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## LAWLOR FAMILY RESPONSE TO POLICE OMBUDSMAN'S REPORT

Niall Murphy *Lawlor family solicitor*

### OVERVIEW

Gerard Lawlor is the last Catholic to be shot dead by loyalists in the north. His murder was one of the first to be investigated by the then newly incepted PSNI, who had obtained their powers the previous November. This is not therefore an old RUC investigation or a historical legacy case. It could not even be referred to the now disbanded HET due to the terms of their own reference. Gerard's inquest can now proceed and will not be impacted by the pending Legacy Bill, as Gerard's murder is not a legacy case.

Today's report by the Police Ombudsman, is long overdue.

I would urge people to reflect on the litany of egregious failings which afflicted the police investigation, as found and detailed by the Police Ombudsman.

The Lawlor family regret to conclude that these found failings impacted the opportunity to catch and convict Gerard's murderers.

- Opportunities to investigate serious intelligence were ignored,
- obvious links to other linked incidents were ignored,
- evidence was not secured and preserved,
- suspects were not arrested.

The Police Ombudsman herself details a series of investigative failings, which were:

1. A failure to document and develop a targeted covert/sensitive strategy with defined objectives for the purposes of the murder investigation;
2. A failure to conduct searches, arrests and interviews in a timely manner as a result of which potential forensic and other evidence may have been lost;
3. A failure to obtain all relevant telecommunications data;
4. A failure to ensure the continuation of a dedicated Family Liaison Officer
5. A failure to establish clear communication lines and record all contacts in accordance with family liaison guidance applicable at the time;
6. A failure to maintain and complete policy file/decisions;

7. A failure to maintain CCTV viewing logs;
8. A failure to link the murder with a series of sectarian attacks;
9. A failure to fully consider the dissemination of all relevant intelligence to the Senior Investigating Officer

## **21<sup>st</sup> July 2002**

Gerard was 19 years old when he was killed, and had just moved into a new home with his partner Siobhan, and their little son – Josh. He was working full time as a forklift driver and was on the horizon of a long and happy life.

On that day, Gerard had arrived at his GAA club at about 1:15pm for a senior football match with St Enda's who were due to play a division two league match that day at 2 o'clock.

As St Enda's took the field, the referee appeared but no sign of the opposition. St Enda's were awarded precious league points in the absence of having a team to play. A training session took place instead and thereafter the team retired to the bar for an afternoon of camaraderie and to watch the Sunday Game championship matches, this being the time of the Championship. At quarter past / half four, the Sarsfields team began to arrive, and it transpired that they had been mistaken as to the throw in time. And after some general aggravating about their lost league points, Gerard being chief among their tormentors, they joined our senior team for a couple of pints before returning, no doubt to criticise their club secretary for his erroneous information.

## **MAPS POWERPOINT      2001 - 2002 CONTEXT**

**Gavin Brett 29<sup>th</sup> July 2001** –almost a year to the day previous Gavin Brett was shot dead. His killers assumed he was a Catholic, because Gavin was standing at the entrance to St Enda's GAA club. Gavin was in fact a Protestant lad and lived in the nearby Hollybrook Estate and was waiting with a friend for the friend to get a taxi. The friend lived not far away but had decided to get a taxi home due to the trouble in the area. Gavin wouldn't let him go on his own and as they waited for the taxi a Vauxhall car sped down the Hightown Road and fired shots at the two boys as they passed – injuring Gavin's friend but killing Gavin.

An army patrol was on the scene within 20 seconds apparently but didn't catch the Vauxhall or it's occupants which was later found burnt out in Glengormley.

- On the same night loyalists had attacked several homes close to Holy Cross Girls School which at the time had been beset with a long running sectarian dispute.
- **Six weeks prior to Gavin's murder, the local Catholic church in St Bernard's had been burnt to the ground and**
- at the start of that month 4<sup>th</sup> July 2001 another Catholic teenager **Ciaran Cummings** had been shot dead aged 19 as he waited for a lift to work at the Greystone Roundabout in Antrim.

