

Statutory Report

Public statement by the Police Ombudsman pursuant to Section 62 of the Police (Northern Ireland) Act 1988.

Relating to:

INVESTIGATION INTO THE
CIRCUMSTANCES SURROUNDING THE
MURDER OF GERARD LAWLOR
ON 22 JULY 2002

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EXECUTIVE SUMMARY

On 22 July 2002, shortly after midnight, Mr Gerard Lawlor was murdered as he walked along the Floral Road in North Belfast. He was on his way home after a night out at the Bellevue Arms on the Antrim Road. Gerard Lawlor was 19 years old and had a partner and 18 month old son.

On the evening of 21 July 2002, there were five gun attacks in North Belfast, all of which took place prior to Mr Lawlor's murder.

The first of these attacks took place at 7.30pm when Person A, a Protestant man, was standing outside a house at Glenbryn Park, near the peace line. He was shot once in the back and although he was seriously injured, he survived.

Four further gun attacks took place that evening between 10.00pm and 11.25pm within a relatively small geographical area of North Belfast. On each occasion the victims were members of the Catholic community, leading the police to believe that the attacks were in retaliation for the attempted murder of Person A.

The sixth attack that evening resulted in the murder of Gerard Lawlor.

The location of his murder on the Floral Road was the most northerly attack, approximately 6.25 kilometers from Rosapenna Street, where Person E was shot. Floral Road was not on, or near, a sectarian interface, unlike where the other attacks occurred.

Loyalist paramilitaries claimed responsibility for Mr Lawlor's murder. No-one has ever been charged with, or prosecuted for, the murder of Gerard Lawlor.

Mr Lawlor's family raised a number of complaints and allegations during a series of meetings with the Police Ombudsman's Office, and in related correspondence, between August 2006 and June 2012. A number of issues contained within the Gerard Lawlor Community Inquiry Report, released in November 2012, were also considered as part of the investigation.

The complaints and allegations were as follows:

- i. Police failed to secure all available CCTV footage
- ii. Police failed to hold an Identification Parade in respect of an identified suspect
- iii. Police failed to conduct adequate enquiries in respect of a motorcycle linked to the murder
- iv. Police failed to conduct thorough telephone enquiries in relation to a number of suspects
- v. Police failed to set up Vehicle Check Points (VCPs) on the Antrim Road
- vi. There were regular patrols along the Whitewell Road until the Thursday before the murder
- vii. Two suspects were not arrested until over a year after the murder
- viii. Police protected informants who were suspected of having been involved in the murder
- ix. Police could have prevented the murder
- x. Police failed to keep the family updated

- xi. Police failed to link Gerard Lawlor's murder to a series of sectarian attacks earlier on 21 July 2002
- xii. Police should have appointed a single Senior Investigating Officer (SIO) to investigate all of the attacks on 21 July 2002 and Gerard Lawlor's murder
- xiii. Police failed to properly investigate information provided by Witness X
- xiv. Issues emerging from the Gerard Lawlor Community Inquiry
- xv. Collusion in relation to police actions, including the failures by police to prevent Mr Lawlor's murder, the protection of informants and the subsequent investigation.

The Police Ombudsman Investigation

This investigation generated more than 200 investigative actions, including interviews of serving and former police officers and other witnesses. The Police Ombudsman investigators reviewed all the relevant PSNI investigation papers and intelligence.

Conclusions

Sectarian tensions were high in North Belfast on the night of 21-22 July 2002, following the attempted murder of a Protestant man and the subsequent retaliatory attacks on members of the Catholic community which culminated in the murder of Gerard Lawlor.

Given the timing and location of the first four retaliatory attacks on 21 July 2002, police resources were concentrated on the sectarian interface areas where these had taken place. Gerard Lawlor's murder did not take place at a recognised interface and occurred at some distance from the other attacks.

Police and military patrols continued in interface areas that evening and there is no evidence that patrols were withdrawn.

Although the investigation could not establish the exact whereabouts and timings of police Vehicle Control Points (VCPs) that evening, there is evidence that a number of 'snap' VCPs were established and that military VCPs were also in place.

The location of the military VCPs closely correlated with the locations of the first four, geographically-concentrated retaliatory shootings. None were in the vicinity of Floral Road which was not near a sectarian interface.

The investigation found no evidence that police had prior information that Gerard Lawlor was going to be targeted, or that loyalist paramilitaries were planning an attack in the Floral Road area.

Given the sudden and indiscriminate nature of the attack, the Police Ombudsman does not believe that an opportunity existed for police to prevent the murder.

The Murder Investigation

The Police Ombudsman is of the view that initial police actions following Gerard Lawlor's murder were conducted in a thorough and competent manner.

The murder scene and a second scene at the entrance to Belfast Zoo were secured and forensically examined. Neither yielded anything of evidential value.

Police conducted extensive witness and CCTV enquiries in the vicinity of the murder scene, in addition to the route that Gerard Lawlor took upon leaving the Bellevue Arms, and potential routes taken by the murderers before, and after, the attack. A review of the available CCTV footage and related viewing logs, did not identify any evidence that could have progressed the murder investigation.

The investigation has been unable to establish why the police CCTV at Longlands Bridge was not operational on the night of the murder. However, there is no evidence that the murderers drove past this camera following the attack.

Police were unable to identify the moped linked to the attack or forensically link a motorcycle recovered from a location close to the Glenavna Hotel, Shore Road. The Police Ombudsman is of the view that these enquiries were, however, pursued in a thorough and competent manner.

A civilian member of staff identified an individual from a photo-fit image prepared by police. However, the person subsequently withdrew their identification and declined to provide a witness statement. Therefore, police could not progress this line of enquiry by holding an ID parade.

In 2006, Witness X told police that they telephoned the 'Crimestoppers' confidential line three to seven days after Gerard Lawlor's murder and provided details of two men and a car that may have been linked to the attack. Police Ombudsman investigators were unable to locate any record of this telephone call.

The Senior Investigating Officer (Police Officer 10) heading the murder investigation of Gerard Lawlor's murder at that time assessed

the information provided by Witness X and concluded it was unlikely to relate to the murder investigation.

The Police Ombudsman is of the view that this information, on its own, would have been insufficient to have provided grounds for the arrest of the two identified men.

The Senior Investigating Officer did consider the information to be potentially relevant to the attempted murders on the Ligoniel Road on 21 July and that information was passed to police investigating that attack.

The investigation found no evidence that police investigating this attack conducted any enquiries in respect of the information supplied by Witness X. Although not a failing associated with the Gerard Lawlor investigation, it is a failing that the information was either not assessed in a timely manner to determine if any opportunities could be exploited or enhanced, or that the rationale for not conducting enquiries was not documented.

The investigation found no evidence that police were protecting any person from investigation or prosecution.

Investigative Failings

However, the investigation has identified significant failings in the murder investigation.

- A failure to document and develop a specific covert/sensitive strategy with clearly defined targets and objectives;
- A failure to conduct searches, arrests and interviews in a timely manner as a result of which potential forensic and other evidence may have been lost;
- A failure to obtain relevant telecommunications data;

- A failure to ensure the continuation of a dedicated Family Liaison Officer
- A failure to establish clear communication lines and record all contacts in accordance with family liaison guidance applicable at the time;
- A failure to maintain and complete policy file/decisions;
- A failure to maintain CCTV viewing logs;
- A failure to link the murder with a series of sectarian attacks;
- A failure to fully consider the dissemination of relevant intelligence to the Senior Investigating Officer (Police Officer 3)

Failure to document and develop a specific covert/sensitive strategy with clearly defined targets and objectives

Police received information at an early stage of the investigation linking Persons H and I to the murder of Gerard Lawlor.

The Senior Investigating Officer (Police Officer 3) directed no arrests at this stage, believing that it would have been counter-productive as both suspects would not have co-operated during interview and would have been forensically aware.

The Senior Investigating Officer instead decided to pursue sensitive enquiries in order to gather evidence linking the suspects to the murder.

However, this investigation was unable to locate a documented sensitive enquiry strategy which clearly outlined the objectives and tactics required for this phase of the investigation. Nor was the required policy file located which would enable anyone not directly

involved in the investigation to understand the decision-making process and rationale.

There was a lack of strategic leadership and oversight in this important element of the investigation which the Police Ombudsman believes to be flawed.

A failure to conduct searches, arrests and interviews in a timely manner

Person H and Person I were arrested under terrorist legislation on suspicion of murder in early August 2003 and subsequently released without charge.

The Police Ombudsman is of the view that the impact of delaying arrests for a year provided the suspects with the opportunity to simply state they could not recall what they were doing a year previously. This failing significantly undermined the likelihood of obtaining evidential and forensic opportunities from the relevant arrests, searches and suspect interviews which may potentially have advanced the investigation.

In the absence of evidence that the Senior Investigating Officer was pursuing a sensitive strategy with defined objectives and tactics in connection with Gerard Lawlor's murder, the Police Ombudsman can identify no justification for the delay in the arrest and questioning of suspects and related searches.

A failure to obtain relevant telecommunications data

Police researched two mobile telephone numbers linked to Person H. These enquiries were allocated to a police officer who, by that time, had left the murder investigation team. A lengthy period ensued

before this issue was identified, by which time the relevant call data was no longer available.

Although attributed to human error, the Police Ombudsman is of the view that this was a significant failing that may have led to the loss of important evidence.

A failure to ensure the continuation of a dedicated Family Liaison Officer and to establish clear communication lines and record all contacts in accordance with family liaison guidance applicable at the time

The deployment of specialist trained officers to bereaved families is an important investigative tool, where the Family Liaison Officer (FLO) can gather evidence from, and impart information to, the family in a timely, accurate, and empathetic manner.

Following Gerard Lawlor's murder, a FLO was appointed who maintained a Family Liaison Log that recorded his contacts with the family. However, on 11 September 2002, the officer moved to a different policing role and was not replaced.

Although Police Officer 3 informed the investigation that he personally provided updates to the family from that point onwards, these updates were not recorded in either in his Policy Log or a separate Family Liaison Log.

In the Police Ombudsman's view a dedicated FLO ought to have been appointed to the family, following the departure of the first police officer who fulfilled this role. All contact between police and the family should have been recorded to preserve the integrity of the investigation and in accordance with disclosure obligations under the Criminal Procedure and Investigations Act (CPIA) 1996.

A failure to maintain and complete policy file/decisions

The Senior Investigating Officer commenced a Policy Log on 22 July 2002. His last entry was on 11 September 2002, although he continued to lead the investigation until October 2003. When interviewed the Officer acknowledged that he should have continued to maintain a Policy Log to record key decisions and his rationale for them. This was particularly important as the later stages of the police investigation involved sensitive enquiries and arrest operations. My Office could make no disciplinary recommendations in respect of this matter, as the Officer had retired.

A failure to link attacks

The Senior Investigating Officer linked Gerard Lawlor's murder to the attempted murder of Person D, the victim of the second retaliatory attack of 21 July 2002 because a moped had also been used. He also made a ballistic link to an attempted murder which had taken place in September 2000.

There were no other identifiable evidential links made with any of the other attacks. However, police were in possession of intelligence identifying Person J and Person K who may have played a role in sanctioning the attacks. There is no evidence that enquiries were conducted in respect of those individuals in the murder investigation.

The Police Ombudsman is of the view that a suitably experienced senior officer should have been appointed to oversee and coordinate the investigation into all of the attacks. This could have led to

additional opportunities being identified, not only in relation to those directly involved, but also those responsible for sanctioning and/or directing the attacks.

A failure to fully consider the dissemination of relevant intelligence to Police Officer 3

This investigation has identified that intelligence existed that was relevant to the murder investigation, which was not shared with the Senior Investigating Officer. The Police Ombudsman has been provided with an explanation why this intelligence was not disseminated.

However, the Police Ombudsman is of the view that with careful management of this intelligence the pertinent information could have been provided to Police Officer 3. This would have provided Police officer 3 with the opportunity to assess the value of the information to his investigation.

Complaint of Collusion

The Lawlor family alleged collusion in relation to police actions, including the failures by police to prevent Gerard Lawlor's murder and the subsequent investigation.

In my view, 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. The conduct, either by its nature or circumstances, is of a type demanding, requiring or 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. Collusive behaviour or

behaviours falling short of proof of substantive collusion, such to justify criminal or disciplinary proceedings are discrete behaviours that may be indicative of collusion but do not, individually or cumulatively amount to collusion. In such circumstances, where the evidence falls short of enabling such 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 were indicative of (including inaction) of collusive behaviour. This will not include findings of criminal or disciplinary nature. 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.

The Police Ombudsman carefully considered all of the available evidence and information in this investigation. There is no evidence that Gerard Lawlor's murder was reasonably foreseeable and therefore preventable. She also concluded that there is no evidence that the PSNI or any of its officers sought to protect any informant.

The Police Ombudsman has concluded that there is nothing uncovered by this investigation that would support conclusions that there was '*collusion*' or collusive behaviour on the part of any police officer.

In conclusion, the Police Ombudsman is of the view that a number of the complaints and concerns made by Mr Lawlor's family about police actions (and omissions) are legitimate and justified.

The Police Ombudsman is grateful to the family for their co-operation and patience in awaiting the publication of this statement.

1.0

INTRODUCTION

- 1.1. On 22 July 2002, shortly after midnight, Mr Gerard Lawlor was murdered as he walked along the Floral Road in North Belfast. He was on his way home after a night out at the Bellevue Arms on the Antrim Road. Gerard Lawlor was 19 years old and had a partner and 18 month old son. Loyalist paramilitaries later claimed responsibility for his murder.
- 1.2. In August 2006, the former Police Ombudsman, Nuala O'Loan, received a complaint from Gerard Lawlor's partner. The complaint included allegations, questions, and concerns regarding the actions of police before, and after, Gerard Lawlor's murder.
- 1.3. In September 2011, investigators from my Office met with members of Gerard Lawlor's family to outline the initial findings of the Police Ombudsman investigation. Following this meeting, Gerard Lawlor's family raised a number of additional allegations, questions, and concerns that resulted in my predecessor, Dr Michael Maguire, directing that further enquiries be undertaken.
- 1.4. This investigation generated more than 200 investigative actions, including interviews of serving and former police officers and other witnesses. One former police officer declined to, or was unable to, assist. However, 14 co-operated and provided accounts as to their roles, decisions, and actions. I thank those who took the time to assist.

- 1.5. My investigators reviewed all the relevant Police Service of Northern Ireland (PSNI) investigation papers and intelligence. At the conclusion of this investigation, Dr Maguire considered whether or not it was necessary to submit a file of evidence to the Director of Public Prosecutions (DPP). As there was insufficient evidence to conclude that any identifiable officer may have committed a criminal offence, Dr Maguire decided that a file would not be submitted. Dr Maguire was unable to consider the question of disciplinary proceedings relating to any potential misconduct as all of the relevant PSNI officers are now retired.
- 1.6. In this public statement, where I have explicitly or implicitly criticised the actions of a number of PSNI officers serving at the time, I have provided an opportunity for all of those, who were subject to criticism, to respond. I have considered these responses and incorporated them into the public statement, where I consider it appropriate.
- 1.7. This document is a public statement detailing my reasons for actions, decisions, and determinations in respect of this complaint. The investigation of the complaint conducted by my Office is also outlined in this public statement.
- 1.8. Prior to its release, a draft of this public statement was forwarded in full to the PSNI for fact checking, in line with agreed protocols. A copy of relevant extracts was also forwarded to the PPS and Ministry of Defence (MOD) for comment as to factual accuracy. Where relevant responses were received, I have reflected these where I consider it appropriate, in this public statement.

2.0

ATTACKS PRIOR TO GERARD LAWLOR'S MURDER

- 2.1. On the evening of 21 July 2002, there were five gun attacks in North Belfast prior to Gerard Lawlor's murder. There was also public disorder at the peace line interface between the Glenbryn and Ardoyne areas of North Belfast. The attacks were as follows.

The Attempted Murder of Person A at Glenbryn Park, Belfast

- 2.2. At approximately 7:30pm on 21 July 2002, Person A, a protestant man, was standing outside a house at Glenbryn Park, near the peace line, when he was shot once in the back. He was seriously injured, but survived the attack, which was claimed on 22 July 2002 by the '*Catholic Reaction Force*.' Police believed that this was a pseudonym for the Irish Nationalist Liberation Army (INLA).¹

- 2.3. The attack on Person A was followed by a number of other gun attacks later that evening. On each occasion the victims were members of the nationalist community, leading police to believe that they were targeted in retaliation for the shooting of Person A. There was no evidence that any of the attacks were premeditated or that the victims were targeted for any reason other than their perceived religious denomination.

¹ The Irish National Liberation Army (INLA) is a republican paramilitary organisation, formed in December 1974, by former members of the Official Irish Republican Army who opposed the latter organisation's ceasefire. Its members were responsible for a series of terrorist attacks during the Northern Ireland 'Troubles,' prior to calling a ceasefire in August 1998. It was declared a proscribed organisation in July 1979.

The Attempted Murders of Person B and Person C at Salisbury Avenue, Belfast

- 2.4. At approximately 10:00pm on 21 July 2002, a white Nissan car pulled up alongside Person B and Person C on Salisbury Avenue, North Belfast. Two men, their faces covered with scarves and wearing baseball caps, got out of the car and two shots were fired. One round struck the ground, the other a nearby wall. Person B and Person C were not injured in the attack, which was claimed on 22 July 2002 by the Red Hand Defenders (RHD)².

The Attempted Murder of Person D at Oldpark Road, Belfast

- 2.5. At approximately 10:48pm on 21 July 2002, Person D was standing outside a Public House on the Oldpark Road, North Belfast, when two men pulled up alongside him on a motorcycle. The pillion passenger produced a handgun and pointed it at Person D, but it failed to fire. The Loyalist Volunteer Force (LVF)³ later claimed responsibility. However, police believed that the Ulster Freedom Fighters (UFF)⁴ carried out the attack.

