



**EMBARGOED TO 00:01 HOURS  
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**Public Statement by the Police Ombudsman under  
Section 62 of the Police (Northern Ireland) Act 1998**

Relating to the complaint by the victims and survivors of  
**THE MURDERS AT  
THE HEIGHTS BAR, LOUGHINISLAND  
ON 18 JUNE 1994**

# Foreword by the Police Ombudsman

On Saturday night 18 June 1994, six innocent people were murdered and a number of others injured at the Heights Bar in the village of Loughinisland, County Down. The Ulster Volunteer Force (UVF) said that they had carried out the brutal shooting.

As well as the physical trauma, there has been an emotional toll, which continues for the families, who lost loved ones; for the survivors; and for the local community.

Some seventeen years later, the police have not been successful in gathering sufficient evidence to charge anyone with these murders.

This failure to bring anyone to justice has created a vacuum, which has been filled with a great deal of speculation about what happened; about who was responsible; and about the role of the police. In 2006 family members made complaints to this Office, which included allegations that there had been collusion on the part of the police and that there were significant failures in the investigation.

All allegations have been investigated and the findings, conclusions and recommendations are contained in this Public Statement. This Statement provides details of an independent and evidence-based examination of the issues raised by the families, who seek truth and justice amidst the continuing speculation and rumour, fuelled by the lack of anyone being brought to justice.

In September 2009, this Office scheduled for release a Public Statement on the results of this investigation. That Statement was delayed when the police advised us that we might have overlooked some relevant documentation. A review was conducted and it subsequently transpired that the information had been known through other material in our possession.

It was during this period of review that a new witness came forward in October 2009 and alleged that a serving police officer had had possession of a car used in the murders. This Office initiated a full investigation, during which the police officer was arrested. On completion of the investigation, a file was submitted to the Public Prosecution Service (PPS), which directed 'no prosecution' in November 2010. The police officer has been the subject of due process and no criminal or disciplinary proceedings have resulted.

The allegation that police colluded with terrorists permeates most of the 'historic' cases being dealt with by this Office. I have discussed in this Public Statement the issue of collusion in both the context of Justice Cory's analyses and the context of the evidence as it relates to the actions of police officers involved in this case. Whilst several police failings have been identified, there is no evidence of any criminal act by any police officer. There is no evidence of collusion on the part of police and although families have raised the issue of broader state collusion my remit is limited to police actions.

The relationships between the families and the RUC and PSNI have deteriorated over time and they broke down in 2006. It is my hope that the recommendations in this Statement will prompt the police to focus on bringing those who committed these murders to justice. I believe that the families and police share a common goal of the pursuit of justice.

**Al Hutchinson**  
**Police Ombudsman for Northern Ireland**  
**June 2011**

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# 1.0

## Introduction

- 1.1 The Office of the Police Ombudsman for Northern Ireland was established by the Police (Northern Ireland) Act 1998, for the purpose of independently investigating complaints relating to the conduct of police officers and other matters, which the Police Ombudsman considers to be in the public interest.
- 1.2 The Royal Ulster Constabulary (Complaints etc) Regulations 2001 empower the Police Ombudsman to investigate historic complaints, which he considers should be investigated because of the gravity of the matter or the exceptional circumstances.
- 1.3 The families of those murdered and injured at The Heights Bar on 18 June 1994 first approached the Police Ombudsman's Office in 2001 and subsequently made a formal complaint in March 2006.
- 1.4 The Police Ombudsman initiated an investigation into a number of allegations relating to police criminality and misconduct in connection with the murders at The Heights Bar and subsequent police investigation.
- 1.5 The Police Ombudsman's investigation into all these matters has now concluded and they are addressed in this Public Statement.

# 2.0

## The Murders at The Heights Bar

2.1 The Heights Bar is a Public House within the village of Loughinisland, County Down.

2.2 On Saturday evening, 18 June 1994, customers were gathered in the bar. Most were watching a World Cup football match on television. After 10.00 pm two masked men wearing boiler suits, one of whom had a rifle, entered the premises. One held the door open whilst the other fired at least 29 shots. Six people died and a number of others were injured.

2.3 The people who died were :

- Adrian Joseph Rogan, 34 years
- Patrick Joseph O'Hare, 35 years
- Eamon Byrne, 39 years
- Malcolm John Jenkinson, 52 years
- Daniel Gerard McCreanor, 59 years
- Bernard Green, 87 years

2.4 The deaths of local men and the close family links between those killed and injured in the attack deepened its impact on the small Loughinisland community.

2.5 The gunman and his accomplice left the bar and were seen getting into a red Triumph Acclaim, driven by a third man. The car made off in the direction of Annacloy.

- 2.6 At 11.40 pm a local newsroom received a call from a man, who used a recognised code word and said that the attack had been carried out by the Ulster Volunteer Force (UVF).
- 2.7 On the morning following the attack, Sunday 19 June 1994, police were notified by a member of the public that a red Triumph Acclaim had been abandoned in a field near Crossgar. Police attended the scene.
- 2.8 The incident received international media coverage and appeals were made for information on the night of the murders and in the following days and weeks.
- 2.9 On the afternoon of 4 August 1994 two men, who had been repairing a bridge on the Carsonstown Road, Saintfield, discovered a holdall, which contained boiler suits, gloves, balaclavas, weapons and ammunition. Following a search of the area by the police and the military, a rifle was also found.
- 2.10 Seventeen years after the attack, those responsible have still not been brought to justice.



# 3.0

## Complaint to Police Ombudsman

3.1 Bereaved families and survivors of the attack identified numerous issues within their complaints, which the Police Ombudsman has grouped into three main areas:

- I. The effectiveness of the police investigation
- II. The Communication Strategy with victims and survivors
- III. The suspicion that collusion pervaded the circumstances of the attack at The Heights Bar and the subsequent police investigation

The main elements of the allegations made are detailed as follows.

### 3.2 **I. The effectiveness of the police investigation**

3.3 It is alleged that police failed to conduct an effective investigation or make an “earnest effort” to pursue those responsible for the attack at The Heights Bar. Specific allegations relating to this section include:

- the initial scene management failed to recover a cartridge, which was subsequently discovered by a member of the public.
- failure to preserve securely and retain the ‘getaway’ vehicle and taking actions to avoid criticism relating to this matter in later years.
- failure to re-examine all 177 exhibits until after a complaint was made to the Police Ombudsman’s Office in 2005.
- failure to deal correctly with an anonymous letter received by a

local councillor and after identifying the author, failure to effect an arrest.

- failure to identify and investigate links between suspects and weapons associated with the attack at The Heights Bar and other incidents.
- failure to effect arrests, as promised by a senior police officer in 2005.

#### 3.4 **II. The Communication Strategy with victims and survivors**

3.5 It is alleged that the victims and survivors received little or no information regarding the police investigation, even about significant developments. It is further alleged that a senior police officer made insensitive remarks when addressing them at a meeting in July 2005.

#### 3.6 **III. The suspicion that collusion pervaded the circumstances of the attack at The Heights Bar and the subsequent police investigation**

3.7 The allegation that the police investigation was fundamentally flawed due to the protection of informants is central to the concerns raised. It is also alleged that there was police collusion not only in the investigation but also in the planning and commission of the murders. Specific allegations relating to this section include:

- there was state collusion in the murders.
- military check points were strategically placed in order to allow the gunmen safe passage from the scene of the attack.
- the rifle used in the attack was supplied by a named military agent.
- enquiries relating to the car used in the attack were not pursued rigorously due to the involvement of an informant in the chain of ownership.

- the Senior Investigating Officer in 2005 led the families to believe that all relevant and appropriate enquiries relating to the possession of the car had been completed, when this was not the case.
- the police officer who gave the authorisation for the disposal of the car had been influenced by alleged family connections to persons named in the anonymous letter.