**Danny McColgan** was murdered on the 12<sup>th</sup> January 2002. Danny was shot and fatally wounded by two loyalist gunmen as Danny arrived for work in the Post Office sorting office at Barna Square in Rathcoole at quarter to five in the morning.

Indeed, in the hours after Danny's murder, floral tributes at the site had been destroyed.

In May 2002, two months before Gerard Lawlor's murder, the headstone of Danny's grave in Carnmoney Cemetery was also destroyed.

Gerard stayed in the club that afternoon before leaving to go to the Bellevue Arms on his way home. Other team members would go their own separate ways.

Unbeknownst to Gerard or any of his friends, there had been a shooting at 19:24. Mark Blaney, a Protestant from Glenbryn, north Belfast, was shot and wounded by a gunman firing from Alliance Avenue. The shots were reported by the media as having been fired by INLA.

**Kevin McKeown**, states that he went home to his North Circular house for his Sunday dinner with the intention of joining friends in the Chester Park Inn for the rest of the night. Kevin and his friend Danny O'Neill, decided to walk down the Old Cavehill Road before turning right into Salisbury Avenue at the Mormon church.

At approximately 22:00 Kevin noticed a white car pull up ten or fifteen yards on the other side of the Road. Two men wearing scarves around their faces and hooded tops then exited from the car via the back doors. The manner in which they done so immediately alarmed Kevin, who shouted at Danny to run, which they both did. Before the pair got to the corner of Salisbury at the junction of the Cavehill Road, Kevin heard two shots being fired, and saw one of the bullets ricochet on the ground close to his foot. Kevin ran into the first house he could see and ran inside screaming for the owner to phone the police. In the next few hours there were a further four attempted murders culminating in the murder of Gerard Lawlor.

Half an hour after the shots were fired at Kevin, at 22:50, **Ryan Corbett** was standing outside the Oldpark Road making a phone call. A motorbike slowed as it passed Ryan and the pillion passenger pointed a hand gun at him and pressed the trigger. Ryan could hear the click of the gun and threw change he had in his hand at the gunmen, who then sped off.

At 23:22 there was an attempted mass murder on the **Ligoneil Road** when a small red car stopped outside a house. A man got out of the car and leaned over the bonnet with a long rifle and fired several shots at men who were gathered outside the row of houses.

Shortly after the Ligoneil attempted mass murder, **Jason O'Halleron** was shot three times at

23:25, only 300 yards away from the attempt on Ryan Corbett, less than half an hour before hand. Jason was hospitalised for eight days as doctors battled to save his life.

In the meantime, Gerard had arrived at the Bellevue Arms, and indeed left following closing time at quarter to twelve.

Shortly after midnight on the morning of Monday 22nd July, numerous residents living nearby the Floral area heard several gunshots and police and ambulance started to receive 999 calls.

Notwithstanding the overwhelming evidence that armed loyalists were intent on murdering a Catholic that night, no police check points were erected at strategic stress areas. Witnesses from each of these four attempted murders, told the Community Inquiry of their immediate experience of the police investigation that night, and further in the weeks after, however independent of their recollections, it remains a fact that no one has ever been charged with any criminal offence relating to the 5 murder bid crime scenes that night.

Gerard's murder was the third within 12 months within a one mile radius.

#### **VEHICLE CHECKPOINT CONCERN**

The family made complaint that Police failed to set up a Vehicle Check Point (VCP ) on the Antrim Road at the junction with the Whitewell Road, yards from where Gerard was murdered, and that had this been undertaken, that Gerard's murder could have been prevented. The family have at no stage asserted that police were in receipt of prior intelligence that Gerard was to be murdered.

The family complain that it was reasonably foreseeable that a suitably experienced and interested senior police officer, given the mayhem that was ensuing in North Belfast that night, should have directed that a VCP be set up at Antrim Road / Whitewell Road junction.

