUC officers involved in the same investigation.

"Police Scotland will appoint a chief officer to lead the investigation who will have the full delegated authority of the Chief Constable. At the conclusion of the investigation, the chief officer will then report to the Chief Constable for onward transmission to the Director of Public Prosecutions.

"Any matters which come to the attention of the Police Scotland investigation team which indicate, or appear to indicate, any sort of criminality or misconduct by current or former police officers will be referred to PONI."

[Redacted]
Corporate Communications Officer | Dept of Corporate Communications
PSNI Headquarters | 65 Knock Road | Belfast | BT5 6LE
Tel: [Redacted] | Mobile: [Redacted]
Email: [Redacted]@psni.pnn.police.uk

Any views expressed by the sender of this message are not necessarily those of the Police Service of Northern Ireland. This e-mail and any files transmitted with it are intended solely for the use of the individual or entity to whom they are addressed. Internet email is not to be treated as a secure means of communication. PSNI monitors all internet email activity and content. If you have received this e-mail in error please notify the sender immediately by using the reply facility in your e-mail software. All e-mails are swept for the presence of viruses.

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How is Operation Klina resourced?

Date asked: 06 June 2019

Committee: Resources committee

Question type: Written

Operation Klina is expected to run to December 2020 with a budget of £1 million per year. Can the Chief Constable please confirm how many officers are working on operation Klina, what activities are involved in this operation to account for an annual expenditure of £1 million and why is it anticipated to run to December 2020?

Background

The Director of Public Prosecutions (DPP) for Northern Ireland made a direction to the Chief Constable of the Police Service of Northern Ireland following judicial comment made in September 2014 in the case of R v Martin McCauley when his conviction was overturned. He had been convicted on 2 February 1985 for an offence contrary to Article 23 of the Firearms (Northern Ireland) Order 1981.

In the course of the incident which led to his conviction, Martin McCauley was shot and injured and Michael Tighe was killed by members of the Royal Ulster Constabulary. In allowing Mr McCauley's appeal against conviction, the Lord Chief Justice stated that the destruction of a surveillance tape recording and misleading of the DPP by the Security Services and the RUC, "amounted cumulatively to grave misconduct."

The referral by the DPP was under section 35(5) of the Justice (Northern Ireland) Act 2002 which states: "The Chief Constable of the Police Service of Northern Ireland must, at the request of the Director, ascertain and give to the Director:

(a) information about any matter appearing to the Director to need investigation on the grounds that it may involve an offence committed against the law of Northern Ireland; and

(b) information appearing to the Director to be necessary for the exercise of his functions.”

To secure the necessary practical independence to conduct this investigation, the Chief Constable of Police Scotland was appointed. The remit of the investigation was to carry out a full investigation into the circumstances of the concealment and destruction of potential evidence (said to comprise audio tapes) and into the withholding of information concerning these tapes.

Resourcing Operation Klina

Operation Klina commenced in 2015, and is staffed by 11 Police Officers working full time supported by a flexible capability to increase by 2 further Officers, when necessary. There are also 4 members of Police staff who work part-time on the operation providing administrative support.

Operational Activities

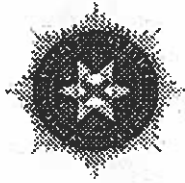
- Research and preparation of the situational briefing report for PSNI Chief Constable and Public Interest Documentation for the Director of Public Prosecutions - 6 months
- Gather and transport documents (approximately 14,500) from third party Government Departments. Scanning and indexing all documents into an organised and searchable format held on a bespoke stand-alone secure ICT system - 2 years
- Interviewing of the potential 200 witnesses commenced in 2018; simultaneous to the assimilation and reading of over 10,000 documents.

Operational Activity for Completion

Operation Klina is forecasted to end in December 2020, to facilitate the completion of the interview phase and the significant effort which will be required in the compilation of a Final Report, which will reference the large volume of complex material gathered from various Police Forces and HMG Departments at the earlier stages of the investigation.