### 3.8 **Other Issues Raised**

3.9 A complaint was also made that the police investigation was not compliant with Article 2 of the European Convention on Human Rights, as incorporated by Schedule 1 of the Human Rights Act 1998.

3.10 The Police Ombudsman is of the view that alleged non compliance with the Human Rights Act 1998 due to any investigative or other failure is not a matter for his Office unless it amounts to individual officer criminality or misconduct. Issues of suspected officer criminality or misconduct have been investigated and are addressed in this Statement.

3.11 During the course of the inquest the Coroner concluded that two weapons had been used in the attack at The Heights Bar. Victims and survivors sought clarification from the Police Ombudsman's Office as to whether or not more than one weapon had been used. The Police Ombudsman has liaised with the Coroner's Office. The Police Ombudsman has not seen any evidence that more than one weapon was used during the attack at The Heights Bar.

3.12 The victims and survivors also sought confirmation that none of the suspects was a police informant at any time. In this Statement the Police Ombudsman will neither confirm nor deny the status of any individual.

- 3.13 In September 2009 the PSNI brought to the Police Ombudsman's attention material, which they believed his Investigators had not previously seen. The Police Ombudsman took the decision to review this material and not to publish his report on 15 September 2009, as scheduled.
- 3.14 On 26 October 2009, new allegations of police misconduct and criminality were made to the solicitor representing the victims and survivors of The Heights Bar attack. These allegations were in respect of a serving police officer having had possession, some years later, of cars used in the attack. The Police Ombudsman's investigation was formally notified of these allegations on 2 November 2009.

# 4.0

## Scope of Police Ombudsman's Investigation

- 4.1 The scope of the Police Ombudsman's investigation has been to determine if there is any evidence of police misconduct or criminality in relation to the matters raised.
- 4.2 This Statement examines the available evidence in respect of the complaints from the victims and survivors and details the Police Ombudsman's findings and determinations.
- 4.3 The Police Ombudsman's Investigators have conducted an independent and impartial investigation of the complaints made. They have examined relevant available documentation from the police and other sources. Police Ombudsman's Investigators have also conducted an analysis of actions taken by police at the relevant scenes; investigative opportunities, which existed; lines of enquiry undertaken; and the forensic strategy applied and have examined intelligence records held by the police.
- 4.4 All serving police officers and retired officers approached by the Police Ombudsman's Investigators co-operated with the investigation, except the initial Senior Investigating Officer (SIO), Police Officer 1, who is now retired. Members of the public also assisted in the investigation.

# 5.0

## Police Ombudsman's Investigation

- 5.1 **The initial response to the attack**
- 5.2 At 10.22 pm on 18 June 1994, a telephone call reporting the attack was made to the emergency services. Police records indicate that within 20 minutes The Heights Bar crime scene had been secured and that a cordon had been established.
- 5.3 On arrival, the police, ambulance personnel and the military attended to the dead and injured. Preservation of life was the main priority.
- 5.4 A description of the car, a red Triumph Acclaim, suspected to have been used in the attack, was immediately circulated to the local police and the military.
- 5.5 Police records indicate that by 10.25 pm a major incident contingency plan had been initiated and that within 15 minutes at least nine vehicle check points had been established by the police and the military at key road intersections.
- 5.6 The police serious crime scene log documented the attendance of all persons at the scene including the police, forensic scientists, other support agencies and military personnel. A number of senior police officers also attended the scene. Police Officer 1 was appointed SIO and Police Officer 2 was appointed Deputy Senior Investigating Officer (DSIO).
- 5.7 Police searched the immediate area for abandoned vehicles.

- 5.8 A military helicopter was requested at 10.50 pm and arrived in the vicinity at 11.55 pm. It was tasked to search for the car, which had been seen leaving the scene of the murders. The helicopter returned to base at 1.13 am on 19 June 1994 and the aerial search resumed at 8.20 am on the same date.
- 5.9 House to house and other witness enquiries were commenced and a number of statements were taken.
- 5.10 A forensic examination of the crime scene was undertaken by the police, assisted by scientists from the Northern Ireland Forensic Science Laboratory (NIFSL). The forensic examination included photographing and mapping the scene and fingerprint examination. A video recording was made of the scene.
- 5.11 Numerous exhibits were recovered. These included 29 spent cartridges and a number of bullet heads and bullet fragments from various locations within the bar. The examination of the scene continued until 7.50 pm on 20 June 1994. Exhibits recovered were submitted for forensic analysis.
- 5.12 It has been stated that a cartridge was subsequently found at the scene by a member of the public. The Police Ombudsman's Investigators have been unable to find any record of this.
- 5.13 In early February 1996, during a refurbishment of The Heights Bar, a bullet head was found in wood panelling. This was handed to police but statements were not taken at the time from the person who found the bullet head, the police officer who received it or any of the other officers who dealt with this item (continuity statements). The bullet head was submitted for forensic examination and it was established that it had come from the same batch of ammunition as that used in the attack. It has been further established that the ammunition used in The Heights

Bar attack was produced in China and was of a type not used by security forces in the United Kingdom.

- 5.14 The Heights Bar did not have any closed circuit television (CCTV) and there were no CCTV recordings from the immediate location or surrounding area to assist the police investigation. Police records confirm that no CCTV tapes were recovered in connection with the police investigation.
- 5.15 Police Press Officers attended the scene and liaised with the media. An appeal for information regarding the red Triumph Acclaim was made and continued in the following days and weeks.
- 5.16 At 11.40 pm on 18 June 1994 the UVF made a call to a local radio station using a recognised code word. The caller stated that the murders had been carried out because a republican meeting had been taking place in the bar. The caller went on to say that as long as the Irish National Liberation Army continued to attack loyalists they would “*pay the price*”.
- 5.17 At 12.39 am on 19 June 1994 a further call was made to the same radio station claiming that the UVF had attacked a republican function in South Down.
- 5.18 There is no evidence that The Heights Bar had any links to republican paramilitary activity.
- 5.19 **The operation and management of the Major Incident Room (MIR)**
- 5.20 The police set up a MIR<sup>1</sup> in the early hours of 19 June 1994 at Downpatrick RUC Station, from where the investigation was managed.

<sup>1</sup> A description of MIR and HOLMES is attached at Appendix A



- 5.21 Prior to 2004 the Police Service of Northern Ireland (PSNI) did not have dedicated Major Investigation Teams (MITs) and consequently it took time to convene the necessary staff to operate the Room.
- 5.22 A computerised system to support the management of the police investigation (HOLMES)<sup>1</sup> was opened on 19 June 1994. This would have provided the MIR with the necessary capability to manage the investigation in an organised and systematic manner.
- 5.23 With any major incident there will always be a delay before the HOLMES account is opened and during this period the police will generate a large amount of material and actions. This process is managed through a paper document management system, which is then the subject of back-record conversion once HOLMES is available. The back-record conversion process should ensure that details of all material gathered and actions completed prior to the establishment of HOLMES are fully recorded on the system to give a full picture of the investigation to date.
- 5.24 **The finding of the red Triumph Acclaim**
- 5.25 Issues relating to the red Triumph Acclaim and persons associated with it constitute a significant element of this investigation. The Police Ombudsman's investigation has therefore examined in detail the circumstances of the finding of the car, subsequent police enquiries in relation to individuals associated with it and its disposal.
- 5.26 At 9.40 am on Sunday 19 June 1994 a member of the public found a red Triumph Acclaim abandoned in a field on the Listooder Road, Crossgar, approximately seven miles from Loughinisland. Having heard media reports and believing that this car had been used in the attack, this person notified police at 10.04 am. It has been established that this person was alone at the time the car was found.

