

**OPEN summary of CLOSED session  
28 October 2020**

**Witness 1 (continued from 27 October 2020)**

On the 27 October 2020, the Inquiry heard evidence from an officer of the Crown Prosecution Service (CPS) in CLOSED session. The witness returned to conclude his evidence today. As previously and for the same reasons<sup>1</sup>, his evidence was given in CLOSED session. The following is a summary of his evidence that can be stated in OPEN:

The witness acknowledged that a suspect should be able to rely on a decision made by the CPS and that this included a decision not to prosecute. He confirmed that a decision could however be overturned if the decision was wrong. The witness expressed his view that there is a real danger in reassessing decisions made some time ago in light of current practice. He said that if prosecutors have applied the law and the Code in force at the time it is very difficult to say the decision is wrong.

The witness accepted that the section of the Code for Crown Prosecutors dealing with overturning earlier decisions does not make it clear which version of the Code should be applied. The witness nevertheless expressed the opinion that if a prosecutor was looking at a case that occurred “...*some time ago, you have to look at the evidence that was available at the time when the decision was made, the law that was in place at the time, and of course the code that was in place*”.

The witness confirmed that when counsel is instructed to advise on a prosecution, they are instructed to advise on whether the evidential test is met, the public interest test being “...*a matter for the Crown Prosecution Service*”.

The witness said that in respect of Operation Magnolia, the decision to take ‘no further action’ was not one taken by the CPS. He clarified that in reviewing the Operation Magnolia decision, it was therefore simply a matter of applying the evidential and public interest tests.

With regards to Operation Dauntless, the witness acknowledged that the reviewing lawyer in 2015 had found that the prosecutor in 2007 had given ‘disproportionate weight to matters that adversely affected the credibility of the complainant as well as to the delay in reporting the complaint’. The witness added that the rules on corroboration had changed and that, following changes to the law in 2003, there was the possibility for cross-admissibility for multiple allegations that should have been taken into account.

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<https://www.iicsa.org.uk/key-documents/17767/view/2020.03.05-notice-determination-following-preliminary-hearing-20-february-2020.pdf>

The witness confirmed that the CPS stood by the view that mistakes were made in relation to the decision-making in 2007.

The witness gave evidence about the Victims Right to Review. He explained that it was *“...a procedure whereby, if a qualifying prosecution decision has been made and a decision not to prosecute would be such a decision, the CPS has committed to having that decision relooked at by an independent prosecutor, a prosecutor who has taken no previous involvement in the case”*. He added that *“...the difficulty in this case was, of course, that the DPP had been involved in the decision making, so there was no-one more senior than the DPP in the organisation”*. The witness confirmed that an independent review had nevertheless been carried out, informed by advice from leading counsel.

The witness said that if the CPS had been informed of the allegations, the decision in respect of Operation Magnolia should have been made by the Central Casework Division in accordance with the guidance concerning allegations made against a high-profile person. The witness said that in respect of Operation Dauntless in 2007, the guidance at that time was that the decision should have been taken by the Special Crime Division at CPS Headquarters.

The witness explained that the current guidance also provides for such cases to be dealt with by the Special Crime Division. He added that the current guidance also suggests that once a case is accepted by CPS Headquarters, it should be kept by CPS Headquarters and be prosecuted by CPS Headquarters. The witness also confirmed that a case such as that involving Lord Janner would now be considered a ‘sensitive case list’ case.

The witness explained that the CPS had recently introduced a five-year strategy, ‘RASSO 2025’, which was *“...an attempt to bridge the gap between the amount of allegations of rape that are made by complainants and the number of cases that ultimately are referred to the CPS and the decision is made to either prosecute or to not prosecute”*.

The witness was asked about the arrangements that were in place to communicate to complainants the decision not to prosecute Lord Janner in 2015. The witness explained that he was not involved, but that he understood the police would have been responsible for communicating that decision to interested parties. The witness said that there was *“always scope”* for the CPS to consider meeting with a complainant face-to-face to explain a decision not to prosecute, although *“...at the moment [the CPS is] not resourced to do that in these cases”*.

When asked whether there was anything that could be done to prevent the things that went wrong in this case arising again in the future, the witness said that he was *“...satisfied that we have learnt from what went wrong in this case and put appropriate systems in place to ensure that it doesn’t happen again”*.

