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GERARD LAWLOR

COMMUNITY INQUIRY

REPORT AND RECOMMENDATIONS

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"Impunity... keeps the events present in the collective memory and stands in the way of rebuilding the social fabric."

Inter-American Court of Human Rights judgement on Plan De Sanchez Massacre in Guatamala.

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Report commissioned by the family, friends and clubmates of Gerard Lawlor.

NOVEMBER 2012

Contents

Introduction

Just after midnight on 22nd July 2002, Gerard Lawlor was returning home down the Floral Road in Glengormley having left the Bellevue Arms on the Antrim Road. A motor scooter with two men on it pulled up and Gerard was shot three times. He died on the spot. The murder was claimed first by the Red Hand Defenders, and later by the UDA/UFF.

Gerard Lawlor was the last Catholic civilian to be shot dead as a result of the Northern Ireland conflict. His death was one of the first sectarian murders to be investigated by the PSNI, which assumed its powers the previous November.

The family of Gerard Lawlor suspect that informants were involved in this murder and have concerns about the failure of the PSNI to prevent this murder and properly investigate it. These serious concerns cumulatively raise the possibility of collusion in this murder and combined with the fact that it took place in 2002, after the Human Rights Act 1998 came into force[1], requires the state to carry out an investigation in compliance with Article 2 of the European Convention of Human Rights (ECHR).

On the tenth anniversary of this tragic murder, a Community Inquiry was held at St Enda's Gaelic Athletic Club, of which Gerard was a member and where he had been training on the afternoon before his death.

Community Inquiry

Gavin Brett & Danny McColgan

Background

Police statistics published in an article which appeared in The Observer on 28th July 2002[2] suggested that from January to July of that year was a violent time. There had been 96 shootings, 69 bombings, and 86 explosive devices had been found. 161 police officers, 26 soldiers, and 177 civilians had been injured in civil disturbances.

There had also been at least four and possibly as many as eight conflict-related deaths during that period[3].

Gerard Lawlor's murder was the third within 12 months within a one mile radius. On 29th July 2001, 18-year-old Gavin Brett was shot dead on the Hightown Road. His loyalist killers assumed he was a Catholic because Gavin was standing at the entrance to a GAA club. Gavin was in fact a Protestant, who was keeping a friend company as he waited for a taxi to take him the short distance to his home, as he did not want to walk because there had been trouble in the area. Gavin was killed and his friend was injured in a drive-by shooting. Danny McColgan was shot and fatally wounded on 12th January 2002 by two loyalist gunmen as he arrived for work at the Post Office sorting office at Barna Square, in Rathcoole. He was 20 years old.

[1] On 2nd October 2000 the Human Rights Act 1998 enshrined in domestic law certain rights and freedoms set out in the European Convention on Human Rights
[2] No rest for the guns, by Henry McDonald, The Observer, 28 July 2002
[3] http://cain.ulst.ac.uk/issues/violence/deaths2002draft.htm

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Andre Khaled Shoukri & Johnny Adair

According to information supplied to the Inquiry Panel by the Solicitor to the Gerard Lawlor Community Inquiry, Niall Murphy, there were no fewer than 11 sectarian incidents in north Belfast in the week immediately prior to Gerard Lawlor's murder[4].

In the five hours leading up to Gerard Lawlor's murder, on the evening of 21st July 2002, there were five other shootings, as follows:

- At 19:24, Mark Blaney, a Protestant from Glenbryn, north Belfast, was shot and wounded by a gunman firing from Alliance Avenue. The shots were reported by the media as having been fired by INLA.
- At 22:00 two men, Kevin McKeown and Danny O'Neill, were standing outside a house in Salisbury Avenue, north Belfast, when a white Nissan car pulled up. Two men emerged and fired at them, but they escaped unscathed.
- At 22:50 Ryan Corbett came out of a bar on the Oldpark Road to take a telephone call. A motorbike pulled up and the passenger attempted to fire at Ryan. His gun jammed and they drove off.
- At 23:22 a group of four Catholics on the Ligoniel Road, including Paul Corbett and Gerard Mooney, was fired on by two gunmen who emerged from a dark-coloured car. No-one was hit.
- At 23:25 Jason O'Halloran and Jim Burns were standing talking at the corner of Rosapenna Street and Rosapenna Court. A dark-coloured Mondeo pulled up and a man wearing a mask stepped out and began shooting at the two men as they ran away. Jim Burns escaped unharmed, but Jason O'Halloran was hit three times and was lucky to survive.

The Observer set out the chilling political background to these events:

"Last week's series of sectarian shootings and murders should not have come as a surprise, least of all to the British Government. Just three weeks ago Cabinet Minister and Northern Ireland Secretary John Reid received a chilling warning about the UDA's intentions in north Belfast. Reid had sat down to discuss the loyalist marching season and the prospects of violence over the summer with representatives of the main loyalist terror groups. The meeting on 3 July took place inside a Methodist hall in east Belfast. It had been called by the Loyalist Commission, an umbrella body comprising the UDA, their rivals in the Ulster Volunteer Force, as well as unionist politicians and Protestant churchmen. The Secretary of State was there to hear the concerns of loyalists who feel disconnected from the peace process and the power-sharing government at Stormont.

During the talks one of the UDA leaders, commander of the terror group in north Belfast, issued a prophecy to Reid. Andre Khaled Shoukri is the UDA brigadier in north Belfast. Shoukri… was put into the post by Johnny Adair, the most notorious loyalist leader in Northern Ireland. Known as 'The Turk', Shoukri is known to take a militant stance over republican attacks in Protestant areas in the north of the city. According to loyalist and security sources, Shoukri told Reid that, while the UDA does not want to engage in sectarian conflict, if there were attacks from the nationalist side 'we would respond three and four times harder than them'."[6]

[4] Sectarian incidents in north Belfast – week prior to the murder
[5] Who really cares about North Belfast? by Suzanne Breen, News Letter, 25 July 2002
[6] No rest for the guns, by Henry McDonald, The Observer, 28 July 2002

Terms of reference

The Gerard Lawlor Community In6uiry had the following terms of reference:

To inquire insofar as is practicable the following matter of urgent public importance

- *To eCamine and to ascertain, insofar as is possible, the facts and the circumstance surrounding the death of Gerard awlor on the 22nd day of July 2002, and, in this connection, to have regard to any allegations of collusion between the PSNI or any state agency and loyalist paramilitary organiEations surrounding the said death which appear to be relevant or connected therewith*
- *To eCamine and to ascertain, insofar as is possible, the degree of risk if any , including in particular the risk to life if any to which the witnesses who complained of attempts on their life on evening of Sunday 2 st July 2002, were sub5ected to immediately prior to said deaths of Gerard awlor, and to assess therein the adequacy of the PSNI response to those incidents and whether or not an adequate security response as suggested by the deceased s family would have been reasonably foreseeable to the senior officer responsible for co ordinating the said security response, and whether or not such a response could and or would have prevented Gerard awlor s death*
- *To eCamine, insofar as is possible, the official response subsequent to the incident, including the investigations by the Police Ombudsman s office for Northern Ireland as well as the inquest, which was attempted to have been convened on th November 200*
- *To recommend and report what further actions should be taken by the State in order to provide an effective investigation into the killings of Gerard awlor in compliance with its obligations under Article 2 of the uropean Convention on Human Rights.*

The In6uiry Panel

The Inquiry panel was made up of three independent experts:

- Jane Winter, Director of British Irish RIGHTS WATCH (Chair),
- Professor Bill Rolston, Director of the Transitional Justice Institute at the University of Ulster, Jordanstown, and
- Gemma McKeown, Solicitor, the Committee on the Administration of Justice.

The format of the Gerard Lawlor Community In6uiry

The Community Inquiry began with a showing of the UTV Insight documentary, Killer ' uestions, which was broadcast in 2007, which examined Gerard Lawlor's murder and the questions his family have to this day, which remain unanswered.

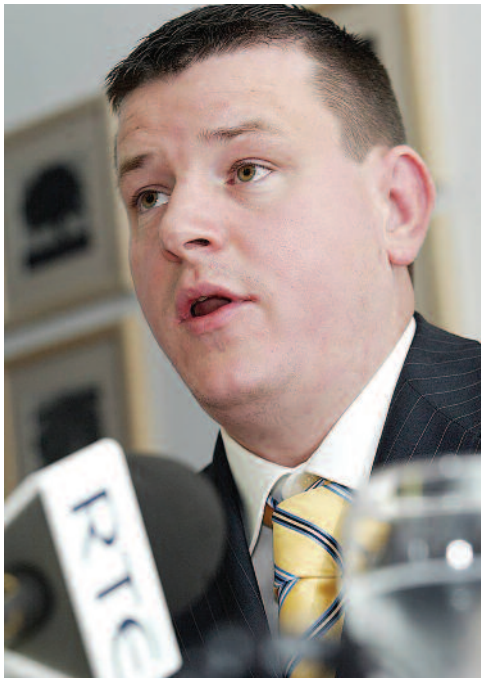
The Community Inquiry then heard from the following witnesses:

- Kevin McKeown
- Danny O'Neill
- Ryan Corbett
- Eileen Corbett
- Sean Petticrew (read)
- Gerard Mooney
- Connolly ' uinn (read)
- Jason O'Halloran
- Jim Burns
- Witness . (read in part)

The Inquiry Panel is very grateful to these witnesses for their testimony and for reliving their terrible experiences.

These are all witnesses whom the PSNI failed to propose as witnesses to the Coroner for the purposes of an Inquest, a matter on which we comment as part of our consideration of our third term of reference.

This evidence was followed by a series of submissions made by the Solicitor to the Inquiry, Niall Murphy, regarding the Lawlor family's concerns about the state's investigation in to their son's murder. The Inquiry Panel



Niall Murphy

UT) Insight Documentary Killer uestions

expresses our gratitude to Niall Murphy for his clear and comprehensive presentation and for the very useful background papers he supplied to us. We are also very grateful to St Enda's GAA Club for hosting the Inquiry and for their loyalty to their former member, Gerard Lawlor.

The Chief Constable of the Police Service of Northern Ireland, the Chief Coroner for Northern Ireland, and the Police Ombudsman for Northern Ireland were all invited to attend the Gerard Lawlor Community Inquiry. None of them accepted the invitation.

rom left to right Niall Murphy, Professor Bill Rolsten, Gemma McKeown, Jane ⊠ inter, Mark Thompson

This Report

This report is produced by the Inquiry Panel. It considers each of the Terms of Reference in turn.

We offer our condolences to the family of Gerard Lawlor, and we hope that this report assists them to prise open the many doors that have been closed to them until now.

Jane ⊠ inter,
Professor Bill Rolston,
Gemma Mc eown.

November 20 2

CONSIDERATION OF TERM OF REFERENCE 1

- To examine and to ascertain, insofar as is possible, the facts and the circumstance surrounding the death of Gerard Lawlor on the 22nd day of July 2002, and, in this connection, to have regard to any allegations of collusion between the PSNI or any state agency and loyalist paramilitary organisations surrounding the said death which appear to be relevant or connected therewith;

The murder of Gerard Lawlor

Gerard Lawlor was murdered in the early hours of Sunday morning 22nd July 2002. He was 18 years old when he was killed, and had just moved into a new home with his partner Siobhan, and their young son Josh. He was working full time as a fork lift driver, and was at the start of what should have been a long and happy life.

Gerard's last movements were set out by Niall Murphy. After spending the day at St Enda's GAA club, Gerard finished the day at the Bellevue Arms on the Antrim Road. At 11:45 pm, Ciaran McConaghy, a barman at the Bellevue Arms, sold Gerard an unopened bottle of Coke. Gerard was then seen by Paul Toland leaving the bar carrying the bottle of Coke and on his own. He then walked across the Antrim Road, and entered the Silver Lough Chinese takeaway where he purchased some food, and had a conversation with Hugh and Margaret Moore. At 11:55 Gerard left the takeaway, and turned right, back down the Antrim Road, in the direction of the Belfast 0oo, on his way home to the Whitewell Road, walking on the opposite side of the road from the Bellevue Arms. Margaret Hinton, Anthony Coiley, Kieran McAdorey and Edward Giles, were probably the last people to see Gerard alive. Edward Giles called out to Gerard, asking for a chip. Kieran McAdorey was waiting for a taxi with his friends, and at about 11:55 saw a black scooter with two people on board heading back along the Antrim Road in the direction of the city. Both riders were dressed in dark clothes and had the visors of their helmets pulled down. The scooter appeared to slow down outside the Bellevue Arms before driving on.

Shortly after midnight, numerous residents living nearby the Floral Road area heard several gunshots and the police and ambulance service started to receive 999 calls. Mark O'Kane and his girlfriend Deirdre McConnell were driving home having just left the Glengormley Movie House. Shortly after midnight, Mark O'Kane turned left from the Antrim Road into Floral Road towards the Whitewell Road, and saw a navy/dark moped drive off at speed. He saw a body lying at the footpath, and having driven past initially, turned to go back and check on the person. When he did so, he recognised him to be Gerard Lawlor.

Robert McCrystal was driving a taxi, just behind Mark O'Kane and he too turned into Floral Road, just after midnight, heading towards the Whitewell. He too saw a dark coloured moped with two people on board, driving up Floral Road before turning right onto the Antrim Road, in the direction of Glengormley. Edward Giles also saw a dark coloured scooter driving countrywards up the Antrim Road past the Bellevue Arms. Police believe that Mr Giles had seen this scooter just after the occupants had shot Gerard Lawlor and were making their getaway. Taxi driver Joseph Collins collected Margaret Hinton, Anthony Coiley, Kieran McAdorey and Edward Giles having driven up the Whitewell Road, and on their way back the car stopped and assisted Mark O'Kane.

The murder of Gerard Lawlor has to be seen in the context of a series of incidents which occurred in the five previous hours during the evening of 21st July. Briefly, these incidents were as follows:

- At 19:24, Mark Blaney, a Protestant, was shot and wounded, probably by INLA.
- At 22:00 two men, Kevin McKeown and Danny O'Neill, were fired on by the UDA, but they escaped unscathed.
- At 22:50 a UDA man on a motorbike, attempted to fire at Ryan Corbett, but his gun jammed.
- At 23:22 a group of four Catholics on the Ligoniel Road were fired on by two loyalist gunmen. No-one was injured.
- At 23:25 Jason O'Halloran and Jim Burns were shot at by a masked gunman as they ran away. Jim Burns escaped unharmed, but Jason O'Halloran was hit three times.

Gerard awlor s mother Sharon and partner Siobhan at the funeral in 2002

Gerard awlor s father John with sons Conor and Christopher at the funeral in 2002

The nature of these incidents leads to a number of questions, two of which are of crucial importance:

1. Was enough cognisance taken of these incidents to ensure effective police action to prevent further incidents, including the subsequent murder of Gerard Lawlor?

2. Did the police link the incidents, either at the time or subsequently, and if so did they keep the links in mind at every point in their subsequent investigations, thereby exploiting every possibility of solving the various offences, including the murder of Gerard Lawlor?

These issues are examined in depth under our consideration of Term of Reference 2.

The police investigation

The immediate police follow-up and investigation afterthe death of Gerard Lawlor seems to have been carried out effectively. The area was sealed off, two bullet heads were retrieved[7], witnesses were interviewed, including those who had seen Gerard in the minutes before the killing and those who had come on his body shortly afterwards. While some of the latter had seen the scooter involved, no one was able to identify the culprits. The police also followed up on two other leads – a report that a loyalist had been seen in the Bellevue Arms a week before the murder, and a statement by a police woman that she had seen a man sitting in a car nearby at the entrance to Belfast 0oo who bore a resemblance to a loyalist she recognised from a previous court case. They and the Police Ombudsman's Office later stated that neither of the individuals involved could be linked to the offence.

