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## Patrick Kelly's Family 'Failed By Police'

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The Police Ombudsman has concluded that the family of Patrick Kelly, abducted and murdered in 1974, was 'failed by police' as the result of a 'wholly inadequate investigation'.

In a public statement issued today (26 April 2023), the Ombudsman, Mrs Marie Anderson, addresses the questions and concerns raised by Mr Kelly's family about the original RUC investigation.

PDF: Full public statement



[SAKER-PUBLIC-STATEMENT.pdf](#)

As well as finding a series of investigative failings, including that the senior investigating officer showed 'latent' investigative bias, Mrs Anderson also concluded that the withholding of intelligence from the murder investigation team and the failure to act on intelligence about an active UVF unit in the Fermanagh area was indicative of 'collusive behaviour' on the part of RUC Special Branch and the 'L' Division Commander who was responsible for oversight of the investigation.

### **The abduction and murder of Patrick Kelly**

Last seen leaving his place of work, the Corner Bar in Trillick, County Tyrone, in the early hours of 24 July 1974, Mr Kelly was a 35 year old married man with four children at the time of his murder. He was also an independent nationalist councillor on Omagh District Council

His body was recovered from Lough Eyes near Lisbellaw in County Fermanagh on 10 August 1974. Mr Kelly had been shot six times.

As well as the original RUC investigation, a review of the case in 2001 led to a re-investigation by the PSNI which was conducted between 2003 and 2005. Although the reinvestigation resulted in a number of arrests, there were no convictions.

To date, no one has been charged with, or prosecuted for, Mr Kelly's murder.

In 2002, Mr Kelly's family made a complaint to the then Police Ombudsman regarding the circumstances of

his murder and the original 1974 RUC investigation.

The complaint included an allegation that ‘police failed to investigate a number of individuals who were linked to Mr Kelly’s murder, because they were UDR members... If this was the case, then it would amount to collusion.’

### **Investigative failings**

The Police Ombudsman’s report catalogues a series of ‘significant’ investigative failings, which were:

- Failure to adequately verify the alibis of UDR members and failure to record detailed witness statements
- Failure to link cases
- Forensic failings including failure to make enquiries about footwear marks, failure to recover the boat at Lough Eyes and no record of fingerprint enquiries
- Failure to make enquiries about an anonymous letter, and
- ‘Latent’ investigative bias on the part of the senior investigating officer.

“Investigative failings were central to the family’s complaint and my investigation has found that there were a number of significant failings,” said Mrs Anderson.

### **Failure to verify UDR alibi witness accounts**

The relevant RUC investigation papers evidence that, at an early stage in the investigation, the senior investigating officer considered the involvement of UDR members in the murder as a key line of enquiry and recorded that UDR involvement was also rumoured in the local community.

Although 20 UDR members were interviewed or had witness statements recorded to establish their movements on the night of the abduction, the majority of the alibis provided were not checked.

Mrs Anderson said: “The senior investigating officer initially considered that UDR members may have been involved in Mr Kelly’s murder. It was his responsibility to assess the alibis provided by all of the UDR members concerned and to test their accounts. I am of the view that he did not do so adequately.

“This failure to gather evidence which may have eliminated or implicated UDR members as potential suspects in Mr Kelly’s abduction and murder impacted on the ability to complete other lines of enquiry which, if followed, may have led to potential arrests.”

“It is also noteworthy that in his final investigation report, the officer who led the PSNI re-investigation recorded that *‘the statements obtained in 1974 amount to one or two paragraphs and self alibi one another. They were not tested by the 1974 team and obtained two weeks after Kelly disappeared.’*

### **The failure to link cases**

The failure to consider linkages between Mr Kelly’s murder and precursor events has also been highlighted as a ‘concern’ by the Ombudsman.

These included the murder of UDR member Robert Jameson on 17 January 1974 for which the IRA claimed responsibility and which provoked a retaliatory attack on the Corner Bar in Trillick the next evening.

That same evening, a gun attack occurred at two premises in Enniskillen.

The same weapon, a .455 revolver, was used in all three attacks and the firearm was also used in the murder of James Murphy in April 1974.

Three months later, Mr Kelly was abducted and murdered, although the same .455 revolver was not used.

The following year, in May 1975, a Catholic lorry driver was murdered at Scarbrae, Irvinestown. An individual was arrested, and convicted for the murder. That same individual, along with others, had been named in intelligence received by RUC Special Branch in 1975 as being responsible for Mr Kelly's murder.