## Witness 2

The Inquiry also heard evidence from a retired Detective Inspector from Leicestershire Police. For the same reasons, his evidence was given in CLOSED session. The following is a summary of those parts of his evidence that can be stated in OPEN:

The witness gave a summary of his career. He explained that he joined Operation Magnolia in May 2001, by which point the Operation had been ongoing for 14-15 months. He said that he was invited to join the investigation by his Superintendent. He explained that, at that time, he had no previous experience of dealing with historic child abuse investigations.

The witness stated that he was an Acting Detective Inspector (A/DI) appointed as the HOLMES<sup>2</sup> office manager. He explained that this involved overseeing the administrative side of the investigation, including “...*staffing, resources and the paperwork-flow through the processes*”. The witness stated that he had been on a two-week training course on the HOLMES system prior to joining the Operation. He said that he later became the Deputy Senior Investigating Officer (SIO), as the previous A/DI who had fulfilled that role had been moved to other duties.

The witness referred to the SIO’s policy book for Operation Magnolia, which he confirmed he had access to during the investigation. He stated that from reading certain policy decisions and from comments made by the SIO, he formed the impression that there was a desire to prevent ‘mission creep’ and to retain focus on the terms of reference. He explained that the terms of reference for the investigation were “...*fairly specific in terms of allegation at a certain children’s home in a certain time period*” and that he recalled the SIO being “...*clear on a number of occasions that he wouldn’t wish to take the enquiry outside those parameters*”. The witness said he didn’t know why the SIO had wanted to keep closely to the terms of reference, but that he thought it “...*was simply to avoid a much larger investigation*”.

The witness said that if a disclosure was made that fell outside of the terms of reference, this would be entered into HOLMES and then ‘pended’, meaning that it would be “...*put to one side, for a decision to be made normally by the SIO*”. He confirmed that he would then sit down with the SIO to discuss the ‘pended’ actions. He said these meetings occurred at varying frequencies, sometimes weekly and sometimes he “*wouldn’t see him for two or three weeks*”.

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<sup>2</sup> Home Office Large Major Enquiry System

The witness said that Lord Janner's name arose in a number of statements and subsequent actions in Operation Magnolia. The witness said the queues of actions on the HOLMES system were "very lengthy" and that he believed there were "...more than a thousand documents requiring review and filing". The witness said that during the course of reviewing these, he noted Lord Janner's name against various actions, but that those were marked as "...pending', meaning they were awaiting a decision by the SIO".

The witness said that he couldn't recall when he first became aware of Lord Janner's name being mentioned in relation to Operation Magnolia.

The witness said that he could not recall seeing a handwritten copy of JA-A19's statement. He said that if the handwritten statement had been signed, it would have been typed and then passed to the HOLMES reader. The witness confirmed that HOLMES would record who had typed the statement, who reviewed it and raised any actions.

The witness said that he did recall a stage, in 2001, when he was informed that JA-A19 was not co-operating. He said that he had no direct involvement in that. The witness said that he did not recall the Detective Sergeant expressing scepticism about JA-A19's allegation nor did he recall the Detective Sergeant saying that he thought there was a possibility that JA-A19 was lying.

The witness was referred to the typed statement of JA-A19 known as statement 'S4C', in which JA-A19 had made allegations against Lord Janner. He said that he had been informed that statement S4C may have been taken on 10 April 2000.. He pointed out that this pre-dated his involvement with Operation Magnolia by over a year. The witness was asked about the apparent delay between the statement being taken on 10 April 2000 and the statement being entered on HOLMES on 8 November 2001. The witness accepted he may have entered the statement on Holmes on 8 November 2001 although he had no recollection of doing so now. He said the apparent delay would possibly have rung alarm bells. He said that had he identified this delay at the time, he would have firstly registered it on the system and secondly, would have asked "...probably the officer who submitted it..." "What's going on here?". He said: "Equally,... if I was aware that this had been sitting with the [SIO] then probably I wouldn't have thought it was necessary or appropriate to question the actions of a senior officer." Asked why he might have thought it was inappropriate, he said: "Well, I think, largely, because of my inexperience and, dare I say, naivety of at the time, having just moved into a completely new field of work and a new structure... [and he would have expected] that officers much more experienced and senior to me would have know what they are doing".

The witness accepted that an 18 month delay in inputting a statement onto HOLMES would be "exceptional".