The Police Ombudsman for Northern Ireland has been considering a complaint by the Lawlor family since August 2006. Although his report is yet to be finalised, in the latest version it reveals that the PSNI linked Gerard's murder to the attack on Ryan Corbett "as the descriptions of the gunmen matched those given by witnesses of the gunmen involved in Gerard's murder"[8]. Of course, such a link cuts two ways: if the attack on Ryan was linked to Gerard's murder, then Gerard's murder was linked to the attack on Ryan

They also linked Gerard's murder to an attempted murder of a Chinese takeaway delivery driver on 20th September 2000 at Tynedale Gardens in north Belfast, because the same gun was used in both attacks. Two suspects were arrested for the attempted murder, but were released without charge[9]. The gun was a .38 calibre revolver.[10]

On 7th August 2003, over a year after the murder, two suspects were arrested and questioned about Gerard's murder. Their homes were searched and a number of items were seized and sent for forensic examination. However, they were released without charge. The reasons the police gave for delaying these arrests for so long were that they wanted to pursue certain specific lines of enquiry and they wanted to have as much information as possible to put to the suspects[11].

In October 2002, three months after the murder, the PSNI decided to examine the telephone records of a suspect, but in 2004 it emerged that no action had been taken to pursue this. By that time, the telephone company no longer had the relevant information on file[12].

On 7th April 2006, a female witness ". " approached Kevin R Winters 3 Co Solicitors, saying that she had information as to the identity of the individuals who murdered Gerard Lawlor.

She made the following statement *(page opposite)*, which was read out at the Community Inquiry:

MURDER APPEAL

Shortly after midnight on the morning of Monday 22nd July 2002, Mr **GERARD LAWLOR,** a 19-year old man was shot dead in Floral Road, a short distance from the junction with the Antrim Road. At the time of his death he was wearing a white top with dark blue hoops, along with a pair of Adidas tracksuit bottoms. He had recently left the Bellevue Arms Public House and was on his way home.

You can assist this enquiry:

1. **If you were in the vicinity of Antrim Road/Floral Road between 11.30 pm on Sunday 21st July 2002 and 00.30 am on Monday 22nd July 2002.**
2. **If you were in the vicinity of the Whitewell Road area at the relevant times.**
3. **If at any time that evening you saw or heard any persons or vehicles, including motorcycles, acting suspiciously.**
4. **If you saw a small dark coloured motorcycle in the area.**
5. **If you saw a white Toyota type vehicle in the area.**
6. **If you saw a large dark coloured vehicle parked in the entrance to Belfast Zoo.**
7. **If you have heard or know anything about the murder.**

Then Please Contact
North Queen Street Incident Room on
028 9056 1804
or Crimestoppers 0800 555111

[7] According to the Police Ombudsman, although the Deputy Senior Investigating OfScer of the PSNI said in a statement made in 2004 that no bullet heads were found
[8] Police Ombudsman's Report, 26 June 2012, paragraph 5.32
[9] Ibid
[10] Ibid, paragraph 5.36
[11] Ibid, paragraphs 5.27 – 28
[12] Ibid, paragraphs 5.29 – 30
[13] This statement has been shortened by removing information that might place Witness . at risk

Statement of Witness X

"At around 10.00 pm on the night of 21st July 2002 I went to the Cave Hill Country Park and joined a crowd of about 20 people. We remained there until around 02.30 am. During this time we had consumed some alcohol. At around 02.00 am in the early hours of 22nd July 2002 a dark car, which I believe might have been a Fiesta, entered the gates of the Cave Hill Country Park and made its way along the walkers path and past us going in the direction of Napoleons Nose which is the peak of the Cave Hill Mountain. We could see the dark car burning and the driver and passenger of the car coming in our direction.

I recognised these two males to be MAN A and MAN B from the Ballysillan area as I know them. As the two males approached us, as they walked towards the gates of Cave Hill Country Park they were asked had they done a robbery. These two males were involved in criminal activity. MAN B replied 'we done a hit on the Antrim Road. We got a wee fenian outside the Bellevue Arms on the Antrim Road'. MAN B appeared to be very hyper when he spoke to us, but MAN A was almost nudging him as if to say stop talking to him.

The two males then left the Cave Hill Country Park. I telephoned the police confidential telephone line when I had learned of the death of Gerard Lawlor at the Bellevue Arms. I gave the names of the two males who exited the burnt out vehicle and told them what they had said. I did not give my name to the confidential telephone line and remained anonymous.

I was appalled at the murder of Gerard Lawlor. I am prepared to make a statement to police in relation to this matter if they can protect my identity as I fear for my safety if these two males find out that I have contacted police."[13]

She also described Men A and B. One of them had a squint in his eye.

Her solicitors informed the PSNI and on 21st June 2006 she attended Grosvenor Road PSNI station, where she told the police what she knew.

The Police Ombudsman's report states that police records confirm that a police patrol located the shell of a burnt out Vauxhall Corsa at 10:39 pm on Monday 22nd July 2002, approximately 22 hours after Gerard's murder[14]. However, the report goes on to explain that the PSNI's Senior Investigating Officer working on Gerard's case in 2006, DI Clarke (who is not named in the Police Ombudsman's report), failed to link this information to Gerard's murder because he had been killed by men on a motorbike[15].

Although the finding of the burnt-out car clearly corroborates Witness . 's evidence, the PSNI seems to have ignored the mention of the Bellevue Arms, which clearly referred to Gerard's murder.

Coroners Service for Northern Ireland

JOHN L LECKEY LL.M.
SENIOR CORONER
FOR NORTHERN IRELAND

Kevin R Winters & Co
Solicitors
46 Castle Street
BELFAST
BT1 1HB

Your ref: JR/30176/PBP/PTM

8th November 2007

Dear Sirs

Re: GERARD LAWLOR 22886-2002

I have received (by fax) your letter of 7th November.

I have been advised by the Senior Investigating Officer, Mr Stephen Clarke, that the contents of the statement enclosed with your letter were investigated but it was concluded that they do not relate to the murder of Mr Lawlor but rather to an incident that occurred earlier that day. Therefore, there would be little point in calling the maker of that statement to give evidence.

Mr Clarke has been in contact with the Police Ombudsman's Office and has received confirmation that their investigation has concluded. I am arranging for Mr Martin Gillison from the Police Ombudsman's Office to attend to confirm that that is so.

In view of the foregoing I see no reason why the inquest does not proceed as arranged. I would propose to hear from Mr Clarke and Mr Gillison first and you will have the opportunity to question each.

There is no blanket policy as to refusing the adjourn inquests. Each is examined individually.

Yours faithfully

J L LECKEY
Senior Coroner for Northern Ireland

Tel: 028 9044 6800 Fax: 028 9044 6801
May's Chambers, 73 May Street, Belfast. BT1 3JL
www.coronersni.gov.uk

[14] Police Ombudsman's Report, 26 June 2012, paragraph 5.60
[15] Ibid, paragraph 5.63

riends gathering to pay tribute to Gerard

The PSNI instead linked the car to the shooting on Ligoniel Road, and according to the Police Ombudsman, "Witness evidence later linked the car to that attempted murder."[16] It is not known whether this is a reference to Witness . or another witness. However, the Police Ombudsman could find no record of Witness . 's statement in the investigation file on the Ligoniel Road attack, and the retired SIO in that investigation had no recollection of receiving any such report[17].

Witness . had always maintained that she had provided the information anonymously by means of the confidential telephone line in the days after the murder.

Astonishingly, the Police Ombudsman's report records that DI Clarke himself observed "that phone calls made to Crimestoppers in 2002 outside office hours, were answered by Belfast Regional Control, and were not logged or recorded for confidentiality reasons"[18]. Such a policy beggars belief and negates the whole purpose of setting up confidential police hotlines.

To this day, neither Man A or Man B has been arrested or questioned by the PSNI about the murder of Gerard Lawlor, nor have the police made any further contact with Witness . .

[16] Ibid, paragraph 5.65
[17] Ibid, paragraphs 5.66 – 67
[18] Ibid, paragraph 5.62

St nda s GAA club pay tribute

nalysis of the police investigation

Although the police investigation immediately following the murder seems to have been reasonably thorough, in stark contrast to the PSNI response to the four attempted murders in the previous two hours, nevertheless there have been several serious missed opportunities over the past ten years which have deprived the Lawlor family of justice. The following six major failings on the part of the PSNI have been identified:

- the one year delay in arresting suspects;
- the failure to make any record of Witness . 's call to Crime Stoppers;
- the failure to trace telephone records in time;
- the failure to link Witness . 's statement to Gerard Lawlor's murder;
- the failure to arrest Man A or Man B; and
- the failure to link the four attempted murders in the two hours prior to Gerard's murder to each other and to his murder.

Collusion

The Inquiry Panel have formed the view that we can take a more holistic view of whether there may have been collusion in Gerard Lawlor's murder if we look at the whole picture, rather than just concentrating on the part played by the PSNI and looking at Gerard's murder in isolation. We will therefore return to the issue of collusion after considering our next two Terms of Reference.

CONSIDERATION OF TERM OF REFERENCE 2

To examine and to ascertain, insofar as is possible, the degree of risk (if any), including in particular the risk to life (if any) to which the witnesses who complained of attempts on their life on evening of Sunday 21st July 2002, were subjected to immediately prior to said death of Gerard Lawlor, and to assess therein the adequacy of the PSNI response to those incidents and whether or not an adequate security response as suggested by the deceased's family would have been reasonably foreseeable to the senior ofScer responsible for co-ordinating the said security response, and whether or not such a response could and or would have prevented Gerard Lawlor's death.

We begin by examining the four attempted murders which preceded the murder of Gerard Lawlor.

The attempted murder of Kevin McKeown and Danny O'Neill, 22:00

Kevin McKeown gave evidence to the Community Inquiry that he persuaded his friend Danny O'Neill, who lived nearby in the North Circular Road/Cave Hill area to go for a drink in the Chester on the Antrim Road on the evening of 21st July 2002. He arranged to meet up with Danny at Danny's house at around 9:30 pm. Just as he arrived at Danny's home, fellow St Enda's teammate John Finucane pulled up in his car and they had a brief chat. John drove off and Kevin went into the house to get Danny. They walked down towards the Chester together. When they reached the junction of Old Cave Hill Road and Salisbury Avenue, a car pulled up beside them. Two men jumped out of the car, wearing baseball caps and with scarves round their faces. Kevin shouted to Danny and they ran back up the Old Cave Hill Road. Kevin distinctly heard two shots being fired. He saw one bullet strike the ground near to his feet. The bullet then hit the wall (possibly in a ricochet?), and he saw the cloud of dust it created. He and Danny ran into Slievemount Park, where they jumped into a garden and banged on the back door and asked the occupants to call the police. They waited in the house until the police arrived.

Kevin McKeown

Kevin McKeown thought it was ten minutes before the police came. When they did, they asked the two men to accompany them back to the scene of the crime in Salisbury Avenue. The police did not secure the scene; Kevin can remember a female driver who almost ran a police officer down as he was standing in the road. He also drove past the scene a few days later and could see that the bullet he had seen was still lodged in the wall and had not been removed for forensic examination. Nor did the police take statements from Kevin or Danny. Instead, they made an arrangement to call in at Antrim Road PSNI station the next day to make statements.

Kevin made a further statement to the PSNI some six to eight weeks after the attack, and was told, by the police that on the day after the attack, the day on which he made his first statement, the police caught someone in the act of burning out a car, which the police believed to have been used in the attack in Glenbryn, close to the Westland estate [at that time a stronghold of the Shoukri brothers' faction of the UDA]. The police also told him that they had intelligence that the driver of the car was a person who had since the attack been remanded in custody after firing a shot which damaged the windscreen of a police vehicle. Local people had told Kevin McKeown that one of the attackers was a man who went by the nickname of 'Squinty' and came from the Westland estate. Kevin passed this information on to the police at the time of making his second statement. He has no recollection of being contacted by the police concerning the attack since the occasion of his making his second statement.

Danny O'Neill also gave evidence to the Community Inquiry. He first spotted the attackers' car at the junction of Henderson Avenue and Cave Hill Road, approximately half way to the Chester. The car slowed, and he thinks he mentioned it to Kevin. He next saw the car at the junction of Salisbury Avenue and Cave Hill Road, when he saw the two men jump out of the car very fast. Danny froze for a moment, and then began to run when Kevin shouted at him to do so. He saw the gun and he saw the men's eyes. He noticed that one of the two men had "a turn in his

eye", and he told the police this when he gave his statement the next day, but the police said there was no point in holding an identity parade. He also managed to give the police a rough description of the two men in terms of their height and clothing.

He can only remember two police officers turning up in a land rover. They did not cordon off the crime scene.

After having returned to the scene with the police, he asked them for a lift to his house, which was just up the road, but they refused, despite the fact that he and Kevin had been shot at and the gunmen were at large.

Since he made his statement the following day, Danny O'Neill has had no further contact from the police concerning the attack.

The attempted murder of Ryan Corbett, 22:50

Ryan Corbett was in Henry Joy's Bar, playing a slot machine, when he received a telephone call. He went outside to take the call. He noticed two men on a motorbike riding up the Oldpark Road. A couple of minutes later they turned round and came back down towards the Bar. Ryan was able to see that it was a green and navy 125 cc bike. The motorbike pulled up facing the bar and the pillion passenger drew a gun from his left shoulder. He pointed it at Ryan and pulled the trigger. Ryan could hear clicks coming from the gun, but it failed to fire. He had some change in his hand and he threw it in the men's faces. They drove off, and as they did so, the pillion rider shouted, "/ou lucky Fenian bastard-"

Ryan went back into the bar and told the doormen what had happened. They called the police, who said they were too busy to attend the crime scene. However, a priest came along and he telephoned the police, who this time sent a land rover. The officers did not get out of the land rover. They merely took Ryan's name, address and telephone number and said they would come and see him the next day. They did not cordon off the crime scene or conduct a search. Ryan described the motorbike to them, but they did not take any notes. So far as Ryan is aware, they did not initiate a search for the motorbike or conduct any door-to-door enquiries. He went to Oldpark PSNI station to make a statement the next day. It is his recollection that he went voluntarily; he had not been asked to attend.

This incident happened within 0.2 miles of Oldpark police station.

Ryan Corbett

Ryan's mother, Eileen Corbett also gave evidence. She was walking down Oldpark Road from the shop on the night in question. She noticed that a crowd had gathered outside the Bar, and then another of her sons came running up to her shouting, "He's alright, he's alright-" She did not understand what he was talking about. She ran down to the bar and found Ryan sitting on a chair outside. He had passed out and been sick, and he was shaking and unable to move. She asked one of the doormen, John Russell, whether the police had been called, and he replied that they had but they refused to come.

Father Kennedy then came over and asked where the police were. When she told him the situation, he rang the police himself and they arrived some five to ten minutes later. However, they never left their land rover. They just took Ryan's details and told him to come in and make a statement the next day. Father Kennedy was annoyed and asked one of the officers for his identification number, but the officer replied that it was "none of his business". The PSNI did not put up any road blocks, isolate the crime scene, or make any forensic investigations.

Eileen Corbett felt that, had the land rover remained at the scene, or the police made more efforts to find Ryan's attackers, then the attack on Jason O'Halloran, which took place 35 minutes later and just 250 yards away, might have been prevented.

Solicitor to the Inquiry, Niall Murphy read into the record the statement of Sean Petticrew. On the night of 21st July 2002 he was standing in his front garden at 148 Oldpark Road talking to a friend who had passed by, Joe Gouldie. After they had been talking for around ten minutes, Sean Petticrew noticed a motorbike going up Oldpark Road. It attracted his attention because it was going very slowly. He mentioned this to his friend. He saw the motorbike turn onto Ardilea Street. It was out of his sight for about 20 seconds, and then he saw it coming back down the Oldpark Road, again going very slowly. He could not see the men's faces because they had baseball hats with the peaks pulled down over their faces. He did not know about the attempted murder on Ryan Corbett until after it happened, but he realised that he must have seen the perpetrators. Neither he nor Joe Gouldie was contacted by the police and there were no door-to-door enquiries made by the police in Oldpark Road or Ardilea Street as far as he knew.

Gerard Mooney

The attempted murder in Ligoniel Road, 2 :22

Gerard Mooney told the Community Inquiry on the Thursday before 21st July 2002 between 30 and 50 loyalists had come up from Ballysillan at around 11/11:30 pm and attacked five homes on the Ligoniel Road with petrol bombs, breeze blocks and other projectiles. Gerard Mooney's flat was destroyed and his partner's house suffered broken windows and smoke damage. One of the loyalists pointed a gun at Gerard Mooney and fired two shots, but they went up into the air. The police were called, and took about 20 to 25 minutes to arrive. By then disorder had broken out, with hand-to-hand fighting between the loyalists and local residents. The police did not drive straight up the Ligoniel Road but came down behind the residents, which involved a two-and-a-half mile detour and made it seem as if the residents were the antagonists.