### **Forensic Failings**

The Ombudsman also identified a number of forensic failings, among the most significant being the failure to make enquiries about footwear marks recovered from the site of Mr Kelly's abduction and the failure to recover a boat at Lough Eyes, where Mr Kelly's body was found.

### **The boat at Lough Eyes**

A search at the Lough Eyes scene located a piece of material, identified as a missing piece of the shirt which Mr Kelly has been wearing at the time of his abduction. It was found attached to the bottom of a boat close to where his body was found and may have been used when disposing of Mr Kelly's body.

However, the boat was not recovered for forensic examination or photographed at the scene which may have secured evidence and opened other lines of enquiry.

Although police identified 18 people who either owned boats, or fished, on Lough Eyes and spoke to 14 of them, there was no indication in the investigation papers that the owner of the boat was ever identified or interviewed by police.

### **Fingerprints and footwear marks**

The Ombudsman's investigation also found no record of enquiries relating to the origins of the 56-pound weight which was tied by a rope to Mr Kelly's body nor to fingerprints found on Mr Kelly's car which may have helped to identify potential suspects.

Footwear marks from boots associated with a type worn by members of the security forces, were found at the scene of Mr Kelly's abduction (Badoney Road).

Considered as being too common by the senior investigating officer, no further enquiries were made about

the footwear marks and the opportunity to compare those at the scene to footwear of the UDR members relevant to the investigation was missed.

### **Anonymous information**

The Ombudsman's investigators also found no records that an anonymous letter received by a military commander in Omagh and which named four UDR members as having been involved in Mr Kelly's abduction, two of whom had been interviewed as witnesses, had been secured or forensically examined. This has been identified as an investigative failing.

### **'Latent' investigative bias**

The Ombudsman's investigation has found that although the senior investigating officer in charge of the murder investigation initially considered the involvement of UDR members in the murder, he subsequently failed to test alibi accounts with corroborating witnesses and yet he reported in 1974 that the movements of all UDR personnel had been verified.

In his subsequent 1979 report he stated: *'The suggestions of UDR involvement appear to be an attempt to blame someone and add fuel to a smear campaign in operation around Trillick at that time'* and maintained that he was satisfied UDR members were not involved.

Mrs Anderson said: "As the officer in charge of the investigation, he had a duty to maintain an open mind and pursue all reasonable lines of enquiry.

"I am of the view that, alongside the investigative failings, the comment made and the conclusions drawn in the senior investigating officer's 1979 report are indicative of 'latent' investigative bias which led him to discount the potential involvement of UDR personnel at an early stage of the investigation."

### **Non-dissemination of intelligence**

Although the investigation found no intelligence that could have forewarned of, or prevented, Mr Kelly's murder, there was intelligence which included significant information linking UDR members and other individuals to Mr Kelly's abduction and murder.

As early as 28 July 1974, intelligence provided to RUC Special Branch indicated Mr Kelly had an argument with a UDR patrol a number of days before his abduction.

In early August 1975, more than a year after the murder, intelligence named two UDR members as having carried out the murder. Both members had been interviewed as witnesses early in the RUC investigation.

Another piece of intelligence indicated that other relevant UDR members were also part of a Loyalist Defence Volunteers (LDV) unit.

In September 1975, further intelligence named individuals as being responsible for Mr Kelly's murder and

identified a person who had stolen the 56-pound weight from an identified location.

Records indicate that some of this intelligence was shared with the local 'L' division commander who had responsibility for oversight of the murder investigation and that some was shared with 'CID'. There is no record of which CID officers received it.

There is also no evidence that any of the intelligence was ever received by the murder investigation team.

The senior investigating officer has consistently stated that he did not receive intelligence at any point linking UDR members and other individuals to Mr Kelly's abduction and murder and that, had he been supplied with relevant intelligence, he would have made arrests.

Based on the available evidence and his consistent accounts, the Ombudsman accepts that none of the intelligence gathered by RUC Special Branch was disseminated to him.

Mrs Anderson is critical of the Special Branch approach to withholding intelligence that would have assisted a murder investigation and the practice of limiting the further dissemination of relevant information by marking it as 'NDD' (not for downward dissemination).