The Attempted Murder of individuals at Ligoniel Road, Belfast

- 2.6. At approximately 11:22pm on 21 July 2002, a red Vauxhall Corsa car pulled into a lay-by on the Ligoniel Road, North Belfast, opposite a group of people sitting on a wall. A man got out of the car and opened fire indiscriminately, causing the group to take cover behind the wall. Witnesses also saw a second man with a handgun attempting to get

² The Red Hand Defenders (RHD) is a loyalist paramilitary group. It was formed in 1998 by loyalists who opposed the Belfast Agreement and the loyalist ceasefires. Its members were drawn mostly from the Ulster Defence Association (UDA) and Loyalist Volunteer Force (LVF).

³ The Loyalist Volunteer Force was a loyalist paramilitary organisation, formed in 1996 when Billy Wright and members of his Mid-Ulster Brigade split from the Ulster Volunteer Force (UVF).

⁴ Whenever it carried out a terrorist attack, the Ulster Defence Association used the cover name of the Ulster Freedom Fighters (UFF) when claiming responsibility. The UFF were proscribed in November 1973 but the UDA was not proscribed as a terrorist organisation until August 1992. I consider that the UDA and UFF were the same organisation. For the purposes of this public statement, it shall be referred to as the UDA/UFF.

out of the car, before it drove off. No organisation claimed responsibility for the attack. There were no injuries.

The Attempted Murders of Person F and Person G at Rosapenna Street, Belfast

- 2.7. At approximately 11:25pm on 21 July 2002, Person F and Person G were standing at the junction of Rosapenna Street and Rosapenna Court, North Belfast, when a black car pulled up alongside them. The front seat passenger fired 12-13 shots, striking Person F three times, before the car drove off. Person F was seriously injured and taken to hospital, but survived. Person G was not injured. The Red Hand Defenders later claimed responsibility for the attack.

The Murder of Gerard Lawlor at Floral Road, Belfast

- 2.8. Gerard Lawlor entered the Bellevue Arms Public House at approximately 8:30pm on 21 July 2002, where he remained until 11:45pm. He then went to a nearby Chinese takeaway, before crossing Bellevue Bridge onto the Antrim Road. He walked citywards and had turned onto Floral Road when he was shot four times, twice in the back and twice in the right leg. He died at the scene.
- 2.9. Residents heard gunfire and two individuals were observed driving away on a small motorcycle or moped, in the direction of the Antrim Road. Gerard Lawlor was found lying on the footpath.
- 2.10. The Red Hand Defenders claimed responsibility for the murder the following day at 08:58am in a telephone call to the British Broadcasting Corporation (BBC) newsroom in Belfast. The caller stated, *"We claim responsibility for the shooting last night in (sic) the Whitewell, Floral Road, and also Rosapenna and also (sic) any more*

Protestants attacked there will be severe casualties on the Catholic community.”

- 2.11. A second telephone call was made to the same newsroom at 11:30am on the same date. The caller stated, *“Again, claiming responsibility for the Rosapenna shooting. Known IRA men were doing vigilante duty. Salisbury Avenue, a number of shots fired but the gun jammed. Also Whitewell shooting (sic). As from today, if there are any other Protestant people or homes attacked by republicans, there will be three Catholics taken out.”*
- 2.12. The UDA/UFF also claimed responsibility for the attack, stating *“Last night the onslaught against the Protestant community by the republican gunmen was met with a measured military response from the UFF.”*
- 2.13. Police subsequently received intelligence that Gerard Lawlor’s murder was carried out by the LVF, under instructions from the UDA. There was no evidence or intelligence to suggest that Gerard Lawlor’s murder was anything other than a random, sectarian attack in what police described as a *“night of mayhem.”*⁵

⁵ Irish News Article dated -16 July 2003 ‘*Wall of Silence shields Gerard’s Killers.*’

3.0

THE COMPLAINTS AND SCOPE OF THE POLICE OMBUDSMAN INVESTIGATION

3.1. In August 2006, Gerard Lawlor's partner made an initial complaint to the former Police Ombudsman, Nuala O Loan. This contained a number of allegations, questions, and concerns in respect of police actions before, and after, Gerard Lawlor's murder. These were as follows:

3.2. Gerard Lawlor's partner alleged that police failed to properly investigate Gerard Lawlor's murder. She alleged that:

- I. Police failed to secure relevant CCTV footage from the Bellevue Arms;
- II. Police failed to hold an Identification Parade in respect of a known suspect;
- III. Police failed to fully exploit forensic opportunities regarding a motorcycle found at an address linked to a suspect; and
- IV. Police failed to act appropriately regarding confidential information that a known loyalist had been in the Bellevue Arms the week before the murder. She alleged that this failing amounted to a deliberate act to protect informants.

3.3. Gerard Lawlor's partner believed that his murder was preventable. She alleged that police failed to maintain a visible presence on the relevant night, despite a number of prior shootings in the area, which was a '*notorious*' sectarian interface.

- 3.4. Gerard Lawlor's partner alleged that police failed to keep the family updated about the progress of the investigation, following the retirement of the original Senior Investigating Officer (SIO). He was the first of three SIOs who headed the murder investigation.
- 3.5. 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.'* As stated above, the family's complaint was received in August 2006 and was accepted for investigation by the former Ombudsman, Nuala O'Loan. She was satisfied that the complaints met this *'grave or exceptional'* definition and were, therefore, accepted for investigation.
- 3.6. In late September 2011, investigators from my Office met with members of Gerard Lawlor's family and their legal representatives. In accordance with Office practices at the time the family had access to a number of draft reports dated August 2011, January 2012, and June 2012.

At the meeting in September 2011, the family raised the following additional allegations, questions, and concerns:

- I. Gerard Lawlor's death could have been prevented. The family stated that it was *'inconceivable'* police did not set up Vehicle Check Points (VCPs) on the Antrim Road. They believed that North Belfast should have been in *'lockdown.'* They further alleged that the Antrim Road/Whitwell Road junction was one of a number of pre-determined VCPs established in police contingency plans after 1998;

- II. There were regular police patrols along the Whitwell Road until the Thursday before the murder;
- III. The draft Police Ombudsman investigation report did not detail the attempted murders of Person B and Person C;
- IV. Two suspects were not arrested until over a year after the murder. The family sought clarification as to whether these suspects were interviewed under criminal caution or the Terrorism Act;
- V. Police failed to arrest two suspects named by Witness X in order to protect an informant;
- VI. Police failed to link Gerard Lawlor's murder to the attacks that had occurred earlier on 21 July 2002 in North Belfast
- VII. Police should have appointed a single SIO to investigate all of the attacks on 21 July 2002 and Gerard Lawlor's murder; and
- VIII. The initial SIO heading the police investigation informed the family that the weapon used in the murder had previously been used in two paramilitary attacks.

3.7. In June 2012, a further meeting was held between Gerard Lawlor's family and Police Ombudsman investigators to discuss the revised draft report of June 2012. At this meeting, the family raised further concerns regarding this report. They alleged that:

- I. Given the history of sectarian tension in the area, and the prior events of 21 July 2002, it was reasonable to foresee that there was going to be an attack at the Antrim Road/Whitewell Road junction;
- II. Information provided by Witness X to the murder investigation team was not shared with police investigating the gun attack on the Ligoniel Road at 11:22pm on 21 July 2002;
- III. Telephone calls made to the 'Crimestoppers' line in 2002 were not logged or recorded for confidentiality reasons;

- IV. Witness X named two individuals as being linked to the murder. The family wanted to know if they were informants;
- V. There was no CCTV footage available from a PSNI camera situated at Longlands Bridge. The family believed that this was along the getaway route that the murderers would have taken;
- VI. Cameras situated at both Gunnell Hill and the bottom of the Whitwell Road/Shore Road junctions did not yield any CCTV footage;
- VII. CCTV viewing logs were not sufficiently detailed; and
- VIII. Police should have conducted an Identification Parade after a uniformed police officer identified a suspect from a photo-fit album.

3.8. The process for the Police Ombudsman publishing historical reports at that time included providing a draft report and/or briefing to the family. This would often lead to further drafts reports before publication of the final report.

3.9. In 2011, the Criminal Justice Inspectorate (CJI) identified this process as an organisational risk for the Police Ombudsman. It highlighted that the process of sharing draft reports could lead to accusations that the process could be '*buffeted*' from a number of different directions.⁶ This, in turn, could lead to a lack of confidence among many of those involved in the process, including investigators themselves, victims' families and their representatives, and the police.

3.10. In July 2012, this process was changed by the former Police Ombudsman and draft reports are now only shared with relevant stakeholders for the purposes of factual accuracy checks and, where appropriate, risk assessments.

⁶ <https://www.cjini.org> (publication 05/09/11).

The Gerard Lawlor Community Inquiry Report⁷

3.11. In November 2012, a report commissioned by Gerard Lawlor's family and friends was published. The Gerard Lawlor Community Inquiry Report and Recommendations (the Inquiry), contained a number of additional allegations, questions, and concerns.⁸ These are summarised as follows:

- I. That the draft Police Ombudsman investigation report contained a number of contradictions, specifically regarding the decision by the PSNI SIO not to link Gerard Lawlor's murder to the attacks that occurred earlier on 21 July 2002;
- II. That police failed to recover relevant telephone records;
- III. That the media reported that the PSNI SIO stated that he knew the identity of the individuals who had attacked Gerard Lawlor and Person D;
- IV. That the Police Ombudsman failed to investigate comments allegedly made by a police officer to Person B, when the latter individual provided a statement to police. The police officer told Person B that informants knew who was involved in the attempted murder of Person B and Person C. The police officer stated that the driver of a white car linked to the attack was in custody regarding an attack on police, that the white car had been burnt out on the Glenbryn Housing Estate, and that police had chased a male at the scene but failed to apprehend him. The police officer allegedly stated that there had been no forensic evidence recovered from this vehicle.
- V. That the draft Police Ombudsman report did not address the issue of the preventability of the murder and the failure of police to link it to previous attacks on 21 July 2002;

⁷ (krw-law.ie)

⁸ The Terms of Reference and Recommendations for the Inquiry report can be found on page 4

- VI. That no CCTV footage was recovered from a camera at Longlands Bridge on the M2 Motorway;
- VII. That the family had concerns regarding a partially burnt-out moped that was recovered from outside the Glenavna Hotel on the Shore Road, Belfast, on 6 August 2003. Police believed that this moped may have been involved in Gerard Lawlor's murder and the earlier attack on Person D; and
- VIII. That the Police Ombudsman report did not challenge the belief of police that Witness X's statement was not relevant to Gerard Lawlor's murder. The family believed that the statement was relevant.

Where relevant to the facts about Gerard's murder, reference is made in this public statement to information provided to the Inquiry and contained in the Inquiry Report.

3.12. Following publication of the Inquiry report, and given that a number of draft public statements had been subject to representations from the family, the former Police Ombudsman Dr Maguire directed in November 2012 that an internal thematic review should be conducted. The purpose of the review was to consider the product of the Police Ombudsman investigation and the additional queries raised by the family and their legal representatives.

3.13. One of the recommendations arising from the internal review was that the initial investigation should be re-examined by the Police Ombudsman's Significant Cases Team.

3.14. In June 2013, the investigation was assigned to the Significant Cases Team for re-examination with specific terms of reference which were as follows:

- To fully consider all complaints raised by the Lawlor family and identify new investigative actions against the observations and concerns concerning the 2012 Police Ombudsman Report, and identify investigative actions to be pursued and/or re-examined;
- To fully consider the observations in the Inquiry Report commissioned by the family, friends, and club members and identify investigative actions to be pursued and/or re-examined; and
- To pursue all enquiries that will assist the delivery of an effective investigation within the investigation that is established.

3.15. This investigation therefore sought to address the initial complaint made by Gerard Lawlor's partner, as well as the additional questions, allegations, and concerns raised by his family and within the Inquiry Report.

3.16. A careful analysis of the content of the Inquiry Report and the accounts provided by the various witnesses was undertaken. Where appropriate, this information was cross referenced against known facts, information provided at the time, and other information obtained during the course of the investigation. As the complaint from the family centred on alleged police failings relating to the murder investigation and accounts had been obtained and were in the public domain, it was considered that there was no reason to re-interview many of those witnesses.

3.17. Given the nature of some of the allegations and the specific references to collusion in the Inquiry Report, and in light of the Court of Appeal judgment in *Re Hawthorne & White*⁹, the investigation has also considered whether any of the actions (or omissions) of police

⁹ *Re Hawthorne and White's Application for Judicial Review*. [2020] NICA 33.

relating to Gerard's murder may constitute collusion or collusive behaviours. The limitations of my powers in this respect are referenced in chapter 4 of this public statement. As a result of the additional concerns raised by the family, my investigators reviewed all of the police documentation that was made available by PSNI.

3.18. In June 2016 my predecessor, Dr Michael Maguire, issued a public statement concerning the murders of six men at the Heights Bar, Loughinisland, on 18 June 1994. That public statement was challenged as being '*ultra vires*'¹⁰ by the Northern Ireland Retired Police Officers Association (NIRPOA).

3.19. Following prolonged legal proceedings, on 18 June 2020 the Northern Ireland Court of Appeal gave judgment on the Police Ombudsman's role as provided for in Part VII of the Police (Northern Ireland) Act 1998 (the 1998 Act). The Court ruled that the Ombudsman's role was investigatory and not adjudicatory in nature. Decisions as to whether a police officer's actions amounted to criminality or misconduct were for other forums such as a criminal court or disciplinary panel.

3.20. Paragraph 40 of the Court of Appeal judgment stated, '*It is clear that the principal role of the Ombudsman is investigatory. The complaint defines the contour 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 conduct by police officers. The Ombudsman is required to provide recommendations to the DPP if he considers that a criminal offence has been committed. Such a recommendation is a decision which could form part of a PS [Public Statement]. Once he makes such a*

¹⁰ A legal term meaning to act beyond the power or authority of the body.

recommendation he has no role thereafter apart from supplying information on request.’¹¹

3.21. The Court, in explaining the legal framework of the 1998 Act, outlined at Paragraph 43, *‘That framework specifically excluded any adjudicative power for the Ombudsman in the determination of criminal 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 case could 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.’*

3.22. 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 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*

¹¹ 2020 [NICA] 33.

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 making such recommendations and whether disciplinary proceedings would have been appropriate.'

- 3.23. 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. It is open to this investigation, having established the detailed narrative based on the complaint, to conclude whether the evidence identifies '*collusive behaviours*' on the part of police, as alleged. Findings 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 there is evidence to support this - but that there was some evidence of '*collusive behaviour*' or behaviours falling short of proof of substantive '*collusion*' such to justify criminal or disciplinary proceedings.

4.0

DEFINITIONS OF COLLUSION

4.1 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*.’¹² The 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.¹³

4.2 A number of independent inquiries and investigations have sought to define or describe what constitutes ‘*collusion*’ in this context. In his first inquiry report into alleged ‘*collusion*’ with paramilitaries and state security forces, 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*’.

4.3 He further stated that: ‘*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*

¹² Dr Hannah Russell, *The Use of Force and Article 2 of the ECHR in Light of European Conflicts*, Hart Publishing, Oxford & Portland Oregon, 2017.

¹³ Alf Lüdtke, *Everyday Life in Mass Dictatorship: Collusion and Evasions*, Palgrave Macmillan, 2015.

*involvement of agents in murder implies that the security forces sanction killings.*¹⁴

4.4 *'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.'*¹⁵

4.5 *'Nationalists were known to be targeted but were not properly warned or protected. Crucial information was withheld from Senior Investigating Officers. Important evidence was neither exploited nor preserved.'*¹⁶

4.6 Canadian Judge Peter Cory was asked to investigate allegations of collusion by members of the British and Irish security forces in Northern Ireland, 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 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...'*¹⁷

4.7 Judge Cory investigated allegations of collusion in the context of a number of other murders, to determine if there was sufficient

¹⁴ Stevens Enquiry 3: Overview and Recommendations, Metropolitan Police Service, 2003.

¹⁵ Stevens Enquiry 3: Overview and Recommendations, Metropolitan Police Service, 2003.

¹⁶ Stevens Enquiry 3: Overview and Recommendations, Metropolitan Police Service 2003,

¹⁷ Cory Collusion Inquiry Report: Chief Superintendent Breen and Superintendent Buchanan, The Stationery Office, 2003.

evidence to warrant public inquiries into the deaths. In his 2004¹⁸ report into the murder of Patrick Finucane, Judge Cory 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*.'¹⁹ 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.*'

4.8 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.*'²⁰

4.9 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*

¹⁸ Cory Collusion Inquiry Report: Patrick Finucane, The Stationery Office, 2004.

¹⁹ Cory Collusion Inquiry Report: Patrick Finucane, The Stationery Office, 2004.

²⁰ Cory Collusion Inquiry Report: Robert Hamill, The Stationery Office, 2004.

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.'

4.10 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.'*

4.11 *'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 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.'*²¹

4.12 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

²¹ Ibid, Paras 2.226-2.228.

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 also 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, or turned a blind eye to it, or to have pretended ignorance or unawareness of something one ought morally, legally or officially to oppose.'*²²

4.13 In her book, *'The Use of Force and Article 2 of the ECHR in Light of European Conflicts and Suspicious Deaths'*,²³ Dr Hannah Russell offered Sir Desmond de Silva's definition of *'collusion'* from his report into the Review of Patrick Finucane as the preferred definition:

'Agreements, arrangements or actions, intended to achieve improper, fraudulent or underhand objectives'; and Deliberately turning a blind eye or deliberately ignoring improper or unlawful activity.'

4.14 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 which 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 Keegan²⁴ at paragraph 44 of *Re Hawthorne and White's Application*.