Annual Expenditure

The cost the financial year 2018/19 was £853,000. The vast majority (93%) of the annual Operation Klina spend related to staff salaries (£792K in the past financial year), with the remainder being associated to travel, training and administration costs.



Briefing Paper for the Northern Ireland Policing Board

OPERATION KLINA			
Disclosable under FOISA 2002 and FOIA 2000		No	
Contact	Deputy Chief Constable Graham	Department/ Unit	Crime and Operations
Date Created	9 August 2019	Telephone	[REDACTED]
Attachments: No			

Sect
31(1)(a)

PURPOSE

The purpose of this report is to provide the Northern Ireland Policing Board with an update regarding the Operation Klina Investigation.

BACKGROUND

On 24 November 1982, Officers of the Royal Ulster Constabulary (RUC) confronted two men within a hay barn and opened fire. As a result, Michael Tighe was fatally injured and Martin McCauley was seriously wounded.

McCauley was ultimately charged and on 2 February 1985, convicted for an offence contrary to Article 23 of the Firearms (Northern Ireland) Order 1981, regarding possession of three rifles.

It was later established a covert listening device had been deployed within the hay barn which had recorded the events.

On 22 November 2005, McCauley applied to the Criminal Cases Review Commission (CCRC) to consider his case, on the basis that events at the hay barn had been tape recorded and concealed from the trial. The CCRC referred the case to the Court of Appeal.

On 10 September 2014, at the Court of Appeal, the conviction of McCauley was quashed and on 13 January 2015, the Director of Public Prosecutions (DPP), Northern Ireland, made a referral under Section 35(5) of the Justice (Northern Ireland) Act 2002, to the Chief Constable of the Police Service of Northern Ireland for the matter to be investigated.

OFFICIAL

2.

The DPP(NI) also made a referral to the Police Ombudsman for Northern Ireland (PONI) to investigate the conduct of RUC Officers.

On 27 February 2015, the Chief Constable of the PSNI requested the assistance of the Chief Constable of the Police Service of Scotland (PSOS) to 'carry out a full investigation into the circumstances of the concealment and destruction of potential evidence (said to comprise audio tapes) and into the withholding of information concerning these tapes insofar as those matters, or either of them, might be said to have involved persons other than Officers of the then RUC'.

RESOURCING

Operation Klina is staffed by nine Police Officers from PSOS working full time, supported by a flexible capacity to increase by three further Officers when necessary. There are also four members of Police staff who work part-time on the operation, providing administrative support.

MAIN OPERATIONAL ACTIVITIES TO DATE

Approximately 14,500 documents were ingathered from third party HMG Departments. These documents were assimilated resulting in approximately 7,000 relevant documents being read and marked. From this approximately 4,000 lines of enquiry have been generated. The collection, assimilation and reading of documents took approximately four years.

Witness interviews commenced in 2018 and following a review, over 100 individuals were identified for interview. To date, the Enquiry Team have conducted interviews with over 70 witnesses.

Approximately six months was spent in the research and preparation of a Situational Briefing Report and review of Public Interest Documentation on behalf of the Director of Public Prosecutions.

OUTSTANDING ENQUIRIES

Approximately 40 witness interviews still require to be conducted. This process is ongoing and is scheduled to be completed by Spring 2020.

An additional 10 interviews have been deferred meantime. Following completion of the witness interviews there will be a review of any fresh evidence to consider any criminality.

Approximately 1,000 Actions (lines of enquiry) remain outstanding.

OFFICIAL

OFFICIAL

3.

Whilst much of the Final Report can be drafted as the investigation progresses, final conclusions or recommendations cannot be compiled until all witnesses have been seen and their evidence secured. It is proposed this report will be provided to the Chief Constable in electronic format to allow the vast quantity of information and documentation to be presented in a structured format to assist the reader.

Any disclosure process cannot commence until a decision on whether to prosecute is made.