Indeed, the Police Ombudsman has previously confirmed to the family, that;

*"It is understood that the post 1998 contingency plans included co-ordinated Vehicle Checkpoints designed to deter an escalation of sectarian violence. Vehicle Checkpoints were generally established at positions chosen from a list of numerous pre-determined locations which included the Antrim Road and Whitewell Road. The positioning of Vehicle Checkpoints from the list of predetermined locations was by necessity selective, dependent on the information available to police."*

The family consider that the decision not to place a VCP at the Whitewell Road / Antrim Road junction, is inconceivable in the context of the ongoing attacks that night, and the history of sectarian violence in that area, at that time.

## BREAKTHROUGH

## Witness X statement

### 1 2006 WITNESS 'X'

On 7<sup>th</sup> April 2006, a female witness approached our firm of Solicitors, advising that she had information as to who the individuals were that murdered Gerard Lawlor.

She states :

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

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

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

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

The generality of her information was communicated to Police, who wrote to our office in May 2006 requesting that she attend for a formal statement.

I attended with her at Grosvenor Road on 21<sup>st</sup> June 2006, and she provided police with all of the information. She was understandably reticent about a police request that she make a video statement as such a video could be disclosed to the defence, thereby exposing her identity. Indeed, she was conscious of certain details in the draft statement being referred to at all, as they could potentially identify her, and she deferred signature of a statement, until certain identifying details were edited out.

The amended statement was sent to police on 27<sup>th</sup> June 2006.

Nothing was heard from anyone until 26<sup>th</sup> July 2006, wherein a letter was received from the Senior Coroner, which referred to the fact that Kevin Winters & Co had advised the D/Inspector of a new witness but that he understood that the;

*“new witness had been carefully considered by the investigation team but some corroborative evidence would be required in order to assess what this witness has said and to further the inquiry. At the present time this additional evidence has not materialised”.*

The Senior Coroner further advised that as such;

*“...there is no reason why an inquest should not now be held and I am making plans to list the inquest for hearing”.*

The PSNI analysis of what we considered to be an exceptionally productive potential line of enquiry, a witness providing the names of suspected murderers, and details of their direct confession to her, was a shock to the Lawlor family.

After some consideration, it was decided that a complaint would be lodged with the Police Ombudsman with regards to the PSNI investigation generally, and a letter was further sent to the Coroner in August 2006 seeking an adjournment of the Inquest pending the determination of the applicant's complaint to the Police Ombudsman.

On 29<sup>th</sup> August 2006, the Senior Coroner replied *“I will adjourn the inquest pending the outcome of the Police Ombudsman investigation”*

Police later asserted that :

*“As a complaint has been made, I cannot discuss the matter any further. I would be grateful if you would inform Witness A accordingly”*

**TO THIS DAY, NEITHER MAN A or B, NAMED BY WITNESS X HAS BEEN ARRESTED OR QUESTIONED BY PSNI WITH REGARDS TO THE MURDER OF GERARD LAWLOR.**

**WITNESS X, HAS NOT BEEN SPOKEN TO SINCE BY POLICE.**

## **2 Issues with PSNI Investigation**

The family complaint asserted;

1. The murder could have been prevented if there had been visible security presence in the area at the time of the shooting. There had been several other attempts to murder Catholics in north Belfast that night.
2. The applicant and her family had not been updated by the police as to the progress of the investigation,
3. Failure to investigate the evidence that might be provided by the doorman at the Bellevue Arms (or take a statement from him) and to investigate the available CCTV from the Bellevue Arms

4. The police issued a CD fit of a man they believe was in a dark blue car seen parked at the entrance of the Belfast Zoo shortly before Gerard was murdered. This image appeared on 23<sup>rd</sup> March 2003, in the Belfast Telegraph. A female police civilian worker<sup>1</sup> had stated that the image was a very good likeness of a male she had seen at court. This police officer did not attend an ID parade.
5. Concern that the motorbike used in the deceased's killing (and which was discovered 2 years later burnt out) at the home of a family member of a suspect, may not have been forensically investigated sufficiently thoroughly,
6. Failure to investigate Witness X, who had encountered two males (both of whom were known to her) several hours after the murder and who, she claimed, had confessed their involvement in the murder to her,
7. Suspicion that the deceased's killers were being protected because they were PSNI informants.