Gerard Mooney was aware that he was living on a sectarian interface, and so on the following nights he and some friends and neighbours made sure they were out on the street. On Sunday 21st July 2002 he, his brother-in-law, his friend Noel Hamill, and one of his neighbours were out in the street because they feared another attack. He noticed a red Clio going up the Ligoniel Road, and then a woman came running down the road, saying that she had seen the car turn round and its occupants were pulling ski masks over their faces. The car pulled into a layby opposite 94 Ligoniel Road, and a tall man, about 6'2/3", got out and fired at them over the car. Gerard's brother-in-law saw another man with a gun trying to get out of the back of the car. The men threw themselves over the low wall they were sitting on and the car drove off.

The police were called and two land rovers arrived about 15 minutes later. Oldpark PSNI station was three-quarters of a mile away for the crime scene. When the police arrived, Gerard Mooney told them that there were spent cartridges in the layby. At first the police denied that there were any cartridges, until Gerard Mooney and his brother-in-law went and pointed them out to them. A police officer told Gerard and his brother-in-law not to touch the cartridges, and then collected them with his bare hands. The police did not cordon off the scene, carry out any forensic search, or conduct any door-to-door enquiries. Gerard Mooney was not even asked for his

name. An officer told him they had to go to another incident and said that someone would come up to take statements (which Gerard Mooney believes happened the following day), and then drove off.

Jason O Halloran

The attempted murder of Jason O alloran and Jim Burns, 2 :25

Jason O'Halloran was returning home from work at around 11:20 pm on 21st July 2002 when he met his friend Jim Burns. They stood chatting at the junction of Rosapenna Park and Rosapenna Court. Jason O'Halloran was not aware of the attack just around the corner on Ryan Corbett earlier that evening.

A police land rover drove past them and slowed down. An officer opened the door and looked at them, then closed it and the land rover drove on.

Jason and Jim went on chatting for about five minutes and then Jim suddenly shouted, "Run-" Jason O'Halloran saw a black car pulling up and saw the front seat passenger firing a gun. He started to run. A bullet hit him in the leg. He ran on a bit further, then stopped, at which point he was shot twice more and fell to the ground. He heard a total of 12 or 13 shots being fired altogether. The car drove off and local people came to his assistance. An ambulance was called and he was taken to the Royal Victoria Hospital, where he was detained for eight days.

The shooting took place on a Sunday night. It was Wednesday before the police came to take a statement, but Jason was not fit to be interviewed. After his discharge from hospital he attended Antrim Road PSNI station with his solicitor in order to make a statement. The police seemed uninterested in what had happened to him, and they insisted on being shown his wounds, which involved him taking his trousers down.

The police made no attempt to secure the clothing that Jason was wearing on the night of the shooting. So far as Jason O'Halloran knows, the crime scene was not cordoned off and no door-to-door enquiries were made until some years later, after he made a complaint to the Police Ombudsman. He is not aware that anyone was ever arrested for the shooting and knows that no-one had ever been charged. A bullet remains lodged in a nearby house to this day.

After he made a complaint to the Police Ombudsman, Jason O'Halloran, who is a taxi driver, said that he was harassed by the police, who constantly stopped him. On one occasion, he was stopped in the midst of a loyalist parade in Ligoniel. The police officer filled in a form called a road traffic producer and when Jason O'Halloran refused to sign it, he handed it one of those accompanying the loyalist band. [At this point in the evidence, Jason O'Halloran's mother interjected from the audience to say that he had telephoned her during this incident and she had immediately contacted his solicitor.]

Jason O'Halloran told the Community Inquiry that usually when there was any trouble in the area the police would mount a check-point on the Oldpark Road between Hillview Road and Rosapenna Street. This did not happen after the attack on Ryan Corbett.

Following his complaint, the Police Ombudsman recommended that the PSNI carry out a serious crime review. It was not until 25th July 2007, almost five years to the day since the attack, that Jason O'Halloran was told by the police that a Mondeo taxi had been hijacked in the lower Oldpark/Agnes Street area and that the owner of the taxi had given the police descriptions of the hijackers. Jason O'Halloran also learned that the car had later been discovered burnt out and that the police had photographs

of the burnt-out car with a petrol can inside which did not belong to the taxi driver. This petrol can has since gone missing. He was also told that a witness saw someone running away from the car after it had been set alight and that 999 calls had been made to the police, but there was no longer any record of those calls because the database had been wiped three weeks later.

Niall Murphy read the statement of Connolly ' uinn into the record. Connolly ' uinn had come across the aftermath of the shooting of his friend Jason O'Halloran. He mistakenly believed that a motorbike he had seen earlier might have been involved, but he discovered that the police were not interested in talking to potential witnesses and were not writing anything down.

Jim Burns told the Community Inquiry that Jason had been standing with his back to a garden wall at the side of a house and so had not noticed the Mondeo at first. Jim's attention was immediately drawn to the car as it had no lights on and it was driving very slowly. He realised that the driver's face was masked and he saw him raise his hand, and that was when he shouted to Jason to run. He thinks about four shots were fired before he started counting, and then he counted a further 12 shots. When the shooting stopped, he realised that Jason was not with him and ran back to find him lying on the road screaming. The car was gone, and Jim Burns did not know which direction it took, but it had arrived from the direction of the Oldpark Road.

Jim Burns saw that Jason was bleeding from the groin and began to call an ambulance but was told that someone had already called for one. Jim then noticed that a bullet had gone through his track suit bottoms at the point of his right knee, but had missed his knee.

The police did not come near Jim Burns on the night, and he went home. It was a month before they interviewed him, and then they did not appear interested. They suggested to him that only four shots – the three that hit Jason and the one that went through Jim's trousers – had been fired, but Jim Burns is sure that at least a dozen shots were fired; he saw the strike marks coming off the wall.

The police took no scene-of-crimes measures at the time of the attack. He told the police about the holes in his tracksuit bottoms and was told that the police would come and collect them. They never came and the trousers are still in Jim's possession.

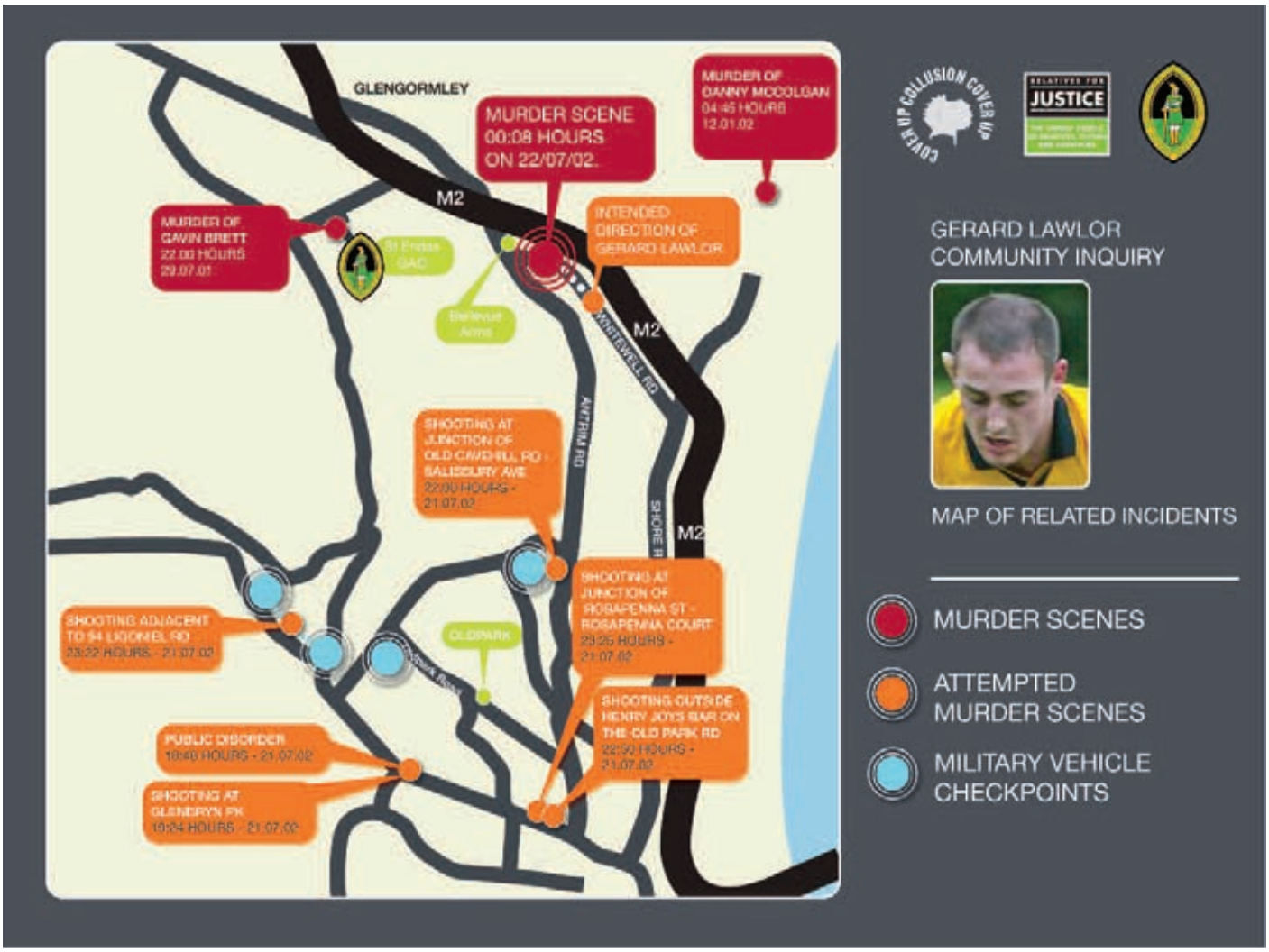
This attempted murder took place 0.2 miles from Oldpark PSNI station.

Jim Burns

nalysis of these four incidents and the police response to them

What is immediately striking is that, not only did these events occur during a relatively short time span (four of them took place between 10:00 pm and midnight), but they happened within a relatively small distance from one another in north Belfast, as this map, prepared for the Community Inquiry, shows:

It seems clear that the UDA, using the excuse of the shooting earlier that evening of Mark Blaney, embarked on a series of sectarian attacks on Catholics in Ardoyne, Oldpark and Legoniel. It seems likely that these attacks were co-ordinated from the UDA stronghold of the Westland estate.



It does not appear that the victims of these attacks were known to their assailants. They appear to have been singled out because they were identifiable from their locations as being Catholics and they were vulnerable to attack because they were either on their own or in small groups and out on the street. It seems unlikely that they were attacked because of anything to do with their personalities or behaviour. All of them were unarmed, none of them was posing a threat to anyone, and none of them acted in any way that would have provoked an attack. We therefore conclude that these were essentially random sectarian attacks on members of the Catholic community and that the attacks were opportunistic.

To that extent, it seems unlikely that the PSNI would have had prior intelligence on any of these attacks. However, in the case of the attack in Ligoniel Road, there had been a concerted attack in the same location only three days previously, and the PSNI should have been aware of the danger of a further attack. In the case of all the attacks, the PSNI should have been aware of the generally heightened tensions in north Belfast in the wake of the parades around July 12th. They should also have been aware of the meeting between the then Secretary of State for Northern Ireland, John Reid MP, and the Adair/Shoukri faction of the UDA on 3rd July 2002. They were well aware that the Ardoyne/Oldpark/Legoniel areas of north Belfast contained many interface flashpoints, as we heard evidence that they had plans in place for erecting checkpoints in order to control sudden outbursts of violence. In our opinion they should have been on high alert for potential violence in north Belfast.

Even if they were not on high alert already, the shooting of Mark Blaney should have rang loud alarms bells for the PSNI. However, they failed to put in place a single preventative action of which we are aware, even after the string of attacks which started with that on Kevin McKeown and Danny O'Neill. That very first attack should have been linked to the shooting of Mark Blaney, just as the four attacks on Catholics which took place over the two hours from 10:00 pm onwards should have been linked. Instead, the PSNI appointed different Senior Investigating Officers (SIOs) for each attack.

These attacks happened in 2002, when police investigation methods were relatively sophisticated. However, there was nothing very sophisticated about the investigation of any of the five attacks (from Mark Blaney onwards), or about Gerard Lawlor's murder. All that was required was for a senior officer in the North Belfast District Command Unit to be aware of what was happening on the ground, to analyse that information in the light of his local knowledge, and to take basic preventative steps, such as the deployment of armed officers in land rovers at strategic points. This was simply common-sense policing in which even the RUC had been well-versed, let alone the apparently reformed PSNI.

Although the PSNI could not have known whom the victims of these four attempted murders would be, their failure to take action to prevent violence put those all of those victims' lives at risk. It was a matter of sheer luck that none of them was killed. As it was, Jason O'Halloran was seriously injured and Gerard Lawlor was subsequently murdered. In the Inquiry Panel's opinion, if the PSNI had responded appropriately to the attempted murder of Mark Blaney, by putting a visible police presence in place at known flashpoints, some if not all of the subsequent attacks could have been prevented. They could also have reviewed and acted upon any covert information in their possession (or sought such information from their informants), placed more prominent local figures under surveillance, and checked reports to see if any vehicles had been stolen in the nearby vicinity. Furthermore, as time went on, had there been intelligent scrutiny by the PSNI of the developing situation, then their chances of preventing the serious wounding of Jason O'Halloran and the murder of Gerard Lawlor would have increased. The police were also under a duty to put in place effective measures to protect life. Their failure to do so is therefore not only a breach of police duty but of Article 2 of the ECHR, which protects the right to life.

Even if the four incidents which occurred between 10:00 pm and 11:25 pm are examined separately, the police response was woefully inadequate:

- no statements were taken from the victims or eyewitnesses at the time of the incident;
- none of the crime scenes was cordoned off in order to prevent contamination;
- no adequate search was made for forensic evidence – bullets were left embedded in walls, cartridge cases were initially ignored and then contaminated by an officer picking them up with his bare hands;
- no door-to-door enquiries appear to have been made;
- no descriptions of vehicles or perpetrators appear to have been circulated;
- clothing pierced by bullets was never seized or examined;
- a petrol can that was in the possession of the police has gone missing.

The awlor family

It is of particular concern that these failings seem to have been generic. It was not that no real attempt at investigation was made in any single one of these incidents, but none of them received anything approaching a proper investigation.

As has been seen above, after Gerard Lawlor had been murdered, the PSNI did link his death to the attack on Ryan Corbett, because eyewitness descriptions of the perpetrators matched, but they failed to link Witness . 's evidence to Gerard's murder, despite the reference to the Bellevue Arms. They did link her evidence to the shots fired on the Ligoniel Road, but they failed to link it to the attempted murders of Kevin McKeown and Danny O'Neill, even though both they and Witness . referred to one of the men having a squint.

It seems to the Panel that there is an urgent case for reviewing all the attacks on Catholics from 10:00 pm onwards, as it would appear that the same perpetrators may have been involved in at least four of them (Kevin McKeown and Danny O'Neill; Ryan Corbett; the four men on the Ligoniel Road; and Gerard Lawlor), if not all five.

Two calls were made to the BBC newsroom on 22nd July 2012 by the Red Hand Defenders (RHD), the first at 8:58 am and the second at 11:30 am. In a chilling echo of Andre Shoukri's threat to John Reid, the second message stated:

"Again claiming responsibility for Rosapenna shooting [referring to Jason O'Halloran]. Known IRA men were doing vigilante duty. Salisbury Avenue, a number of shots fired but the gun jammed [Kevin McKeown and Danny O'Neill]. Also Whitewell shooting [Gerard Lawlor]. As from today, if there are any other Protestant people or homes attacked by Republicans, there will be three Catholics taken out."

A statement from the UFF[19] made it clear that in fact it was the UDA sheltering behind the RHD flag of convenience[20].

Neither the PSNI nor the Police Ombudsman appear to have given sufficient weight to the fact that the UDA statements linked at least three of the five attacks.