²² 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.

²³ Dr Hannah Russell, *The Use of Force and Article 2 of the ECHR in Light of European Conflicts*, Hart Publishing, Oxford & Portland Oregon, 2017.

²⁴ Appointed as The Right Honourable Dame Siobhan Keegan, Lady Chief Justice of Northern Ireland (September 2021).

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.’*²⁵

4.15

I have carefully considered each of the definitions and am aware that there are areas of overlap and also different emphasis. While these definitions are useful, I recognise that there is no definitive definition of ‘*collusion*.’ 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*’ by its nature often involves an improper motive;
- VI. ‘*Collusion*,’ if proven, can constitute criminality or improper conduct (amounting to a breach of the ethical Code of the relevant profession); and
- VII. Corrupt behaviour may constitute ‘*collusion*.’

²⁵ [2018] NIQB 94, at para 44.

- 4.16 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 reflecting the views of Lord Stevens and Judge Cory. This applies to acts and omissions which can encompass collaboration, agreements, or connivances. It can also include the more passive ‘*turning a blind eye*.’
- 4.17 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.
- 4.18 His public statement was challenged as being ‘*ultra vires*’²⁶ 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.
- 4.19 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*

²⁶ A legal term meaning to act beyond the power or authority of the body.

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.'

4.20 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.'*

4.21 At paragraph 55, the Court outlined the powers of the Police Ombudsman in respect of officers, where there was 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 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.'

4.22 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.'*

4.23 In my view, 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. The conduct either by its nature or circumstances is of a type demanding, requiring or 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. 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 '*collusive behaviours*' on the part of police, as alleged. Findings 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 there is evidence to support this - but that there was some evidence of '*collusive behaviour*' or behaviours falling short of proof of substantive '*collusion*' such to justify criminal or disciplinary proceedings. These discrete behaviours may be indicative of collusion but do not, individually or cumulatively amount to collusion. In such circumstances, where the evidence falls short of enabling such 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 were indicative of (including inaction) of '*collusive behaviour*'. This will not include findings of criminal or disciplinary nature. 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.

4.24 My views in respect of the family's complaint about the actions of police in connection with the investigation of Gerard Lawlor's murder are outlined later in this public statement.

5.0

RELEVANT LAW AND STANDARDS

- 5.1 PSNI General Order 11/98, dated 20th February 1998, refers to the generic Command Structure for police operations/events such as Public Order, Firearms, and Major Incidents. A three-tier management system existed, incorporating a Strategic Gold Command, Tactical Silver Command, and Operational Bronze Command. However, this Order related more to pre-planned operations than spontaneous attacks, such as those outlined in Chapter 6 of this public statement.
- 5.2 The Association of Chief Police Officers (ACPO) Major Incident Room Standardised Administration Procedures (MIRSAP) Manual 2000, makes specific reference to the fact that the SIO is the principal decision maker in any serious crime investigation. They must also consider that the incident they are investigating may be part of a series of linked crimes. It is therefore important that the SIO ensures that linkages are identified and progressed accordingly. The SIO is also responsible for ensuring that relevant decisions regarding the linkage of incidents are properly documented.
- 5.3 MIRSAP contains a chapter on the linking of Major Incidents, but does not provide a definition. The manual states that where it is agreed that the same offenders may be responsible for the commission of a number of crimes, it may be determined by the Chief Constable of the force that an OIOC (Officer in Overall Charge) will be appointed.
- 5.4 It was recommended that the OIOC should be at least one rank above the most senior SIO and always be of ACPO²⁷ rank. The SIO will continue to

²⁷ Association of Chief Police Officers police officers who hold the rank of Chief Constable, Deputy Chief Constable or Assistant Chief Constable (or their equivalents)

manage their own enquiries. The OIOC will have responsibility for the strategic approaches to the investigation of the linked series.

5.5 It was not until 2007 that ACPO²⁸ defined a Major Incident as ‘...*any emergency that requires the implementation of special arrangements by one or more of the emergency services and generally includes the involvement, either directly or indirectly, of large numbers of people.*’

5.6 At the same time, ACPO defined a Critical Incident as ‘*any incident where the effectiveness of the police response is likely to have a significant impact on the confidence of the victim, their family, and/or the community.*’

Management of Threats to Life

5.7 The courts have established a number of principles in relation to the State’s obligations, pursuant to article 2 of the European Convention on Human Rights (the Convention) where a threat to life exists.²⁹

5.8 A key principle is that for a positive obligation under Article 2 of the Convention to be engaged, evidence must exist 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.

5.9 The Human Rights Act 1998 gave further effect to Convention rights in UK law from October 2000. The Human Rights Act 1998 imposes a number of obligations on public authorities:

- I. It required all UK public authorities, including the PSNI, to act in a way that was compatible with the European Court of Human Rights (ECtHR) jurisprudence;

²⁸ ACPO was replaced by the College of Policing.

²⁹ See *Osman v United Kingdom* (1998) 29 EHRR 245, ECtHR, adopted by the UK Supreme Court in *Van Colle v Chief Constable of the Hertfordshire Police*; *Smith v Chief Constable of Sussex Police* [2008] UKHL 50

- II. The requirement to act compatibly with the Convention did not apply where primary legislation required a public authority to act in a way that was incompatible with UK Law; and
- III. Where a decision by a UK Court conflicted with a decision of the ECtHR, the decision of the former should be observed.

5.10 Police officers ought to be aware of the rights and obligations laid out in the Convention. In the course of this investigation, I have considered the obligations placed on police officers by Article 2 of the Convention, known as ‘the Right to Life,’ which states as follows:

“1. 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.

2. 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;

- (a) In the defence of any person from unlawful violence;*
- (b) In order to effect a lawful arrest or to prevent the escape of a person lawfully detained;*
- (c) In action lawfully taken for the purpose of quelling a riot or insurrection.”*

5.11 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;³⁰

³⁰ *Mahmut Kaya v Turkey*, 19 February 1998, para. 85

- II. Appropriate steps extends 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 or at risk from the criminal acts of another individual;³¹
- III. The scope of the obligation must not impose an impossible or disproportionate burden on the authorities;³²
- 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;³³
- V. The extent of the obligation is to then take such measures within their powers as were reasonable to avoid the risk;³⁴
- VI. This can extend to an obligation to take reasonable steps to prevent self-inflicted deaths in custody; and³⁵
- 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.³⁶

5.12 Many of these principles have originated from the leading case of *Osman v United Kingdom*, as referenced above. The *Osman* case has been approved in the domestic courts, in the case of *Van Colle v Chief Constable of Hertfordshire Police*.³⁷

³¹ *Osman v United Kingdom* (1998) 29 EHRR 245, ECtHR

³² *Ibid*

³³ *Ibid*

³⁴ *Ibid*

³⁵ *Keenan v United Kingdom* (1998) EHRLR 648, paras 79-80

³⁶ *X v Ireland* (1973) 16 Yearbook 388, page 392

³⁷ *Van Colle v Chief Constable of Hertfordshire Police* [2008] UKHL 50

5.13 As the above principles establish, Article 2 recognises that individuals have a right to life, and also that the State is required to ensure that life is protected. Principle IV above sets out the criteria for when a threat to life arises in law. Article 2 will only be engaged where it can be established that there is a *'real and immediate'* risk to the life of an identified individual.

5.14 In the case of *Re: Officer L*,³⁸ the Supreme Court of the United Kingdom approved an earlier formulation of the concepts of *'real'* and *'immediate'* as meaning *'objectively verifiable'* and *'present and continuing'* respectively. In the case of *Van Colle v Chief Constable of Hertfordshire Police*, the House of Lords took the view that the test for a valid threat depends not only on what the authorities knew in relation to the threat, but also what they ought to have known. The Court determined that the test set out in *Osman v United Kingdom* should be interpreted narrowly, and was not open to judicial interpretation.

Duties of Police Officers

5.15 The general duties of the police are set out in Section 32(1) Police (Northern Ireland) Act 2000 (2000 Act), which provides for a general duty on police to protect life and to take action to prevent the commission of offences and investigate where offences have been committed. Section 32 states as follows:

"It shall be the general duty of police officers—

- (a) to protect life and property;*
- (b) to preserve order;*
- (c) to prevent the commission of offences;*
- (d) where an offence has been committed, to take measures to bring the offender to justice."*

³⁸ *Re: Officer L* [2007] UKHL 36

- 5.16 The PSNI introduced a General Order³⁹ in 2002, which reflected the obligation placed on police by Article 2 of the Convention to *‘actively protect the lives of individuals’*. The General Order referred to the case of *Osman v United Kingdom*, noting that the ECtHR held that *‘if police know, or ought to know of the existence of a real and immediate threat to the life of an identified individual, from the acts of another, police should do, within the scope of their powers, all which could be reasonably expected of them to obviate that risk and prevent injury.’*
- 5.17 The General Order also provided guidelines for *‘the handling of information concerning an individual’s security.’* These guidelines set out the steps to be taken when it had been assessed that there was a real and immediate threat to an individual’s security.
- 5.18 The Regulation of Investigatory Powers Act 2000⁴⁰ (RIPA), which came into force on 26 July 2000, governed the use of covert surveillance by public bodies. It built upon foundations laid in previous legislation to create *‘a more comprehensive regulatory scheme covering the interception of communications;...acquisition and retention of communications data; surveillance activities, including the use of informers and undercover officers; accessing information protected by encryption and increased oversight, through the creation of the Investigatory Powers Tribunal.’*
- 5.19 RIPA was a landmark piece of legislation, in that for the first time in UK law, surveillance activities, other than the interception of communications and property interference, were regulated.
- 5.20 The act was set out in five parts, with Part I, which contained two chapters, covering the interception of communications (chapter 1) and the acquisition and disclosure of communications data. Part II relates to the regulation of surveillance activities and the use and conduct of covert

³⁹ General Order 26/2002, *Threats to Life: Procedure for the handling and assessing of information where a threat to life is apparent or suspected and for the subsequent warning and protection of the individual*

⁴⁰ RIPA was updated and amended in 2016 as a consequence of the Investigatory Powers Act 2016

human intelligence sources. Part III is concerned with the investigation of data protected by encryption, while Part IV relates to oversight. The legislation was accompanied by Codes of Practice issued under the provisions of section 71 of RIPA.⁴¹ Although Part I was subsequently repealed and replaced with by the Investigatory Powers Act 2016, the relevant provisions in RIPA were in force at the time of Mr Lawlor's murder.

Family Liaison

- 5.21 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 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 enquiry into Stephen's death highlighted significant failings in the police investigation, including the manner in which police communicated with the Lawrence family.
- 5.22 The enquiry, 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.*' It added that, where possible, such officers should be dedicated primarily, if not exclusively, to the role.
- 5.23 The MacPherson recommendations laid the foundations for modern-day Family Liaison which lies at the core of any SIO's Investigation Strategy. The deployment of specialist trained officers to bereaved families is an important investigative tool as well as ensuring the SIO can communicate effectively with them and provide, as well as acquire, information, in a timely, accurate, and empathetic manner.

⁴¹ *Blackstone's Guide to the Investigatory Powers Act 2016 (Simon McKay) paragraph 1.10 of Chp 1 page 5*

Code of Conduct

5.24 The PSNI Code of Ethics was first introduced in 2003 and this Code was later replaced by the Policing Board in 2008.⁴² At the time of the investigation into Gerard Lawlor's murder, the relevant Code of Conduct that applied was contained in Schedule 4 of The Royal Ulster Constabulary (Conduct Regulations) 2000.⁴³ Schedule 4 states that the primary duties of an officer are *"the protection of life and property, the preservation of peace, and the prevention and detection of criminal offences"*. The principles outlined in the RUC Code of Conduct relate generally to;

- Honesty and Integrity;
- Fairness and Impartiality;
- Non-Discrimination;
- Politeness and Tolerance;
- Reasonable use of Force;
- Performance of duties;
- Compliance with Lawful Orders;
- Maintaining Confidentiality;
- Reporting of criminal proceedings or convictions;
- Sobriety;
- Protection of Property;
- Proper Appearance and;
- On and Off duty conduct likely to discredit the police.

⁴² [code-of-ethics.pdf \(nipolicingboard.org.uk\)](http://code-of-ethics.pdf(nipolicingboard.org.uk))

⁴³ [The Royal Ulster Constabulary \(Conduct\) Regulations 2000 \(legislation.gov.uk\)](http://The Royal Ulster Constabulary (Conduct) Regulations 2000 (legislation.gov.uk))

The police officers subject to this investigation are retired and therefore the Police Ombudsman has no power to conduct a misconduct investigation in relation to these officers.

The Presumptive Policy to ‘Neither Confirm Nor Deny’

5.25 Gerard Lawlor’s family were concerned that there were informants, protected by police, involved in his murder. The common law has *‘long recognised a rule of policy whereby the identities of informers must not be revealed.’*⁴⁴ This policy exists in order to protect the public interest in maintaining the supply of intelligence sources and their willingness to provide information in confidence. It is not a blanket policy.

5.26 Each case must be considered individually against a range of other public interest factors, where it is in the public interest to keep the identity of the informant confidential. This presumptive policy is referred to as Neither Confirm Nor Deny (NCND). The purpose of the NCND policy was set out clearly by Lord Carswell, the then Chief Justice for Northern Ireland, in the case of *Scappaticci* [2003] NIQB 560:

*“to state that a person is an agent would be likely to place him in immediate danger from terrorist organisations. To deny that he is an agent may in some cases endanger another person, who may be under suspicion from terrorists. Most significant, once the Government confirms in the case of one person that he is not an agent, a refusal to comment in the case of another person would then give rise to an immediate suspicion that the latter was in fact an agent, so possibly placing his life in grave danger.”*⁴⁵

⁴⁴ Mr Justice Bean in *Re Dil and Others* [2014] EWHC 2184, at paragraph 25, citing *Attorney General v Briant* (1846) 18 M&W 168

⁴⁵ In the matter of an application by Frederick Scappaticci for Judicial Review [2003] NIQB 560 paragraph 15.

- 5.27 Lord Carswell, observed that, “*There is in my judgement substantial force in these propositions and they form powerful reasons for maintaining the NCND principle.*”⁴⁶
- 5.28 There are however, exceptional circumstances in which the NCND policy may, where appropriate, be departed from. These circumstances include where the informant has been named publicly, self-disclosed, and/or is the subject of official confirmation. The English High Court in *Dil* held that ‘*self-disclosure is relevant but it does not have the same significance as official confirmation by the police force concerned, HMIC, a Minister or a Court.*’⁴⁷
- 5.29 My decision in relation to the application of the NCND policy to this case is discussed in Chapter 12 of this public statement.

⁴⁶ Ibid

⁴⁷ *Dil and others v Commissioner for Police of the Metropolis* [2014] EWHC 2184

6.0

THE ATTACKS PRIOR TO GERARD LAWLOR'S MURDER

- 6.1. Police attended the scene of five gun attacks in North Belfast on the evening of 21 July 2002, which all took place prior to Mr. Lawlor's murder. They were as follows:

The Attempted Murder of Person A at Glenbryn Park, Belfast

- 6.2. During the early evening of 21 July 2002, police received reports that a number of houses in the Alliance Avenue area of North Belfast had been attacked with missiles. Police cameras were monitoring the area at the time as a significant number of residents had gathered on the streets. However, these cameras did not capture the attempted murder of Person A.
- 6.3. Following the attack, police recovered two discharged blank bullets and a discharged cartridge case from an area near the interface between Alliance Avenue and Glenbryn Housing Estate. A number of prominent loyalists were observed in the area following the attack and senior police were aware of the possibility of retaliatory attacks on members of the nationalist community. However, there was no specific intelligence at the time indicating that attacks were being planned.
- 6.4. Police believed that the shots had been fired from the roof of a shed on the other side of the peace line. They focused their initial enquiries on recovering the weapon used in the attempted murder of Person A, in an attempt to defuse rising community tensions. However, these efforts

proved unsuccessful and further attacks followed as the evening progressed.

- 6.5. Forensic examinations established that a 7.65 calibre self-loading pistol was used in the attack. It had no history of previous use and has never been recovered. An 8mm blank-firing pistol was also discharged. Again, it had no history of previous use and has never been recovered.

The Attempted Murders of Person B and Person C at Salisbury Avenue, Belfast

- 6.6. The scene was forensically examined and photographed on 22 July 2002. A Scenes of Crime Officer (SOCO) identified a number of strike marks at the scene. The SOCO recovered fragments of a discharged cartridge case and pieces of shotgun cartridge wadding. A subsequent forensic examination established that this was part of a 12-bore 'Brenneke' shotgun cartridge.
- 6.7. Statements were recorded by police from Person B and Person C, in addition to six other witnesses. Enquiries in the area identified a number of residents who heard gunfire, prior to observing a white Nissan car driving away towards the Antrim Road. None of the witnesses were able to recall the vehicle registration number. Police records indicated that the details of the car were circulated by radio transmission and '*snap VCPs directed.*'
- 6.8. Person B told the Inquiry that residents later informed him that one of the two men involved in the attack had a '*squint.*' Person C informed the Inquiry that he saw a gun and noticed that one of the men had a '*turn in his eye.*' Both stated that they provided police with this information. Person B also stated that he passed the scene a few days later and noticed a bullet lodged in a wall that had not been recovered by police.