FINANCE AND TIMESCALES FOR COMPLETION

All funding for Operation Klina, including staff salaries is being met by the PSNI.

To date, a total of £3.1 million has been spent on the investigation. It is anticipated the investigation will conclude by the end of 2020, with a projected total spend of £4.3 million.

OFFICIAL



Briefing Paper for the Northern Ireland Policing Board

OPERATION KLINA			
Disclosable under FOISA 2002 and FOIA 2000		No	
Contact	Deputy Chief Constable Graham	Department/Unit	Crime and Operations
Date Created	14 November 2019	Telephone	[REDACTED]
Attachments: No			

Section 3(1)(c)

PURPOSE

The purpose of this report is to provide the Northern Ireland Policing Board with an update regarding the Operation Klina Investigation.

BACKGROUND

On 24 November 1982, Officers of the Royal Ulster Constabulary (RUC) confronted two men within a hay barn and opened fire. As a result, Michael Tighe was fatally injured and Martin McCauley was seriously wounded.

McCauley was ultimately charged and on 2 February 1985, convicted for an offence contrary to Article 23 of the Firearms (Northern Ireland) Order 1981, regarding possession of three rifles.

It was later established a covert listening device had been deployed within the hay barn which had recorded the events.

On 22 November 2005, McCauley applied to the Criminal Cases Review Commission (CCRC) to consider his case, on the basis that events at the hay barn had been tape recorded and concealed from the trial. The CCRC referred the case to the Court of Appeal.

On 10 September 2014, at the Court of Appeal, the conviction of McCauley was quashed and on 13 January 2015, the Director of Public Prosecutions (DPP), Northern Ireland, made a referral under Section 35(5) of the Justice (Northern Ireland) Act 2002, to the Chief Constable of the Police Service of Northern Ireland for the matter to be investigated.

The DPP(NI) also made a referral to the Police Ombudsman for Northern Ireland (PONI) to investigate the conduct of RUC Officers.

On 27 February 2015, the Chief Constable of the PSNI requested the assistance of the Chief Constable of the Police Service of Scotland (PSOS) to *'carry out a full investigation into the circumstances of the concealment and destruction of potential evidence (said to comprise audio tapes) and into the withholding of information concerning these tapes insofar as those matters, or either of them, might be said to have involved persons other than Officers of the then RUC'*.

INDEPENDENCE AND ACCOUNTABILITY

Police Scotland have been engaged by the mutual aid provisions under the auspices of Section 98(2) of the Police Act 1996. The requirements of the Police Code of Conduct and Standards of Professional Behaviour governing Police Scotland Officers are still applied to Officers deployed in such circumstances. Any allegation of misconduct by one of the Enquiry Team would be dealt with in the same terms as if that behaviour had occurred in Scotland. The Police Investigation and Review Commissioner who provides the statutory oversight body for Police Scotland Officers was briefed at the outset of the Operation Klina investigation.

The Enquiry Team is almost exclusively Police Scotland warranted officers and it has been the standing practice that only Police officers are engaged in investigative functions in Northern Ireland. The Police staff from Police Scotland have provided support functions.

An oversight regime was instigated at the outset of the investigation within Police Scotland to ensure appropriate scrutiny and management of the investigation. DCC Graham (then the ACC of Major Crime) was appointed the Gold Commander to provide strategic management to the enquiry team. A Gold Group meeting structure was established on a three monthly basis to provide governance of the investigation, as well as finance, logistical and risk management issues.

Moreover, the then DCC Crime and Operational Support convened a six monthly Strategic Oversight Group to provide scrutiny of the Gold Group and the wider investigation.

The Gold Commander has produced a monthly report for the attention of the Chief Constable of the PSNI, since the inception of the investigation. The report provides a detailed breakdown of the monthly expenditure, as well as the levels of resourcing and updates in respect of community impact.

The Gold Commander and SIO have provided Operational updates, when necessary, to the Chief Constable personally.

