

Statutory Report

Public Statement in accordance with Section 62 of the Police
(Northern Ireland) Act 1998

REPORT INTO THE CIRCUMSTANCES CONNECTED TO
THE DEATH OF MR SEAMUS FOX AT THE REAR OF
WOODBOURNE POLICE STATION, BELFAST,
ON 22 APRIL 2010.

1.0

INTRODUCTION

- 1.1 On 11 May 2010, the Chief Constable of the Police Service of Northern Ireland (PSNI) referred to the Police Ombudsman for independent investigation, the circumstances in which the body of Mr Seamus Fox had been discovered at the rear of Woodbourne Police Station in West Belfast on 22 April 2010. The referral was made under Section 55(4) of the Police (Northern Ireland) Act 1998.
- 1.2 This public statement is made in accordance with Section 62 of the Police (Northern Ireland) Act 1998. It also meets the statutory obligations of the Police Ombudsman to comply with Regulation 20 of the Royal Ulster Constabulary (Complaints etc.) Regulations 2000.

2.0

CIRCUMSTANCES

- 2.1 At 23:02 hours on 21 April 2010 all PSNI police officers were notified by e-mail of an area in West Belfast, including the area in the vicinity of Woodbourne Police Station, being placed 'out of bounds' to police officers between 00:01 hours and 06:00 hours on 22 April 2010. Police were permitted to travel through the area but could not stop on certain roads or mount Vehicle Check Points (VCP).
- 2.2 At approximately 00:50 hours on 22 April 2010, two Community Safety Wardens contacted Woodbourne Police Station in West Belfast and reported a large fire on a pedestrian bridge over the Glen River, close to the police station. Two men were reported to be standing by the fire. Police trained one of the station's security cameras on the scene to monitor the situation, but decided not to send any officers to deal with the incident or ask the Fire Service to attend.
- 2.3 At approximately 01:55 hours two members of the public, a male and female, were walking along the waste ground at the rear of Woodbourne Police Station, when they discovered a man with serious facial injuries lying on the ground. The male phoned for an ambulance and went for assistance to the nearby house, from where they had just come. A further male and female from this house also went to the scene and they made a second phone call to the ambulance service. The second male then ran to the front entrance of the police station to seek assistance.
- 2.4 At 01:56 hours police at their Belfast Regional Control Centre received information from Ambulance Control advising them that a 40 year old

male was lying bleeding beside Woodbourne Police Station. He was described as being unconscious and not breathing. Actions were then taken to send local police to this scene.

2.5 Meanwhile, a police patrol returning to Woodbourne Police Station was stopped by a member of the public who informed the police officers that a body had been seen lying at the rear of the station and that he had called for an ambulance.

2.6 The body was later identified as that of 58 year old Seamus Fox, who lived nearby. He had been subjected to a vicious attack and died of his injuries at the scene.

2.7 The next day, 23 April 2010, a 19 year old local man, Gerard Connors, presented himself to police and gave the explanation that he had been in an earlier altercation with Mr Fox and had later caught up with him on waste ground and that a fight had ensued. The police arrested him for the murder of Mr Fox.

2.8 There was public and media criticism of the PSNI in the days which followed. Concerns were expressed that the attack should have been clearly seen from the police security sangar at the rear of the Police Station and should have been captured by the station CCTV cameras and that police did not intervene. Questions were also raised about the police response to a reported fire close to the station before the attack on Mr Fox and its possible link to the death.

2.9 As a result of these concerns, on 11 May 2010, the PSNI referred the matter to the Police Ombudsman for independent investigation.

2.10 On 5 October 2011 at Belfast Crown Court, Gerard Connors pleaded guilty to the murder of Mr Fox. The court heard that he had been one of

those standing around the fire, which had been reported to police. The court was told that a short time later Mr Fox had been making his way home with a friend when they had been accosted by Gerard Connors, who was looking for a cigarette. Gerard Connors later caught up with Mr Fox, who by that time was alone, and attacked him.

3.0

INVESTIGATION

3.1 A Police Ombudsman's Senior Investigation Officer contacted Mr Fox's family. They expressed concern that, although the scene of the attack was overlooked by a police security sangar and covered by police CCTV cameras, no police action had been taken to prevent the attack. They also believed that if police had taken appropriate action in relation to the reported fire there would have been a strong likelihood that the attacker would have been arrested and would not then have been in a position to carry out the attack on Mr Fox.