### **Failure to act on intelligence**

The Ombudsman's investigation also established that RUC Special Branch and the 'L' Division Commander were aware of significant intelligence from 1975 reports that a UVF unit was active in the Fermanagh area at the time of Mr Kelly's murder.

A number of this UVF unit's members were either directly, or indirectly, linked to Mr Kelly's murder and other terrorist attacks. The intelligence indicated that the UVF unit was assisted in their activities by a number of identified RUC and UDR members.

However, there is no evidence that any action was taken by the 'L' Division Commander to act on the intelligence which the Ombudsman's investigation has established was not shared with the murder investigation team.

### **Failure in senior officer oversight**

A lack of senior officer oversight of the murder investigation is also criticised by the Ombudsman.

The investigation found no evidence of intervention by senior officers to support the officer in charge of the investigation into Mr Kelly's murder, who the Ombudsman accepts lacked experience and resources and was committed to investigating other major crimes during the same period.

### **Complaint of collusion**

The Kelly family alleged that if the RUC failed to investigate a number of individuals linked to the murder

because they were members of the UDR, it ‘would amount to collusion’.

The Ombudsman’s investigation identified missed investigative opportunities and failings which ‘did not meet the standards of an effective murder investigation at the relevant time’.

However, the Ombudsman also concludes that the other systemic and contextual factors identified by her, notably the withholding of intelligence and the failure to act on it, impacted on the effectiveness of the murder investigation, and are indicative of ‘collusive behaviour.’

“I am of the view that the deliberate withholding of intelligence and other information from the murder investigation team and the Divisional Commander was indicative of *‘collusive behaviour.’*”

“This removed the possibility of further lines of enquiry being developed and progressed, which may have led to the arrest and prosecution of offenders.

“The non-dissemination of intelligence and the RUC Special Branch restrictions placed on the sharing of intelligence with the 1974 RUC investigation team resulted in the senior investigating officer not being provided with relevant information. It is my view that this information could have changed the direction of the investigation and opened new lines of enquiry.”

Mrs Anderson continued: “My investigation has established a failure to address the implications of other intelligence linking RUC and UDR members to a UVF unit, based in County Fermanagh. I am of the view that this was indicative of deliberately *‘turning a blind eye’* which constituted *‘collusive behaviour’* on the part of RUC Special Branch and the ‘L’ Division Commander who were accountable for these decisions.”

In conclusion, Mrs Anderson said: “I am of the view that the family’s complaints about investigative failings are legitimate and justified in a number of respects.”

Mrs Anderson thanked the family for their patience in awaiting the outcome of the protracted and complex investigation.

**-Ends-**

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### **Notes to Editor**

1. Patrick Kelly was 35 years old at the time of his murder. He was married with four children and lived at

Golan, near Trillick. His wife, Teresa, was expecting their fifth child. Mr Kelly was employed as a bar manager at the Corner Bar, Main Street, Trillick. He was also an independent nationalist councillor on Omagh District Council and was heavily involved in local community affairs.

2. This public statement relates to the original RUC investigation into the abduction and murder of Mr Kelly.

3. A review of Mr Kelly's murder by the PSNI took place in 2001. It identified a number of outstanding lines of enquiry and investigative opportunities. This resulted in a decision to re-investigate the murder. The re-investigation was led by a Detective Superintendent on secondment from an English police force and was conducted between 2003 and 2005. There were a number of arrests, but no convictions.

The PSNI re-investigation did not form part of the Ombudsman's investigation, as it was not included in the family's complaint. However, the Ombudsman's investigators did review the contents of the PSNI re-investigation and it is referred to throughout the public statement.

4. 'Latent' Investigative Bias: Bias can be '*latent*' (biases intrinsic to the individual) or '*deliberate*' (which arguably is not bias, but instead prejudice).

In this public statement the Ombudsman refers to the senior investigating officer's bias as 'latent' as there were other systemic and contextual factors that influenced his investigative decision making at the time, including the non-dissemination of intelligence, the absence of oversight and the resource pressures he faced.

5. NDD stands for No Downward Dissemination. However, this does not mean that intelligence was not disseminated. Documents from the time indicated that intelligence marked NDD could only be viewed by senior officers, including the Chief Superintendents and their deputies, in the appropriate region where the offence had taken place. Intelligence marked NDD was not circulated to local CID officers to act upon, without prior consultation with senior officers. This was to ensure that the source of the intelligence was protected, and not put in danger, prior to any arrests or other action taking place.

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