VICTIM AND FAMILY ENGAGEMENT

The Terms of Reference of Operation Klina direct the investigation into the specific matters related to the alleged disclosure failures and destruction of evidence by individuals, other than those in the RUC. The Enquiry Team sent letters to the representatives of the man killed and the male seriously injured in the incident within the hay barn at Ballynerry Road North, Lurgan in November 1982 at the outset of the enquiry. That engagement remains open and an undertaking has been made to provide updates once the methodical and meticulous examination of the facts have been concluded.

The focus of the investigation, however, remains in the pursuance of discharging the investigation in respect of those people involved, who were not in the RUC but were directly involved in the matters under investigation, predominately from outwith the communities of Northern Ireland.

RESOURCING

Operation Klina is staffed by eight Police Officers and two Support Staff from PSOS working full time, supported by a flexible capacity to increase by one further Officer when necessary. There are also four members of Police staff who work part-time on the operation, providing administrative support.

MAIN OPERATIONAL ACTIVITIES TO DATE

Approximately 14,500 documents were ingathered from third party HMG Departments. These documents were assimilated resulting in approximately 7,000 relevant documents being read and marked. From this approximately 4,000 lines of enquiry have been generated. The collection, assimilation and reading of documents took approximately four years.

Witness interviews commenced in 2018 and following a review, over 100 individuals were identified for interview. To date, the Enquiry Team have conducted interviews with over 80 witnesses.

Approximately six months was spent in the research and preparation of a Situational Briefing Report and review of Public Interest Documentation on behalf of the Director of Public Prosecutions.

OUTSTANDING ENQUIRIES

Approximately 25 witness interviews still require to be conducted. This process is ongoing and is scheduled to be completed by Spring 2020.

OFFICIAL

4.

An additional 10 interviews have been deferred meantime. Following completion of the witness interviews there will be a review of any fresh evidence to consider any criminality.

Approximately 400 Actions remain outstanding.

Whilst much of the Final Report can be drafted as the investigation progresses, final conclusions or recommendations cannot be compiled until all witnesses have been seen and their evidence secured. It is proposed this report will be provided to the Chief Constable in electronic format to allow the vast quantity of information and documentation to be presented in a structured format to assist the reader.

Any disclosure process cannot commence until a decision on whether to prosecute is made.

[REDACTED]

Outside Scope of Request

[REDACTED]

FINANCE AND TIMESCALES FOR COMPLETION

All funding for Operation Klina, including staff salaries is being met by the PSNI.

To date, a total of £3.4 million has been spent on the investigation. It is anticipated the investigation will conclude by the end of 2020, with a projected total spend of £4.3 million.

OFFICIAL

EXTRACT

NORTHERN IRELAND POLICING BOARD

**MINUTES OF MEETING OF THE NORTHERN IRELAND POLICING BOARD
HELD ON WEDNESDAY 4 DECEMBER 2019 AT 12.15PM IN WATERSIDE
TOWER, CLARENDON DOCK.**

PRESENT:

Mrs Anne Connolly (Chair)
Ms Deborah Watters (Vice-Chair)
(1) Mrs Joanne Bunting
(2) Mr John Blair
Prof Brice Dickson
(3) Mrs Linda Dillon
Mr Doug Garrett
Mr Gerry Kelly
Mr Philip McGuigan
Dr Paul Nolan
Mr Mervyn Storey
Mrs Wendy Osborne

DEPARTMENT OF FINANCE (4) Mr Derek Kennedy
IN ATTENDANCE (4) Ms Siobhan White

POLICE SCOTLAND IN (5) Mr Malcolm Graham, Deputy Chief Constable, Police
ATTENDANCE Scotland

POLICE SERVICE (6) Mr Simon Byrne, Chief Constable
OF NORTHERN IRELAND (7) Mr Stephen Martin, T/Deputy Chief Constable
IN ATTENDANCE: (6) Superintendent John McCaughan, Command
Secretariat
(6) One PSNI Staff Member

OFFICIALS

IN ATTENDANCE:

Mrs Amanda Stewart, Chief Executive
Mr Tim Logan, Director of Resources
Mr Adrian McNamee, Director of Partnership
Ms Jenny Passmore, Director of Performance
Ms Aislinn, McGuckin, T/Director of Police
Administration
Three Board Officials

(1) Part item 4.2 to 15 (arrived at 12.25pm).