[19] The Ulster Freedom Fighters, the nom de guerre of the Ulster Defence Association (UDA)
[20] Police Ombudsman's Report, 26 June 2012, paragraphs 2.5 – 7

CONSIDERATION OF TERM OF REFERENCE 3

To examine, insofar as is possible, the ofScial response subsequent to the incident, including the investigations by the Police Ombudsman's ofSce for Northern Ireland as well as the inquest, which was attempted to have been convened on 14th November 2007;

As this murder took place in 2002, after the Human Rights Act 1998 came into force and there are allegations of collusion that surround this death, any investigation into it must comply with the procedural requirements of Article 2 of the ECHR – in other words any investigation must be effective. This is one of the fundamental rights under the European convention on human rights and under it the government has both positive obligations and negative obligations to protect life and to investigate the loss of life. It states that:

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 a court following his conviction of a crime for which this 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 absolutely necessary:
   (a) in 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."

Where there is alleged involvement of state forces in a death the investigation must be compliant with the state's international obligations under Article 2:

> *"Proper procedures for ensuring the accountability of agents of the State are indispensable in maintaining public confidence and meeting the legitimate concerns that might arise from the use of lethal force. Lack of such procedures will only add fuel to fears of sinister motivations, as is illustrated… by the submissions… concerning the alleged practice of collusion ….G*

To ensure that an investigation meets the threshold of Article 2 it must be:

- independent;
- effective;
- prompt;
- transparent; and
- involve the next of kin.

These will be the benchmarks against which the investigations carried out by the PSNI, the Police Ombudsman and Coroner should be measured:

> *"The essential purpose of such investigation is to secure the effective implementation of the domestic laws which protect the right to life and, in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility.G*

There are also a number of other international human rights standards which the investigations into Gerard Lawlor's murder should meet and these are set out in Appendix A.

[21] Shanaghan v UK [2001]ECHR 330, paragraph 124

The PSNI investigation

Given the detailed analysis of the PSNI investigation already outlined under our previous two Terms of References, in this section we will outline the minimum requirements that the PSNI investigation should have met and will provide an overview of the PSNI's actions measured against the benchmarks set out above.

The initial investigation appears to have been carried out promptly as required by Article 2:

> *"…a prompt response by the authorities in investigating a use of lethal force may generally be regarded as essential in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts.G*[3]

As DI McCoubrey reported in his statement in 2004[24] and the Police Ombudsman noted[25]:

- a full murder investigation was launched immediately following the murder;
- a Senior Investigation Officer, Acting Detective Superintendent Roy Suittors, was appointed;
- a Deputy Senior Investigation Officer, DI McCoubrey, was appointed ;
- the immediate area was "searched on the night for spent cases and bullet heads but none were recovered", according to DI McCoubrey;
- the scene was preserved overnight;
- later that morning Tactical Support Group Officers carried out a detailed search of the undergrowth at the sides of Floral Road for discarded items by the killers and missing bullet heads but located nothing;
- however, according to Police Ombudsman, a forensic examination of bullet heads and other exhibits recovered was carried out[26];
- a DNA examination of cigarettes recovered at the Belfast 0oo entrance was made;
- an examination and enhanced fingerprinting of a motorcycle recovered in 2003 was carried out;
- blood DNA analysis was conducted;
- fingerprinting of exhibits recovered from the scene was performed;
- "an extensive House to House enquiry strategy" within the vicinity of the crime scene was adopted;
- numerous witnesses who heard the gun shots were identified though there were no witnesses to the actual shooting;
- "numerous media appeals" were made – on the day of the murder, 28 days afterwards, and on the one year anniversary;
- a poster campaign was launched;
- police revisited the crime scene 7 days later and stopped all pedestrians and vehicles in an attempt to identify witnesses;
- witnesses who were the last to see Gerard alive were identified by PSNI;
- this murder was linked to the attempted murder of a Chinese takeaway delivery driver on 20 September 2000 as the same firearm was used. Two suspects were arrested, interviewed about that incident and released without charge. It appears from the Police Ombudsman's report that these two people were not arrested in relation to Gerard's murder.

A prompt investigation ensures that all evidence is seized immediately and the police forensic examination of the scene was carried out expeditiously and a number of key witnesses were identified by the PSNI at an early stage. However, Witness . 's call to Crimestoppers in the week following Gerard's murder was neither recorded nor acted upon[27]. This is a serious default on the part of the PSNI and has led to the Lawlor family's concern that informant(s) may have been protected by the police.

It is an essential requirement that the investigation is carried out by persons independent of those implicated in the murder. Given that fears have been expressed by the next of kin that informant(s) were involved in this murder the PSNI must demonstrate that none of its agents were involved in this murder. Investigators must be practically, hierarchically and institutionally independent of those suspected of involvement in a death that is being investigated:

> *"For an investigation into alleged unlawful killing by State agents to be effective, it may generally be regarded as necessary for the persons responsible for and carrying out the investigation to be independent from those implicated in the events.G*

What is particularly striking about the PSNI investigation is that while the initial action taken was prompt and appears to be robust, it does not appear to have effectively investigated the potential evidential opportunities as provided through Witness . 's statement in 2006. This is particularly striking as one might expect

[22] Jordan v U 02011ECHR 327, paragraph 105
[23] Ibid, paragraph 108
[24] Witness statement to Inquest of DI eith McCoubrey, 27 October 2004
[25] Police Ombudsman's Report, 26 June 2012, paragraphs 5.1 – 33
[26] According to the Police Ombudsman's Report, 26 June 2012, paragraph 5.6, two bullet heads were recovered at the scene
[27] Ibid, paragraph 5.62
[28] Jordan v U 02011ECHR 327, paragraph 106

police investigation methods to improve over time, rather than deteriorating.

An investigation of a death must be able to lead to the identification of and, where appropriate, the punishment of those involved. It is therefore essential that all reasonable steps should have been taken by the PSNI to secure evidence:

> *"The investigation must also be effective in the sense that it is capable of leading to a determination of whether the force used in such cases was or was not 5ustified in the circumstances… This is not an obligation of result, but of means.G*

The PSNI established the motive for this murder as being "purely terrorist related and in revenge for a shooting earlier the previous evening when a young protestant [sic] man was shot in the Glenbryn Park area of Ardoyne". While the Red Hand Defenders claimed responsibility to the BBC and the Ulster Freedom Fighters claimed responsibility to UTV the PSNI noted that 2these two groups are in effect one in the same".[30] Two years after the murder, a newspaper report claimed:

> *"… police later said that they believed the group s)the UFF s□now defunct Shankill □C Company ordered the killing and it was carried out by associates in the Loyalist Volunteer Force LVF .G*[31]

This suggests that the PSNI had specific suspects in mind. The scenario they presented is entirely feasible, as the lines between the UDA's C Company (the Adair/Shoukri faction) and the LVF were blurred.

Given that this murder took place in the context of a history of sectarian attacks in north Belfast, the Inquiry Panel believes that the official response to it must ensure accountability and the investigation should have the equivalent "enhanced" protection that is required when investigating racially-motivated attacks to prevent a recurrence[32]. Self-evidently, the state has a duty to ensure that it does not discriminate[33] when carrying out its obligation to investigate this murder:

> *"The court recalls that when investigating violent incidents, state authorities have the additional duty to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or pre5udice may have played a role in the events.G*[34]

The effectiveness of the PSNI investigation into Gerard's murder was undermined by the narrow approach taken by the SIO as demonstrated by his failure to link Witness . 's statement to the murder and by the failure to link the attacks on Kevin McKeown and Danny O'Neill despite their witness statements which identity a man with a squint as being involved in the attack on them, thus corroborating Witness . 's description.

Interestingly, when this case passed to the PSNI's Retrospective Enquiries Murder Investigation team (REMIT) it linked this murder investigation to the attacks on Kevin McKeown and Danny O'Neill, and on Jason O'Halloran[35].

While it is noted that the PSNI reviewed this case in 2009 and made recommendations which were considered by the Serious Crime Review Team, the family of Gerard Lawlor were not made aware of this and this further undermined their confidence in the police investigation. As the rules of natural justice state:

> *"…it is not merely of some importance but is of fundamental importance that 5ustice should not only be done, but should manifestly and undoubtedly be seen to be done.G*[36]

The Inquiry Panel finds that the PSNI must now carry out an effective investigation to remedy the deficiencies outlined above. In particular it must properly investigate the information provided by Witness . ; as the Court noted in granting a judicial review to Gerard's partner Siobhan:

> *"In any effective investigation of this death it is clearly relevant to establish whether the information provided by witness (relates to the deceased or to some other incident. There are indicators that it does relate to this incident, given what one of the men said to witness (when they met each other. G*[39]

Taken as a whole, the Inquiry Panel finds that the PSNI investigation into the four attempted murders and Gerard's murder were all inadequate and fell short of the threshold set by Article 2. In relation to the attempted murders, no real attempt to investigate them appears to have been made. Not only was that a serious indictment of the service provided by the PSNI to Catholics in north Belfast, but it raises the question of whether that failure was motivated by the sectarianism of which the RUC so often stood accused, or whether, as the Lawlor family fear, informants were being shielded.

These issues are examined in greater depth under the section on collusion later in this report.

[29] Ibid, paragraph 107
[30] Witness statement to Inquest of DI □eith McCoubrey, 27 October 2004
[31] Murder probe 3still active' two years on, by Sharon O'Neill, Irish News, 15 July 2004
[32] R (JL) v Home Secretary (200811 WLR 158, paragraph 161 – 162
[33] Article 14 ECHR: PThe en-oyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.R
[34] Secic v Croatia App No 40116/02, -dgment, 31 May 2007, paragraph 66.
[35] Letter from DI P Montgomery of REMIT to □evin R Winters - Co, 17.8.2011
[36] R v Sussex Justices, Ex parte McCarthy (01924 11 □B 256, 01923 1All ER 233
[39] Re Ramsbottom (2009) NI' B 55, paragraph 18

number of concerns surround the effectiveness of the PSNI investigation, namely:

- failure to record and act upon the call made to Crimestoppers by Witness . ;
- failure to properly act on information given by Witness . in her statement to police;
- failure to record and act upon a call made to Crimestoppers (after Gerard's murder) reporting that a known Loyalist had been in the Bellevue Arms a week before Gerard's murder;
- the PSNI reconstruction seven days later was of limited value, as the nearby M2 was closed thereby causing a disproportionate number of people to divert to the Antrim Road, who would not have been likely to have been present and witnessed anything the previous week;
- the immediate PSNI appeal had no photo fit displayed;[37]
- the delays in the arrest strategy – two suspects were identified within days of the murder but were not arrested until 7 August 2003. This resulted in a potential loss of forensic opportunities from the house search and items seized as nothing was obtained;[38]
- failure to act to progress telephone enquiries raised in October 2002; this failure was not discovered until 2004 and by that stage the data requested had not been retained;


The CD-fit image released by police

- failure to properly examine this murder in the context of a history of sectarian attacks in that area and more specifically the four separate incidents of attempted murders the night before within a radius just over a two miles;
- failure to appoint a single SIO to oversee the investigations into the four attempted murders and Gerard Lawlor's murder;
- an apparent failure to share information with the Ligoniel SIO, him having no recollection of being told about Witness . 's statement, and there being no record of it in the Ligoniel file;
- failure to share information with other SIOs about attempted murders;
- failure to compare descriptions given by witnesses, leading to a failure to connect Danny O'Neill's and Witness . 's descriptions of a man with a squint;
- for the purposes of transparency the PSNI should confirm that the two men questioned in 2006 provided fingerprints and samples in accordance with the Police and Criminal Evidence (NI) Order 1989.

[37] http://www.psni.police.uk/gerard2lawlor.pg
According to the Police Ombudsman's Report, 26 June 2012, paragraph 5.24, a CD St of the man seen by a female PSNI staff member in a blue car outside Belfast / oo on the night of the murder was circulated, but neither it nor any other photoSt appears on the PSNI's website. The PSNI Snally placed a photoSt in the Belfast Telegraph on 23 April 2003.
[38] Police Ombudsman's Report, 26 June 2012, paragraph 5.27

The Police Ombudsman s Investigation

The Police Ombudsman's investigation has been carried out under the Royal Ulster Constabulary (Complaints etc) Regulations 2001 and has focused on alleged police criminality or misconduct. The family of Gerard Lawlor raised a number of concerns about the PSNI investigation which can be summarised as follows:

1. the PSNI failed to adequately investigate Gerard's murder;
2. they failed to prevent Gerard's murder; and
3. they failed to update Gerard's family with regard to the investigation.

The family lodged their complaint with the Police Ombudsman on 29 August 2006; six years later they have still not received a completed report from them. This investigation, like that of the PSNI, must meet the relevant requirements of Article 2; namely that it is independent, effective, prompt, transparent and it sufficiently involves the next of kin to the extent necessary to safeguard their interests.

As a police oversight mechanism the Police Ombudsman's role in providing for accountable policing is vital:

> *"…there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory.G*

Regrettably the family have not been kept as fully informed as they would have expected to be, nor has the process carried out by the Police Ombudsman been a transparent one. The Inquiry Panel finds that it has failed to carry out its investigation in a reasonably expeditious manner meeting the promptness requirement of Article 2 ECHR.

The Inquiry Panel is aware that the Police Ombudsman's report is now in its third draft and is still not acceptable to the Lawlor family. We are also aware that the Police Ombudsman who presided over most of the production of these unsatisfactory drafts was forced to resign in January 2012 after a report by the Criminal Justice Inspectorate questioned his and his Senior Director of Investigations' independence of the PSNI[41]. It is therefore most worrying that there has been an apparent failure by the Police Ombudsman to draw adverse conclusions about a number of police failings in its investigation, which raises concerns about the Police Ombudsman's compliance with Article 2 and its Code of Ethics (which mirrors that of the PSNI):

> *"Police mbudsman staff shall maintain high standards and independence, investigating complaints objectively, thoroughly, eCpeditiously and in an even handed manner, free from bias and influence. G*

The Police Ombudsman states that it carries out evidential-based investigations:

> *"Police mbudsman staff shall complete evidentially based investigations and update police officers and complainants on the progress of complaint investigations as reuired by internal policy.G*[3]

/et a number of findings made by the Police Ombudsman's Office indicate that it has not properly discharged its obligations to carry out an effective investigation into the actions of the PSNI.

The Police Ombudsman's report dated 26th June 2012 accepts the SIO's decision not to link all of the other shooting incidents that occurred that evening in North Belfast even though he was aware of them, as his decision was consistent with the Association of Chief Police Officers' guidance on linking serious crime[44]. /et this is contradicted by a letter from the Police Ombudsman to Jason O'Halloran in 20O6 which advised him that the:

> *"… SI in charge of the Lawlor murder was fully aware of the other incidents that occurred that night, including the attack on you.* ***he evidence shows that the I did link all of the incidents from a very early stage in his investigation."***[45]

This letter also states that the SIO in Gerard's case:

> *"…ensured enuiries were made and an analytical study conducted regarding any possible links. e circulated details of these incidents to all police stations to make them aware of the events that night and to seek any information or other evidential leads that may assist his investigation.G*

[40] Jordan v U 20011ECHR 327, paragraph 109.
[41] http://www.c-ni.org/TheInspections/InspectionsReports/LatestPublications.aspx?didh2297
[42] Police Ombudsman's Code of Ethics, paragraph 14.
[43] Ibid, paragraph 19.
[44] Police Ombudsman's Report, 26 June 2012, paragraph 5.33.
[45] Letter from Andy McIver, Investigations OfScer, Police Ombudsman to Jason O'Halloran, 4 December 2006

It is worth noting that, although the Police Ombudsman did conduct a brief review of Jason O'Halloran's complaint – which included the failure by the PSNI to link his attempted murder with the others and with the murder of Gerard Lawlor – the Ombudsman refused to entertain it because it was made more than a year after the attempt on his life. The Police Ombudsman found that Jason's complaint did "not come under the criteria of grave and exceptional".[46] Not only does the Inquiry Panel disagree with the Police Ombudsman's decision, but we are mindful of the fact that both the non-investigation into his complaint and the actual investigation of the Lawlor family's complaint happened during a period when the Office was subject to severe criticism under the previous Police Ombudsman, Al Hutchinson, and his Senior Director of Investigations, Jim Coupland. As a result of concerns about the independence of the Police Ombudsman during that time, the Criminal Justice Inspectorate recommended the suspension of all "historical" (pre-April 1998) investigations by the Police Ombudsman[47]. Although the four attempted murders and the murder of Gerard are more recent, the Inquiry Panel believes that their cases raise similar questions to those raised by the Police Ombudsman's "historical" cases, and that the Police Ombudsman should urgently review both cases in light of all the issues raised by this report which touch on his remit.