- 6.9. My investigators reviewed the statements that police recorded from Person B and Person C following the attack. Person B provided a description of the clothing worn by one of his attackers, adding that he only saw his eyes and nose. Person C provided a general description of his assailants, stating that he saw the gunman's eyes. Neither statement mentioned that the gunman had a '*squint.*'
- 6.10. The Inquiry Report stated that police informed Person B that they had arrested a man who had been caught setting a car on fire. Police believed that this car was used in the attack. The man had subsequently fired a shot at police, damaging the windscreen of a police vehicle. He was charged and remanded in custody.
- 6.11. My investigators established that at 10:23pm on 21 July 2002, a member of the public reported a white Nissan Bluebird car on fire at Glenbyrn Park. At 10:27pm, a police patrol observed two men running away from the car towards Westland Road. Police searched the area and observed a young male burning clothing at the rear of a derelict building on the Old Westland Road.
- 6.12. On seeing police, the young male ran away in the direction of the Belfast Waterworks. Police searched the area but none of the three individuals were located. The relevant scenes were forensically examined and photographed. A number of fingerprint marks were recovered from the car and a petrol can was found near the burnt clothing. The fingerprint marks were examined but no matches were made. The clothing was also forensically examined, but nothing of any evidential value was identified.
- 6.13. A number of days later, police received intelligence linking four individuals to the attack. My investigators have established that this was shared with CID. None of these individuals were arrested on suspicion of the attack.

The Attempted Murder of Person D at Oldpark Road, Belfast

- 6.14. Police believed that the weapon used in the attack jammed, before the motorcycle made off in a citywards direction. Person D informed police that it was a green and navy-coloured 125cc motorcycle. A review of the available police documentation identified another witness to the attack.
- 6.15. Person D informed the Inquiry that police did not get out of their vehicle when they attended the scene of the attack. He added that the scene was not cordoned off or forensically examined. He was unaware of police conducting house-to-house enquiries in the area or searching for the motorcycle. He stated that police did not record details of the motorcycle that he provided to them.
- 6.16. An examination of police records was undertaken by my investigators. The records indicate that Person D informed police that the motorcycle was a blue Honda that made off citywards following the attack. He stated that the weapon had jammed. The only other witness to the attack stated that the motorcycle was a '*power bike*,' significantly larger than the one described by Person D. Person D stated that he attended Oldpark PSNI Station on 22 July 2002

The Attempted Murder of individuals at Ligoniel Road, Belfast

- 6.17. Person E was present when this attack took place. He informed the Inquiry that tensions in the area had been high, after a large group of loyalists from the Ballysillan area attacked a number of houses on 18 July 2002. Because of this, he and a number of other residents had been maintaining a presence in the area from that date.
- 6.18. He stated that a red Renault Clio car had pulled up alongside them, and its occupants had pulled ski-masks over their faces. He added that, following the attack, police did not ask for his name. The scene was

neither secured nor forensically examined. He saw a police officer picking up discharged cartridge cases with his bare hands.

- 6.19. My investigators reviewed the available police documentation which indicated that police, when they arrived at the scene, opened a Serious Crime Log and cordoned off the area. Statements were recorded by police from seven witnesses, including Person E, and the scene was photographed, mapped, and forensically examined. Two strike marks were located.
- 6.20. House-to-House enquiries were conducted in the area, but no additional witnesses were identified. The area was searched and two discharged 9mm cartridge cases, two discharged .38 rounds, and a .38 cartridge case were recovered, in addition to a metal gun barrel. These were submitted for forensic examination.
- 6.21. Police believed that two weapons, both converted blank-firing pistols, were used in the attack, one of which had previously been used in a shooting in Belfast in December 2001. The other had no history of previous use. Both of the pistols had been adapted to fire 9mm ammunition. Forensic examinations concluded that one of the pistols had misfired at least twice before its barrel had fallen off. The items recovered were examined for fingerprint marks but no matches were found. Neither weapon has ever been recovered.
- 6.22. Following the attack, police did not receive any intelligence implicating any individual. However, my investigators located a PSNI message form, dated 30 July 2002, which stated that a named individual and two other people were observed driving a red Vauxhall Corsa in Ballysillan Park on the night of Gerard Lawlor's murder. This message also stated that the car was burnt out on 'the Glen' (reference to Cavehill Country Park). My investigators found no evidence that this information was passed to police investigating the Ligoniel Road attack.

- 6.23. In the statement that he provided to police, Person E stated that the vehicle involved was a red Vauxhall Corsa car, not a Renault Clio. Two other witnesses described the vehicle as a '*small red car*' and a '*red car*.'
- 6.24. On the morning of 22 July 2002, a member of the public reported that their red Vauxhall Corsa had been stolen the previous night from the Hesketh Road area. It was found burnt out, later that day, at Cavehill Country Park. Police believed that this was the vehicle used in the attack. My investigators were unable to locate a witness statement from the owner of the relevant vehicle.
- 6.25. This investigation has been unable to establish whether the witness was willing to make a statement. It may be that, due to the fear of intimidation at the time that, while a member of the public would be willing to report an incident or provide an account, they were not willing to provide a formal statement of evidence.

The Attempted Murders of Person F and Person G at Rosapenna Street, Belfast

- 6.26. Person F informed the Inquiry that he was speaking with Person G when a black car pulled up beside them and the front seat passenger opened fire. He believed that there were four people in the car. A total of 12-13 shots were fired. He was struck three times and seriously injured, but survived the attack.
- 6.27. Person F stated that police did not secure the scene, did not conduct house-to-house enquiries in the area, and failed to seize his clothing until after he made a complaint to my Office in 2004. He added that it was not until July 2007, following a PSNI Serious Crime Review prompted by his complaint, that he became aware that a blue Ford Mondeo taxi linked to the attack had been earlier hijacked in the lower Oldpark Road area. The Inquiry reported that the taxi driver had provided police with a description

of the three hijackers, one of whom had been wearing a cream-coloured hooded jacket and baseball cap. The Inquiry also noted that the taxi had later been found burnt out at Shannon Street, where police recovered a petrol can from its interior. This investigation has been unable to locate the petrol can from PSNI.

- 6.28. Person G informed the Inquiry that the car involved in the attack was a Ford Mondeo. He stated that it had approached them very slowly, with its headlights off. Its driver had been wearing a mask. He stated that he shouted at Person F to run. Afterwards, he discovered a bullet hole in his tracksuit bottoms. Police did not interview him until a month after the attack and did not seize the relevant tracksuit bottoms.
- 6.29. Police recorded witness statements from Person F and Person G on 19 August 2002. Person F stated that the car involved in the attack was a '*new-shaped*,' dark-coloured Mondeo. He believed that there were four people in the car and its vehicle registration number started with the letter 'N.' Person G also stated that the car was a dark-coloured Mondeo with four people in it.
- 6.30. A SOCO recovered ten discharged 9mm cartridge cases and a number of copper bullet fragments from the scene. A number of bullet strike marks were located on the exterior of a garden wall and house.
- 6.31. At approximately 11:10pm on 21 July 2002, a taxi driver arrived to pick up a fare from the Royal Irish Club in his blue-coloured Mondeo. He was approached by three men who hijacked his car. The taxi was found on fire at Shannon Street at 11:30pm. Police believe that this was the vehicle used in the attempted murders of Person F and Person G.
- 6.32. Person F made a complaint to my Office in July 2004 regarding the quality of the relevant police investigation. The subsequent Police Ombudsman investigation identified a number of failings. There was no evidence that

a scene cordon had been established or that house-to-house enquiries were conducted in the area. No photographs were taken and the victim's clothing was not seized. Relevant medical records were requested but not obtained. The investigation conducted by my Office concluded that a full and thorough investigation of the attack had not taken place. PSNI were made aware of these findings, which led to a Serious Crime Team Review of the original police investigation in an attempt to identify further lines of enquiry.

- 6.33. Police later received intelligence that the UDA carried out the attack, although the Red Hand Defenders⁴⁸ claimed responsibility on 22 July 2002.

Location of the Attacks

- 6.34. The Whitewell Road begins at the Shore Road and then runs in a northerly direction out of Belfast. At its most northerly point, it joins with the Floral Road which also connects with the Antrim Road. The Floral Road/Antrim Road junction is where Belfast Zoo is situated.
- 6.35. The Whitewell Road contained at the time sectarian interfaces where it borders the mainly loyalist White City and Rathcoole Housing Estates. The latter estate is also adjacent to the mainly nationalist Longlands Road and Arthur Road areas. A peace line ran the length of Serpentine Gardens, separating the White City and Whitewell Road areas.
- 6.36. The four retaliatory attacks, prior to Gerard Lawlor's murder, took place between 10:00pm and 11:25pm within a relatively small geographical area of North Belfast. The location of Gerard Lawlor's murder was the most northerly attack, approximately 6.25 kilometres from Rosapenna

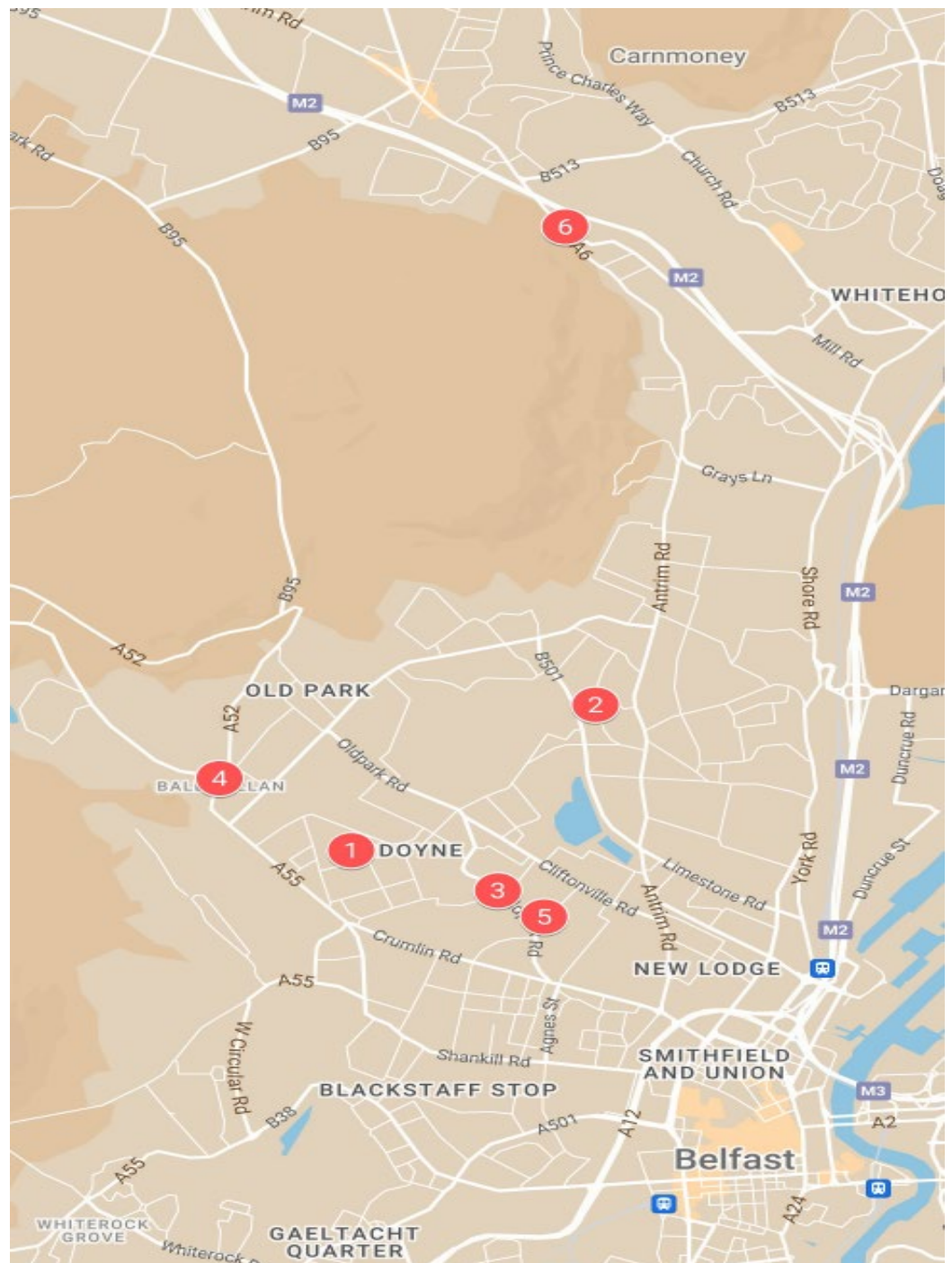
⁴⁸ Loyalist Paramilitary Group formed in 1998 opposed to the Belfast Agreement. Its members were drawn mostly from the Ulster Defence Association (UDA) and Loyalist Volunteer Force (LVF).

Street, where Person E was shot. Floral Road was not on, or near, a sectarian interface, unlike where the other attacks occurred.

6.37. Gerard Lawlor's murder was the most northerly attack. The closest attack to the Floral Road scene was 4.5 kilometres away.

6.38. There were 39 shooting incidents reported in North Belfast between 1 January 2002 and 20 July 2002. None of these occurred in the Whitewell Road area.

Map Detailing Location of the Attacks



Location of attacks

- 1 Glenbryn Park
- 2 Salisbury Avenue
- 3 Oldpark Road
- 4 Ligoniel
- 5 Rosapena Street
- 6 Floral road

7.0

INITIAL POLICE RESPONSE TO THE ATTACKS

North Belfast Police Command Structure

- 7.1. It is important to note that 2002 was a turbulent time in Northern Ireland, the police were addressing a deteriorating security situation and an increase in paramilitary activity from various groupings. At this time a murderous loyalist feud was ongoing and there were frequent instances of serious street violence in North Belfast, and other parts of the city. The increase in paramilitary activity and public disorder also contributed to heightened community tensions, particularly along interface areas. In response, there was an increase in intelligence gathering by police, including at a strategic level.
- 7.2. On 21 July 2002, the North Belfast Operations Room was based at Antrim Road PSNI Station. It was staffed by an on-call Chief Inspector, assisted by a Sergeant and two Constables. The on-call Chief Inspector and Superintendent performed the roles of Silver and Gold Commanders⁴⁹ respectively. There was also a military Liaison Officer, who tasked and directed military support, as required by police.

⁴⁹A three-tier management system existed, incorporating a Strategic Gold Command, Tactical Silver Command, and Operational Bronze Command. The Gold Commander is in overall strategic command of the operation/incident and sets the overarching strategy that all other plans must take account of. The Silver Commander commands and coordinates the overall tactical response in compliance with the strategy, and is the tactical commander of the incident.

The Tactical Response to the Attacks

- 7.3. Following the attempted murder of Person A at 7:30pm, police responded to a series of public disorder incidents in North Belfast, involving both sides of the community. Police discharged a number of baton rounds during these incidents. The Silver Commander, Police Officer 1, also approved a cordon authority,⁵⁰ covering the Glenbryn/Ardoyne area, under the 2000 Terrorism Act (the 2000 Act).
- 7.4. Police Officer 1 informed my investigators that, following the attempted murder of Person A, police received information regarding the whereabouts of the weapon used in the attack. At that time, there were loyalist protests in the area. Police attempted, via local community representatives, to quell the protests so that they could conduct searches for the relevant weapon. These attempts were unsuccessful.
- 7.5. Despite this, Police Officer 1 initiated an operation aimed at recovering the weapon. He informed my investigators that he hoped this pro-active, positive policing response would ease community tensions in the area. The operation to recover the weapon was unsuccessful. He stated that, as the evening progressed, police resources became increasingly stretched and officers were attacked at a number of the scenes. Where possible, police sought to maintain public order at various locations and extra resources were tasked to the area, including Tactical Support Group (TSG) units from as far away as County Fermanagh, and military assistance.

Vehicle Checkpoints

- 7.6. During the 1996-1997 period, police operated a co-ordinated nightly deployment of VCPs, known as Operation Northtrap, to deter and disrupt

⁵⁰ The demarcation of a cordoned area, as far as reasonably practicable, can be (a) by means of tape marked with the word 'police' and (b) in such other manner as constable considers appropriate.

sectarian violence in North Belfast. The original operational order cannot be located but it is believed to have been in place from October 1991 until around 1996/97. It was later replaced by a more reactive system, where police could set up VCPs from a list of pre-determined locations. These were disseminated numerically, as opposed to by location, to frustrate any individuals listening to police radio transmissions.

- 7.7. There was an extensive list of locations which included four on the Antrim Road and two on the Whitewell Road. They were as follows:

Antrim Road:

- I. Antrim Road/Strathmore Park junction;
- II. Antrim Road/Serpentine Road junction;
- III. Antrim Road/Grays Lane junction; and
- IV. Antrim Road/Donegall Park Avenue junction.

Whitewell Road:

- I. Whitewell Road/Longlands Bridge; and
- II. Whitewell Road/Serpentine Road junction.

The list of locations did not include the Antrim Road/Floral Road junction.

- 7.8. This investigation identified no policing plan or operational order relating to the deployment of VCPs covering the period of 21-22 July 2002. Following the first retaliatory attack at Salisbury Avenue at 10:00pm, police records evidenced that, at 10:14pm, two 'snap' VCPs were to be put in place. My investigators were unable to establish if, and where, these were set up.

- 7.9. My investigators reviewed the relevant Silver Command log which documented that VCPs were put in place at approximately midnight. An entry at 00:01am on 22 July 2002, shortly before Gerard Lawlor's murder, recorded that military VCPs were put in place at the following locations:

- I. North Circular Road/Cavehill Road junction;
- II. Ligoniel Road;
- III. Ballysillan Road/Silverstream Gardens junction; and
- IV. Cliftonville Road/Oldpark Road junction.

The locations of these VCPs closely correlated with the scenes of the four retaliatory shootings.