(2) Item 1 to part item 5. Part item 5 to part item 8.1 (left at 12.40pm, returned 12.45pm. Departed at 1.30pm).

(3) Part item 5 to part item 7.3. Part item 8.1 to item 15 (arrived at 12.30pm. Left at 1.18pm and returned at 1.22pm).

8.2 Briefing from DCC Graham, Police Scotland on Operation Klina

The Chair welcomed the PSNI Chief Constable and Police Scotland Deputy Chief Constable (DCC) Graham to the meeting. DCC Graham updated Members on the progress and approach to the investigation including the continuity to the investigation as DCC Graham had been the senior investigating officer since the investigation began 5 years ago and was focussed on meeting the investigation's Terms of Reference. It was anticipated that the investigation would conclude during 2020.

During discussions, Members raised issues with DCC Graham including:

- The co-operation of other State agencies with the investigation. DCC Graham noted his team had been given access to the information needed during their investigation.
- The nature of the various lines of the enquiry that the investigation team had to investigate.
- The timescale for the conclusion of the investigation and possibility of criminal charges being brought thereafter. DCC Graham noted that he was focussed on the investigation and delivering against the Terms of Reference. Criminal charges would be a matter for the Director of Public Prosecutions to consider once the final report was available.

Members thanked DCC Graham for the update.

NIPB Ref: FOI 42/2022

Extract from NIPB Chair letter to PSNI Chief Constable 17 January 2020

Subject – PSNI External Legacy Investigations

In respect of the investigation led by Deputy Chief Constable Graham, a copy of the 'Klina' Terms of Reference along with the projected cost for completion of the case.

Record No: 521788

Northern Ireland Policing Board

Waterside Tower, 31 Clarendon Road, Clarendon Dock, Belfast BT1 3BG

 028 9040 8500  028 9040 8544  information@nipolicingboard.org.uk

 www.nipolicingboard.org.uk  [policingboard](https://www.facebook.com/policingboard)  [@nipolicingboard](https://twitter.com/nipolicingboard)

 [nipolicingboard](https://www.youtube.com/nipolicingboard)  [Northernirelandpolicingboard](https://www.linkedin.com/company/northernirelandpolicingboard)

NIPB Ref: FOI 42/2022

Extract from PSNI Chief Constable's letter to NIPB Chair 25 February 2020

Subject – PSNI External Legacy Investigations

Op Klina Terms of reference

As requested, I attach a copy of the Operation Klina Terms of Reference for your reference.

Enclosed:

Op Klina Terms of Reference

Record No: 521781

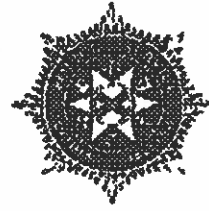
Northern Ireland Policing Board

Waterside Tower, 31 Clarendon Road, Clarendon Dock, Belfast BT1 3BG

 028 9040 8500  028 9040 8544  information@nipolicingboard.org.uk

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 [nipolicingboard](https://www.youtube.com/nipolicingboard)  [Northernirelandpolicingboard](https://www.linkedin.com/company/northernirelandpolicingboard)



OPERATION KLINA

Terms of Reference

1. Background

The Director of Public Prosecutions for Northern Ireland has made a request to the Chief Constable of the Police Service of Northern Ireland following judicial comment made in September 2014 in the case of R v Martin McCauley when his conviction was overturned. He had been convicted on 2 February 1985 for an offence contrary to Article 23 of the Firearms (Northern Ireland) Order 1981. In the course of the incident which led to his conviction Martin McCauley was shot and injured and Michael Tighe was killed by members of the Royal Ulster Constabulary. In allowing Mr McCauley's appeal against conviction, the Lord Chief Justice stated that the destruction of a surveillance tape recording and misleading of the DPP by the Security Services and the RUC, "amounted cumulatively to grave misconduct."