An article in the local press reported that the SIO in Gerard's case (Roy Suittors) stated that he knew the identity of the attackers of Jason O'Halloran and Gerard Lawlor[48] – this needs to be investigated by the Police Ombudsman to clarify what investigations actually were linked.

It appears that the Police Ombudsman has not investigated the comments made by a PSNI officer to Kevin McKeown when he made a second statement, namely that:

- informants had named those involved in the attempted murder of Kevin McKeown and Danny O'Neill;
- the driver of the white car was in custody in relation to an attack on the PSNI;
- when PSNI arrived at the Glenbryn estate the white car was being burnt and they gave chase without success to a male who had been trying to burn it; and
- that no forensics were found on the car.

Kevin McKeown told the Community Inquiry that he informed the police that local people had told him that an alleged suspect had a squint in his eye. The PSNI does not appear to have connected this information to that given them by Danny O'Neill, or, later on, to the information given them by Witness . .

Danny O'Neill told the Community Inquiry that he made a statement to the PSNI the day after this attempted murder in which he gave a description of the gunman:

> *"I did see the guy s eyes and I did tell that to the police, I did see that the guy did have a, like, turn in his eye and that the particular fella who was closest, he was maybe, I think he was about eight feet is what I told the police away from me. I gave a rough description at the time of my statement but they told me that there was no point in putting a line-up together.G*

The Police Ombudsman in its latest report has not commented adversely on the failure of the PSNI to mount an identity parade. It is quite clear to the Inquiry Panel that the failure of the PSNI to take seriously or link together the evidence of the witnesses involved in the four attempted murders and that of Witness . severely hampered their ability to understand the significance of the cumulative evidence of the possibility that a man with a squint was involved in more than one of the five attacks. In our view, an identity parade would have been warranted on the evidence of Danny O'Neill and Kevin McKeown alone, given that a squint is such a distinctive feature. We are surprised that the Police Ombudsman has not commented on this aspect of the Lawlors' complaint.

A major failing of the Police Ombudsman's investigation has been its reluctance to link the series of previous attacks. The Police Ombudsman's first and second draft reports failed to mark all the incidents on the maps they included in their report. Even by the third draft of June 2012, by which time the point that the incidents were self-evidently linked had been made to them repeatedly, they fudged the issue, concluding that:

> *"The Police mbudsman s investigation has not identified anything within the pattern of incidents* ***to suggest that police could have foreseen the shooting of erard*** *on the Floral Road, North Belfast as this was not a specific area of ongoing violence.G*

[46] Ibid
[47] http://www.c-ni.org/TheInspections/InspectionReports/LatestPublications.aspx?didh 2297
[48] We know who killed Gerard say police, by Sharon O'Neill, Irish News, 16 July 2003.
[49] Ibid, paragraph 6.21, Finding 5

No-one has suggested that the PSNI could have foreseen Gerard's murder; it was a random, opportunistic, sectarian attack. What the Lawlor family has been saying is that, had the series of attempted murders that preceded Gerard's death been linked on the night, and had measures been taken such as placing VCPs[50] at flashpoints, then perhaps Gerard's murder could have been prevented. Indeed, the Police Ombudsman's most recent draft report states:

> *"It is understood that the post contingency plans included co-ordinated Vehicle Checkpoints designed to deter an escalation of sectarian violence. Vehicle Checkpoints were generally established at positions chosen from a list of numerous pre-determined locations which included the Antrim Road and ' hitewell Road. The positioning of Vehicle Checkpoints from the list of predetermined locations was by necessity selective, dependent on the information available to police.G*

These are precisely the type of failures and ill-conceived approach which led to the Criminal Justice Inspectorate's report on the Police Ombudsman.

It is also a matter of concern that, while the Police Ombudsman reported that in 2005 the PSNI's Serious Crime Review Team found that logs generated during the viewing of CCTV footage at the time of the crimes had been insufficiently detailed, the Police Ombudsman concluded that there was no evidence that potential lines of enquiry had been missed[52]. However, at a meeting between the family and the Police Ombudsman to discuss the his report, it emerged that there was no CCTV footage available from a crucial camera at Longlands Bridge on the M2 motorway, close to where Gerard was murdered. The Police Ombudsman also made no reference to the cameras at Gunnell Hill and at the Whitewell Road / Shore Road junctions.[53]

One of the Lawlor family's concerns has been a rusty and partially burnt-out moped which was recovered outside the Glenavna Hotel on the Shore Road on 6th August 2003 after a media appeal by the police. The PSNI seized it on suspicion that it might have been used in Gerard's murder.[54] We note that a motorbike was also used in the attempted murder of Ryan Corbett. The PSNI submitted parts of the moped for enhanced fingerprinting, but without result[55]. The moped was found at the back of what was the Glenavna Hotel (it has since been demolished). The Lawlor family say that it was located close to the back garden of the sister of one of the suspects in Gerard's murder[56]. In his evidence to the Community Inquiry, Ryan Corbett told us:

> *"… the guy I used to work for was a fanatic rider and once I saw it I knew what it was. It was a green and navy motorbike. It was a cc because they guy I used to work with used to go on and on about motorbikes and that s how I knew that that s what it was… I told them)the police that.G*

The Police Ombudsman's report makes no mention of the PSNI having sought to establish the engine size or the colouring of the moped found in 2003.

The Police Ombudsman's Office identified a number of failings in the police investigation:

> *"These include a failure to ensure enquiries to telecommunications records were thoroughly investigated and that an effective family liaison strategy was maintained. These failures have collectively undermined confidence in the police investigation and served to fuel suspicion of other failings, deliberate or otherwise, in the enquiry.G*

As a result of this conclusion the Police Ombudsman, however, made only one recommendation, namely that:

> *"… t he Chief Constable ensures that information concerning a sighting of suspects at Cavehill)sic Country Park in the early hours of July , is forwarded to those officers responsible for investigation of an attempted murder which took place at Ligoniel Road on the night of the July .G*

The Police Ombudsman advised the Coroner in 2007 that even though its investigation had not been completed, it did not challenge the police conclusion that Witness . 's statement was not relevant to Gerard's murder[59]. We find that this failure to effectively scrutinise the PSNI investigation again suggests that the Police Ombudsman's Office has not rigorously discharged its obligations under Article 2.

[50] , ehicle check points, which would have been operated by armed police ofScers
[51] Police Ombudsman's report, 26 June 2101, paragraph 5.46
[52] Ibid, paragraph 5.55.
[53] Minutes of Meeting between Family of Gerard Lawlor and Police Ombudsman, 26 June 2012
[54] Police Ombudsman report, 26 June 2012, paragraph 5.37
[55] Ibid, paragraphs 5.35 and 5.37
[56] Minutes of Meeting between Family of Gerard Lawlor and Police Ombudsman, 26 June 2012
[57] Police Ombudsman report, 26 June 2012, paragraph 7.4.
[58] Ibid, paragraph 8.1
[59] Letter from William Johnston, Investigating OfScer, Police Ombudsman, to the Coroner, 2 October 2007
[60] Re Ramsbottom (2009) NI' B 55, paragraph 16

We note the comments of the Court in the judicial review taken by Siobhan Ramsbottom and we recommend that the Police Ombudsman must demonstrate that it has properly investigated this aspect of the police investigation:

> *"…' hile their in□uiries are stated to be incomplete the mbudsman feels able to state that there is no basis for questioning the police conclusion.* ***gain the basis for the mbudsman s conclusion has not been disclosed but no doubt will appear when the report is published."***

Sadly, the Police Ombudsman's report is so deficient that the basis for its conclusion that Witness . 's evidence is irrelevant is not apparent.

The Inquiry Panel's overall finding in relation to the Police Ombudsman's investigation is that, even at a third attempt, it has not met the threshold required by Article 2 ECHR.

The In6uest

We note that the inquest which commenced in 2007 has been adjourned following a judicial review taken by Gerard's partner Siobhan Ramsbottom[61]. This followed a ruling by the Senior Coroner that Article 2 was not engaged and that the inquest should proceed without Witness . , put forward by the next of kin, and without examining any of the linked attempted murders.

The delay in providing the Police Ombudsman's report has impacted on the capacity of the inquest to be carried out promptly. When it does resume the inquest must be a public hearing that will independently and effectively investigate Gerard's death, with his next of kin involved to the extent necessary to safeguard their interests, to meet the requirements of an Article 2 investigation:

> *The purposes of such an investigation are clear to ensure, so far as possible that the full facts are brought to light that culpable and discreditable conduct is eCposed and brought to public notice that suspicion of deliberate wrong-doing if un5ustified is allayed that dangerous practices and procedures are rectified and that those who have lost their relative may at least have the satisfaction of knowing that lessons learnt from his death may save the lives of others.* [6]

The inquest[63] will make the following findings:

1. who the deceased was;
2. how, when and where he died;
3. what were the broad circumstances surrounding the death[64].

The PSNI is under a continuing obligation to disclose information[65] about Gerard's death to the Coroner:

> *")I would so plainly frustrate the public interest in a full and effective investigation if the police were legally entitled… to withhold relevant and perhaps crucial information coming to their notice thereafterG*[66]

In discharging its duties to provide material to the Coroner the PSNI must provide Witness . 's statement to the Coroner given its relevance, as held by the Court in the judicial review taken by Gerard's partner Siobhan Ramsbottom:

> *"…a declaration will)be issue)d that the information provided by witness (is relevant to the In uest.G*[7]

In determining the scope of the inquest the family should be involved to protect their interest and therefore they should be provided with all relevant material disclosed to the Coroner:

> *.. the purpose of an in uest is to investigate fully and eCplore publicly the facts pertaining to a death occurring in suspicious, unnatural or violent circumstances, or where the deceased was in the custody of the state, with the help of a 5ury in some of the most serious classes of case. The coroner must decide how widely the in uiry should range to elicit the facts pertinent to the circumstances of the death and responsibility for it.* [6]

The Police Ombudsman will also be under an obligation to disclose to the Coroner all relevant documentation resulting from their investigation carried out in compliance with its obligations under Article 2.

Given that the function of an inquest includes allaying suspicion or rumour[69] the broad circumstances surrounding Gerard's death, including the serious allegations that informants were involved in this murder, must be addressed. It is also important that witnesses not previously called – in particular Witness . and the two persons named in her statement as well as those who gave evidence to the Community Inquiry – should also be called as witnesses when the inquest resumes. As the Court noted in the application for judicial review taken by Gerard's partner:

> *"I am satisfied that there are reasonable grounds for suspecting that the evidence of witness (relates to the means by which the deceased met his death. I have described the account of witness (as strikingly similar to the account provided by the applicant. Further I conclude that that those reasonable grounds for suspicion cannot be dispelled by reliance on undisclosed information held by the police or the undisclosed basis for the police conclusion said to establish that the reasonable grounds for suspicion are mistaken.* ***here must be a full and public investigation as to the circumstances and responsibility for the death. It must include an e amination of this line of en uiry concerning witness ."***

The Coroner must ensure that all necessary precautions are taken to protect Witness . , whose courage and public-spiritedness we commend.

[61] Ibid
[62] Para 31, R (Amin) v Home Secretary 0200411 AC 653
[63] Held under the Coroner's (NI) Act 1959; the general purpose of an inquest is set out in Rule 15 of the Coroners (Practice and Procedure) Rules (Northern Ireland) 1963
[64] To ensure compliance with the procedural requirements of Article 2 as set out in R (Middleton) v West Somerset Coroner 02004 1U HL 10, 0200412 AC 182.
[65] Section 8 Coroners Act (Northern Ireland) Act 1959
[66] Re Jordan - McCaughey 02007 1U HL 14; 0200712 AC. 226, paragraph 44
[67] Re Ramsbottom (2009) NI' B 55, paragraph 20
[68] Re Jordan - McCaughey 02007 1U HL 14; 0200712 AC 226, paragraph 37
[69] Re Hemsworth's application 02009 1NI' B 33)
[70] Re Ramsbottom (2009) NI' B 55, paragraph 17

Role of the Public Prosecution Service

The PSNI and the Police Ombudsman both must take a number of immediate steps meet their obligations under Article 2 to carry out proper investigations in relation to the murder of Gerard Lawlor. If these steps lead to the identification of those involved in the commission of these offences then a file should be submitted to the Director of Public Prosecutions with a view to prosecutions. Also, should the Coroner report on findings that point towards the commission of a criminal offence, this too will fall within the remit of the Public Prosecution Service.

COLLUSION: Definition of collusion

Collusion is something that occurs all over the world, not just in Northern Ireland, and it is usually not that difficult to recognise, however many attempts are made to cover it up. Once the true facts are known, collusion, if it is present, is plain to see.

Sir John Stevens hands his third report into RUC collusion with loyalists paramilitaries to PSNI Chief Constable Hugh Orde, April 2003.

However, defining collusion is more problematic, or, at least, has been made so in Northern Ireland, as various individuals and agencies have essentially attempted to water down or obscure initially strong descriptions given by Lord Stevens, Judge Cory, and Baroness Nuala O'Loan when she was Police Ombudsman.

There are a number of definitions of collusion which have been applied in the Northern Ireland context[71]. However, the most authoritative of these was that of former Canadian Supreme Court judge the Honourable Mr Justice Cory:

"How should collusion be defined? Synonyms that are frequently given for the verb to collude are these: to conspire; to connive; to collaborate; to plot; and to scheme. The verb "connive" is defined as to deliberately ignore; to overlook; to disregard; to pass over; to take no notice of; to turn a blind eye; to wink; to excuse; to condone; to look the other way; to let something ride; see for example the Oxford Compact Thesaurus Second Edition 2001.

The Honourable Mr Justice Cory

Similarly the Webster dictionary defines the verb collude in this way: to connive with another: conspire, plot. It defines the verb connive as follows:

1. to pretend ignorance or unawareness of something one ought morally, or officially or legally to oppose; to fail to take action against a known wrongdoing or misbehaviour – usually used with connive at the violation of a law.
2. (a) to be indulgent, tolerant or secretly in favour or sympathy;

   (b) wink at youthful follies;

   (c) to cooperate secretly: to have a secret understanding.

In the narrower context how should collusion be defined for the purposes of this inquiry? At the outset it should be recognised that members of the public must have confidence in the actions of Governmental agencies, particularly those of the Army and the police force. There cannot be public confidence in Government agencies that are guilty of collusion in serious crimes. Because of the necessity for public confidence in the Army, the Police, and Security Services the definition of collusion must be reasonably broad when it is applied to actions of these agencies. This is to say 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. 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."[72]

Collusion can often result from a tacit, unspoken, shared mindset.