<sup>1</sup> A description of MIR and HOLMES is attached at Appendix A

- 5.27 Police attended and secured the scene and a serious crime scene log was commenced. The car was photographed in situ and a decision was taken to transport the car securely to NIFSL for a detailed forensic examination. A Scene of Crime Officer (SOCO) and a forensic scientist were not called to the scene.
- 5.28 Once the car had been removed the area was searched by police assisted by the military and search dogs. Police undertook house to house enquiries.
- 5.29 The car was forensically examined at NIFSL between 20 and 22 June 1994.
- 5.30 It was then taken to Saintfield RUC station on the 23 June 1994, where it remained for five days before being resubmitted to NIFSL for mechanical and electrical testing as a result of further witness evidence being received by police.
- 5.31 On 8 December 1994 it was returned to Saintfield RUC station, where it remained in the station yard, open to the elements. All relevant forensic examinations had taken place at that time.
- 5.32 **Police enquiries into those associated with the red Triumph Acclaim**
- 5.33 Whilst at the scene, where the red Triumph Acclaim was found, the police instigated enquiries, which established that the last registered owner (LRO) was Person A.
- 5.34 Police Ombudsman's Investigators have analysed the possession and ownership of the vehicle and have established that there were four people, who had had possession of the vehicle between 25 April 1994 and 17 June 1994. The evidence indicates that in May 1994 Person A

sold the car to Person B, who had owned the car for a very short time before selling the vehicle to Person C. Evidence also indicates that in late May or early June 1994 Person C sold the car to Person D. It has been established that Persons A – D were involved in the motor trade at that time.

- 5.35 It has been established from examination of the serious incident log that the car was reported found at 10.04 am on 19 June 1994 and that a request was made at 10.18 am for an enquiry to be made with the LRO, who was resident in the Tennent Street area of Belfast. Records show that this enquiry was conducted by Police Officer 3, who was based at Tennent Street and who was not part of the investigation team located at Downpatrick.
- 5.36 Police Officer 3 recorded that the enquiry was conducted at 9.30 am. This timing is inconsistent with the serious incident log.
- 5.37 Police Officer 3 has been interviewed by Police Ombudsman's Investigators, who have been unable to establish the reason for the discrepancy in timings.
- 5.38 Police Ombudsman's Investigators have established that Police Officer 3 called at Person A's address on Sunday morning, 19 June 1994. Person A was not at home. A person claiming to be Person A's spouse stated that the car had been taken to a garage for repair the previous week.
- 5.39 Information has been received that Police Officer 3 was unaware of the significance of this enquiry. This officer did not recall instructing any other officers within the local area, including CID officers, to progress this enquiry further.
- 5.40 Whilst the sequence of events after this initial police contact is not clear, it has been established that later the same day Police Officer 4 took a

statement from Person A (LRO) and Person B (who had previously owned the vehicle).

- 5.41 Police Ombudsman's Investigators interviewed Persons A and B and Police Officer 4. Information was received by Police Ombudsman's Investigators that Person B was telephoned at home by Police Officer 4 between 11.00 am and 12.00 noon on Sunday 19 June 1994, advising that there had been a shooting. A car linked to Person B had been involved and a request was made that Person B attend a police station.
- 5.42 Person B attended the police station and met with Police Officer 4 and Police Officer 5. The possession of the suspect vehicle was discussed and a written statement was recorded from Person B by Police Officer 4. It was subsequently established that the content of this statement accurately recorded the account given. It has been established that neither Police Officer 4 nor Police Officer 5 had been a member of the murder investigation team.
- 5.43 Whilst at the police station, Police Officer 4 requested Person B to make telephone contact with Person A. Person B complied with this request. Consequently, Person A attended the police station later that afternoon. It has been established that Person A and Person B corroborate each other's accounts in respect of their contact with police.
- 5.44 Police Officer 4 was interviewed in connection with the issues, which had emerged in relation to both the sequence in which Person A's and Person B's statements had been recorded and the reason for Police Officer 4's involvement in recording the statements. It has been stated that this officer would not have recorded these statements without a request from the MIR to do so. There is no record of any action having been raised for Police Officer 4 to take statements from Person A and Person B. In the absence of any other information, the starting point of this line of enquiry would have to have been the LRO, Person A.

Despite interviewing all persons concerned it has not been possible to clarify further the sequence of events.

- 5.45 Police Ombudsman's Investigators have established that a note was written on papers attached to the statement recorded from Person B to the effect that this person was only to be contacted through Police Officer 4.
- 5.46 Police Ombudsman's Investigators have not been able to establish either the identity of the author of or the purpose of this note but believe that it was not written by Police Officer 4.
- 5.47 As Police Officer 1, the SIO, has declined to assist the Police Ombudsman's investigation it cannot be determined if this officer was aware of the note attached to the statement but it remained that officer's responsibility to decide whether or not to question Person B further.
- 5.48 It has also been established that another officer, Police Officer 6, a member of the enquiry team, was verbally instructed by either Police Officer 1 or Police Officer 2 to attend Person A's address on 19 June 1994. No one was at home. Neither Police Officer 3 nor Police Officer 6 knew of each other's activities in relation to attending the address to make enquiries with Person A.
- 5.49 Later on 19 June 1994, Police Officer 6 took statements from Persons C and D. Whilst there is no audit trail of this tasking, this action could only have been generated following receipt of the information contained within the statement of Person B.
- 5.50 On 17 June 1994, Person D had advertised the car for sale in a newspaper. Evidence provided to police indicates that the car had been sold at 7.30 pm that evening to a person, whose name and address was supplied. Evidence also indicates that this person had paid £150 cash;

had been provided with a receipt from a receipt book; and had taken immediate possession of the car.

5.51 Having taken a statement from Person D, police attended the home address and recovered the receipt book and two £20 bank notes. Police obtained a description of the person, who had purchased the car from Person D, in order to compose a video fit. Person D was unable to supply sufficient detail to create a usable video fit. Police investigated the information and concluded that the details of the buyer provided to Person D had been false.

5.52 The cash used in the transaction was subjected to forensic examination by police. Police enquiries made regarding details of other vehicles recorded in the receipt book did not assist the investigation. Police are now unable to locate this receipt book.

5.53 There are no records of any house to house enquiries in the vicinity of the seller's address having been undertaken to provide additional details about the buyer or to verify Person D's account.

5.54 Police Ombudsman's Investigators have analysed statements in respect of all persons associated with the car. It has been established that police did not speak to one potential witness, Person E.

5.55 Person D was initially treated as a witness in the investigation, but was later arrested as The Heights Bar murder enquiry was progressed.

5.56 **Disposal of red Triumph Acclaim**

5.57 On 7 April 1995 following a request from police, Down District Council's Environmental Health Department arranged for a scrap metal firm to collect the vehicle from within Saintfield RUC station yard. Enquiries have confirmed that within a week of recovering the vehicle from police it

was crushed, baled and taken to another location, where it was fragmented.

- 5.58 There is no record that any authority was sought from the murder enquiry team in respect of the disposal of the vehicle.
- 5.59 Due to the lack of police documentation in respect of the authorisation for the disposal of the car, Police Ombudsman's Investigators interviewed retired Police Officers 7 and 8, who had worked at Saintfield RUC station at the relevant time.
- 5.60 Evidence has been received that Police Officer 7, who had been concerned about overcrowding in the yard, had submitted a report seeking authorisation for disposal of the car. This officer was not aware of the connection with The Heights Bar murders. Due to the fact that there are no records in relation to this request, it has not been possible to identify who authorised the disposal. Police custom and practice at that time was that a senior officer should have given this authorisation.
- 5.61 It has been established that Police Officer 8, who was a senior officer, had no recollection of authorising the disposal of the car.
- 5.62 A concern was raised by the victims and survivors of The Heights Bar attack that there may have been a family connection between Police Officer 8 and persons known to have been arrested in connection with the attack and that this may have influenced the decision to dispose of the car. The Police Ombudsman's investigation has found no evidence to support this belief.
- 5.63 A further concern was raised by the victims and survivors in 2006 as to why, following their formal complaint to the Police Ombudsman, the PSNI MIT, then responsible for the investigation, was conducting renewed enquiries in relation to the disposal of the vehicle. These enquiries were instigated by the SIO at that time, Police Officer 9,

seeking clarity around the circumstances of the disposal of the car as this information was not within the HOLMES account.