- 7.10. At 00:09am, the Silver Command log recorded a radio transmission from the military VCP at the Cliftonville Road/Oldpark Road junction requesting police assistance. Police replied that they could not attend due to pressure on resources, stating that the military would have to deal with the incident. This interaction confirmed the existence of a military VCP at around the time of Gerard Lawlor's murder.
- 7.11. This investigation made enquiries with the MOD and established that five military units were operating in North Belfast on 21 July 2002. One of these was at the lower end of the Antrim Road and Crumlin Road. The MOD were unable to provide any further information regarding the activities of these units.
- 7.12. My investigators reviewed notebook entries from two police officers who were on duty in North Belfast on the evening of 21 July 2002. The first police officer recorded an entry stating that, at 9:45pm, police '*carried out mobile patrol of Whitewell, Antrim Road.*' The second police officer recorded an entry stating that, at 10:45pm, '*Extensive patrolling of Whitewell Road, White City and Serpentine due to activity within DCU.*'
- 7.13. My investigators also reviewed CCTV footage which showed that police and military units patrolled the Gunnell Hill and Serpentine Road interface areas both prior to, and around the time of, Gerard Lawlor's murder. This was supported by a witness who observed police Land Rovers near

Serpentine Road at 11:30pm on 21 July 2002. This location is approximately 1.5 kilometres from the scene of Gerard Lawlor's murder.

- 7.14. Police Officer 1 informed my investigators that Operation Northtrap was established in October 1991. He could not recall if it was still in place in July 2002 or that any of those pre-determined VCP locations were in use on the night of Gerard Lawlor's murder.
- 7.15. He did not know who would have been responsible for commissioning and implementing VCPs on 21 July 2002, but suggested this could have been the North Belfast Operations Room, Belfast Regional Control (BRC), or senior police officers '*on the ground.*' He did not know where VCPs were set up on the night of the murder, but would have expected them to have been concentrated where the attacks were taking place. My investigators did not identify any operational order relating to the implementation of VCPs in North Belfast in July 2002.
- 7.16. My investigators interviewed Police Officer 2 who was part of Silver Command⁵¹ on the night of Gerard Lawlor's murder. He stated that Operation Northtrap was no longer in operation in July 2002, adding that Floral Road was not an interface area and that sectarian violence, when it occurred, was further down the Whitewell Road.

⁵¹ The Silver Commander commands and coordinates the overall tactical response in compliance with the strategy, and is the tactical commander of the incident.

8.0

THE POLICE INVESTIGATION OF GERARD LAWLOR'S MURDER

Initial Police Response

- 8.1. At approximately 00:09am on 22 July 2002, police received reports of gunfire in the Floral Road area of North Belfast. Police and ambulance personnel attended the scene within ten minutes and administered first aid to Gerard Lawlor. The scene was identified and secured, approximately 100 yards from the junction of Floral Road with the Antrim Road. A cordon was established by police.
- 8.2. Police Officer 3 attended the scene at 01:25am and reviewed the initial actions taken by police, before taking responsibility for the investigation. The scene was held until 3:10pm on 22 July 2002. It was photographed, mapped, and forensically examined by a SOCO. The area was searched in daylight hours but nothing of any evidential value was found.
- 8.3. Police identified and interviewed a number of witnesses who observed two individuals driving away from the scene on a small motorcycle or moped, headed in the direction of the Antrim Road.
- 8.4. Police Officer 3 later identified a second potential scene, an area of grass at the entrance to Belfast Zoo, near the junction of Floral Road with the Antrim Road. His working theory was that the murderers may have positioned themselves at this vantage point prior to the attack. This second scene was searched on 22 July 2002 and a number of

items, including cigarette butts, were recovered for forensic examination.

Murder Investigation Team

- 8.5. A Major Incident Room (MIR) was established at North Queen Street PSNI Station on 22 July 2002. The investigation was managed on the computerised Home Office Large Major Enquiry System (HOLMES). A team of 13 detectives worked on the investigation full-time, supported by other policing staff as required. Conference notes examined by my investigators identified that regular briefings and meetings took place during the initial stages of the police investigation.
- 8.6. Police Officer 3, a Temporary Detective Superintendent, was appointed as the Senior Investigating Officer (SIO). Police Officer 4, a Detective Inspector on secondment from another police service, was appointed as the Deputy Senior Investigating Officer (DSIO). Police Officer 3 and Police Officer 4, now both retired, assisted with this investigation.
- 8.7. Police Officer 3 commenced a Policy Log on 22 July 2002. His last entry was on 11 September 2002, although he continued as SIO until October 2003. When interviewed by my investigators, Police Officer 3 acknowledged that he should have continued to maintain a Policy Log to record key decisions and his rationale for them. This was particularly important as the later stages of the police investigation involved sensitive enquiries and arrest operations. My Office could make no disciplinary recommendations in respect of this matter, as Police Officer 3 had retired.

Post Mortem Examination

- 8.8. Two bullet heads were later retrieved from Gerard Lawlor's clothing at the mortuary, and a bullet from his right knee. The post-mortem examination established that he had been shot from behind.

Forensics

- 8.9. This investigation examined the relevant forensic submissions, which showed that police sought to maximize all available evidential opportunities. These included:

- I. Blood/DNA Analysis;
- II. Fingerprint examination of recovered exhibits;
- III. DNA examination of cigarette butts recovered from the entrance to Belfast Zoo; and
- IV. An enhanced fingerprint examination of a motorcycle recovered in August 2003.

- 8.10. These examinations did not identify anything of evidential value. Three fingerprint marks were recovered from a Coca-Cola bottle found at the Floral Road scene. These were marked as of '*no value*.' Police believed that Gerard Lawlor purchased the bottle before leaving the Bellevue Arms.

- 8.11. Two mixed DNA profiles recovered from a cigarette butt were compared against the DNA database but no matches were identified. A mixed DNA profile was also obtained from a 'roll-up' cigarette butt. This was compared against the DNA of two suspects but no matches were made.

Ballistics

- 8.12. The weapon used in Gerard Lawlor's murder was a .38 calibre revolver that had previously been used in the attempted murder of a Chinese takeaway delivery driver in September 2000. It has never been recovered and had no history of subsequent use.

Witnesses - General

- 8.13. Police Officer 3 devised, recorded, and implemented a detailed strategy relating to potential witnesses at the Bellevue Arms, the Chinese takeaway that Gerard Lawlor visited, and the wider area where the murder took place. The police investigation resulted in 207 witness statements being recorded.
- 8.14. There were no eye witnesses to Gerard Lawlor's murder. However, a number of vehicles were identified that may have been linked to the attack. Police raised 15 investigative actions relating to motorcycles and mopeds. A further four actions were raised regarding a white saloon car that had been observed in close proximity to the motorcycle/moped seen leaving the scene shortly after the murder. Enquiries relating to vehicle registration numbers resulted in 54 investigative actions.
- 8.15. Police Officer 3 also devised, recorded, and implemented a house-to-house strategy that covered the scene of the murder and surrounding areas in North Belfast. Witnesses identified during these enquiries were interviewed and statements recorded.

Witnesses – Floral Road

- 8.16. Although there were no eye witnesses to the murder, a number of people observed a motorcycle/moped in the area at the time of Gerard

Lawlor's murder. A man and woman walked on to Floral Road from the Antrim Road and observed a moped facing uphill towards them, with its lights on. It was parked on the wrong side of the road but then drove past them at speed towards the Antrim Road. There were two people on the moped.

8.17. They stated that the moped was a navy/dark colour and its driver was wearing an orange motorcycle helmet. They continued to walk along Floral Road before finding Gerard Lawlor lying on the ground. The man, who knew Gerard Lawlor, stated that he was still breathing prior to police and ambulance staff arriving.

8.18. Another witness, who was walking behind the man and woman, observed a large white saloon car drive past him, followed by a dark-coloured moped with two people on it. The rider was wearing a dark-coloured helmet and the pillion passenger was wearing a white helmet. He stated that both the car and moped then turned right onto the Antrim Road and headed in the direction of Glengormley. He walked on and saw Gerard's body lying on the footpath.

8.19. A taxi, containing a number of passengers, stopped at the scene. Two of the passengers stated that they had observed a dark-coloured scooter, with two people on board, in the vicinity of the Bellevue Arms earlier that night. A number of other witnesses informed police that they had observed a dark-coloured vehicle with four people in it, parked at the entrance to Belfast Zoo around the time of the murder.

8.20. One of these witnesses provided police with a photo fit image of a man who they had observed in a navy blue or black-coloured car, parked at the entrance to the zoo, shortly before midnight. They also provided a number of potential vehicle registration numbers for the car. Police conducted a number of enquires to ascertain the owner of this vehicle. The photo fit image was compiled in September 2002. However, it was

not circulated in the media until April 2003. Police Officer 3 informed my investigators that the image was not circulated earlier as police were unable to link the vehicle to Gerard Lawlor's murder. It was then only released as a last line of enquiry. Enquiries relating to potential vehicle registration numbers proved negative.

8.21. A witness stated that they observed a motorcycle driving along the Whitewell Road at approximately 11:30 pm, followed by a white Toyota Camry car. He stated that there were two people on the motorcycle, and they appeared to be too big for it. The motorcycle had straight handlebars and a round headlamp. He was unable to describe its make or provide a registration number. A number of other witnesses also described seeing a white car in the area shortly before Gerard Lawlor's murder.

8.22. Another witness stated that a small motorcycle passed her close to a service station on the Crumlin Road at approximately 11:20pm on 21 July 2002. There were two people on board, who seemed to 'fill' the motorcycle. The witness provided a general description of their helmets and clothing.

8.23. Police conducted CCTV enquiries in respect of motorcycle/moped sightings in the area. These are detailed later in this public statement. They conducted trawls of loyalist areas for motorcycles/mopeds that matched the description of the one sighted around the time of the murder. These proved negative. Police also researched whether any known North Belfast loyalist paramilitaries had access to a similar motorcycle/moped but these enquiries again proved negative.

Witnesses – Bellevue Arms

8.24. Police interviewed staff and customers who were in the Bellevue Arms on the night of 21 July 2002. A number of them saw Gerard Lawlor in

the bar, talking to another customer who was identified and eliminated from the police investigation. One witness stated that he observed two male '*strangers*' acting suspiciously in the doorway to the lounge bar between 11:00 – 11:30pm. They left with a third man who had been drinking at the bar. The witness provided descriptions of all three men to police.

- 8.25. Another witness stated that he left the bar at 11:35pm, before walking along the Antrim Road. Gerard Lawlor was still in the bar when he left. He stated that, as he passed the entrance to Belfast Zoo, he observed a grey/blue-coloured Renault car parked facing outwards. He was unable to describe any of its occupants.

Investigation Strategy

- 8.26. Police conference notes, dated 22 July 2002, recorded a main line of enquiry as being to '*...bring into the system the shootings which led up to this to establish what type of firearms.*'

- 8.27. On 24 July 2002, Police Officer 3 linked the following incidents to the murder:

- I. The attempted murder of a Chinese takeaway delivery driver at Tynedale Gardens, North Belfast, on 20 September 2000; and
- II. The attempted murder of Person D outside a Public House at 10:48pm on 21 July 2002.

- 8.28. The weapon used in the attempted murder of the takeaway delivery driver in September 2000 was linked through ballistic examination to Gerard Lawlor's murder. The murder investigation established that two men arrested on suspicion of the attempted murder were later released without charge. Police Officer 3 documented that the description of the

motorcycle used in the attempted murder of Person D matched the description of the one observed driving away after the murder.

- 8.29. My investigators were unable to locate documentation regarding these two linked attacks on the HOLMES account for the murder. Therefore, I am of the view that information relating to the linked attacks would not have been available to all members of the murder investigation team.
- 8.30. Police investigating the murder researched one of the two men suspected of the Tynedale Gardens attack, but neither of them was arrested. The relevant HOLMES account recorded that one of the men was spoken to, while the other interview remained '*pending*.' In 2006, the PSNI Serious Crime Review recommended that both men be spoken to regarding their movements and recollections at the time of the murder. This action was not completed prior to the death of the second individual in 2007.
- 8.31. Police Officer 3 stated that, although the same weapon was used in Gerard Lawlor's murder and the Tynedale Gardens attempted murder, the same individuals were not necessarily involved in both attacks. Weapons were frequently recycled and shared by paramilitaries, thereby limiting forensic opportunities. There was no other evidence or intelligence linking either of the two men to the murder.
- 8.32. Police Officer 3 informed my investigators that there were clear links between the murder and the attacks at Tynedale Gardens and outside the Public House. He stated that, although the other retaliatory attacks on 21 July 2002 were linked to an extent, they involved different suspects using different weapons and '*modus operandi*.' There was no intelligence to indicate that the individuals suspected of these attacks were involved in Gerard Lawlor's murder.

- 8.33. Police Officer 3 stated that he had a small investigation team and lacked the resources to investigate all of the other retaliatory attacks, in addition to Gerard Lawlor's murder. He explained that a strategic decision was taken at a more senior level, by the PSNI Head of Crime or relevant District Commander, that these attacks would be investigated separately from Gerard Lawlor's murder. Police Officer 6 told him that he was to be the SIO for Gerard Lawlor's murder and that Police Officer 11, a Detective Sergeant, was SIO for the other retaliatory attacks. He subsequently had a number of conversations with Police Officer 11 regarding potential linkages and evidence.
- 8.34. My investigators interviewed Police Officer 11, who had a limited recollection of the attacks. He recalled meeting Police Officer 3 and Police Officer 4 the day after Gerard Lawlor's murder, but could not remember what was discussed. He believed that each attack was investigated by a different police officer. He was the Investigating Officer for the attack on the Ligoniel Road at 11:22pm on 21 July 2002.
- 8.35. He stated that he did not have responsibility for overseeing the other investigations and/or identifying evidential linkages. He believed that police investigating the murder would also have looked at the earlier attacks. My investigators found no evidence of further meetings between the murder investigation team and police officers investigating the other retaliatory attacks.
- 8.36. My investigators interviewed Police Officer 6, a Detective Chief Superintendent who was Head of PSNI Crime Branch at the time of Gerard Lawlor's murder. He advised that he was then a Crime Advisor, who would have offered support and guidance to Police Officer 3, as required.
- 8.37. Police Officer 6 could not recall attending a strategic meeting regarding Gerard Lawlor's murder and the earlier attacks. However, he stated

that he would have been surprised if he had not attended such a meeting. He stated that had the attacks all been linked, then senior police would have ensured that the overarching investigation would have been progressed accordingly. This would not have been a decision made by the SIO. He could not recall the role of Police Officer 11, adding that a SIO would have been appointed to investigate the murder, while the Criminal Investigation Department (CID) investigated attempted murders and other serious offences. My investigators were unable to locate Police Officer 6's journal.

8.38. This investigation sought to engage with Police Officer 7, who was the Divisional Commander for North Belfast at the time of Gerard Lawlor's murder. This officer stated that they were unable to assist due to the passage of time. My investigators were unable to locate Police Officer 7's journal.

8.39 Although not unique to this case, the unavailability of police journals, particularly those from senior officers who would have been responsible for making key strategic and operational decisions, has undoubtedly hindered this investigation. I am of the view that this documentation could have contained potentially sensitive/confidential information. It is unclear what, if any steps, were taken by PSNI to establish if the relevant documentation was lost or destroyed. There is no evidence of a consideration of the organisational risks attached to the absence of these records. This is a matter that causes concern.

Family Liaison

8.40. This investigation reviewed the relevant Policy Log of Police Officer 3, in addition to records maintained by Police Officer 8, who was appointed as Family Liaison Officer (FLO) to Gerard Lawlor's family. These evidenced that Police Officer 3 provided clear instructions to Police Officer 8, who documented all contact that he had with the

family. The last entry he made in his relevant Family Liaison Log was on 11 September 2002, prior to being moved to another policing role. There is no documented record of contact between the family and police following this date.

- 8.41. Police Officer 3 informed my investigators that he maintained personal contact with the Lawlor family after Police Officer 8 moved to another policing role. However, he did not record this contact in either his Policy Log or a Family Liaison Log. Police Officer 8 informed my investigators that he was not asked to maintain contact with the family following his move.

Media Strategy

- 8.42. This was documented in the Policy Log of Police Officer 3. It included a media appeal from the murder scene. Further media appeals were made after a week, 28 days, and on the first anniversary of Gerard Lawlor's murder. Posters were distributed to police stations, airports, ferry terminals, and local shops. There were appeals for information on television, radio, and via the PSNI website. This demonstrated that police recognised the importance of a media strategy as an integral part of the murder investigation.

CCTV

- 8.43. Police Officer 3 devised and implemented a strategy to recover and review relevant CCTV footage covering the scene of the murder and the route that Gerard Lawlor took, after leaving the Bellevue Arms. CCTV enquiries were also conducted along possible routes that the murderers may have taken including the Antrim Road, Whitewell Road, Lower Shankill Road, and Glengormley area. In 2002, most CCTV was recorded on video cassettes, which were of a poor quality compared with today's digital evidence and recording systems.

- 8.44. This investigation viewed the available CCTV footage, which was generally of a poor quality. It contained nothing of any evidential value. My investigators were unable to locate a number of relevant CCTV viewing logs, but reviewed those that were available. These contained only limited information.
- 8.45. A number of days after Gerard Lawlor's murder, police received information that a named loyalist had been in the Bellevue Arms the week before the murder, and twice on the day of the murder. Police Officer 9 confirmed that at the time he viewed the available CCTV footage from the Bellevue Arms. Police Officer 9 advised that the CCTV footage was black and white, time delayed and of poor quality thus making identification impossible. My investigators also viewed this footage who confirmed it contained nothing of any evidential value relating to this individual.
- 8.46. Police also reviewed CCTV footage from fixed cameras located on the lower Whitwell Road, including the Gunnell Hill and Serpentine areas, and at the Whitwell Road/Shore Road junction. My investigators viewed this footage. It was, again, of a poor quality and contained nothing of any evidential value. Police established that there was no CCTV covering the entrance to Belfast Zoo.
- 8.47. Police conducted enquiries about the camera at Longlands Bridge and found that it was not operating on the night of Gerard Lawlor's murder. My investigators interviewed police and civilian staff responsible for the installation, maintenance, and monitoring of the relevant camera. These enquiries failed to establish why the camera had not been working on the night of the murder and found that it was operational on, or around, 7 August 2002.