When BIRW and CAJ made their closing submissions to the Robert Hamill Inquiry, they said this about the workings of the RUC in 1997:

"It [collusion] is the product of a mindset that believes in the protection of the prevailing order at all costs. The role of the RUC in combating terrorism meant that embedded in its culture and ethics was a very strong commitment to preserving the status quo. Collusion does not require mutuality, or even any overt agreement between the participants. All that is required is a mutual agenda. Those who participate in collusion often do not perceive themselves as having done anything wrong, or having crossed the line between legality and illegality, because they believe that they are acting for the best and that the

[71] See, for example, Stevens 3 Enquiry: Overview and Recommendations, April 2003, paragraph 1.3; Statement by the Police Ombudsman for Northern Ireland on her investigation into the circumstances surrounding the death of Raymond McCord Junior and related matters, January 2007, paragraphs 32.1 – 32.4; The Billy Wright Inquiry – Report, HC 431, September 2010, paragraph 1.33; The Rosemary Nelson Inquiry – Report, HC 974, 23 May 2011, Part 4, Overall Conclusions; Public Statement by the Police Ombudsman under section 62 of the Police (Northern Ireland) Act 1998 Relating to the RUC investigation into the alleged involvement of the late Father James Chesney in the bombing of Claudy on 31 July 1972, August 2010, paragraphs 6.14 – 16; Public Statement by the Police Ombudsman under Section 62 of the Police (Northern Ireland) Act 1998, relating to the complaint by the relatives of the victims of the bombing of McGurk's Bar, Belfast on 4 December 1971, paragraphs 8.64 – 70

[72] Cory Collusion Inquiry Report: Patrick Finucane HC470, April 2004, paragraphs 1.272 – 1.274

ends justify the means. Collusion thrives best in an environment of impunity, where mechanisms for accountability are weak, where there is no real scrutiny, and where there are no consequences attendant upon wrong-doing. Above all, collusion thrives in organisations where everyone is of like mind, shares a common background and a common purpose, and especially, feels under threat from forces outside the organisation. Members of such organisations instinctively defend each other and the organisation as a whole. When any allegation is made against the organisation, or individuals within the organisation, they close ranks."[73]

The question for this Inquiry Panel is whether the PSNI of 2002, after all the Patten reforms – which took place under the oversight of Al Hutchinson, who was later discredited as Police Ombudsman for being too police-minded – had shaken off the RUC mindset. We have posed ourselves the following questions:

1. Did either the PSNI or the Police Ombudsman provide an effective investigation in compliance with Article 2?
2. Was there collusion on the part of the PSNI or the Police Ombudsman?

We shall look at these questions separately in relation to the PSNI and Police Ombudsman.

Before doing so, however, we wish to record our concern that there is no agreed definition of collusion which is accepted and applied equally by all agencies. We do not feel that the cases considered in this report necessarily provide the best vehicle for proposing such a definition, and for that reason we have after careful consideration decided to adopt Judge Cory's definition as being the most useful for our deliberations.

The PSNI

The PSNI must take the lion's share of the blame for the failure to provide an effective investigation. In our view, their failings fall into two distinct categories:

- the failures on the night of the murder; and
- failures in the subsequent police investigation.

The PSNI failed in many ways in the run-up to Gerard's murder. These failings included:

- failure to establish Vehicle Check Points (VCPs) when the extent of the loyalist onslaught on young Catholic males in north Belfast and Glengormley became apparent;
- specifically, failure to establish a VCP at a point already designated in police contingency plans, namely at the junction of the Whitewell and Antrim Roads, the precise spot where the murder of Gerard Lawlor occurred;
- failure to co-ordinate between different police districts to curtail the spread of loyalist activity;
- failure to ensure that CCTV cameras at key junctions and interfaces were operational, or failure to capture and preserve footage from these cameras;
- no statements were taken from the victims or eyewitnesses at the time of the incident;
- none of the crime scenes was cordoned off in order to prevent contamination;
- no adequate search was made for forensic evidence – bullets were left embedded in walls, cartridge cases were initially ignored and then contaminated by an officer picking them up with bare hands;
- no door-to-door enquiries appear to have been made;
- no descriptions of vehicles or perpetrators appear to have been circulated;
- failure to link the series of attacks on Catholics to the murder of Mark Blaney;
- failure to link that series of attacks to each other.

We have no doubt that, had the PSNI attended the Community Inquiry, which we regret they did not, they would have argued that it was mayhem on the night of 21st/22nd July 2002 in north Belfast. They were short of resources; their CCTV cameras were out of commission; they were run ragged.

We accept that there may be some truth in all of those propositions. However, the facts speak for themselves. The failings we have noted constitute a pattern. They were systemic. They were repeated. Victims of attempted murder were treated with disdain. They were not taken seriously. The PSNI did not bother to take statements from them while the incident was fresh in their minds; instead they were invited to come to a police station, the next day or it was left to their own initiative to approach the PSNI to pursue an investigation. The police did not take any witness statements. In consequence, they had no descriptions to circulate. They did not treat any of the incidents as a crime scene. They made no effort to protect the scenes from contamination, and they made no effort to search for or retain forensic evidence. They lifted not one finger to prevent an escalating series of attacks which culminated in a serious wounding and a murder. By failing to look at the overall picture of what was happening that night, they failed to treat it for what it was, a loyalist rampage hell-bent on killing Catholics, or, to use the police's own term, a major incident.

In our view, this failure was unforgivable. The PSNI had all the local knowledge they required to understand perfectly well what was happening. The question then arises: why did the PSNI not do its job? Several possible answers occur.

First, it is possible that the officers on the ground lacked the necessary training in how to investigate attempted murder and murder. That seems an unlikely explanation, given that these are core roles for police officers around the world.

Secondly, perhaps they just all happened to be incompetent. They certainly acted incompetently, but was that the result of a genuine inability to perform their jobs, or was it prompted by indifference towards the victims? Their actions, or rather inaction, could certainly be interpreted as indifference rather than incompetence.

Thirdly, was the reason for their failure to do their duty the product of the old RUC mindset, which was predominantly Unionist, and too often anti-Catholic? No doubt they condemned the attempted murder of the unfortunate Mark Blaney, but did they equally condemn the attacks on Kevin McKeown, Danny O'Neill, Ryan Corbett, the four Catholics on the Lgoneil Road, Jason O'Halloran and Jim Burns? If so, that condemnation was not apparent in their actions.

Fourthly – and this is the answer the Lawlor family fears the most – did the PSNI just go through the motions because they knew who was responsible for the attacks, or who was likely to be responsible, and that some of those people were working for the police as informants? Such an explanation would certainly account for their failure to do anything to prevent further attacks, or to undertake anything resembling an effective investigation into the attempted murders in what the police call the "golden hours" immediately after a crime, when the chance of gathering evidence is at its peak.

The Inquiry Panel has been asked to answer, insofar as possible, those questions, but we can only draw inferences, as we have no investigative powers and we had no opportunity to put these questions to the PSNI. Fortunately, there is a body that does have the necessary powers, and that is the Police Ombudsman, whose role is examined later in this report. For the meantime, we commend the question of why the PSNI so completely failed in its duty and our thoughts on the potential answers to that question to them for their consideration.

We now turn our attention to the PSNI's activities after Gerard Lawlor was murdered.

In many ways, the PSNI's reaction to the murder gives the lie to the theory of incompetency, as in many respects they carried out a model investigation in its early stages. The positive steps they took have already been described earlier in this report.

However, they were hampered by two corporate failings:

- for reasons that have yet to be adequately explained, they were either unable or failed to capture crucial CCTV footage from their own security cameras; and
- calls to the Crimestoppers hotline were inexplicably not recorded after 9:00 pm and calls made to 999 were recorded over every three weeks and were not captured in time.

We describe these as corporate failings as they are management issues which have the potential to adversely affect every police investigation in Northern Ireland.

There were, though, other failings which lie at the door of the SIO assigned to Gerard Lawlor's case:

- the failure to link any of the attempted murders except Ryan Corbett's to the murder of Gerard Lawlor;

[73] http://www.roberthamillinquiry.org/thepublichearings/transcripts/164/

- the apparent failure to follow up any of the attempted murders with the exception of that of Jason O'Halloran;
- the failure to seiM Jason O'Halloran's or Jim Burn's clothing and subject them to forensic testing;
- failure to act on the call to Crimestoppers made by the doorman of the Bellevue Arms;
- failure to act to pursue telephone enquiries raised in October 2002 with the result that the records were lost;
- the apparent failure to examine the partially burnt-out moped in the light of Ryan Corbett's very detailed description;
- failure to arrest suspects in Gerald Lawlor's case for over a year;
- failure to follow up on the Witness . 's evidence that Man A and Man B claimed to have been involved in the murder of a Catholic at the Bellevue Arms, which Gerard had just left when he was killed;
- the failure to interview Men A and B;
- failure to provide an identity parade to test the assertions of Danny O'Neill and Witness . that one of the persons involved in one or more of the incidents had a squint in his eye;
- the failure to recognise the connection of Witness . 's evidence about a burnt out car to Men A and B's mention of the Bellevue Arms, while (perhaps correctly) assuming that the car was related to the Ligoneil Road incident;
- failure to preserve and pursue any evidentiary possibilities in relation to the petrol can found next to the burnt out Mondeo.

A decade after Gerard Lawlor's murder, it is difficult to escape the conclusion that many evidential opportunities may have been lost for good because of these failures, but that does not mean that every effort should be made to put matters right, even so late in the day.

Again, the Police Ombudsman is in a better position than the Inquiry Panel to look into the reasons for these failures, but the aspect that strikes us as being most likely to be indicative of collusion is the failure to act properly in relation to Witness . 's evidence. She came to the PSNI voluntarily, although in some natural fear for her own safety. She named two known loyalists who claimed to have been involved in Gerard Lawlor's murder. She said that these two men had burnt out a car in the Cave Hill Country Park and the police found the car, which provided corroboration for her account. There has been no suggestion that she bore any personal malice against Man A or Man B. The fact that the men who murdered Gerard Lawlor were on a motorbike does not rule out the possibility that a car was also involved, perhaps to provide a getaway car. /et the SIO attached the car only to the Ligoniel Road incident, without, apparently having any particular evidential basis for doing so. Was that just a mistake, or was it a smokescreen? Why have Men A and B never even been questioned? If we knew the answers to those questions, the presence or absence of collusion would probably be easily discerned.

We cannot leave our consideration of the PSNI's role without commenting on the role of more senior officers. We have not gained the impression that anyone above the rank of Detective Inspector had any overview or oversight of this murder investigation, and we find that remarkable.

The Police Ombudsman

Sadly, the body which has oversight of the PSNI, the Police Ombudsman, has so far failed to deliver the strong critique of the failed police investigation into Gerard's murder that the Lawlor family deserve and expect.

The Inquiry Panel fears that the reason for this lies in the poor stewardship of the former Police Ombudsman, Al Hutchinson and his Senior Director of Investigations, Jim Coupland. The three reports produced by the Police Ombudsman so far in this case all seem to bear out the Criminal Justice Inspectorate's finding that the Police Ombudsman was insufficiently operationally independent of the PSNI. With a new Police Ombudsman in place under the on-going scrutiny of the CJI, we hope that it is not too late to remedy the many defects in the Police Ombudsman's investigation thus far into the PSNI's handling of Gerard Lawlor's murder.

These include:

- failure to link the four attempted murders to Gerard Lawlor's murder;
- failure to entertain Jason O'Halloran's complaint;
- failure to reconcile conflicting findings in relation to the O'Halloran review and the Lawlor investigation;
- failure to take on board the fact that Kevin McKeown was told by the police that the driver of the car used in his attempted murder was not only known to police but was in custody;
- failure to criticise the PSNI not pursuing Witness . 's evidence and not linking it to Gerard Lawlor's murder;
- as a consequence of failing to link the five attacks, the failure to criticise the PSNI for not making the connection between Ryan Corbett's and Witness . 's description of a man with a squint;
- the consequent failure to criticise the PSNI for not holding an identity parade;
- failure to comment on the PSNI's failure to examine the burnt-out moped in light of Ryan Corbett's detailed description;
- failure to criticise the PSNI for not interviewing Man A and Man B;
- the anodyne conclusion that Gerard Lawlor's murder could not have been foreseen, when the more important question was whether it might have been prevented;
- failure to criticise the PSNI for not reacting to the escalating number of attacks on Catholics in north Belfast by implementing their contingency plans for preventing violence by deploying VCPs at potential flashpoints;
- failing to comment on the PSNI's inability to obtain or recover crucial CCTV footage;
- failure to investigate or comment upon the missing petrol can found by the burnt-out car but subsequently lost by the PSNI.

The Inquiry Panel does not know whether these failings are the result of poor investigative work or a too-cosy relationship with the PSNI. If the latter, then the question of collusion must hang over the Police Ombudsman. In particular, the Panel is not satisfied with the Police Ombudsman's finding that, "there is no evidence that anyone has been protected from the law with regards to this murder."[74] The Police Ombudsman has stuck rigidly to the formula of not confirming or denying that informants have been involved in a case they have investigated. In Gerard Lawlor's case, the possibility that informants have been protected is a logical question to pose in light of the massive failings in the police investigation. By failing to link the attempted murders to Gerard's murder, the Police Ombudsman has not dug deep enough or looked hard enough at the issue of informants.

On the issue of the Police Ombudsman policy of "neither confirm nor deny", we suggest that such a policy, which has its origins in the intelligence services but has infiltrated government, may not be appropriate in an independent watchdog. We respect the right to life of everyone, including informants, but to confirm or deny that un-named informants were involved in a case does not necessarily put anyone's life at risk. Indeed, to deny that informants were involved puts no-one at risk and could bring great comfort to the victims, so long as they have confidence in the body issuing the denial. Indeed, Nuala O'Loan courageously did just that in the case of Jean McConville. In cases where informants were involved, then a risk to life only arises if the mere acknowledgement of that fact could identify the informant. Even then, no risk may exist if the informant has since died or left the country. In our view, the adoption of a blanket policy fetters the Police

Ombudsman's discretion to use its judgment in each individual case and may leave the office open to legal challenge.

Gerard Lawlor's case also seems to us to highlight the proverbial elephant in the room when it comes to Police Ombudsman investigations, which is concern about sectarianism within the RUC and the PSNI. We cannot think of a single report by the Police Ombudsman which has tackled this issue. The Police Ombudsman's remit is to investigate alleged misbehaviour and/or criminality on the part of police officers. We believe that if an officer acts in dereliction of his or her duty – which certainly happened in these four attempted murders and in Gerard Lawlor's case – the Police Ombudsman is entitled to investigate not only the actions of the police but their motives, and that the issue of sectarianism falls squarely within the Police Ombudsman's remit.

Did either the PSNI or the Police Ombudsman provide an effective investigation in compliance with rticle 2

For all the reasons given in this report, the answer to that question must be no, they did not.

On the night of 21st/22nd July 2002, in the case of these four attempted murders, the service provided to Catholic men whose lives has been threatened by loyalists was execrable. There were also serious flaws in the investigation of Gerard Lawlor's murder. The RUC was renamed as the PSNI in November 2001, after undergoing an intensive period of reform. Gerard Lawlor was murdered over four years after the signing of the Good Friday/Belfast Agreement. The public was led to believe that the PSNI was different from the old RUC; the PSNI was recruiting Catholics and was keen to uphold the human rights of everyone in society. Ten years after the murder, no-one has been brought to book even though a year after the murder the PSNI were telling the media they knew who was responsible. If the investigation of Gerard Lawlor's murder is regarded as a litmus test for whether the new PSNI could provide a better service than the old RUC, then the PSNI demonstrably failed that test.

Jane inter, Director of British Irish RIGHTS ATCH

as there collusion

In considering whether there was collusion, whether active or passive, in the murder of Gerard Lawlor, the Inquiry Panel has carefully considered the murder itself and the four attempted murders that preceded it. In relation to those, the Inquiry Panel has not heard any evidence which points to any active collusion between those who murdered Gerard Lawlor and members of the PSNI. Nor have we heard any evidence to suggest active collusion in the attempted murders that preceded his death.

However, when we look at the circumstances surrounding Gerard's murder, and the various investigations into his murder, there are serious deficiencies that, in our view add up to collusion, in that state agencies, including the PSNI and the Police Ombudsman have all failed so far to provide an effective investigation. These failings were compounded by the Coroner's decision to exclude Witness . and his ruling that Article 2 did not apply. Such failures, while serious, would not necessarily amount to collusion on its own. However, when such agencies wilfully refuse to look at the evidence before them holistically, or to make obvious connections, that can only be described as collusion.

[74] Police Ombudsman's Report, 26 June 2012, paragraph 7.3

CONSIDERATION OF TERM OF REFERENCE 4

To recommend and report what further actions should be taken by the State in order to provide an effective investigation into the killings of Gerard Lawlor in compliance with its obligations under Article 2 of the European Convention on Human Rights.