5.64 **Discovery of Loyalist weapons**

5.65 Shortly after The Heights Bar murders, police arrested three persons in connection with the discovery of loyalist weapons. The Heights Bar murder enquiry team was made aware of this and as a result investigated the circumstances of these arrests, seeking to establish if there was any evidential link to the attack at The Heights Bar.

5.66 Of the three persons arrested, one was charged in relation to the discovery of the weapons. The police had no evidence to link this person to the attack at The Heights Bar. In respect of the other two, (Person F and Person G), Person F was already of interest to The Heights Bar murder investigation as a result of an anonymous call. In July 1994 information was received that Person G, had been involved in The Heights Bar murders.

5.67 **Initial arrests**

5.68 Very early in the investigation, police identified persons of interest to the investigation and records indicate that the SIO, Police Officer 1, directed that as much information as possible be gathered in relation to them.

5.69 Information connected to these individuals began to be received at the end of June / beginning of July 1994. It was at that stage that Police Officer 2 developed a planned search and arrest strategy.

5.70 On 18 July 1994, police arrested 6 people (Person D, Person H, Person I, Person J, Person K and Person L) and searched their addresses in connection with The Heights Bar murders. During the course of the searches, several items were seized, assessed and, where relevant, submitted for forensic examination.



- 5.71 The Police Ombudsman's investigation has examined the custody records in respect of the arrests. The detained persons remained in custody for periods of between one and five days, during which they were interviewed.
- 5.72 It has been established that during the custody process forensic samples were obtained from the suspects for future comparison purposes. The obtaining of such samples was in line with the legislation in existence at that time. Samples would typically have consisted of fingerprints, head hair and buccal swabs (DNA). There were inconsistencies in the taking of these samples.
- 5.73 It is recognised that at that point in the investigation the police had not recovered any forensic material or samples suitable for comparison purposes.
- 5.74 All six persons arrested were released without charge.
- 5.75 **Recovery of weapons and articles used in the attack**
- 5.76 On 4 August 1994, police were alerted to the discovery of a holdall at Carsonstown Road, Saintfield. This was approximately 8.5 miles from the scene of the murders and approximately 2.5 miles from where the red Triumph Acclaim had been found. The holdall contained three boiler suits, three balaclavas, three handguns, three pairs of surgical gloves, one pair of woollen gloves, ammunition and a magazine compatible with a VZ58 rifle.
- 5.77 The police, scientific support services and the military attended the scene. Searches on the same day led to the recovery of a VZ58 rifle nearby. All the items were secured and submitted to the NIFSL for examination. Scientists confirmed that day that the rifle found had been used in The Heights Bar attack.

- 5.78 It was established that the rifle used in The Heights Bar murders was linked by ballistics to two other terrorist attacks.
- 5.79 Of the three hand guns recovered from the holdall one was linked by ballistics to three other terrorist attacks. There is evidence that the MIR at that time had requested that investigations be conducted into the linked incidents.
- 5.80 Due to advances in forensic science, in 2006 a forensic review was conducted, which identified potential lines of enquiry in relation to the linked incidents. It was agreed at that time that the PSNI Historical Enquiries Team (HET) would take responsibility for pursuing linked murders while Serious Crime Branch (C2) would have responsibility for linked attempted murders.
- 5.81 It has been alleged by the families that the VZ58 rifle used in the attack had been provided by a military agent. The Police Ombudsman has no legislative remit to investigate complaints made about alleged military agents. It has been established that the weapon used in the attack at The Heights Bar was similar in type to those brought into the country in a shipment of arms by loyalist paramilitaries, some of which had been recovered by police in 1988. Police Ombudsman's Investigators have not found any evidence, which directly links the VZ58 rifle used in The Heights Bar attack to those weapons recovered by the police in 1988.
- 5.82 **Further arrests – 1994**
- 5.83 On 22 August 1994, during a planned operation, The Heights Bar murder investigation team arrested four people (Person H, Person I, Person K and Person M), three of whom had been arrested previously in connection with the attack. These persons were interviewed; forensic samples were obtained; and submissions were made to the NIFSL.

- 5.84 The original interview notes have not been located. Summaries recorded in the HOLMES account indicate that no evidence was obtained in relation to The Heights Bar murders. All four were released the following day without charge.
- 5.85 On 15 September 1994 police arrested Person N, who was suspected of being involved in the attack, based on information received. This individual had not previously featured in the murder investigation. Person N was interviewed and denied any involvement. Forensic samples were obtained. This person was released the following day without charge.
- 5.86 **Further arrests -1995**
- 5.87 On 26 April 1995, as a result of information received, the police made a further arrest in connection with The Heights Bar murders. Person O was detained and interviewed, relevant samples were taken and an address was searched. This person was released without charge the following day.
- 5.88 **Anonymous letter received by the police**
- 5.89 On 14 February 1995, a local Councillor received an anonymous letter, which named a number of individuals as having been allegedly involved in The Heights Bar murders. This letter was passed to the police, who carried out forensic examinations and investigated its content.
- 5.90 The police identified the author of the anonymous letter. The content of the letter was largely consistent with information already held by the police. As a result of further enquiries Person P was arrested and an address was searched and items seized. Person P was interviewed and released without charge.

5.91 **Further arrests - 1996 to 1999**

5.92 On 19 February 1996 Person Q and Person R were arrested in connection with The Heights Bar murders. This was as a result of information received by the police. Properties were searched. Person Q and Person R were interviewed and some forensic samples were taken. There is no evidence from available records that buccal swabs were taken. No reason is recorded for this omission. Both persons were released without charge the following day.

5.93 As a result of additional information, on 21 February 1996 the police re-arrested Person M. This person had previously been arrested on 22 August 1994. A number of interviews were conducted and Person M was released without charge the following day.

5.94 Following further advances in forensic science technology, the police resubmitted exhibits for further analysis. This resulted in further forensic evidence becoming available and led to the re-arrests of Person H and Person M on 2 March 1999. Their interviews provided no new evidence and the new forensic evidence was of insufficient strength to enable charges to be brought. These individuals were released without charge.

5.95 On 17 August 1999, Person G was arrested on suspicion of involvement in The Heights Bar murders. Person G had previously been arrested in connection with the discovery of loyalist weapons. Following interview, Person G was released without charge. No forensic samples were taken. The Police Ombudsman's investigation has been unable to establish the reason why this arrest took place at that time; the rationale for not taking samples; and whether or not any consideration was given to the arrest of Person F at that time.

5.96 **Forensic Strategy**

5.97 As a consequence of forensic examinations at The Heights Bar, the vehicle, the weapon and the holdall, and following seizures and arrests, a significant number of exhibits were recovered by the police and submitted for forensic analysis. The Police Ombudsman's investigation has been unable to locate a documented forensic strategy for the early stages of the police investigation.

5.98 In order to understand the overall forensic strategy during the course of the police investigation, Police Ombudsman's Investigators have interviewed both serving and retired officers, scientific support staff and lead scientists. Police Ombudsman's Investigators have also conducted detailed examination and analysis of documentation created in respect of exhibits submitted for forensic examination. It has been established that the forensic examinations carried out at that time were in keeping with the techniques available.