## **POINTS**

No family in my professional experience, deliberately enters a truth recovery process with a stated objective of proving that the authorities colluded with the killers of their loved ones, or that the conclusion of 'Collusion' is a cherished objective.

Rather, processes are engaged with, to attempt to find out as much as possible as to what happened on the night that their loved ones were murdered, and how much was done by the police to catch and convict the killers.

Today's report details a remarkable analysis of police management of intelligence. The Lawlor family respectfully but wholeheartedly disagrees with the Ombudsman's analysis that collusive behaviours were not an impediment to the murder investigation. For example, the Ombudsman states :

*Police received information at an early stage of the investigation linking two people, Person H and Person I, to Mr Lawlor's murder. The Senior Investigating Officer directed no arrests be made at that point, believing that it would have been counter-productive as both suspects would not have co-operated during interview and would have been forensically aware.*

**The Lawlor family rhetorically ask the question.**

***WHY ARREST ANYONE, EVER, IF THAT IS THE POLICE VIEW.***

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<sup>1</sup> Paragraph 8.58 : A civilian member of police staff identified a potential suspect from a photo-fit image circulated by police. However, the civilian later retracted this identification and declined to provide a witness statement.

If you don't look for evidence, how are you ever going to find it.

If you don't arrest suspects, how can you attempt to solve a crime.

Immediate arrests and searches are undertaken for a reason. The potential for fibre transfer, blood transfer, cartridge discharge residue, DNA on items of clothing, even on secondary and tertiary items such as a post-wash towel, can only be recovered if searches are undertaken and items are seized, immediately. No searches were undertaken in the immediate aftermath of Gerard's murder.

Early and immediate arrests where intelligence exists to substantiate same, as was the case here, provides police the opportunity to immediately and contemporaneously enquire as to the whereabouts of a suspect, which can then be truth tested against other police investigations, such as cell site analysis of mobile phones, or indeed police intelligence, however in Gerard's investigation,

*Para 8.72 : Police Officer 3 informed my investigators that he considered conducting cell site analysis of the relevant mobile telephone numbers but was advised by PSNI's Telecoms Liaison Unit (TLU) that this would be of **limited evidential value**.*

#### **The Police Ombudsman herself confirms at paragraph 12.24;**

*12.24. There are a number of investigative benefits to making early arrests. An early arrest can provide greater opportunities to recover forensic evidence such as clothing and firearms. It can prevent offenders from interfering with witnesses, destroying evidence, or committing further crimes. Another significant benefit is that offenders who are spoken to closest to the time of the offence are more likely to make mistakes when fabricating stories. Crucially, early arrests mean that offenders are less able to claim that they cannot remember what they were doing or where they were at the material time.*

#### **NO ARRESTS DESPITE INTELLIGENCE re PERSON H, I, J and K<sup>2</sup>**

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<sup>2</sup> 8.73 Police arrested Person H and Person I under terrorist legislation in early August 2003. They both denied being involved in the murder and could not recall their movements on 21-22 July 2002. They were subsequently released without charge. Police Officer 3 informed my investigators that he decided to make the arrests at that time, as all other enquiries had proven negative. The arrests were based on intelligence relating to Person H and Person I, received shortly after Gerard Lawlor's murder.

8.74. Police Officer 3 informed my investigators that he recalled intelligence that Person J had telephoned Person H on 21 July 2002 to 'call in a favour' following the attempted murder of Person A. He stated that police obtained telephone billing data for Person J at an early stage of the investigation. However, this contained nothing of any evidential value.