Recommendations to the PSNI

- The PSNI must confirm that its investigations into the murder of Gerard Lawlor and the earlier attempted murders will be carried out in compliance with its obligations under Article 2.
- The PSNI must interview Man A and Man B without further delay.
- They must carry out a full review of their investigation into the murder of Gerard Lawlor, given the similar nature of the four attacks which happened within a short time period and close proximity.
- They must carry out a risk assessment of Witness . giving evidence in accordance with the PACE Code of Practice on Achieving Best Evidence.
- They must carry out a full review of their investigation into the four attempted murders that preceded the murder of Gerard Lawlor.
- The officers who humiliated Jason O'Halloran should be identified and, if still serving, disciplined.
- The clothing worn by Jason O'Halloran and Jim Burns on the nights of 21st July 2002 must be secured and submitted for forensic examination.
- The sites of the four attempted murders should be revisited to search for bullets which may remain lodged in walls etc. Any bullets found should be submitted to ballistic tests and, insofar as is possible, traced for any similarity with other attacks which might help to identify the perpetrators.
- A full explanation of the fate of the lost petrol can should be given to the Police Ombudsman.
- The burnt-out moped should be re-examined in light of Ryan Corbett's detailed description and further consideration should be given to the exact location in which the moped was found.
- The PSNI must ensure that all calls to 999, CrimeStoppers, and any other police hotlines are recorded and the information retained indefinitely.
- The PSNI must compare all descriptions given by witnesses of suspects and organise identity parades where appropriate.
- They must also identify all suspects and establish whether any of them were or are informants.
- If any informants were involved in the four attempted murders and/or Gerard Lawlor's murder, the PSNI must remove itself from the investigation and ask HMIC to appoint an external police service to conduct a new investigation.

Recommendations to the Police Ombudsman

- The Police Ombudsman must confirm that its investigation will be carried out in compliance with its obligations under Article 2.
- The Police Ombudsman must carry out a full review of their investigation into Gerard Lawlor's case.
- They must also a full investigation into Jason O'Halloran's complaint.
- They must ensure that both of these take full account of the four attempted murders, Gerard Lawlor's murder, and all matters relevant to their remit raised by this report.
- They must also fully examine the role of any informants and make clear findings as to whether there is any evidence of collusion.
- The investigation into Jason O'Halloran's complaint should include an investigation into the officers who humiliated him.
- The Police Ombudsman should revisit its policy on confirming or denying the involvement of informant.
- The Police Ombudsman should factor the consideration of the possibility of sectarianism on the part of police officers into all its investigations.

Recommendations to the Coroner

- The Coroner must confirm that the inquest will be carried out in compliance with its obligations under Article 2.
- The Coroner must ensure that s/he hears from all the witnesses.
- S/he must consider Gerard Lawlor's murder in the context of the four attempted murders that preceded it.
- The Coroner must be satisfied that s/he has received all disclosure from the PSNI (and the Police Ombudsman) in accordance with section 8 of the Coroners Act 1959.
- Gerard Lawlor's family must be fully involved in the proceedings to the extent necessary to safeguard their interests.
- The Coroner must ensure that Witness . is protected.
- If necessary the Coroner should invoke his powers under the Coroners (Practice and Procedure) (Amendment) Rules (Northern Ireland) 2002 to compel attendance at the inquest.

ppendix

1. Article 6 of the International Covenant on Civil and Political Rights

www2.ohchr.org/english/law/ccpr.htm

2. The UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions www2.ohchr.org/english/law/executions.htm

3. The UN Model Protocol for a Legal Investigation of Extra-Legal , Arbitrary and Summary Executions (3Minnesota Protocol')

www1.umn.edu/humanrts/instree/executioninvestigation-91.html

4. The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

www2.ohchr.org/english/law/victims.html

5. The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law

www2.ohchr.org/english/law/remedy.html

6. The UN Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity

www.derechos.org/niM/or/impu/principles.html

ppendix B

Index to Sample Correspondence.

p *Coroners Service letter to KR 2 th July 200*

Advising that PSNI had advised that witness . 's evidence could not be used due to a lack of 3corroborative evidence'.

p *PSNI letter to KR 2 th September 200*

Advising that there would be no further discussion in relation to the case, due to the fact that Gerard's family had made a complaint to the Police Ombudsman.

p *Police Ombudsman letter to the Coroner 2nd October 200*

Advising that an Inquest can proceed (without Witness . 's evidence) even though the Ombudsman's investigation was not complete.

p 0 *Coroners Service letter to KR th November 200*

In relation to PSNI advice that witness . 's evidence did not relate to Gerard's murder but rather 3an incident' (the attempted murder in Ligoneil) earlier that day.

p *Original Police Ombudsman Map in relation to Other Incidents on 2 st July 2002.*

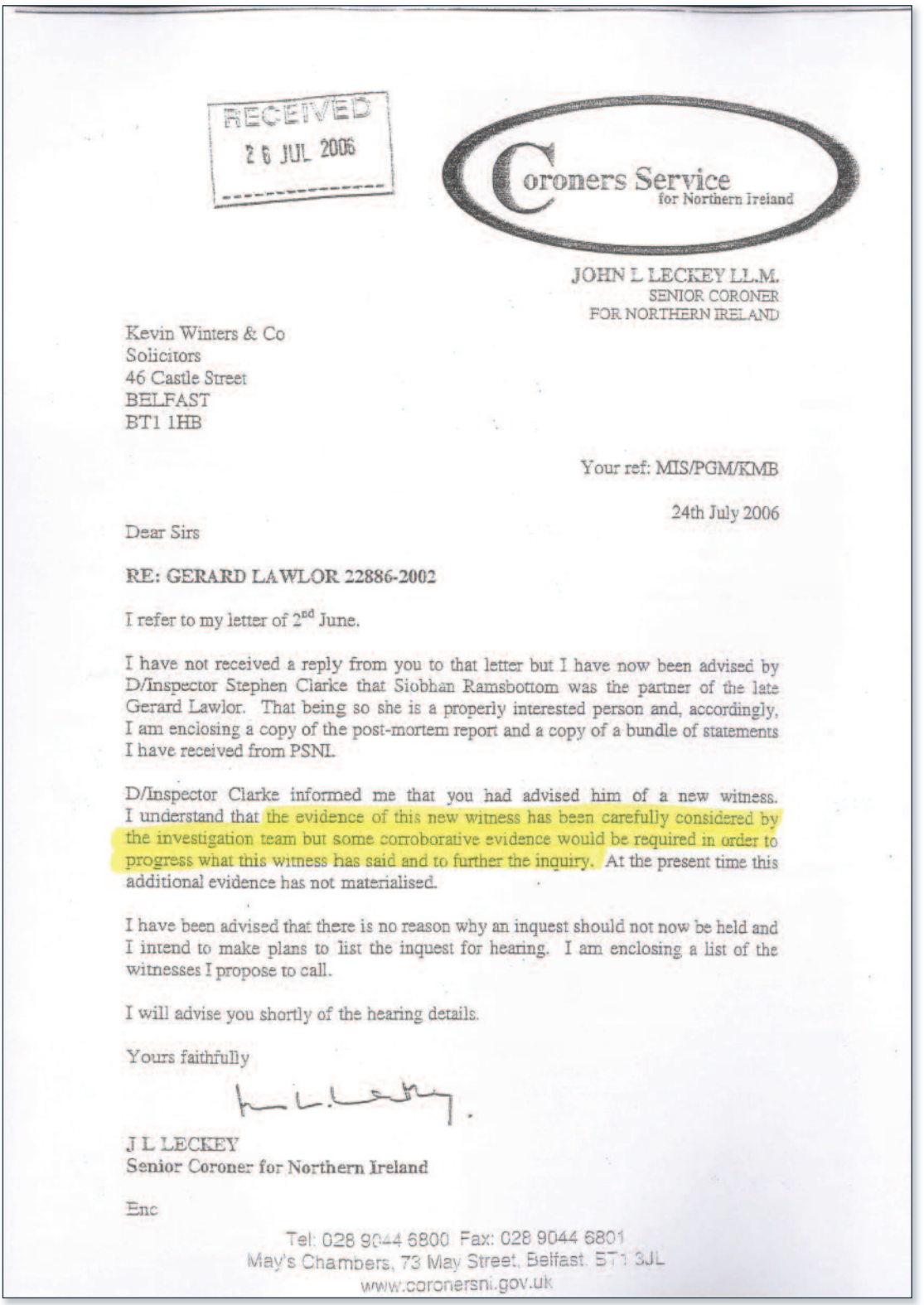
This map does not include the attempted murders of Kevin McKeown, Danny O'Neill, Jason O'Halleron or Jim Burns. Compare this map with the map produced for the Community Inquiry at page 21 of this report. The Ombudsman's map imports a visual notion that all of the other incidents occurred in an entirely different part of Belfast and that as such the complaint of preventability is not a reasonable proposition.

p 2 *PSNI letter to KR th July 20 2*

Declining the invitation to attend the Community Inquiry.

p 3 *Police Ombudsman letter to KR th July 20 2*

Declining the invitation to attend the Community Inquiry.



RECEIVED
26 JUL 2006

Coroners Service
for Northern Ireland

JOHN L LECKEY LL.M.
SENIOR CORONER
FOR NORTHERN IRELAND

Kevin Winters & Co
Solicitors
46 Castle Street
BELFAST
BT1 1HB

Your ref: MIS/PGM/KMB

24th July 2006

Dear Sirs

RE: GERARD LAWLOR 22886-2002

I refer to my letter of 2nd June.

I have not received a reply from you to that letter but I have now been advised by D/Inspector Stephen Clarke that Siobhan Ramsbottom was the partner of the late Gerard Lawlor. That being so she is a properly interested person and, accordingly, I am enclosing a copy of the post-mortem report and a copy of a bundle of statements I have received from PSNI.

D/Inspector Clarke informed me that you had advised him of a new witness. I understand that the evidence of this new witness has been carefully considered by the investigation team but some corroborative evidence would be required in order to progress what this witness has said and to further the inquiry. At the present time this additional evidence has not materialised.

I have been advised that there is no reason why an inquest should not now be held and I intend to make plans to list the inquest for hearing. I am enclosing a list of the witnesses I propose to call.

I will advise you shortly of the hearing details.

Yours faithfully

J L LECKEY
Senior Coroner for Northern Ireland

Enc

Tel: 028 9044 6800 Fax: 028 9044 6801
May's Chambers, 73 May Street, Belfast. BT1 3JL
www.coronersni.gov.uk

Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

Please reply to:

Your reference:

Our reference:

Date: 25 September 2006

Kevin R Winters & Co Solicitors
76A Market Street
DOWNPATRICK

Dear Sir

RE: MURDER OF GERARD LAWLOR

I acknowledge receipt of your letter dated 5 September 2006.

I have concerns that the personal details of a vulnerable and potential witness were sent through the post.

If you have any further correspondence I would ask that you refer to this witness as Witness A and exclude any mention of an address on any future correspondence sent.

I have also recently received a copy of a letter you have sent to the Coroner's Office on behalf of your client, Siobhan Ramsbottom. I note within its content that a complaint will be made to the Police Ombudsman Office.

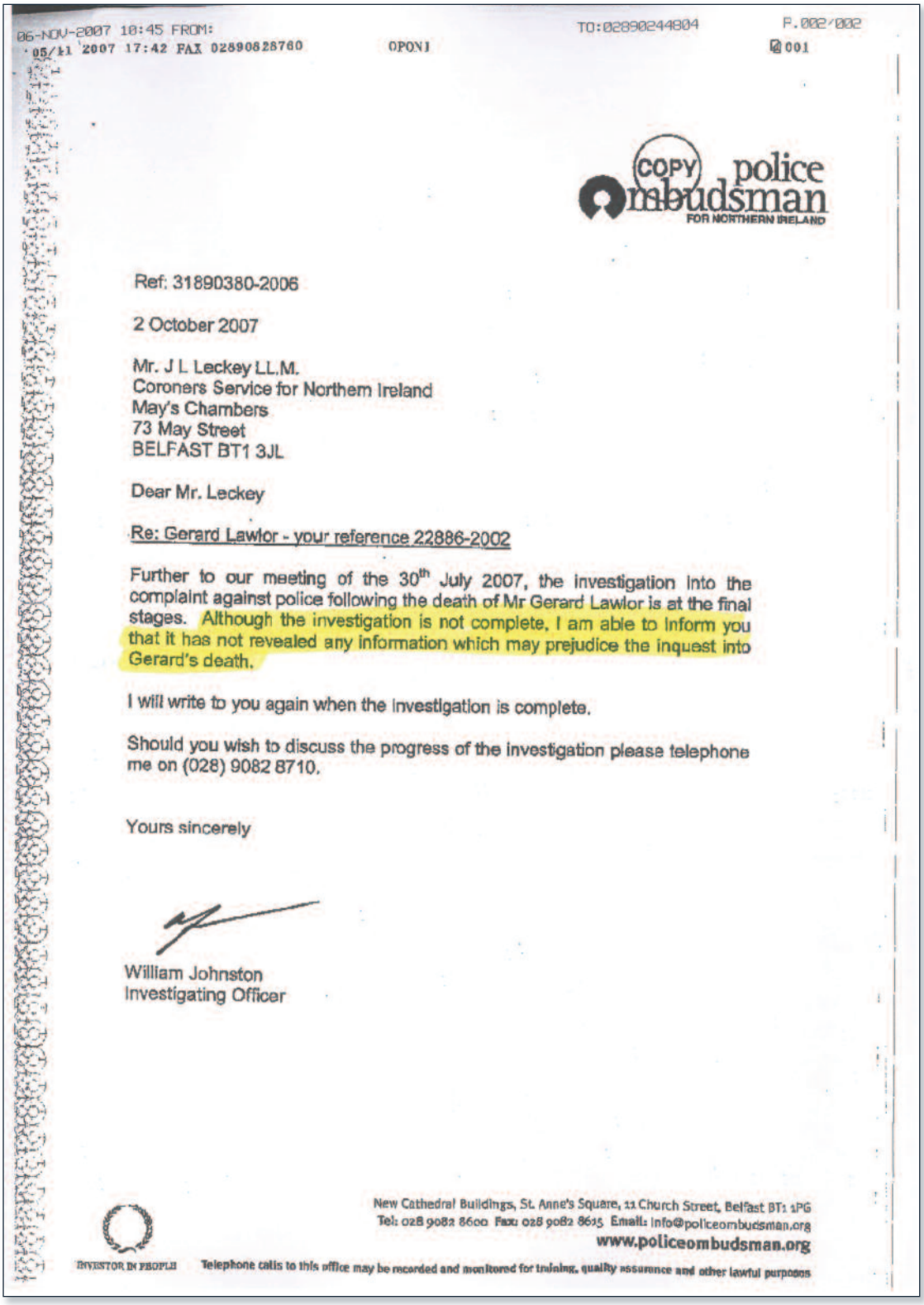
As a complaint has been made I cannot discuss the matter any further.

I would be grateful if you would inform your client Witness A accordingly.

Yours faithfully

S CLARKE
Detective Inspector

Police Service of Northern Ireland
Major Investigation Team 3
North Queen Street, Belfast BT15 1ER
Telephone: 02890 650222, FAX: 02890 561807



06-NOV-2007 10:45 FROM: TO:02890244804 P.002/002
05/11 2007 17:42 FAX 02890828760 OPONI 001

COPY

police ombudsman FOR NORTHERN IRELAND

Ref: 31890380-2006

2 October 2007

Mr. J L Leckey LL.M.
Coroners Service for Northern Ireland
May's Chambers
73 May Street
BELFAST BT1 3JL

Dear Mr. Leckey

Re: Gerard Lawlor - your reference 22886-2002

Further to our meeting of the 30th July 2007, the investigation into the complaint against police following the death of Mr Gerard Lawlor is at the final stages. Although the investigation is not complete, I am able to inform you that it has not revealed any information which may prejudice the inquest into Gerard's death.

I will write to you again when the investigation is complete.

Should you wish to discuss the progress of the investigation please telephone me on (028) 9082 8710.

Yours sincerely

William Johnston
Investigating Officer

New Cathedral Buildings, St. Anne's Square, 11 Church Street, Belfast BT1 1PG
Tel: 028 9082 8600 Fax: 028 9082 8615 Email: info@policeombudsman.org
www.policeombudsman.org

INVESTOR IN PEOPLE

Coroners Service
for Northern Ireland

JOHN L LECKEY LL.M.
SENIOR CORONER
FOR NORTHERN IRELAND

Kevin R Winters & Co
Solicitors
46 Castle Street
BELFAST
BT1 1HB

Your ref: JR/30176/PBP/PTM

8th November 2007

Dear Sirs

Re: GERARD LAWLOR 22886-2002

RECEIVED

I have received (by fax) your letter of 7th November.