Intelligence

- 8.48 It is important to clarify that, in general, intelligence is not initially treated as evidence even if it would, in principle, be admissible in 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 SIO to initiate and develop lines of enquiry which are capable of progressing the overall investigative strategy. These lines of enquiry may, in turn, generate further evidential opportunities outside the intelligence gathering processes.
- 8.49. There was no intelligence indicating that Gerard Lawlor was a target, or that an attack was going to take place in the Floral Road area on the night of his murder.
- 8.50. Following the murder, police received intelligence that the LVF carried out the attack, on behalf of the UDA. Other intelligence stated that the LVF carried out the murder, but it was agreed that it would be claimed by the UDA.
- 8.51. Intelligence was subsequently received naming two individuals who may have been involved in sanctioning the attack. This was in retaliation for the attempted murder of Person A earlier that night. Other intelligence named another two individuals who were involved in Gerard Lawlor's murder. Both pieces of intelligence were shared with the murder investigation team. The latter two individuals were arrested in August 2003 on suspicion of the murder.
- 8.52. In late July 2002, the murder investigation team received information stating that a named individual had been observed driving a red Vauxhall Corsa car in the Ballysillan area of North Belfast on the

weekend of the murder. The information also indicated that this car was later burnt out near the Boys' Model School, off the Ballysillan Road. My investigators found no evidence that police conducted any enquiries regarding this individual. However, it is noted that this information most likely related to the attempted murder on the Ligoniel Road, as referred to in paragraph 2.6.

8.53. In mid-August 2002, police received intelligence stating that three identified individuals may have been involved in the murder. This intelligence was shared with the murder investigation team. Police researched the three individuals but no other investigative enquiries were made in respect of them.

8.54. Police Officer 3 informed my investigators that a member of the public contacted police, after the photo fit image of the man seen in a car at the entrance to Belfast Zoo was circulated. They stated that the image resembled one of the three individuals named in the mid-August 2002 intelligence. Police Officer 3 stated that he directed further enquiries regarding this individual in May 2003. My investigators could find no record that these enquiries were completed. As Police Officer 3 had directed these further enquiries, it was ultimately his responsibility to ensure that they were completed.

8.55. In late August 2002, the murder investigation team received information stating that two identified individuals were in possession of the motorcycle used in the murder. Police researched the two individuals and established that neither of them was linked to such a motorcycle.

8.56. In mid-September 2002, police received intelligence that the LVF carried out the murder. This intelligence also named the gunman. My investigators were unable to identify that any enquires were conducted in respect of this individual. The same applied to other intelligence,

received in late October 2002, naming an individual who made one of the telephone calls claiming responsibility for the murder.

- 8.57. In 2006, police received intelligence linking three individuals to a number of murders, including Gerard Lawlor's. In 2009, intelligence was received stating that two individuals were involved. My investigators were unable to identify any enquiries having been conducted by police regarding these pieces of intelligence. No further arrests were made.

Identification Parades

- 8.58. A civilian member of police staff identified a potential suspect from a photo-fit image circulated by police. However, the civilian later retracted this identification and declined to provide a witness statement. Therefore, police could not conduct an Identification Parade regarding this individual, who remained a '*person of interest*'⁵² as opposed to a suspect. Police conducted enquiries regarding this individual but there was no intelligence linking them to the murder.

Motorcycles

- 8.59. Police obtained CCTV from the Chester Park Hotel on the Antrim Road that showed two individuals traveling out of the city on a motorcycle at 11:31pm on 21 July 2002, before returning at 12:01am. Police attempted to enhance these images but were unable to do so, due to the poor quality of the original footage.
- 8.60. My investigators viewed this footage which was black and white and time lapsed at 2-3 second intervals. A motorcycle can be seen at the

⁵² A person of interest is someone who is the subject of a police investigation or wanted for questioning but who has not been identified by investigators as being suspected of committing the crime itself. (Black's Law Dictionary Definition 11th Edition page 1379)

relevant times, but the images are not clear. Enhancement of the images would not have progressed the police investigation.

- 8.61. My investigators also viewed CCTV footage from mounted cameras situated on the lower Whitwell Road. One of them showed a blurred image of a motorcycle at 11:58pm. It was of limited evidential value, as it was not possible to determine the make, model, or colour of the motorcycle, or the number of individuals on it.
- 8.62. In late July 2003, police received information from an individual who stated that they had found a “scooter” in undergrowth near the Glenavna Hotel, on the Shore Road, a number of days after the murder. Police subsequently recovered a rusted and partially burnt “scooter” near this location.
- 8.63. The scooter’s chassis number could not be identified and, following forensic examination, nothing of any evidential value was recovered from it. It was in a poor condition, having been set on fire and then left exposed to the weather for a year. No fingerprint marks were recovered. The last registered owner of the scooter could not be established.
- 8.64. Police Officer 3 informed my investigators that he regarded the discovery as significant, as the scooter matched the description of the vehicle linked to the murder and it was located close to a property owned by the relative of a suspect. He believed that police established that it had been stolen from a garage in the Glengormley area and enquiries were conducted in respect of this matter. My investigators were unable to find any record of these enquiries within the available police investigation papers.

Other Vehicles

- 8.65. Police conducted enquiries regarding a number of other vehicles, observed in the Floral Road area around the time of the murder. These included a white Toyota Corolla car and a navy blue or black car, both seen in the area shortly before the murder. These enquiries proved negative, as did those relating to vehicles stolen in the 24-hour period prior to the murder.
- 8.66. PSNI's Serious Crime Review Team later re-visited these vehicle enquiries, in addition to information supplied by Witness X relating to a red Vauxhall Corsa car. These enquiries produced no new evidential opportunities.

Examination of Communications Data

- 8.67. This investigation established that police researched two mobile telephone numbers linked to Person H. Neither of these enquiries was progressed to completion. By the time police became aware that these enquiries had not been completed, the relevant call data was no longer retained by the telephone provider.
- 8.68. My investigators conducted enquiries with the relevant telephone provider, who stated that the relevant call data was available at the time but had not been requested.
- 8.69. My investigators interviewed Police Officer 9, who was assigned these investigative actions. He stated that he had been moved from the murder investigation team and was working on other cases when the actions were allocated to him. He was unaware that they had been allocated to him. My investigators reviewed his relevant police notebook, which supported his account that he had left the murder investigation team at the relevant time.

- 8.70. My investigators established that police did not conduct any enquiries on the home telephone number of Person H, who was linked to the two mobile phones. Subscriber checks were conducted and the information returned was that both mobile numbers were registered “Pay as you talk”. In 2002 actions were then raised to obtain call data on both mobile numbers for a period of a week either side of the murder. These actions were allocated to an officer who no longer worked on the enquiry and thus were not subsequently completed until March 2005 by which stage telecoms data was no longer available.
- 8.71 Telephone enquiries were conducted on Person I’s landline number to seek all outgoing calls for the period 20th July 2002 – 29th July 2002. The result came back that for the period in question the landline number had been reduced to incoming calls only. Therefore no data was available. There was no available evidence to indicate that incoming call data was sought, obtained, or analysed. Telephone enquiries on a mobile number linked to Person I were also conducted. That request sought both outgoing and incoming call data for the same period. The telecoms data was obtained and this mobile number was not registered to Person I.
- 8.72. Police Officer 3 informed my investigators that he considered conducting cell site analysis⁵³ of the relevant mobile telephone numbers but was advised by PSNI’s Telecoms Liaison Unit (TLU) that this would be of limited evidential value. Police Officer 5 stated that any information he received in respect of telephone enquiries, he forwarded to the murder investigation team. My investigators could find no record that the murder investigation team conducted telephone enquiries regarding the two individuals named in intelligence as having sanctioned Gerard Lawlor’s murder.

⁵³ The process used to establish whether a mobile phone could have been at a particular geographical location or address, by using call data records of a device that are attributed to a user.

Suspects and Arrests

- 8.73. Police arrested Person H and Person I under terrorist legislation in early August 2003. They both denied being involved in the murder and could not recall their movements on 21-22 July 2002. They were subsequently released without charge. Police Officer 3 informed my investigators that he decided to make the arrests at that time, as all other enquiries had proven negative. The arrests were based on intelligence relating to Person H and Person I, received shortly after Gerard Lawlor's murder.
- 8.74. Police Officer 3 informed my investigators that he recalled intelligence that Person J had telephoned Person H on 21 July 2002 to '*call in a favour*' following the attempted murder of Person A. He stated that police obtained telephone billing data for Person J at an early stage of the investigation. However this contained nothing of any evidential value.
- 8.75. This investigation has been unable to locate the relevant piece of intelligence referred to by Police Officer 3 or any record of telephone enquiries having been conducted in respect of Person J. Police researched Person J but he has never been arrested regarding Gerard Lawlor's murder.

9.0

COVERT ENQUIRIES

- 9.1. Police Officer 3 informed my investigators that the intelligence relating to Person H and Person I was received a number of days after Gerard Lawlor's murder. Having researched the backgrounds of the two individuals, he concluded that arrests at that time would have been counter-productive. He added that, as it was a '*non-contact*' murder and there were no witnesses, there would have been minimal, if any, benefit to be gained from early arrests. He believed that the two suspects would not have co-operated during interview and would have been forensically aware.
- 9.2. Police Officer 3 stated that he consulted with Gerard Lawlor's family about this matter and included them in his decision-making process. He made an early decision to pursue a sensitive line of enquiry in a hope of gathering the necessary evidence to link the two suspects to the murder.
- 9.3. However, my investigators could find no sensitive policy file or records detailing the nature of these sensitive enquiries, or how they were intended to meet operational objectives. Police Officer 3 should have maintained a sensitive policy file. Such a policy file is required, not only when there are confidential matters or material to be protected, but also to ensure compliance with the requirements of the Criminal Procedures and Investigation Act 1996 (CPIA). Sensitive policy files also enable anyone not directly involved in the investigation to understand the decision making process and rationale of Police officer 3. This can also assist when having to defend or explain decisions taken, or not taken, during judicial processes, reviews, or re-investigations.

- 9.4. Police Officer 5, who was assigned to assist with this sensitive enquiry, viewed material on a number of occasions during the relevant period. This investigation established that Police Officer 4 was involved in other murder investigations, therefore it is likely that a number of the viewings did not relate to the Gerard Lawlor murder inquiry. Cross referencing the dates Police Officer 5 viewed material, with dates he met Police Officer 3 and information being added to the HOLMES murder account, it is believed that Police Officer 5 provided relevant information, relating to Person H and Person I, on one occasion in October 2002.
- 9.5. It is important to note that 2002 was a turbulent time in Northern Ireland and police were not only dealing with a deteriorating security situation, but also an increase in paramilitary activity from various groupings, a murderous loyalist feud, and frequent instances of serious street violence in North Belfast, and other areas in Belfast. The increase in paramilitary activity and public disorder also contributed to heightened community tensions, particularly along interface areas. In response to the deteriorating security situation, there was an increase in intelligence gathering by police and other agencies, including at a strategic level.
- 9.6. There is no evidence that Police Officer 3 formulated a specific covert or sensitive strategy that would have met the needs of his investigation. Instead, evidence would indicate that Police Officer 3 decided to utilise ongoing strategic intelligence gathering in an attempt to advance his investigation.
- 9.7. I am of the view that the decision not to develop a specific covert/sensitive strategy, with clearly defined targets and objectives, was flawed. Utilising a strategic intelligence gathering operation was a legitimate policing objective. However, it was unlikely, given the

circumstances, to meet the specific needs and requirements of Police Officer 3's investigation, as Police Officer 3 and Police Officer 5 would have been unaware of the objectives and targets of the strategic intelligence operation.

- 9.8. My investigation established that during 2003 police conducted a number of enquiries to complement the sensitive enquiries carried out in the months following Gerard Lawlor's murder. However, PSNI were unable to provide my investigators with sufficient material to allow an assessment to be made regarding the quality and effectiveness of these enquiries.
- 9.9. This investigation has established that intelligence which may have opened significant new lines of inquiry was not shared with Police Officer 3. He confirmed this, when interviewed by my investigators. However, intelligence was provided indicating that the murder had been carried out on the instructions of Person J and Person K in retaliation for the shooting of a protestant youth in Glenbryn earlier in the evening. These individuals have never been arrested on suspicion of Gerard Lawlor's murder.
- 9.10. Police Officer 3 informed my investigators that telephone billing enquiries were conducted at an early stage in respect of Person J and Person K, but there was nothing to link them to Gerard Lawlor's murder. This investigation found no documentary records to confirm if these enquiries were conducted.

10.0

WITNESS X

- 10.1. In April 2006, a solicitor contacted police stating that an individual had information relevant to Gerard Lawlor's murder. For the purposes of this public statement, this individual shall be referred to as Witness X.
- 10.2. Witness X subsequently informed police that, at approximately 10:00pm on 21 July 2002, they had joined a group of people in Cavehill Country Park. At approximately 02:00am the following morning, they saw a dark-coloured car, which they believed was a Ford Fiesta, drive into the park. Two men got out of the car, before setting it on fire.
- 10.3. Witness X recognised the two men and entered into a conversation with them. One of the men referred to a sectarian '*hit*' outside the Bellevue Arms on the Antrim Road. Witness X stated they made an anonymous telephone call to 'Crimestoppers',⁵⁴ three to seven days later. During this telephone call, they named the two men and provided a description of the relevant car, adding that one of the men had a '*squint*.'
- 10.4. At 10:39pm on 22 July 2002, police located a burnt out Vauxhall Corsa car in Cavehill Country Park. It was later identified as the vehicle that had been stolen from the Hesketh Park area. Witness X requested anonymity regarding the information they had provided police.
- 10.5. Police Officer 10 was the SIO in charge of the murder investigation in 2006. At the same time, Police Officer 10 linked the burnt out Vauxhall Corsa to the earlier attack on the Ligoniel Road at 11:22pm on 21 July

⁵⁴ 'Crimestoppers' is a voluntary organisation which provides a confidential telephone system for people who wish to anonymously provide information relating to crime in Northern Ireland.

2002. Police Officer 10 informed my investigators that he passed the information provided by Witness X to Police Officer 11, the SIO in charge of the Ligoniel Road investigation, as he believed that a motorcycle, as opposed to a car, was used in Gerard Lawlor's murder. There was also no intelligence or evidence linking either of the two men named by Witness X to the murder. My investigators established that, in October 2006, an action was created to inform Police Officer 11 of the information provided by Witness X. The action was marked as completed on 27 October 2006, stating that '*Copy of report dated 10 April 2006 and statement made by witness X given to Police Officer 11.*'

10.6. In 2008, my investigators interviewed Police Officer 12 who was assigned the relevant action. He confirmed that he handed over Witness X's statement and a copy of a relevant report to Police Officer 11.

10.7. Police Officer 11 informed my investigators that he had no recollection of receiving the information supplied by Witness X. My investigators reviewed the Ligoniel Road investigation papers, but found no reference to the information supplied by Witness X, or any enquiries having been conducted in respect of it.

11.0

PROCEDURAL FAIRNESS

- 11.1. 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* 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 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.'

11.2. This process, sometimes called 'Maxwellisation', involves four fundamental requirements as outlined by Mr Justice McCloskey.⁵⁵

- 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.

The 'Maxwellisation' Process

11.3. In order to give the officers concerned a fair opportunity to respond to any proposed criticisms in this public statement, correspondence was forwarded on 17 January 2023 from this Office to Police Officers 3 and 5, along with extracts from the draft public statement that impinged directly or indirectly on them, seeking their comments. A period of 30 days, from receipt of that correspondence, was provided in order for

⁵⁵ Now The Rt Hon Lord Justice McCloskey

the individuals to respond. No response was received from either Police Officer 3 or Police Officer 5.

11.4. I believe that the contents of this public statement accurately reflect the Police Ombudsman investigation of the complaints of Gerard Lawlor's family. The views I have expressed in relation to the conduct of police officers within this public statement are based on evidence and other information, gathered during the course of this investigation. I am satisfied that I have the power to publish this statement on the investigation into these complaints, pursuant to section 62 of the 1998 Act.

11.5. At every stage, my investigators have sought to engage with former police officers in order to understand the environment within which they investigated serious crime. I accept that former PSNI officers faced significant challenges and pressures. I have also sought to obtain and review the relevant legislation, standards, and guidance that existed in order to understand policing procedures and policies at the time. I believe that this has resulted in a fair and impartial investigation, underpinned by evidence-based conclusions.

12.0

CONCLUSIONS

- 12.1. 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,⁵⁶ the Court ruled that the Police Ombudsman has no role in adjudicating on a complaint of criminality or misconduct. The Court held that the decisions and determinations of these issues are a matter for the PPS and criminal courts in relation to allegations of criminality. During the course of this investigation, there were no files of evidence forwarded to the PPS in respect of any serving, or former, police officer. The main purpose of this public statement, therefore, is to address the matters raised by Gerard Lawlor's family who made a complaint to the former Police Ombudsman, Nuala O'Loan.
- 12.2. In accordance with my statutory functions under the 1998 Act, I am also obliged to consider the question of disciplinary proceedings. However, due to the relevant police officers having retired, a misconduct investigation was not possible. This would normally have included a misconduct interview where the relevant officers would have been asked to account for their decisions and actions after a 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 PSNI's Professional Standards Department (PSD) and the relevant police disciplinary panel in respect of serving police officers.

⁵⁶ *Re Hawthorne and White's Application for Judicial Review*. NICA [2020] 33.