8.75. This investigation has been unable to locate the relevant piece of intelligence referred to by Police Officer 3 or any record of telephone enquiries having been conducted in respect of Person J. **Police researched Person J but he has never been arrested regarding Gerard Lawlor's murder.**

9.9 Intelligence was provided indicating that the murder had been carried out on the instructions of Person J and Person K in retaliation for the shooting of a protestant youth in Glenbryn earlier in the evening. These individuals have never been arrested on suspicion of Gerard Lawlor's murder.

Police have intelligence to say that Person H phoned Person J on 21 July 2002 to call in a favour following the shooting of Mark Blaney, a protestant youth at Glenbryn Park at 19:23.

Further intelligence existed to confirm that Gerard's murder had been carried out on the instructions of Person J and Person K in retaliation for the shooting of Mark Blaney in Glenbryn earlier in the evening.

Persons H and K have never been arrested on suspicion of Gerard Lawlor's murder whereas Person J and a Person I were not arrested for a further year, in August 2003.

When Police did arrest Person H and Person I under terrorist legislation in early August 2003. They both denied being involved in the murder and could not recall their movements on 21-22 July 2002.

The two men named by Witness X have never been arrested.

## FACTS

It is factual to say that witness X, who risked her life to come forward and provided police information on the murderers, that absolutely NOTHING was done in respect of her evidence.

There is evidence of delay and obfuscation by the police investigation leading to the failure to secure and preserve evidence;

- *Failure to arrest*            Suspects not arrested for over a year.
- *Failure to preserve evidence* Directions to secure and preserve phone evidence, which in the era of cell site analysis can be damning, was simply not done, due to what can only be described as laziness. A key and crucial investigative opportunity lost forever.
- *Failure to keep records* : Confidential Telephone evidence was not recorded, and further the fact that phone records were directed to have been secured and preserved as evidence, yet this was not done, and when it was noticed and actioned, the potential for evidence was lost forever.
- *Absence of Accountability* : The SIO at Ligoneil didn't know of the information retained by the Lawlor SIO yet no one is accountable for the failing.
- *Agents involved in Murder?*: It is the family's strongly held fear, that one or some of Persons H, I, J and K, named in today's report, or the two men named by Witness X, are registered police informer(s) and have been protected from prosecution. The Police Ombudsman having carefully considered the family complaint in this regard,

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9.10. Police Officer 3 informed my investigators that telephone billing enquiries were conducted at an early stage in respect of Person J and Person K, but there was nothing to link them to Gerard Lawlor's murder. This investigation found no documentary records to confirm if these enquiries were conducted.

concludes that she “will neither confirm nor deny if any individual was an informant.”<sup>3</sup>

## ***CONCLUSION***

It is the Lawlor family’s firm and regretful conclusion, having read today’s report, that the PSNI have abjectly failed to conduct an appropriate investigation into Gerard’s murder, and that the lacklustre and pathetic excuse for an investigation confirms that the PSNI were institutionally indifferent as to whether or not any person would be charged and convicted. The facts in today’s report sustain that assertion.

The family conclude from the same evidential basis as laid out in today’s report that these failings are in fact a dictionary definition of collusive behaviours, mindful of the fact that there are still investigative opportunities open to police.

The family look forward to the convention of Gerard’s inquest which will now proceed, as it is not inhibited by the British Government’s shameful Legacy Bill proposals and they also look forward to hearing from the police, as to what their investigative intentions are in respect of the 4 men that have never been arrested and questioned for Gerard’s murder, despite the obvious intelligence which links them to the murder.

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<sup>3</sup> Paragraph 12.21. The family of Gerard Lawlor have alleged that police protected an informant(s). In discussing these issues, I am constrained by the principle of ‘Neither Confirming Nor Denying’ (NCND) any person is, or has been, an informant unless, in accordance with established principles, exceptional and compelling circumstances exist that justifies a departure from the policy. Having carefully considered this issue, I will neither confirm nor deny if any individual was an informant.