I have been advised by the Senior Investigating Officer, Mr Stephen Clarke, that the contents of the statement enclosed with your letter were investigated but it was concluded that they do not relate to the murder of Mr Lawlor but rather to an incident that occurred earlier that day. Therefore, there would be little point in calling the maker of that statement to give evidence.

Mr Clarke has been in contact with the Police Ombudsman's Office and has received confirmation that their investigation has concluded. I am arranging for Mr Martin Gillison from the Police Ombudsman's Office to attend to confirm that that is so.

In view of the foregoing I see no reason why the inquest does not proceed as arranged. I would propose to hear from Mr Clarke and Mr Gillison first and you will have the opportunity to question each.

There is no blanket policy as to refusing the adjourn inquests. Each is examined individually.

Yours faithfully

p

J L LECKEY
Senior Coroner for Northern Ireland

Tel: 028 9044 6800 Fax: 028 9044 6801
May's Chambers, 73 May Street, Belfast. BT1 3JL
www.coronersni.gov.uk

APPENDIX 2

Map showing location of the murder of Gerard Lawlor and other incidents on the evening of 21/07/02.

IU/MH/306/09. Chart created 02/07/09.

Personal, Professional, Protective Policing

RECEIVED
18 JUL 2012

Retrospective Major Investigation Team
Crime Operations Department
Police Service of Northern Ireland
151 Belfast Road
Carrickfergus
BT38 8PL

Our Ref: ReMIT/68/2012

17 July 2012

Kevin.R.Winters & Co
Solicitors
3rd Floor,The Sturgeon Building
9 – 15 Queen Street,
Belfast BT1 6EA

Dear Sir,

I thank you for your letter dated 10 July 2012 inviting a representative from the PSNI to attend a Community Inquiry relating to the murder of Mr Gerard Lawlor.

Following a review of this case by the Serious Crime Review Team no further substantive lines of enquiry were identified and consequently this case remains open pending the receipt of any new evidence.

The PSNI must decline the kind invitation to provide a representative to attend the Community Inquiry but I would ask that anyone who can provide any new information which may assist us in bringing to justice the person or persons responsible for this brutal murder are encouraged to pass such information to the police.

As the Senior Investigating Officer responsible for this case I am available, at any time, to have a private meeting with the family to discuss with them any aspects of this investigation.

Yours faithfully

P.P. Gary Crawford
D/C/Inspector
Senior Investigating Officer

Northern Ireland CRIMESTOPPERS 0800 555 111

police Ombudsman FOR NORTHERN IRELAND

Ref. 31890380-2006

Kevin R Winters & Co., Solicitors
FAO Mr Niall Murphy
3rd Floor, The Sturgen Building
9-15 Queen Street, Belfast
BT1 6EA

RECEIVED
18 JUL 2012

18 July 2012

Dear Mr Murphy

Re : The Police Ombudsman's Investigation of Complaints Against the PSNI by the family of the late Gerard Lawlor

I refer to your letter of 26 June 2012, outlining Mr John Lawlor's concerns at the findings of an investigation by this Office in relation to the preventability of the murder of his son Gerard, and the quality of the related PSNI investigation, and your email of 10 July 2012, inviting this Office to a Community Inquiry on Saturday, 21st July 2012.

As you are aware, Dr Michael Maguire has recently assumed the position of Police Ombudsman and wishes to satisfy himself that our investigation of this matter is complete prior to reaching a determination on the complaints. Publication of a final report will therefore await Dr Maguire's consideration of the matter.

Thank you for your invitation to the Community Inquiry but this Office will not be represented at the event. The Police Ombudsman would, however, welcome any new evidence which may assist our investigation that may be forthcoming from the Inquiry.

I will write to you further on the specific issues raised in your correspondence.

Paul Holmes
Director of Investigations

New Cathedral Buildings, St. Anne's Square, 11 Church Street, Belfast BT1 1PG
Tel: 028 9082 8600 **Fax:** 028 9082 8615 **Textphone:** 028 9082 8756 **Email:** info@policeombudsman.org
www.policeombudsman.org

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Saturday 21 July 2012

ABC

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WHY DIDN'T PSNI SAVE OUR MURDERED SON?

Police failed to adhere to their own guidelines when Catholic teenager was shot on a night out

BY KIERAN HUGHES
k.hughes@belfastmediagroup.com

THE PARENTS of a North Belfast teenager who was shot dead by loyalists as he made his way home from a night out say their son could have been saved if the PSNI had adhered to their own guidelines on the night he was shot ten years ago this weekend.

John and Sharon Lawlor were speaking ahead of a Community Inquiry on Saturday that is set to reveal shocking information about the events leading up to his death and the flawed PSNI investigation into his killing.

The 19-year-old father-of-one was gunned down on July 22, 2002 as he made his way home from the Belle-vue Arms to his home on the Whitewell Road.

He was the last Catholic killed in the Troubles and his death was one of the first to be investigated by the then new PSNI.

No-one has ever been brought to justice for Gerard's murder, there has been no inquest into his death and the family's wait for a Police Ombudsman report into the killing continues.

There were four different attempts to murder a Catholic in North Belfast in the hours leading up to Gerard's killing and PSNI guidelines from that time state that during serious security events they would set up vehicle checkpoints in specific areas. One of those areas was just yards from where Gerard was killed.

"It was mob rule that night from 7.30 ... allowed to progress and it should have been clamped down much sooner," said Gerard's dad John. "It was unfortunate it was our lad but they didn't stop till they got what they wanted, it could have been prevented.

Continued on page 2

JUSTICE SEARCH: Sharon and John Lawlor with a precious portrait of ther son Gerard, murdered 10 years ago

INSIDE

That Twelfth parade and counter-parade
'Token march exposes Orange Order'
– FULL STORY ON PAGES 4&5

Orangemen marching in ever-decreasing circles
Jude Collins' weekly column
– PAGE 19

Gerard Lawlor: the search for justice continues
Liam Murphy's weekly column
– PAGE 14

Starman on the rise
Ardoyne man Ciaran Osborne is a resident DJ at Lush nightclub and is set to appear at the Jam in the Park

THE IRISH NEWS
FRIDAY JULY 20 2012

NEWS 15

'Community inquiry' to be held into loyalist murder

Allison Morris
a.morris@belfastmediagroup.com

THE family of a teenager gunned down by loyalists in a random sectarian attack 10 years ago have called a public meeting to highlight delays in bringing anyone to justice.

Gerard Lawlor was murdered as he walked home along the Floral Road in north Belfast on July 21 2002.

The 19-year-old was identified as a Catholic only by the Celtic shirt he was wearing.

He was less than 100 yards from his Whitewell home.

A 'community inquiry' is to be held in St Enda's GAA Club on the 10th anniversary of the killing.

Mr Lawlor played football for the club's senior team.

> This meeting is a chance for a public examination of the unresolved issues
> – Niall Murphy

The south-east Antrim UDA claimed the murder of the father-of-one.

It has previously emerged that a witness passed names of the alleged gunmen to police after contacting a police telephone line to say she had met two men who confessed to the murder.

An inquest into the killing has been suspended on a number of occasions, most recently in January 2010, pending a Police Ombudsman complaint made by the family in 2007 regarding the handling of the case has still not been resolved.

Solicitor Niall Murphy said Mr Lawlor's family had become frustrated by the lack of progress.

"We are aware of forensic, witness and other evidential information that could be used to secure a prosecution," said Mr Murphy.

"Not 10 years on and no-one has been brought to justice for Gerard's murder.

"Two years on from contacting the ombudsman's office the family have yet to receive a resolution to that complaint.

"This meeting is a chance for a public examination of the unresolved issues."

The meeting will take place at 12.30pm tomorrow at St Fi... on the Flightpath Road in Belfast.

The panel will include ... of British Irish Rights Watch, Jessie Bill Rolston of the University of Ulster.

Police renew appeal to find Gerard's killer

Gerard Lawlor was shot dead as he walked home on July 22 last year

Witness is asked to come forward

14 | North Belfast News FEATURE 21 July 2012

Gerard Lawlor: the search for justice continues

ST ENDA'S SENIOR FOOTBALLERS 2002: Gerard Lawlor (Back row, 4th from left), John Finucane (Back row, 6th from left), Declan Steele (Back row, 7th from left), Kevin McKeown (Back row, 8th from left), Charles O'Kane (Front row, 4th from right), Paddy Coogan (Front row, last on right)

On Sunday 21st July 2002, Gerard Lawlor arrived at St Enda's GAC at 1:15pm for a senior football match against Sarsfields, due to throw in at 2pm. St Enda's had been relegated from division one in the previous year, and were rebuilding for the future. The 2002 season was not going any better than the previous, and despite winning the first game in division 2, the team had lost the last four, and were in danger of a second straight relegation.

The senior team was in the process of being remoulded by Martin Sherlock, who intended that it be built around young players like Gerard. Gerard had been selected to play in the crucial position of midfield that day, such was his physical strength and work ethic around the park. As St Enda's took the field awaiting the arrival of Sarsfields, the referee appeared, but with no sign of the opposition, the home side were awarded the precious league points in the absence of a team to play. Without a league match to play, Martin Sherlock ensured the opportunity for a hard training session in the July heat, was not lost and a lung bursting hour of running and tackling drills exhausted his players, many of whom, especially the younger players, were lamenting their enforced and now unrequired abstinence on the Saturday night. Kevin McKeown recalls ribbing Gerard for his missed pints.

The opportunity to rehydrate presented itself when the seniors came into the club house after training. A double bill of round 4 qualifiers from Croke Park was on RTE's 'Sunday Game' with Donegal defeating Meath by two points before the shock of Sligo beating Tyrone, on a comfortable score line of 1.14 to 0.12. Conversation also turned to the breaking news that Rio Ferdinand had just joined Manchester United for a record transfer fee of £30 million. All was well in the world of the young sports men, who played, trained and socialised together. Mid-way through the first half of the Tyrone game, the Sarsfields team began to arrive, it transpired that they had been mistaken with regards to the throw-in time. After some gentle aggravating, with Gerard prime among their tormentors about their lost league points, Sarsfields joined the St Enda's team for a few pints before returning, no doubt to criticise their club secretary for their erroneous information.

"One police car, with two police officers, less than half a mile from Glengormley police station would have saved Gerard's life, as he was murdered just yards from the junction."

Gerard stayed in the club, for the late afternoon before leaving to go to the Bellevue Arms on his way home. Other team members would go their own seperate ways. Centre half back Kevin McKeown relates how he went home to his north Circular home for his Sunday dinner, with intentions of relaxing in the Chester for the rest of Sunday night. Indeed, as he walked from his home at the top of the Cavehill Road down towards his friend Danny O'Neill at the north Circular Road, he encountered his team mate, goalkeeper John Finucane who was driving home. John offered Kevin a lift to the Chester, but due to the good weather that evening, Kevin decided to walk down the Old Cavehill Road turning right into Salisbury Avenue at the Mormon Church.

At approximately 10pm, Kevin noticed a white car pull up 10 or 15 yards on the other side of the road. Two men wearing scarves around their faces and hooded tops, then exited the white car from both of the back doors. The manner in which these men exited the car immediately alarmed Kevin, who then shouted to Danny to run, which they both did. Before the pair got to the corner of Salisbury Avenue at the junction with the Cavehill Road Kevin heard two shots being fired, and saw one of the bullets ricochet off the ground close to his foot. Kevin ran into the first house he could see, and ran inside screaming for the owner to phone the police.

In the next two hours there would be a further four attempted murders, culminating in the death of Gerard Lawlor. Half an hour after the shots fired at Kevin McKeown, Ryan Corbett was standing outside Henry Joys bar on the Oldpark Road, making a phone call. A motorbike slowed as it passed Ryan, and the pillion passenger pointed a hand gun at him, and pressed the trigger. Ryan could hear the click, click, click as the gun jammed, and threw the change that was in his hand at the gunman, who then sped off. At 2320, there was an attempt at mass murder on the Ligoneil Road when a small red car stopped outside a house. A man got out of the car and leaned over the bonnet with a long rifle and fired a number of shots at several men who were gathered outside the row of houses, fearful of yet another loyalist attack, after a week of tension. At 2330 Jason O'Halleron was shot three times, only 300 yards from the attack on Ryan Corbett less than an hour beforehand and was hospitalised for eight days as doctors battled to save his life. Notwithstanding the overwhelming evidence that armed loyalists were intent on murdering a Catholic that night, no police check points were erected at strategic stress areas.

One such defined area, was the junction at the top of the Whitewell Road and the Antrim Road. The allocation of one police car, with two police officers, less than half a mile from Glengormley police station would have saved Gerard's life, as he was murdered just yards from the junction.

Gerard was the fifth St Enda's member to be murdered, and the third in ten years, after President Sean Fox in October 1993, and senior football manager Gerry Devlin in 1997. The young people of the club, Gerard's friends were comforted by Paudie McGrath senior, who himself was father to two young sons and friends of Gerard, Padraig Óg and Aodhan. Paudie had been advised that the Antrim senior hurling team would wear black armbands in Gerard's memory the following Sunday, 28 July in the All Ireland quarter final against Tipperary, and counselled the young men that there friend would be remembered on a national stage within days. Unfortunately the magnanimous intentions of the Antrim senior panel were not received kindly in Croke Park and the Antrim team were told, without notice, at the three minute warning before taking the pitch, that the armbands could not be worn, and they would not be permitted to play, on the alleged basis that they were 'political'. Brian McFall from St John's, ripped the black grip tape from his hurley, and wrapped it crudely around his arm, and challenged any official to attempt to stop him taking the pitch, but the hurt had been caused. The recent gesture by the FAI, by wearing black armbands at the Ireland v Italy match at the Euros, on the anniversary of the Loughinisland Atrocity perhaps showing an insight into organisational empathy.

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No one was ever charged with the four attempted murders that night just as no one has ever been charged with the murder of Gerard Lawlor. Gerard was the third young man to be murdered in a one mile radius in the previous 12 months by loyalists. The previous July (2001), Gavin Brett was murdered in a drive-by shooting at the bottom of the lane at St Enda's GAC, in an attempt to kill anyone local. Danny McColgan was murdered at Rathcoole Royal Mail depot, as he arrived for work at 4:45am in January, just six months previous. No one was ever charged with either of these murders, or the murders of Gerry Devlin or Sean Fox. Local Parish Priest Fr Dan Whyte, complained that killers were being protected due to their enjoyment of Special Branch informer status.

In addition to the insult of the killers not being brought to justice, Gerard's family have not yet even had the dignity of an Inquest in to the murder by the Coroners Court. This cannot proceed until the Police Ombudsman completes an investigation into a complaint made to the office in 2007 which is still unresolved after five years. With ten years of frustration, and an inability by all agencies of the State to investigate his killing, Gerard's family and his team mates, have decided to convene a Community Inquiry, a Citizens' Jury to assess the evidence of the case. This inquiry will examine the unresolved complaints that the family have, namely that the murder was preventable and that the police investigation was ineffective. Their hope is this inquiry will spark new investigative mechanisms. The panel assembled represents a high powered array of human rights expertise with Jane Winter director of the British Irish Rights Watch, Gemma McKeown the solicitor with the Committee for the Administration of Justice and Professor Bill Rolston from the Transitional Justice Institute at UUJ co-ordinated by the expertise of Mark Thompson from Relatives for Justice.

Gerard's team mates have ensured that the event will take place. Charles O'Kane has applied his professional expertise to the provision of reconstruction maps, and powerpoint presentations. Declan Steele and Paddy Coogan have found the necessary resources to ensure a smooth afternoon, and Kevin McKeown and John Finucane will attend to inform the panel of their experience of the day. Senior hurling colleagues from 2002, Niall Murphy and Ciaran McCavana will assist in presenting the days evidence. The senior footballers won the rest of the games in division 2 after that slow start and finished second in the league, requiring a win in a play-off against Tir na nÓg which was duly won, securing promotion. Each pitch was taken with a 'can't lose attitude', and indeed they didn't lose another match in 2002 but the fact was that they had lost an irreplaceable friend and team mate, who will be fondly remembered this weekend.

Ní dhéanfaidh Gaedhil dearmad
ort, go bráth na breithe

The Gael Will Never Forget You,
Until the End of Time

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