- 12.3. My investigators gathered substantial evidence and other information during the course of this investigation. This included witness statements, police documentation, CCTV footage, communications data, and other relevant material. 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.
- 12.4. I am mindful of the context within which the original police investigations were conducted and the rules and standards that existed in 2002. These differed considerably from what is in place today. Most significantly, in terms of policing structures and practices, PSNI's Crime Operations Department was not established until 2004. PSNI have stated that *'this department is led by a single Assistant Chief Constable thereby ensuring consistency, transparency, and accountability across all investigative and intelligence functions within PSNI.'* The PSNI Code of Ethics was introduced in 2003 and amended in 2008⁵⁷.
- 12.5. It is important to note that the ACPO Major Incident Room Standardised Administrative Procedures (MIRSAP) Manual was in place at the time of the murder. This stated that *'the SIO is the principal decision-maker in any serious crime investigation and must always bear in mind that the specific enquiry in hand may be part of a series of crimes.'* The guidance to police at that time on linking serious crime was that cases should only be linked when there was a high degree of certainty about the connection between them such as might be gained from forensic evidence or unique features so distinct as to make them certain that the offences were linked. Given the particular circumstances of the attacks on the night of the 21 July 2002, I am of the view that these attacks were linked in that they were retaliatory in

⁵⁷ PSNI code of ethics and RUC code that existed in 2002
<https://www.legislation.gov.uk/nisr/2000/315/schedule/4/made>

nature and closeness in time and location. Therefore the links between these attacks ought to have been considered at a strategic level.

The Police Ombudsman's Powers

12.6. 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* has unanimously ruled on the powers of the Police Ombudsman under that legislation. This includes how the Police Ombudsman will address complaints. In that context, I have considered the complaints and allegations raised by Gerard Lawlor's family. These were made during a series of meetings with my Office, and in related correspondence, between August 2006 and June 2012. I have also considered a number of issues contained within the Inquiry Report, released in November 2012.

12.7. While no specific allegation of collusion was made in the original complaint, the Inquiry Report repeatedly refers to the term '*collusion*' both in the active and passive sense. Therefore I have carefully considered whether there was any '*collusion*' in respect of police actions relating to Gerard Lawlor's murder. I have considered the various definitions of '*collusion*' offered by Lord Stevens, Judge Peter Cory, Judge Peter Smithwick, Sir Desmond de Silva, and a number of former Police Ombudsmen. While these definitions are informative, as stated at Chapter 4 of this public statement, I acknowledge that there is no universally agreed definition of '*collusion*'. I have however, identified a number of common features which I summarise as follows:

- 12.8.
- 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'* by its nature often involves an improper or unethical motive;
- VI. *'Collusion'*, if proven, can constitute criminality or improper conduct (amounting to a breach of the ethical Code of the relevant profession);
- VII. Corrupt behaviour may constitute *'collusion'*.

Allegation that Police failed to secure all available CCTV footage

12.9. My investigators reviewed all elements of the police investigation, including the CCTV strategy. Police Officer 2 devised and implemented a clear strategy in respect of the recovery and analysis of relevant CCTV footage. My investigators established that police conducted extensive CCTV enquiries in the vicinity of the murder scene, along the route taken by Gerard Lawlor upon leaving the Bellevue Arms, and potential routes that the gunmen may have taken before, and after, the murder.

12.10. Police believed that the gunmen fled the murder scene via the Floral Road/Antrim Road junction. There was no evidence indicating that the relevant motorcycle travelled along the Whitewell Road or in the vicinity of Longlands Bridge. Police checked the CCTV camera at the latter location and discovered that it was not operational on the night of 21-22 July 2002. My investigators were able to confirm that the camera was 'live' on, or around, 7 August 2002 but were unable to establish whether it had been operational prior to that date.

12.11. It was evident that extensive enquiries were conducted by PSNI to secure CCTV footage that might have advanced the investigation. This investigation has concluded that police secured all relevant CCTV. However, my investigators were unable to locate a number of the

relevant CCTV viewing logs, and others that contained limited information. A review of the available CCTV footage was conducted by police during a 2006 PSNI Serious Crime Team, in addition to my investigators. These reviews identified no evidence that could have advanced the murder investigation.

Allegation that Police failed to hold Identification Parades in respect of an identified suspect

- 12.12. A civilian member of police staff identified a potential suspect from a photo-fit image circulated by police. However, they later retracted this identification and declined to provide a witness statement. Therefore, police were unable to conduct an Identification Parade regarding this individual, who remained a '*person of interest*' as opposed to a suspect.

Allegation that Police failed to conduct adequate enquiries in respect of a motorcycle linked to the murder

- 12.13. This investigation established that police conducted extensive witness and CCTV enquiries in an attempt to identify a motorcycle/moped linked to the attack. Its exact model, size, colour, and registration number were never established. Police Officer 3 linked the murder to the attempted murder of Person D outside the Public House at 10:48pm on 21 July 2002. A motorcycle/moped was used in both attacks.
- 12.14. Police Officer 3 regarded the discovery of a small motorcycle in undergrowth near the Glenavna Hotel, Shore Road, on 6 August 2003, as a significant find. It matched the general description of the motorcycle linked to the murder and was located near the property of a suspect's relative. The motorcycle was forensically examined, but nothing of any evidential value was identified.

- 12.15. The motorcycle found was reported to be in an extremely poor condition, having been burnt and exposed to the weather. The only area suitable for fingerprinting was a rear parcel shelf, which was removed, exhibited, and submitted to FSNi. The motorcycle was visually examined and chemically treated for fingerprints, which proved negative. An action was raised to obtain a photograph of the same make and model, with the intention of showing these to witnesses. However, the relevant make and model could not be identified and therefore this action was not pursued.
- 12.16. Police also conducted enquiries in an attempt to identify a white saloon car observed near to the motorcycle/moped around the time of the murder. These enquiries proved negative. The same applied to a dark blue car observed near the entrance to Belfast Zoo around the time of the murder. The witness who observed this vehicle assisted in the production of a photo-fit image of the driver, and provided two possible vehicle registration numbers. However, police were unable to identify the relevant vehicle or driver.

Allegation that Police failed to conduct thorough telephone enquiries in relation to a number of suspects

- 12.17. As part of the sensitive enquiry phase of the police investigation, actions were raised to obtain call data from two mobile telephone numbers linked to Person H. These enquiries were allocated to a police officer who, by that time, had left the murder investigation team and moved to another policing role. A lengthy period ensued before this issue was identified, by which time the relevant call data was no longer available.
- 12.18. My investigation found no evidence that the murder investigation team conducted enquiries on a home telephone number linked to Person H. Investigative actions were also allocated to obtain call data from the

mobile telephone numbers linked to Person H. These enquiries were not completed in a timely manner and when they were finally completed over two years later the requested telecoms data was no longer available.

12.19. Telephone enquiries were conducted on Person I to seek only outgoing call data. . It was later established that their telephone number only accepted incoming calls. Call data was obtained for a mobile telephone number linked to Person I, but this did not progress the police investigation.

12.20. I am of the view that, the failure to obtain itemised billing for mobile telephones linked to Person H was a significant failure which undermined the approach taken by Police Officer 3 to utilise strategic intelligence. This investigation established that the required actions to obtain this information had been clearly documented. Police Officer 3's expectations were that this information would be obtained. Police Officer 5 was the receiver⁵⁸ on the murder investigation at the relevant time. Part of the receiver's responsibility was to review unresolved actions in conjunction with Police Officer 3 and Police Officer 4. Police Officer 5 failed to ensure that these actions were progressed in a timely manner. I am of the view that, based on the available evidence and information, the failure to obtain the relevant call data was as a result of human error on the part of the relevant police officers.

Allegation that Police protected informants who were suspected of having been involved in the murder

12.21. The family of Gerard Lawlor have alleged that police protected an informant(s). In discussing these issues, I am constrained by the principle of 'Neither Confirming Nor Denying' (NCND) any person is,

⁵⁸ The receiver receives and reads all documentation entering the Major Incident Room (MIR) in order to check that it has been correctly completed and to assess whether fast-track actions should be raised.

or has been, an informant unless, in accordance with established principles, exceptional and compelling circumstances exist that justifies a departure from the policy. Having carefully considered this issue, I will neither confirm nor deny if any individual was an informant. However, in relation to PSNI's investigation into the murder of Gerard Lawlor, I can confirm that there is no evidence that police were protecting any person from investigation or prosecution.

12.22. The Inquiry Report stated that *'an article in the local press reported that the SIO in Gerard's case stated that he knew the identity of the attackers of Person F and Gerard Lawlor.'* My investigators identified and reviewed an Irish News newspaper report, which was the article referred to in the Report. It made no reference to the attempted murders of Persons F and G, or a quote of this nature from Police Officer 3.

12.23. Police received intelligence, shortly after the murder, identifying Person H and Person I as having been involved. They were arrested under terrorist legislation and questioned about the murder of Gerard Lawlor in early August 2003, but subsequently released without charge. Police Officer 3 informed my investigators that to have made arrests at the time the intelligence was initially received would have been non-productive. Both suspects would have been forensically aware and unlikely to have co-operated with police.

12.24. There are a number of investigative benefits to making early arrests. An early arrest can provide greater opportunities to recover forensic evidence such as clothing and firearms. It can prevent offenders from interfering with witnesses, destroying evidence, or committing further crimes. Another significant benefit is that offenders who are spoken to closest to the time of the offence are more likely to make mistakes when fabricating stories. Crucially, early arrests mean that offenders

are less able to claim that they cannot remember what they were doing or where they were at the material time.

- 12.25. Equally, there are valid reasons as to why investigators might delay making arrests. Most notably, this could be if an arrest could possibly frustrate other enquiries, or if police were trying to gather further evidence against suspect(s) through investigative enquiries, and/or to enable suspect(s) to unwittingly assist by leading the investigation to evidential locations.
- 12.26. Police Officer 3 believed that no evidence would be lost by delaying the arrests and instead focusing on sensitive enquiries. This was an attempt to gather additional intelligence and generate evidential opportunities. He stated that he explained his decision to Gerard Lawlor's family, stating that additional evidence was required to connect the two suspects to the murder.
- 12.27. However, I am of the view that there were risks associated with delaying arrests and these should have been documented, and balanced against the anticipated benefits.
- 12.28. My investigators established that a number of sensitive enquiries were initiated, however, there was no sensitive policy file located during this investigation. Therefore, I am of the view that there was no specific and targeted sensitive strategy devised and implemented regarding Person H and Person I.
- 12.29. I am of the view that Police Officer 3 failed to outline the tactics that were required in order to progress the relevant sensitive enquiries. This responsibility was left to a more junior officer, Police Officer 5. I am of the view that there was a lack of strategic leadership in this important element of the murder investigation. The sensitive enquiry element of the police investigation displayed a lack of direction,

oversight, and ownership, which allowed these enquiries to drift. This exacerbated the delay in arresting two suspects, which undermined the likelihood of obtaining evidential opportunities to advance the murder investigation. I consider that the strategy ought to have had clear objectives, time parameters, regular reviews, and assessments of its effectiveness. A specific, carefully formulated and documented sensitive enquiry strategy would have provided this structure and rigour to the murder enquiries. Therefore, I conclude that the approach taken was flawed.

- 12.30. I can find no justification for the delay in arrest and interview of the suspects, and the impact of this delay provided the suspects with the opportunity to state they could not recall what they were doing a year previously. I am of the view that evidential opportunities which may have advanced the investigation were lost and this adversely affected the murder investigation. In consequence this has undermined the confidence in Gerard Lawlor's family in the police investigation into this unsolved murder.

Allegation that Police could have prevented the murder

- 12.31. This investigation reviewed PSNI's strategic and tactical response to the sectarian attacks that took place on the evening of 21 July 2002, culminating in Gerard Lawlor's murder. This was essential when considering the allegation that his murder could have been prevented.
- 12.32. PSNI General Order 11/98, issued in February 1998, established the incident management principles which existed in July 2002. A three-tier management system existed, incorporating a Strategic Gold Command, Tactical Silver Command, and Operational Bronze Command.

- 12.33. On 21 July 2002, the North Belfast Operations Room was based at Antrim Road PSNI Station. It was staffed by an on-call Chief Inspector, assisted by a Sergeant and two Constables. Police Officer 1 and Police Officer 13 performed the roles of Silver and Gold Commanders respectively. There was also a military Liaison Officer, who tasked and directed military support, as required by police.
- 12.34. The four retaliatory attacks, prior to Gerard Lawlor's murder, took place between 10:00pm and 11:25pm within a relatively small geographical area of North Belfast. The location of Gerard Lawlor's murder was the most northerly attack, approximately 6.6 kilometers from Rosapenna Street, where Person E was shot. Floral Road was not on, or near, a sectarian interface, unlike where the other attacks took place.
- 12.35. Following the attempted murder of Person B and Person C at 10:00pm at Salisbury Avenue, police put in place a number of 'snap' VCPs at various locations in North Belfast. My investigators were unable to establish where these were set up, but viewed CCTV that showed police patrols of interface areas, including the Whitewell Road and White City, following this attack.
- 12.36. The next attack was the attempted murder of Person D outside a Public House on the Oldpark Road, at 10:48pm, followed by gun attacks at Ligoniel Road and Rosapenna Street, at 11:22pm and 11:25pm respectively. This investigation has been unable to establish how many police VCPs were in place at these times and where they were located. However, CCTV footage viewed by my investigators continued to show police patrols of interface areas during this period.
- 12.37. My investigators reviewed the relevant Silver Command log which documented that a number of VCPs were put in place at approximately midnight. An entry at 00:01am on 22 July 2002, shortly before Gerard

Lawlor's murder, recorded that military VCPs were set up at the following locations:

- I. North Circular Road/Cavehill Road junction;
- II. Ligoniel Road;
- III. Ballysillan Road/Silverstream Gardens junction; and
- IV. Cliftonville Road/Oldpark Road junction.

The locations of these VCPs closely correlated with the locations of the four retaliatory shootings.

12.38. During the 1996-1997 period, police operated a co-ordinated nightly deployment of VCPs, known as Operation Northtrap, to deter and disrupt sectarian violence in North Belfast. It was replaced by a more reactive system, in which police could select VCPs at a number of pre-determined locations dependent on the nature of the threat and public disorder. This investigation was unable to establish if this system was initiated on the evening of 21 July 2002. None of the pre-determined locations were near to where Gerard Lawlor was murdered, which was not a sectarian interface.

12.39. Gerard Lawlor's murder was a random sectarian attack that took place within a relatively short time frame. I am of the view, given the available evidence and intelligence, that police could not have prevented Gerard Lawlor's murder. Given the timing and location of the earlier attacks on 21 July 2002, police resources were concentrated on sectarian interface areas where these had taken place. Gerard Lawlor's murder did not take place at a recognised interface and occurred between approximately four to six kilometres from where the other attacks happened (see paragraph 6.36).

12.40. Police were aware of escalating sectarian violence in the area and that loyalists were engaged in a series of retaliatory attacks, following the

attempted murder of Person A. There was no intelligence indicating that Gerard Lawlor was specifically targeted or that an attack was planned at the relevant time and location. This murder was one of a series of random, sectarian attacks that occurred on the night of 21 July 2002.

- 12.41. My investigators were unable to review relevant police radio transmissions that were provided to us by PSNI due to the passage of time and technical difficulties. However, Command and Control Serials which captured some radio transmissions were available and examined by Police Ombudsman investigators.
- 12.42. CCTV footage viewed by my investigators showed that police and the military were patrolling the Whitewell Road and White City areas. This investigation found no evidence that regular police patrols on the Whitewell Road ceased two days prior to Gerard Lawlor's murder.
- 12.43. I am of the view, given the available evidence, that the policing response to the attacks on 21 July 2002 was a reasonable response to what was a spontaneous and rapidly developing situation.

Allegation that Police failed to keep the family updated

- 12.44. I refer to the criteria for an effective Article 2 compliant investigation established in the case of *Jordan v UK* (2001), which I have summarised earlier in this public statement. I note, in particular, the requirement that *'the next-of-kin of the victim must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests.'*
- 12.45. Following the murder of Stephen Lawrence in London on 22 April 1993, a public enquiry into his death highlighted significant failings in

the police investigation. This included the manner in which police had communicated with the Lawrence family.

- 12.46. 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.’*⁵⁹ He added that, where possible, such officers should be dedicated primarily, if not exclusively to the role. The deployment of specialist trained officers to bereaved families is an important investigative tool, where the FLO can gather evidence from, and impart information to, the family in a timely, accurate, and empathetic manner.
- 12.47. Following Gerard Lawlor’s murder, Police Officer 3 appointed Police 8 to perform the role of FLO. Police Officer 8 did so, maintaining a Family Liaison Log that recorded his contacts with the family. However, on 11 September 2002, Police Officer 8 moved to a different policing role and was not replaced. Police Officer 3 informed my investigators that he personally provided updates to the family from that point onwards. However, these updates were not recorded in either in his Policy Log or a separate Family Liaison Log.
- 12.48. One of the principle objectives of any FLO strategy is to increase benefits to the investigation by servicing the needs of the family for information and support. A key objective is, not only to maintain the confidence and trust of the family, but to keep them regularly updated where, appropriate.
- 12.49. Victims’ families need accurate and regular information on the progress of the investigation and answers to their queries, where appropriate. Families are reliant on the police for information, otherwise they may have to depend on rumour, gossip, news reporting,

⁵⁹ The Stephen Lawrence Inquiry (1999), 378.

and social media. Public conjecture and supposition may not be helpful to them or the investigation.

- 12.50. I am of the view that a dedicated FLO ought to have been appointed to the family, following the departure of Police Officer 8. This would have maintained a clear line of communication between the family and the murder investigation team. All contact between police and the family should have been recorded in a FLO log, to preserve the integrity of the investigation and in accordance with disclosure obligations under the Criminal Procedure and Investigations Act (CPIA) 1996. The failure to establish clear communication lines, and record all contacts, was also not in accordance with ACPO national Family Liaison guidance at the time.