# INDEPENDENT INQUIRY CHILD SEXUAL ABUSE

The witness said that he was not told to put allegations relating to Greville Janner to one-side, but that he was told that matters which fell outside the parameters were to be *“‘pending’ and passed to the SIO to consider, and amongst those were allegations relating to Greville Janner.”*

The witness described a conversation with the Deputy SIO during which he had been informed of the allegation concerning Lord Janner. The witness said that he was informed *“that the [SIO] was dealing with it awaiting a decision, which [he] would interpret as being a conversation with chief officers.”* The witness said that he could specifically recall being told that the allegation against Lord Janner was in the SIO’s *“bottom drawer”* and that he had *“...got the impression...that it was perhaps being put to one side, or certainly being held back until any decisions could be made about it”*. He added that he thought it was *“...fair to say that [it] wasn’t a line of enquiry that was being pursued actively”*. Asked whether he had formed the impression that the statement was being put to one side because of the prominence and the fact that Lord Janner was a local MP, the witness responded: *“It would be easy to surmise that. I wasn’t aware of any particular conversation about it, other than that chat with [the Deputy SIO]. I don’t have any particular reason to think that, but it is obviously quite easy to draw that conclusion”*.

The witness said that it was a *“fair comment”* to suggest that nothing was really done in relation to Lord Janner when he was involved in Operation Magnolia at all.

Asked about the allegations concerning JA-A6, the witness accepted that actions on HOLMES were allocated to him and he thought *“...what would have happened with these, along with other actions, is that they’ve been left in the pending or waiting queue for a long, long time, and then, towards the end of the investigation, certainly following meetings with the CPS and decisions that were made, those actions would still have been there waiting and should have been discussed with the SIO”*. He clarified that when these actions were *“allocated”* to him, his role was to move the actions *“through the various queues and the filing process”* and not to undertake the enquiries himself, which would have been for one of the detectives on the DS’s team.

The witness added that he thought the actions *“...were closed on the basis that [the SIO] had given the instruction that there be no follow-up, no further follow-ups, into those actions”*. He accepted that he was *“...probably guilty of using a similar result on quite a number of actions because it had reached the stage where it was an administrative process to close those off, as the decision had perhaps long been made that those particular lines of enquiry into Greville Janner were not going to be followed”*. The witness said that there would not have been any difficulty in marking the actions as having been closed off because *“the SIO...has told me not to pursue this allegation”* and said that he could not explain why he had not done that in this case.



# INDEPENDENT INQUIRY CHILD SEXUAL ABUSE

The witness said that on 28 November 2001, he and other officers attended a meeting with the CPS. The witness said that in advance of the meeting, he and the HOLMES team prepared schedules of allegations which sought to establish any corroborative information and to take into account any negative or potentially discrediting information. He said that he was able to recall that any allegations against Lord Janner did not form part of the meeting. The witness said that there “*may have been*” a positive instruction not to discuss Lord Janner. Asked about the police’s approach to the allegations, the witness said that the Lord Janner allegations were “*...not actively, and not to [his] knowledge*” being buried.

The witness accepted that JA-A6 and JA-A19 had both been discussed during the meeting with the CPS but said that he could not recall anyone mentioning the allegations concerning Lord Janner. He accepted it would be “*quite a big thing*” and that if it had been raised, he would have expected the CPS lawyer to question it and ask “*Well, where’s the evidence, where’s the statement?*”. The witness said that the records of the meeting with the CPS suggested that the CPS were not told about JA-A19’s statement S4C or JA-A6’s statement S101A. Referred to a decision that was made that JA-A19 and JA-A6 were unreliable, the witness accepted that that decision appeared to have been made without reference to their complaints against Lord Janner.

Reflecting on the operation, the witness said that he had now formed the opinion that there was a “*lack of desire*” on the part of senior officers to pursue the allegations against Lord Janner. He said that another reason for this may have been the fact that there were a number of changes amongst the chief officers team during that period, which may have affected who was responsible for making those decisions.

Asked whether he thought the allegations of JA-A19 and JA-A6 should have been pursued, the witness said “*it would be difficult to defend a decision not to*”.

The witness was asked about a comment he made to an officer from Operation Dauntless in 2007 that Operation Magnolia would “*keep coming back to haunt [him]*”. He responded that it was a “*fairly flippant*” comment which he had made having been “*...contacted repeatedly in the...years between the end of Operation Magnolia and [2007]*”. The witness said that he didn’t know whether the SIO had discussed it with a senior officer, but stated that he did know this had always been the SIO’s intention. The witness acknowledged that he had told the IOPC that he would have been “*astonished*” if the SIO had not mentioned it to senior officers, as it was “*fairly routine*” to discuss things with the Deputy Chief Constable in other cases with which he had since been involved.