5.99 The Police Ombudsman's investigation has found evidence that successive SIOs were reinforcing the structure of the investigation, ensuring that resources were being concentrated on forensic issues, particularly in relation to the development of Low Copy Number DNA technology.

5.100 In 2006 a further forensic review was undertaken of incidents linked to The Heights Bar attack. It was agreed that the PSNI HET would review the linked murders, which had been identified, whilst Serious Crime Branch (C2) would review the linked attempted murders.

5.101 **Progress of the investigation- 2005 to 2009**

5.102 On 7 February 2005, Police Officer 9 was appointed SIO. There is reference to previous SIOs maintaining policy files but neither the police

nor Police Ombudsman's Investigators have been able to locate these documents.

- 5.103 Since the appointment of Police Officer 9 as SIO, all investigative strategies have been documented. Police Ombudsman's Investigators have had access to this documentation.
- 5.104 In any serious crime investigation as suspects are identified methods are employed to either implicate or eliminate them.
- 5.105 An entry in the SIO Policy Log, dated 27 March 2006, provides an insight into the challenges facing the SIO at that time. *"It is apparent there are 134 suspects, however, due to the unavailability of policy logs to the current SIO and lack of detail in the HOLMES account it is not apparent why many of these individuals are suspects. It will be necessary for the purposes of planning (and further for proper disclosure and account maintenance) to ensure that these issues are properly addressed. This will necessitate research on each individual to exclude or include them in the confirmed suspect category prior to any other action."*
- 5.106 This decision was implemented and as part of this process, on 6 June 2006, police arrested a further two individuals, Person S and Person T. All necessary forensic samples were taken. Both persons were interviewed and released without charge.
- 5.107 In 2008 Person U was arrested as a result of further forensic evidence becoming available to the police in mid 2005. The Police Ombudsman's investigation is satisfied that the delay in the arrest was justified. Person U was subsequently released without charge.

5.108 **Communication Strategy with victims and survivors**

5.109 The Police Ombudsman's investigation has been unable to locate any records of any arrangements, which may have been in place to keep victims and survivors informed of developments in the police investigation between 1994 and 2003.

5.110 Following the 1999 MacPherson report into the death of Stephen Lawrence, the concept of Family Liaison was formally recognised and developed within policing in England and Wales. The Association of Chief Police Officers (ACPO) guidance was developed in 2000 and was adopted by the police in Northern Ireland in 2001.

5.111 Police Ombudsman's Investigators have established that two Family Liaison Officers (FLOs) were appointed in 2003. Records show that the two FLOs were replaced by another FLO in May 2004. Records of contact are available from that date onwards.

5.112 The SIO in 2003 recorded that, for operational reasons, certain information would not be made available to the victims and survivors.

5.113 This approach is reflected in the limited recorded contact with victims and survivors until the appointment of Police Officer 9 in February 2005. The outgoing SIO at that time, in an E-mail communication summarising his attendance at a meeting with the victims and survivors, recorded *"Family Liaison – Recognising and apologising for failures in earlier years, I explained how these matters had now been addressed by the Chief Constable and the protocols and training currently in place regarding same"*.

5.114 One of the first policy decisions recorded by the incoming SIO, Police Officer 9, states *"Family liaison to remain the responsibility of [the previous FLO]"*. The reason for this decision is recorded as *"this officer has already had some contact with the families in previous meetings and*

*should remain given the other significant personnel changes in the investigation”.*

- 5.115 This was followed by a further policy decision dated April 2005 to “*Progress a meeting with the families in this case as soon as practicable*”. The reason for this decision was “*to introduce the new SIO and to inform families of the up-to-date position...*”. This decision was further documented in the policy log by Police Officer 9 in relation to a planned meeting with the victims and survivors on 26 July 2005, along with the Assistant Chief Constable (ACC) of Crime, Police Officer 10.
- 5.116 Police Officer 9 and Police Officer 10 met with the victims and survivors on 26 July 2005. The main aims of Police Officer 9 for this meeting were recorded as being to explain the current status of the investigation and to understand the needs, concerns and expectations of the victims and survivors.
- 5.117 The victims and survivors reported that during the course of the meeting, Police Officer 10 commented about perceived delays in forensic re-examination of exhibits, particularly in relation to advancements in DNA. Police Officer 10 attributed this, in part, to difficulties due to the loss of CID personnel to early retirement under the provisions of the Patten recommendations. The victims and survivors considered these comments to be insensitive.
- 5.118 In order to address this complaint Police Ombudsman’s Investigators interviewed Police Officer 10. It was established that the opinions expressed by Police Officer 10 reflected his views about investigative resources. There is no evidence that these opinions were intended to be insensitive, but the Police Ombudsman accepts they appeared so to the families.
- 5.119 Another aspect of the complaint, which was made in March 2006, is that there have been occasions when the victims and survivors had been led



to believe that arrests were planned. A particular example was cited in relation to a meeting between the police and victims and survivors on 11 October 2005, when it was intimated that arrests were imminent. No arrests were made until June 2006.

5.120 In April 2006, after the complaint had been made to the Police Ombudsman, Police Officer 9 recorded a policy decision, detailing the intention to develop a communication strategy which would include confidential briefing of the victims and survivors prior to any further arrests being made.

5.121 On 5 June 2006 Police Officer 9 met the victims and survivors and informed them that arrests would be made the next day. At this meeting the victims and survivors requested that all future contact be made through their solicitor. A policy log entry by Police Officer 9 confirms this position. Two arrests were made the next day.

5.122 The victims and survivors also complained that Police Officer 9 had been unaware that one of the persons, who had come to the attention of police during their investigation, was a police informant. Police Ombudsman's Investigators have examined all of the issues relating to this and although the Police Ombudsman will neither confirm nor deny the status of any individual, he is satisfied that no police misconduct arises from this allegation.

5.123 **Loss of documentation**

5.124 None of the original notes, made during interviews of suspects between 1994 and 1995 in The Heights Bar murder investigation, has been recovered by the Police Ombudsman's investigation. In 1998 documents were destroyed as a result of contamination by asbestos at Gough Police Office. It is believed that the original notes were amongst these documents. From examination of other documentation and records on the HOLMES account and from interviews of police officers it

has been confirmed that all interviews during this period were recorded appropriately.

- 5.125 Full records of all interviews conducted after 1995 have been recovered.
- 5.126 As previously highlighted in this report the absence of policy files for the early stages of the investigation has made it difficult to establish the thinking of the SIOs prior to 2005 in respect of various issues, including the timing of arrests and the basis for implicating persons in the attack or eliminating persons from the enquiry.
- 5.127 **New information - 2009**
- 5.128 In September 2009 the PSNI brought to the attention of the Police Ombudsman's Investigators documents, which the PSNI believed that the Police Ombudsman's investigation had not previously seen. On subsequent examination of the documents it was established that the content was already known to the Police Ombudsman's investigation.
- 5.129 In November 2009 new witness evidence from Person V was brought to the attention of the Police Ombudsman's Office by the solicitor representing the victims and survivors. Person V had featured as a witness very early in the police investigation, having seen the red Triumph Acclaim shortly after the murders.
- 5.130 The solicitor had appeared in a television broadcast on 24 September 2009, when the disposal of the red Triumph Acclaim in April 1995 had been discussed. As a result of this broadcast, Person V came forward and evidence emerged that a number of years after the attack at The Heights Bar the car which had been used had been seen at the premises of a serving police officer, Police Officer 11.
- 5.131 The Police Ombudsman's investigation established that having become acquainted with Police Officer 11, Person V visited Police Officer 11's

home. The Police Ombudsman's investigation has further established that this is unlikely to have been before 2002.