Allegation that Police failed to link Gerard Lawlor's murder to a series of sectarian attacks earlier on 21 July 2002

- 12.51. Police Officer 3, at an early stage of the investigation, linked Gerard Lawlor's murder to the attempted murder of Person D outside a Public House on the Oldpark Road at 10:48pm on 21 July 2002. This was because the motorcycle used in that attack matched the description of one observed driving away from the scene of Gerard Lawlor's murder. My investigators reviewed the available police investigation papers, which indicated that only limited enquiries were made in respect of the attempted murder. This is a concern, given that the attack was linked to the murder.
- 12.52. Police Officer 3 also linked Gerard Lawlor's murder to the attempted murder of a Chinese takeaway delivery driver at Tynedale Gardens, North Belfast, on 20 September 2000. The same weapon, a .38 calibre revolver, was used in both attacks. To date, it has not been recovered. Two men were arrested on suspicion of the attempted murder, but were later released without charge.

- 12.53. One of these men was researched by police following Gerard Lawlor's murder, but no arrests were made. In 2006, a SCRT review researched both men and spoke to one of them regarding his movements on, and recollection of, 21-22 July 2002. Again, no arrests were made at this time. The second man is now deceased. Police Officer 3 informed my investigators that weapons used in terrorist attacks were not retained by gunmen. Therefore, although there was a clear ballistics link between Gerard Lawlor's murder and the Tynedale Gardens attack, this did not mean that the same individuals were involved in both incidents.
- 12.54. Previous investigations conducted by my Office have established that paramilitary organisations in Northern Ireland during the 'Troubles' used a 'Quartermaster' style system for the storage, maintenance, and distribution of weapons. This meant that, while a specific weapon could have been used in several attacks, it did not follow that the same individuals were involved.
- 12.55. The decision not to link all the attacks on 21 July 2002 to Gerard Lawlor's murder was not taken by Police Officer 3, but at a strategic level by more senior police officers. Police Officer 3 accepted, when interviewed by my investigators, that there was a degree of connection between the other attacks and Gerard Lawlor's murder. However, his recollection was that the other attacks were overseen by Police Officer 11, a D/Sergeant attached to North Belfast CID.
- 12.56. My investigators also interviewed Police Officer 11. He remembered meeting with Police Officer 3 and Police Officer 4 the day after Gerard Lawlor's murder, but could not recall what was discussed. He stated that he was not involved in supervising the investigations of the earlier attacks. His recollection was that each attack was investigated by a separate police officer.

- 12.57. My investigators interviewed Police Officer 6, a Detective Chief Superintendent who was head of PSNI Crime Branch at the time of Gerard Lawlor's murder. He stated that, at the time, he was a Crime Advisor, who would have offered support and guidance to Police Officer 3. He added that, had all the retaliatory attacks been linked, senior police would have ensured that the overarching investigation would have been progressed accordingly. He could not recall the role of Police Officer 5.
- 12.58. As stated above at para 8.36, Police Officer 7, the Divisional Commander for North Belfast at the time of Gerard Lawlor's murder, was unable to assist this investigation.
- 12.59. My investigators could not identify which senior police officer or officers made the strategic decision not to link Gerard Lawlor's murder with the earlier attacks on 21 July 2002.
- 12.60. Police Officer 3 did not document this decision in his relevant Policy Log and his last recorded entry was on 11 September 2002, less than eight weeks after Gerard Lawlor's murder. I am of the view that this Policy Log should have been maintained for the duration of the police investigation, particularly as key decisions were still being taken after this period. The lack of documented decision-making impeded my ability to assess and understand the rationale for key decisions taken during the police investigation.
- 12.61. I am of the view that police should have appointed a suitably experienced senior officer to oversee and coordinate the investigation into all of the attacks that occurred earlier on 21 July 2002. This may have provided a better opportunity to capture any operational, evidential, and strategic linkages which may have, not only assisted each investigation, but also investigations into those responsible for sanctioning and/or directing the attacks. Such an approach may also

have been a better use of limited policing resources and allowed for a more focused and structured investigation. This investigation has established that police believed that, following the first attack, retaliation was likely. Police Officer 3 possessed intelligence identifying individuals who may have sanctioned the attacks. There is no evidence to indicate that those responsible for sanctioning and/or directing the murder were investigated as part of the murder investigation. Police Officer 3 has not documented or rationalised his reasons for this.

Allegation that Police failed to properly investigate information provided by Witness X

- 12.62. In 2006, Witness X stated that they telephoned the 'Crimestoppers' confidential line three to seven days after Gerard Lawlor's murder and provided details of two men and a car that may have been linked to the attack. My investigators were unable to locate any record of this telephone call. I am of the view that this information, on its own, would have been insufficient to have provided grounds for the arrest of the two identified men.
- 12.63. Police Officer 10, the SIO heading the investigation of Gerard Lawlor's murder in 2006, informed my investigators that, following a number of enquiries, he assessed the information provided by Witness X was unlikely to relate to the murder investigation. However, he considered this to be potentially relevant to the attempted murders on the Ligoniel Road at 11:22pm on 21 July 2002. My investigators established that this information was passed to police investigating this attack.
- 12.64. Police Officer 11, the police officer leading the Ligoniel Road investigation, had no recollection of the information supplied by Witness X in 2006, when interviewed by my investigators. My investigators found no evidence that police investigating the Ligoniel

Road attack conducted any enquiries in respect of the information supplied by Witness X. Police Officer 11 is now deceased.

- 12.65. Based on the available evidence, I am of the view that this information was shared with Police Officer 11 in 2006. It is therefore a failing that the information was not assessed in a timely manner to determine if any opportunities could be exploited or enhanced, that might have advanced that investigation. Equally, if Police Officer 11 considered that there were no evidential opportunities or enquiries to be conducted to advance his investigation, then the rationale for this should have been clearly documented.

Issues emerging from the Gerard Lawlor Community Inquiry

- 12.66. Person B and Person C provided accounts to the Inquiry about the attack at 10:00pm on 21 July 2002 at Salisbury Avenue. Person B stated that the gunman had a '*squint,*' while Person C stated that he had a '*turn in his eye.*'
- 12.67. My investigators reviewed the statements that Person B and Person C provided to police the day after the murder. Neither of these made any reference to the gunman having an eye condition. A review of the PSNI investigation papers contained no reference to the gunman having a '*squint.*'
- 12.68. Person B also informed the Inquiry that a police officer informed him that a man had been caught trying to set a car alight on the Westland Housing Estate. It was believed that this car was used in the attempted murders of Person B and Person C.
- 12.69. My investigators reviewed the available police documentation and established that, at 10:23pm on 21 July 2002, a member of the public reported a white Nissan Bluebird car on fire at Glenbyrn Park. At

10:27pm, a police patrol observed two men running from the car towards Westland Road. Police searched the area and observed a young male burning clothing at the rear of a derelict building on the Old Westland Road.

- 12.70. Upon seeing police, the young male ran away in the direction of the Belfast Waterworks. Police searched the area but none of the three individuals were located. The relevant scenes were photographed and forensically examined. A number of fingerprint marks were recovered from the car and a petrol can was seized near the burnt clothing. The car, clothing, and petrol can were forensically examined, but nothing of any evidential value was identified. To date, no individual has been prosecuted for the attack.
- 12.71. Person D, who survived a gun attack outside the Public House at 10:48pm on 21 July 2002, also provided an account to the Inquiry. My investigators identified and reviewed police documentation relating to this attack, which included one witness statement. However, my investigators found no statement from Person D.
- 12.72. Person E informed the Inquiry that, following the attack on the Ligoniel Road at 11:22pm on 21 July 2002, police failed to cordon off the area, forensically examine the scene, or conduct house-to-house enquiries.
- 12.73. My investigators reviewed the available documentation and established that the scene was secured, photographed, and forensically examined. A PSNI Tactical Support Group (TSG) searched the scene and house-to-house-enquiries were conducted. This would not support the account that Person E provided the Gerard Lawlor Community Inquiry.
- 12.74. Police recorded the details of potential witnesses on the night of the attack. However, this investigation established that these witness

enquiries were 'followed-up' 12 days after the attack, coinciding with a newspaper article criticising the delay. My conclusions do not coincide with the Inquiry in this respect.

12.75. Person F and Person G both provided accounts to the Inquiry. Person F also made a complaint to my Office in July 2004, concerning the quality of the police investigation of the attack at Rosapenna Street at 11:25pm on 21 July 2001. Person F was shot three times during this attack.

12.76. The Police Ombudsman investigation into that complaint identified a number of failings in the PSNI investigation. There was no evidence that a scene cordon had been established and that house-to-house enquiries were conducted in the area. No photographs were taken and the victims' clothing was not seized. Relevant medical records were requested, but not obtained. The investigation concluded that a full and thorough investigation of the attack by police had not taken place. PSNI were made aware of these findings, which led to a Serious Crime Team Review of the original police investigation, in an attempt to identify further lines of enquiry.

Overall Conclusions

12.77. I have carefully considered the evidence and other information gathered during this investigation. Having done so, I am of the view that a number of the complaints and concerns made by the family about police actions (and omissions) are legitimate and justified. I will now detail these and other matters, considered during the course of this investigation.

Preventability of Gerard Lawlor's Murder

- 12.78. Sectarian tensions were high in North Belfast on the night of Gerard Lawlor's murder, following the attempted murder of a member of the Protestant community at Glenbryn Park earlier that evening. This was followed by a number of retaliatory attacks on members of the Catholic community, culminating in Gerard Lawlor's murder. I have found no evidence that police had prior information that Gerard Lawlor was going to be targeted, or that loyalist paramilitaries were planning an attack in the Floral Road area.
- 12.79. Gerard Lawlor was murdered some distance from where the other attacks occurred on the evening of 21 July 2002. This investigation has established that police and military patrols continued in sectarian interface areas on the night of the murder. There is no evidence that patrols were withdrawn from North Belfast. However there is evidence that both police and military resources were stretched that night.
- 12.80. My investigators established that a number of police and military 'snap' VCPs were set up, shortly before Gerard Lawlor's murder. However, none of these were in the vicinity of Floral Road, which was not near a sectarian interface. This investigation has been unable to establish the exact whereabouts and timings of VCPs in North Belfast on 21-22 July 2002. My investigators were unable to access PSNI radio transmissions that may have been able to provide this information.
- 12.81. I am of the view, given the available evidence and intelligence that police were not in possession of information that would have allowed them to take steps to protect Gerard Lawlor. I do not believe that an opportunity existed for police to prevent the murder.

The Murder Investigation

- 12.82. I am of the view that initial police actions, following Gerard Lawlor's murder, were conducted in a thorough and competent manner. The scene was secured and forensically examined. A number of items were recovered for forensic examination, but no additional evidence was obtained. A second scene at the entrance to Belfast Zoo was identified and secured but, again, this yielded nothing of any evidential value.
- 12.83. Police conducted extensive witness and CCTV enquiries in the vicinity of the murder scene, in addition to the route that Gerard Lawlor took upon leaving the Bellevue Arms, and potential routes taken by the murderers before, and after, the attack. These enquiries did not identify any eye witnesses to Gerard's murder, but statements were recorded from a number of individuals who observed a small motorcycle/moped driving away from the scene after the attack.
- 12.84. My investigators reviewed the available CCTV footage and related viewing logs, but did not identify any evidence that could have progressed the murder investigation. This investigation has been unable to establish why the police CCTV at Longlands Bridge was not operational on the night of the murder. However, there is no evidence that the murderers drove past this camera following the attack.
- 12.85. Police were unable to identify the motorcycle/moped linked to the attack. A motorcycle was recovered from a location close to the Glenavna Hotel, Shore Road, on 6 August 2003 but, following forensic examination, it could not be linked to Gerard Lawlor's murder. I am of the view that police pursued these enquiries in a thorough and competent manner.
- 12.86. A civilian member of staff identified an individual from a photo-fit image prepared by police. However, this member of staff subsequently

withdrew their identification and declined to provide a witness statement. Therefore, police could not progress this line of enquiry by holding an ID parade.

- 12.87. I am of the view that it was a major investigative failing that phone attribution was never successfully achieved for a suspect in the murder. The allocation of the action to a police officer no longer assigned to the investigation was compounded by the subsequent delay in recognising the action had not been carried out.
- 12.88. Police received information at an early stage of the investigation linking Person H and Person I to the murder. Police Officer 3 directed no arrest but instead sensitive enquiries were directed in order to gather additional evidence linking them to the murder. As outlined at Chapter 9 of this Public Statement there was no documented sensitive enquiry strategy for this murder investigation. This impeded my investigators from conducting a full assessment of the quality and effectiveness of the SIO's covert enquiries.
- 12.89. I have found no evidence that Police Officer 3 or Police Officer 4, the SIO and DSIO at that time, clearly outlined the tactics required for this sensitive phase of the investigation. As such, these were mainly left to Police Officer 5, a D/Sergeant to progress. I am of the view that this lack of leadership impacted upon the effectiveness of the investigation.
- 12.90. Police failed to gather call data from two mobile telephone numbers linked to a Person H, in addition to incoming call data from the home telephone number of Person I. I am of the view that this was a significant failing that may have led to the loss of important evidence.
- 12.91. I am of the view that Police Officer 3 should have appointed a dedicated FLO to liaise with Gerard Lawlor's family, after Police Officer 8 moved to another policing role. The actions of Police Officer 3, in

performing the role himself and not documenting his contacts with the family, was not in accordance with recognised national guidance at the time.

- 12.92 My investigation also identified that not all relevant intelligence was disseminated to Police Officer 3. This intelligence may have assisted him in identifying and pursuing new lines of enquiry. The non-sharing of relevant intelligence is a significant organisational failing by the PSNI.

Allegation that Police protected Informants

- 12.93. In relation to PSNI's investigation into the murder of Gerard Lawlor, I can confirm that there is no evidence that police were deliberately protecting any person from investigation or prosecution.

Witness X

- 12.94. I am of the view that the information supplied by Witness X in 2006 was adequately addressed by Police Officer 10 who, after assessing it, decided it was unlikely that the car and men in question were linked to Gerard Lawlor's murder. He passed the information to Police Officer 11 who was investigating the gun attack on the Ligoniel Road at 11:22pm on 21 July 2002.
- 12.95. My investigators found no evidence that police, investigating the attack on the Ligoniel Road, conducted any enquiries relating to the information supplied by Witness X. Police Officer 11, when interviewed by my investigators, had no recollection of this information.
- 12.96. I am of the view that the information provided by Witness X may have been relevant to the 11:22pm attack and, therefore, merited further

investigation. The failure of police to do so resulted in missed investigative opportunities that could have advanced that investigation.

Allegation of Failure by Police to Link the Attacks

12.97. Due to a similar type of vehicle being used, Police Officer 2 linked Gerard Lawlor's murder to the attempted murder of Person D outside a Public House on the Oldpark Road, at 10:48pm on 21 July 2002. There was also a ballistic linkage to an attempted murder at Tyndale Gardens in September 2000. There was no other identifiable evidential links with any of the other attacks on 21 July 2002 to Gerard Lawlor's murder. However, police were in possession of intelligence identifying two individuals, Person J and Person K, who may have played a role in sanctioning the attacks. I have found no evidence that the murder investigation conducted enquiries in respect of those suspected of sanctioning the murder. This investigation found evidence that a number of individuals suspected of directing terrorism were subject to a wider police investigation.

12.98. I am of the view that the investigation into the other attacks should have been coordinated and subject to strategic oversight, given their proximity to one another and within the wider context of loyalist paramilitary attacks on 21 July 2002. This would have allowed police to better utilise their limited investigative resources in a more focused and structured manner. This could have led to additional opportunities being identified, not only in relation to those directly involved, but also those responsible for sanctioning and/or directing the attacks.

Allegation of Police Collusion

12.99. Gerard Lawlor's family believe that there was collusion in relation to police actions, including the failures by police to prevent Gerard Lawlor's murder and the subsequent investigation. I am mindful of the

various definitions of ‘*collusion*’ and of the Court of Appeal’s judgement in *Re Hawthorne and White*. At paragraph 63 of that judgment the Court of Appeal, in commenting on the former Police Ombudsman’s Report about the Loughinisland murders, stated that ‘*it would have been appropriate for the Ombudsman to acknowledge the matters uncovered by him were very largely what families claimed constituted collusive behaviour.*’

12.100. I have carefully considered all of the available evidence and information in this investigation. There is no evidence that Gerard Lawlor’s murder was reasonably foreseeable and therefore preventable.

12.101. My investigation has identified that intelligence existed that was relevant to the murder investigation, which was not shared with Police Officer 3. I have been provided with an explanation why this intelligence was not disseminated.

However, it is my view that with careful management of this intelligence the pertinent information could have been provided to Police Officer 3. This would have provided Police Officer 3 with the opportunity to assess the value of the information to his investigation.

12.102. However, this investigation has identified significant failings in the murder investigation which are outlined below:

- A failure to document and develop a targeted covert/sensitive strategy with defined objectives for the purposes of the murder investigation;
- A failure to conduct searches, arrests and interviews in a timely manner as a result of which potential forensic and other evidence may have been lost;
- A failure to maintain and complete policy file/decisions;
- A failure to maintain CCTV viewing logs;

- A failure to obtain all relevant telecommunications data;
- A failure to fully consider the dissemination of all relevant intelligence to Police Officer 3;
- A failure to ensure the continuation of a dedicated Family Liaison Officer;
- A failure to establish clear communication lines and record all contacts in accordance with Family Liaison guidance available at the time.

The family's complaints and concerns about failures in the Gerard Lawlor murder investigation are legitimate and justified in relation to these respects.

12.103. Finally, I would like to thank Gerard Lawlor's family for their patience and co-operation and apologise for the delay in the publication of this statement.



Marie Anderson

Police Ombudsman for Northern Ireland

30 August 2023

Additional copies of this and other publications are available from:

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