Section 35(5) Justice (Northern Ireland) Act 2002

Section 35(5) of the Justice(Northern Ireland) Act 2002 states:

"The Chief Constable of the Police Service of Northern Ireland must, at the request of the Director, ascertain and give to the Director:

- (a) information about any matter appearing to the Director to need investigation on the grounds that it may involve an offence committed against the law of Northern Ireland; and
- (b) information appearing to the Director to be necessary for the exercise of his functions."

2. Police Scotland

The Chief Constable of the PSNI has informed the DPP that he has asked for the assistance of the Chief Constable of the Police Service of Scotland (Police Scotland) to carry out a full investigation into the circumstances of the concealment and destruction of potential evidence (said to comprise audio tapes) and into the withholding of information concerning these tapes insofar as those matters, or either of them, might be said to have involved persons other than officers of the then RUC.

Police Scotland will appoint a chief officer to lead the investigation. This chief officer will have the full delegated authority of the Chief Constable PSNI to direct the investigation. The PSNI will not have any investigative or decision making role. The Police Scotland chief officer will appoint an SIO and investigation team from within Police Scotland.

Officers from Police Scotland will carry out their investigation in terms of Section 98(2) of the Police Act 1996 and thus, will have all the necessary powers and privileges of police officers of the PSNI to ensure an effective investigation and ensure that the request from the DPP is fulfilled.

OFFICIAL

At the conclusion of the investigation, the Police Scotland chief officer will report to the Chief Constable of the PSNI for onward transmission to the Director of Public Prosecutions.

Investigative Parameters

This investigation will restrict itself to the matters outlined in the Section 35(5) referral from the DPP. Any matters falling outwith those in the said referral will be brought to the attention of the DPP.

3. Office of the Police Ombudsman (OPONI)

The Office of the Police Ombudsman for Northern Ireland is the body with responsibility for investigation into complaints against former or serving Police Officers of the PSNI or, formerly, the RUC. The DPP has also made a Section 55(4a) referral to OPONI in relation to the apparent involvement of police officers in the events leading to Mr McCauley's conviction.

Section 55(4A) of the Justice (Northern Ireland) Act 2002 (as was amended) provides:

"The Director shall refer to the Ombudsman any matter which:

- (a) appears to the Director to indicate that a police officer:
 - (i) may have committed a criminal offence; or
 - (ii) may, in the course of a criminal investigation, have behaved in a manner which would justify disciplinary proceedings; and
- (b) is not the subject of a complaint.

unless it appears to the Director that the Ombudsman is already aware of the matter."

It is the expectation of the Chief Constable of the PSNI that Police Scotland and OPONI will, in making their respective investigations, establish and operate an effective mechanism for the sharing of relevant information, and will endeavour to ensure that each discharges its respective role in fulfilment of the relevant referral made by the DPP. All matters which come to the attention of the Police Scotland investigation team, which indicate or appear to indicate actual or suspected criminality or misconduct by former (including of the RUC) or current police officers will be expeditiously referred to OPONI.

4. Director of Public Prosecutions (DPP)

Police Scotland will ensure that the office of the DPP is regularly updated as to the progress of the investigation.

5. Role of PSNI

The Chief Constable for the PSNI remains solely responsible for the final delivery of a report to the DPP. ACC SID has been appointed as SPOC for Police Scotland. The chief officer from Police Scotland will provide ACC SID with a monthly briefing for the information of the Chief Constable. ACC SID will ensure that where necessary, all stakeholders are updated, media releases are approved and community impact assessments are carried out on behalf of the PSNI. The PSNI will supply Police Scotland with all investigative and logistical support as requested by the chief officer from Police Scotland.