- 5.132 Police Officer 11 had allegedly given the impression that the car was being stored on behalf of police. In addition, information was provided that a green car also at these premises at the same time had been used in the murders. This was the first time that a green coloured car was associated with the murders.
- 5.133 It was alleged that Police Officer 11 had indicated that the two vehicles had been removed by members of the PSNI HET. No evidence has been found by Police Ombudsman's Investigators to support this allegation.
- 5.134 There is no evidence that Police Officer 11 stored vehicles on behalf of the police.
- 5.135 During the course of Person V's interviews with Police Ombudsman's Investigators the content of statements made by this person at the time of the murders were read by Person V.
- 5.136 The content of a statement made by Person V to the police investigation on 19 June 1994 was confirmed to be authentic but it was alleged that it did not include key information supplied by Person V to a Detective in the early hours of that day. Person V gave a description of this Detective.
- 5.137 Police Ombudsman's Investigators have confirmed that Person V made a call to the police at 1.40 am on 19 June 1994. There is no record to indicate that an officer was sent to Person V's address at that time. Despite extensive enquiries Police Ombudsman's Investigators have been unable to identify any police officer, who visited Person V during the early hours of 19 June 1994.

- 5.138 Police Ombudsman's Investigators interviewed Police Officer 12, who recorded a written statement from Person V. This officer was interviewed under caution and denied that the statement was incomplete adding that had any additional information been provided then it would have been recorded. It was established that Police Officer 12 did not commence duty until 9.00 am on the morning of 19 June 1994 and consequently could not have been the officer to whom Person V had allegedly provided the information in the early hours of that morning. Following the recording of Person V's statement, Police Officer 12 recorded elsewhere that Person V had been unable to provide any further information which could have assisted the investigation.
- 5.139 On 22 June 1994, Person V provided a further witness statement in relation to the sighting of another car in the days leading up to the attack.
- 5.140 It was further claimed that Person V received a telephone call in 2008 from a person with an English accent, who identified himself as a police officer enquiring as to Person V's availability to participate in an identification procedure. Police Ombudsman's Investigators have been unable to find any evidence to corroborate this account.
- 5.141 Police Ombudsman's Investigators also considered the allegation that Police Officer 11 had passed Person V's contact details to Person W, a witness who had come to the attention of Police Ombudsman's Investigators through a legal representative and who had information about the attack.
- 5.142 It was established that a handwritten note containing Person V's name, address, telephone numbers and other information was recovered by police from Person W's home. Handwriting analysis and comments by Person W indicate that the note originated from Police Officer 11.

Person W elected not to co-operate with the Police Ombudsman's investigation.

- 5.143 Further information was received from the solicitor representing the victims and survivors that Person W had provided him with information that Person X had been involved in The Heights Bar murders.
- 5.144 As Person X was not a police officer this matter was referred to the PSNI in accordance with legislative requirements.
- 5.145 In view of the serious nature of the allegations relating to Police Officer 11, Police Ombudsman's Investigators arrested this officer on 21 January 2010 on suspicion of Attempting to Pervert the Course of Public Justice, Assisting Offenders and Withholding Information. As a result of information available at that time properties believed to be associated with Police Officer 11 were searched, but nothing of any evidential value was found.
- 5.146 At interview on 21 January 2010, the allegations were denied by Police Officer 11. Police Officer 11 was released pending further enquiries.
- 5.147 On 8 March 2010 Police Officer 11 was further interviewed in relation to these allegations, which were again denied. A file was submitted to the Public Prosecution Service in May 2010 and there was a direction of No Prosecution on 10 November 2010.
- 5.148 On receipt of this direction of no prosecution, Police Officer 11 was the subject of a formal misconduct interview on 18 November 2010 by Police Ombudsman's Investigators. A file was submitted to the PSNI's Professional Standards Department later in November 2010. No disciplinary action was taken against Police Officer 11.

# 6.0

## Summary of Police Ombudsman's Investigation

### 6.1 **Remit and Scope of Police Ombudsman's Investigation**

#### 6.2 **Remit**

6.3 The objective of the Police Ombudsman's investigation has been to determine whether or not there is evidence of criminality or misconduct by any police officer in relation to the effectiveness of the police investigation, including communication with victims and the suspicion that collusion pervaded the circumstances of the attack and subsequent police enquiry. As the Police Ombudsman's remit is to examine the conduct of police officers, he will only comment on the role of other state agencies insofar as they relate to the actions of police.

#### 6.4 **Scope**

6.5 The Police Ombudsman must focus his determinations on the conduct of police officers. While his determinations are evidence-based and reached on the balance of probabilities, the challenges of investigating retrospective matters almost inevitably require that these are drawn from a combination of those matters, which can be proven; expert opinion; and identifiable custom and practice.

6.6 The suspicion of collusion pervades many of the individual allegations made. This Statement sets out in detail the Police Ombudsman's findings, including those in respect of the allegations of collusion.

6.7 **Evidential Analysis and Findings**

6.8 The officers who responded to the initial call, along with the other emergency services, secured the scene; initiated emergency actions; and assisted those, who had been injured and other people present. Within minutes of the attack being reported the police and the army had established a series of coordinated vehicle check points and searches. The crime scene at The Heights Bar was the subject of extensive forensic examination by the police and Forensic Scientists over a period of two days. The police recovered twenty nine spent cartridges along with a number of bullet heads and bullet fragments.

6.9 In relation to the report of a cartridge having been found at the scene of the attack by a member of the public, Police Ombudsman's Investigators have been unable to find any record of this.

6.10 In 1996, two years after the incident, a bullet head was found during refurbishment of the premises. It was established that this bullet was of the same type as those discharged by the weapon used in the attack and was therefore of no further evidential value. The absence of continuity statements in relation to the recovery of this item is therefore of no evidential impact.

6.11 **Finding 1: The Police Ombudsman is satisfied that the initial police response to the attack at The Heights Bar was immediate and effective.**

6.12 **Finding 2: Whilst the Police Ombudsman accepts that there was a large number of exhibits seized by police at the scene of the attack, he nevertheless considers that**

**there were oversights in relation to the discovery and handling of a bullet head and a cartridge. It is the Police Ombudsman's view that, on balance, the failings identified did not undermine the police investigation.**



6.13 On 19 June 1994, following the finding of the red Triumph Acclaim, the police attended the scene, secured the area and made local enquiries. The police and the military conducted extensive searches of the immediate area. A decision was made to remove the vehicle to the NIFSL for examination in keeping with practice at that time. Therefore a SOCO and a Forensic Scientist were not called to the scene. The vehicle was subjected to forensic examination using the technology available at that time.

6.14 **Finding 3: The Police Ombudsman is satisfied with the actions taken by police at the scene, where the red Triumph Acclaim car was found.**

- 6.15 The Police Ombudsman's investigation has identified that a number of significant actions, which were carried out in the early stages of the investigation, were not recorded on HOLMES. Additionally, the manner in which the actions in relation to the investigation around the ownership of the red Triumph Acclaim were recorded on HOLMES and the subsequent failings to consider properly the content of the associated statements and to generate any resultant actions demonstrate that the administration of the investigation was mismanaged in the crucial early stages.
- 6.16 While accepting that the statements of Persons A- D were taken during the first day of the investigation and before the HOLMES account was fully operational, due to the lack of police records the Police Ombudsman is unable to determine the exact sequence of events, which led to statements being taken from Persons A-D.
- 6.17 **Finding 4: It is clear that the MIR failed to analyse properly the contents of the statements associated with the car ownership. These statements went to the very core of the investigation and the failure to deal with them properly meant that potentially significant lines of enquiry were not identified.**
- 6.18 **Finding 5: The administration of the MIR in the early stages of the investigation was poorly managed and this contributed to investigative opportunities being missed.**