The witness said that based on what he had seen and heard over the last few years, it was “*...hard not to be suspicious*” that the allegations against Lord Janner had been “*...brushed under the carpet*”. He said that the factors that led him to this conclusion were “*...largely based on [his] subsequent knowledge*” and that “*...at the time... [he] was inexperienced and perhaps not well equipped to question things anyway*”. He explained that “*...the fact there is*

*no policy decision, no record of discussions with chief officers, and of course now the delay in the particular statement being moved through the system, it is hard to give any other explanation for that, for those things”.*

The witness was asked whether he recalled hearing derogatory comments being made about witnesses and said that he did not and that he would have challenged anyone if they had done so.

### **Witness 3**

The Inquiry also heard further evidence from a retired Temporary Detective Superintendent from Leicestershire Police, who first gave evidence to the Inquiry on 13 October 2020 . For the same reasons, his evidence was given in CLOSED session. The following is a summary of those parts of his evidence that can be stated in OPEN:

The witness explained that he was the SIO of Operation Enamel, the investigation into allegations of child sexual abuse by Lord Janner conducted by Leicestershire Police between late 2012 and early 2016.

The witness explained that Operation Enamel had carried out enquiries that had not been completed during earlier Leicestershire police investigations into allegations concerning Lord Janner.

Among those enquiries were efforts that led to the identification of material linking Lord Janner with a complainant. An additional witness also came forwards, following publicity about the DPP’s April 2015 decision not to bring proceedings against Lord Janner, stating that she had worked in a hotel and, on one occasion, had seen Lord Janner in bed with a teenage boy.

In respect of the allegations of JA-A19, the witness explained that these included: tracing witnesses that JA-A19 said he had made disclosures to at the time; making further enquiries concerning two children who were said to have been taken with JA-A19 to a property at which abuse was alleged to have taken place; visiting that property; tracing the former occupants of that property, who were interviewed under caution and their computers seized and searched; and following up other lines of enquiry in relation to trying to trace a further witness. The witness confirmed that although these additional enquiries were carried out, they “...*didn’t yield much evidence that supported*” JA-A19’s complaint.

The witness said that the police also carried out the following additional enquiries in respect of JA-A6’s allegations which included: taking further statements from JA-A6; examining his medical and mental health records; tracing witnesses and making enquiries relating to the

Moel Llys children's home. The witness explained that Operation Enamel was unable to find any evidence "*whatsoever*" to support the contention that JA-A6 had severe mental health problems. The witness stated that Operation Enamel also contacted the couple which ran Moel Llys children's home, as well as 19 ex-residents and 5 members of staff. The witness said that none of these witnesses could confirm having seen Lord Janner at the home, or that children were taken from the home to go swimming. The witness said that this evidence was "*quite stark*" and that he made a decision not to progress the investigation into JA-A6's allegations further, at that point. The witness clarified that Operation Enamel did however continue to seek evidence or information that may have supported or corroborated JA-A6's account. In summary, the witness confirmed that it was therefore an "*interim decision*" not to progress the case to pre-charge advice from the CPS.

The witness said that additional enquiries concerning JA-A8's allegations were also carried out, including: taking additional statements from JA-A8; making further medical enquiries and identifying and contacting other witnesses to whom JA-A8 claimed to have made disclosures. The witness said that he could not recall why it was decided not to conduct an 'Achieving Best Evidence' (ABE) interview, although he did recall that a number of witnesses did not want to be videoed for interviews. In relation to the medical evidence, the witness explained that Operation Enamel re-visited the medical experts and asked them to confirm what they had said previously. The witness explained that further witnesses were also traced and spoken to

A file was sent to the CPS, which included the allegations in respect of JA-A19 and JA-A8 to determine whether or not charges should be brought.

#### **Witnesses 4, 5 and 6**

The Inquiry received read evidence from a journalist and heard oral evidence from two other witnesses who were involved with the local Labour party in Leicestershire. Their evidence concerned attempts to bring allegations concerning Lord Janner to the attention of individuals within the national and regional Labour Party. For the reasons given previously, their evidence was given in CLOSED session. It is not possible to provide an OPEN summary of their evidence.