- 6.19 Police Ombudsman's Investigators have established that the red Triumph Acclaim was destroyed in April 1995. Prior to its disposal, all relevant forensic examinations available at that time had been conducted and it was subsequently stored within the compound of Saintfield RUC station, where it was open to the elements. There is no record of any communication with the MIR prior to the disposal of the red Triumph Acclaim and no documentation has been located detailing any authority given for the disposal.
- 6.20 A concern was raised by the victims and survivors that there may have been a family connection between Police Officer 8 and individuals known to have been arrested in connection with the attack and that this may have influenced the decision to dispose of the red Triumph Acclaim.
- 6.21 Following a complaint to the Police Ombudsman's Office in 2006 relating to the disposal of the red Triumph Acclaim, further enquiries were made at the direction of Police Officer 9. This was perceived by the families as an attempt by police to avoid criticism by the Police Ombudsman.
- 6.22 **Finding 6: The disposal of the car should not have taken place without the express authorisation of the SIO of The Heights Bar murder investigation. There is no evidence that this authorisation was either sought or given. It cannot be determined whether or not the disposal of the car resulted in the loss of future evidential opportunities.**
- 6.23 **Finding 7: The Police Ombudsman's investigation has found no substance to the allegation that there was a link between Police Officer 8, those arrested and the decision to dispose of the car.**

6.24

**Finding 8: The Police Ombudsman is satisfied that the actions directed by Police Officer 9 were taken to address concerns in relation to the circumstances of the disposal of the car.**

- 6.25 Following the finding of the holdall and associated weapons on 4 August 1994, police identified that these weapons were linked to a number of other incidents. Investigations were undertaken in respect of the links. In 2006 a forensic review was conducted, which identified potential lines of enquiry.
- 6.26 It was agreed in 2006 that the PSNI HET would review the linked murders whilst Serious Crime Branch (C2) would review the linked attempted murders. As of September 2009 this work had not commenced. The Chief Constable of the PSNI has recently informed the Police Ombudsman that these reviews have been completed.
- 6.27 **Finding 9: In 2006 the PSNI identified the need to conduct reviews of linked incidents. The Police Ombudsman is concerned about the time taken to progress these reviews but acknowledges the Chief Constable's response indicating that they have now been completed.**

- 6.28 Police Ombudsman's Investigators have established that, over the years, 16 people have been arrested (some more than once) in connection with the attack at The Heights Bar in Loughinisland. These arrests demonstrate that efforts have been made to progress the investigation and identify and bring to justice those involved in the attack.
- 6.29 The absence of policy logs and the unavailability of an account from Police Officer 1 (now retired) have made it difficult to establish the investigative strategy in relation to arrests and the timing of arrests.
- 6.30 The victims and survivors raised a concern that an arrest, promised by Police Officer 9 in 2005, did not happen. The Police Ombudsman is satisfied that the operational reasons put forward by police for delaying this arrest are valid.
- 6.31 **Finding 10: Whilst the Police Ombudsman has been unable to establish details of all the arrest strategies, he is nevertheless satisfied that police made significant efforts to arrest suspects.**

- 6.32 An allegation was made that police failed to deal properly with 177 exhibits. It has been established that during the course of the investigation forensic reviews have been conducted, which resulted in the examination of exhibits in line with advances in forensic science. It is regrettable that such information was not made available to the victims and survivors during the course of the investigation.
- 6.33 It has been identified that during the initial stages of the investigation there were administrative failings in the recording of negative results from the NIFSL. At that time, the practice was for Forensic Scientists not to provide the police with written reports when examinations of exhibits had negative results. The findings were communicated verbally. Police Ombudsman's Investigators have been unable to locate records of results having been recorded within the MIR. This matter was addressed by subsequent SIOs.
- 6.34 Records relating to the detention of suspects indicate a lack of consistency in the manner in which forensic samples were obtained from them. Due to the unavailability of recorded decisions by the original SIO there is no record of any rationale for the criteria used for the taking of samples from suspects during the period 1994 to 1996. This lack of clarity was addressed in later years.
- 6.35 **Finding 11: The Police Ombudsman has identified failings in the forensic strategy adopted by police in respect of the recovered samples. There is no evidence that these failings undermined the enquiry into the murders at The Heights Bar.**

6.36 The police investigated the anonymous letter and its content, which was significant. The content of the letter was largely consistent with information already held by police. Follow-up enquiries were conducted and these resulted in arrests being made.

6.37 **Finding 12: The anonymous letter and its content were dealt with appropriately by police.**



6.38 The HOLMES account was opened on 19 June 1994 and, whilst it is accepted that it was not fully operational in the first number of days, there is evidence that some of the early actions were not recorded properly.

6.39 In 2005 when Police Officer 9 was appointed SIO, the focus was very much on forensic issues. It was during this period that the SIO identified the failure to record fully on HOLMES the results of all the forensic examinations.

6.40 It was further identified that there were failures in the categorising of suspects on the HOLMES database.

6.41 **Finding 13: The Police Ombudsman has identified failings in the management of the HOLMES account, which may have resulted in the loss of evidential opportunities.**

6.42

There is no record of contact from 1994 to 2005 between the police and the victims and survivors. Family Liaison Officers (FLOs) were not routinely appointed by the police until 2001 and police acknowledge that updating victims and survivors was not done as a matter of course. It has been established that in 2003, or shortly thereafter, a decision was made not to update victims and survivors. However, there was much within the investigation of which the victims and survivors should have been made aware. This included a review of forensic science material; an update on the progress of the investigation; and difficulties being faced by the enquiries team. All of this could have been shared with the victims and survivors without compromising the investigation. While accepting that between 2005 and 2006 the police made genuine efforts to engage with victims and survivors, communication with them was largely ineffective.

6.43

**Finding 14: Police have failed to communicate effectively with victims and survivors of The Heights Bar attack. This may have contributed to their lack of confidence in the investigation.**

- 6.44 Victims and survivors state that the police investigation was fundamentally flawed due to the protection of police informants. It is also alleged that there was police collusion not only in the investigation but also in the planning and commission of the murders.
- 6.45 In previous reports the Police Ombudsman has noted that the term 'collusion' is ill-defined, without a single accepted all-encompassing definition. The New Oxford Dictionary of English defines the verb 'collude' as; '*Come to a secret understanding; conspire.*'
- 6.46 In previous Public Statements the definition of collusion, as proposed by Justice Cory, has been used by this Office as the basis for commentary on allegations of police collusion. As stated by Judge Cory, because of the necessity for the public to have confidence in the police, the definition of collusion must be reasonably broad. There can be little doubt that collusion must of necessity involve an act or omission, committed for a corrupt purpose. Collusion is a matter of the utmost gravity and therefore before a determination can be made that collusion has occurred it must be shown that the improper conduct was intentional. Inadvertence, incompetence or even negligence or recklessness is not sufficient. There must be sufficient evidence of a conscious and deliberate act or omission, by means of which police officers intended to assist offenders either in the commission of a crime or in evading detection or apprehension.
- 6.47 Collusion may or may not involve a criminal act. The Police Ombudsman's responsibility in this matter is to reach a determination on the actions of police. He may only investigate and report on matters of alleged police criminality or misconduct.
- 6.48 Police Ombudsman's Investigators have examined all available intelligence and are satisfied that there was no intelligence in 1994,

which could have prevented the attack at The Heights Bar. Intelligence available following the attack was shared with the investigation team.

6.49 It has been established that numerous vehicle check points were set up by the police and the military at agreed intersections. The Police Ombudsman's investigation has not identified any evidence that those involved in the establishment and operation of the vehicle check points assisted in providing the getaway car with safe passage from The Heights Bar.

6.50 **Finding 15: The Police Ombudsman has found no intelligence or information that police could have prevented the attack at The Heights Bar. There is also no evidence that police colluded with those responsible for the attack at The Heights Bar.**

6.51 The role of police officers, who took statements from those associated with the red Triumph Acclaim, has been thoroughly examined by the Police Ombudsman's investigation. There is insufficient evidence that any relationship, which may or may not have existed between the police and any other party, had a detrimental impact on the police investigation. It is important to note that the MIR was provided with the statements recorded by the police officers concerned. Responsibility for further enquiries in relation to these statements was that of the SIO.

6.52 **Finding 16: There is insufficient evidence to establish that the failures identified in relation to police enquiries into the ownership of the red Triumph Acclaim resulted from a collusive act or omission.**

6.53 The Police Ombudsman's investigation has established that the car was destroyed within 10 months of it being seized. The circumstances of how this occurred have been thoroughly examined.

6.54 **Finding 17: The Police Ombudsman has found no evidence that the car was destroyed deliberately for any corrupt purpose and finds that its disposal was therefore not a collusive act.**

- 6.55 In November 2009 and January 2011 the following issues raised by Person V were brought to the attention of Police Ombudsman's Investigators
- 6.56 Police failed to record accurately Person V's initial account of events in the early hours of the morning after the attack.
- 6.57 In the early hours of 19 June 1994 Person V was one of the witnesses, who reported having seen the red Triumph Acclaim shortly after the attack at The Heights Bar. Other witness evidence corroborates the sighting of this car in the immediate area of the attack. Documentation confirms that Person V contacted the police at approximately 1.40 am on 19 June 1994. It is alleged that in response to this telephone call Person V was visited by a police officer a short time later. It is alleged that at this time relevant information was provided to police. There are, however, no police records of such a visit at that time. It has been confirmed that police visited Person V later that morning and that a written statement was obtained.
- 6.58 Police failed to record significant information in a witness statement.
- 6.59 This failure was in respect of specific important information in relation to the red Triumph Acclaim. Police Ombudsman's Investigators have reviewed statements made by Person V; have interviewed relevant police personnel; and have secured associated documentation. The content of the two statements made by Person V did not include this specific important information. The officer, who took the first statement, records elsewhere that Person V had been unable to provide such information. The second statement was in relation to the sighting of an unrelated vehicle on the day prior to the attack.

- 6.60 Issues pertaining to the discovery and possession of vehicle or vehicles used in the attack at The Heights Bar.
- 6.61 Police Ombudsman's Investigators have accounted for the storage location of the red Triumph Acclaim involved in the attack at The Heights Bar from it being found by a member of the public to its disposal. There is no evidence to corroborate Person V's account that this vehicle was stored at any time in premises belonging to Police Officer 11.
- 6.62 There is, however, evidence that there were conversations between Police Officer 11 and other witnesses about the cars involved. There is corroboration of Person V's account regarding the presence of a green car at the premises of Police Officer 11.
- 6.63 Police Officer 11 passed Person V's details to a member of the public.
- 6.64 Police Officer 11 has been unable to account satisfactorily for this information being in possession of Person W. Person W has declined to co-operate with the investigation.
- 6.65 The actions of Police Officer 11 have been thoroughly examined by Police Ombudsman's Investigators. Reports were submitted to relevant authorities in relation to criminal and misconduct matters and Police Officer 11 has been subject to due process.



6.66

**Finding 18: The Police Ombudsman has considered the accounts provided by both Person V and Police Officer 11 and accepts that each represents an honest belief of certain events based on their recollections. He has found that there are several irreconcilable inconsistencies in the evidence provided. Police Officer 11 has been subject to due process and no criminal or disciplinary proceedings have resulted.**

# 7.0

## Conclusions

- 7.1 The atrocity of 18 June 1994 at The Heights Bar resulted in the murders of six people and the serious injury of others. It deeply shocked the local and wider community and 17 years later the suspected UVF perpetrators of this crime have not been brought to justice. This is regarded as a failure by the families.
- 7.2 The initial actions of the police with respect to response, scene management, media appeals, vehicle recovery and forensic examinations were appropriate, despite minor failings in respect of the recovery of a cartridge and a bullet head. These did not undermine the subsequent police investigation.
- 7.3 Whilst there was significant effort in the early stages of the investigation and continuing efforts over the years, the initial administration of the MIR and HOLMES was poorly managed and this led directly to investigative opportunities being missed. This failed the families.
- 7.4 There are several individual failings such as missing records and exhibits; improper destruction of a suspect vehicle; and a failure to investigate linked incidents properly at an appropriate stage and in a timely manner. These cumulatively indicate a lack of a cohesive and focused effort over the years. Scientific advances provided new opportunities, which were taken. An attempt made by a new SIO in 2005/2006 to regain some focus has not been sustained. The families have been failed by this intermittent focus and attention.

- 7.5 There are allegations that informants were protected by the police, particularly in relation to the suspect car recovered. Whilst the Police Ombudsman will neither confirm nor deny the status of any individual, he is satisfied that no suspects in the police investigation were afforded protection as informants.
- 7.6 There is no evidence that the police colluded with those responsible for the attack in any of the other matters examined in this investigation.
- 7.7 The police have failed to communicate effectively with the victims and survivors over the years. This has resulted in a lost opportunity for the police to provide accurate information and has contributed to a loss of confidence in the investigation.
- 7.8 New allegations were brought to the Police Ombudsman in 2009 regarding a police officer's involvement after 2002 in the storage of vehicles, believed to have been related to The Heights Bar murders. This matter, along with other issues which arose, has been fully investigated. The police officer has been the subject of due process with the result that no criminal or misconduct proceedings have been taken.
- 7.9 The Police Ombudsman has reported on individual and collective failings regarding specific aspects of this investigation and acknowledges that the victims and survivors perceive these failures as collusion. Whilst the Police Ombudsman has found insufficient evidence to support this, he takes the view that the failings identified in this report indicate a lack of effective leadership and investigative diligence. There has been a lack of coordination and commitment to pursue relentlessly all investigative opportunities to bring those persons responsible to justice.

# 8.0

## Recommendations

- 8.1 The Chief Constable should commission a full Major Crime Review of the Loughinisland murder investigation to ensure that all possible investigative opportunities have been identified, recorded and acted upon.
  
- 8.2 The Chief Constable should commit to ensuring that sufficient resources are made available to pursue fully any investigative opportunities arising from the Major Crime Review.
  
- 8.3 The Chief Constable should seek to re-establish effective lines of communication with the victims and survivors of The Heights Bar attack.

HOLMES, the Home Office Large Major Enquiry System, was introduced in 1986 and adopted by all police forces in the United Kingdom. The system was developed to improve the effectiveness and efficiency of major crime investigations.

Any major or complex police investigation generates a large mass of information. HOLMES supports the Senior Investigating Officer by processing and categorising the data to ensure that vital links are not missed.

All Major Incident Rooms (MIRs), which employ HOLMES are structured to ensure that information received into the room is processed in a prescribed manner. To achieve this trained staff are employed in key roles and are given specific responsibilities. The Receiver is the first point of contact in the MIR for any material being received. It is the role of the Receiver to check the information and to determine whether or not any urgent action is required and to instigate any such action. The Receiver also performs a quality control function. The information is then passed to a Document Reader who has the responsibility for making a detailed assessment and ensuring that all relevant information is highlighted for indexing. The Indexer inputs the information onto HOLMES and ensures that the correct links are made within the database. As with any computer system of this nature, its reliability depends on the accuracy of the data input.

By 1994 it was recognised that HOLMES had limitations in relation to how separate incidents could be linked, particularly across force boundaries. As a result HOLMES2 was developed and this was released in 2000 and was adopted by all forces by 2004. The application allowed for existing HOLMES databases to be converted to HOLMES2 and The Heights Bar HOLMES account was transferred to HOLMES2 in 2004.