3.2 During their investigation, Police Ombudsman's Investigators also spoke to police officers on duty that night in Woodbourne Police Station; to the members of the public who reported finding the body of Mr Fox; and to those who had reported the fire. They viewed all the relevant video footage and, where necessary, had images enhanced. They also examined police documentation, including the on-going murder investigation file.

3.3 [The Security Cameras](#)

3.4 Police Ombudsman staff visited the area in question and confirmed that a security sangar overlooks the scene of the attack. They also established that several CCTV cameras are positioned throughout the station and on its perimeter fence.

3.5 In particular, the Investigators established that the scene of the attack was covered by two CCTV cameras: Camera 5, which is on one of the masts in the station grounds and Camera 14, which was one of a

number of cameras located on the station perimeter fence. Camera 14 was approximately 10 meters from where the attack happened. Both cameras are linked to monitors within the station's front security sangar. The sangar has a series of monitors, which receive video images from the station's security cameras.

- 3.6 Investigators established that Camera 5 automatically recorded the images it took. This camera covered an area to the rear right side of the police station and also an area of Horn Drive. They also established that Camera 14 did not record and was used for monitoring purposes only.
- 3.7 The Investigators examined the footage recorded by Camera 5 between 01:00 hours and 01:56 hours. The attack itself was captured on a small area of the CCTV footage, in the bottom left corner of the screen. The view of the incident is indistinct and 'grainy'. Police Ombudsman's Investigators had the footage technically enhanced to a level at which the images could be seen more clearly.
- 3.8 The enhanced footage shows Mr Fox, first sighted at 01:17:02 hours, walking through an area in Horn Drive and onto a piece of waste ground at the rear of the police station, with an unidentified man following him a short distance behind. This man, later identified as Gerard Connors, is seen catching up with Mr Fox and attacking him at the rear of the station. The attack lasted for 26 seconds.
- 3.9 Moments later another camera, Camera 1, recorded Gerard Connors walking to the Suffolk Road and then to the fire, which was burning in a 'wheelie' bin on the nearby pedestrian footbridge.
- 3.10 Meanwhile, footage from Camera 5 recorded Mr Fox's body lying motionless until it was discovered by members of the public.

3.11 Although there was no recorded footage from Camera 14, Police Ombudsman’s Investigators sought to establish what images could have been seen from the camera. They confirmed that the camera was focused in a direct line of sight to where Mr. Fox’s body was found, but like Camera 5, the images it gave were ‘grainy’ and of poor quality.

3.12 **The Security Sangars**

3.13 Police Ombudsman’s Investigators have established that the security sangar at the front of the police station, where the security footage is screened, was staffed on the night in question by a police officer (Police Officer 1) and a civilian police employee (Witness A). Their other duties that night included station security; allowing access to the station complex; and operating its front vehicle and pedestrian gates.

3.14 There are two security sangars at the rear of Woodbourne Police Station and both were not staffed at the time of the attack. The PSNI told the Police Ombudsman’s Investigators that this was due to a reduction in staffing at the police station.

3.15 **Witness Evidence: (a) the ‘wheelie’ bin fire**

3.16 Police Ombudsman’s Investigators spoke to the two Community Safety Wardens, who had reported the fire to police. The fire was not reported as a ‘wheelie’ bin fire and was later described as ‘huge,’ ‘horrendous’ and ‘like the 12th of July’. They told Investigators that the area in which the fire was started was rife with anti-social behaviour. They said that they had been led to believe that dealing with anti-social behaviour was a policing priority and that they had an expectation that police would have taken action against those believed to have lit the fire. The wardens expressed surprise at the apparent lack of police response to the fire.

- 3.17 The Police Ombudsman's investigation has established that in the 12 months prior Mr Fox's murder, police at Woodbourne Police Station received 46 reports about arson and theft of 'wheelie' bins. It has also been confirmed that at the time of this incident tackling anti-social behaviour had been a high priority for police at Woodbourne Station.
- 3.18 Police Ombudsman's Investigators interviewed the police officer (Police Officer 3), who took the call from the Community Safety Wardens. Police Officer 3 said that he told his Supervisor (Police Officer 2) about the call and asked the civilian employee (Witness A) to direct one of the station cameras to capture footage of the fire on the bridge and to report back to him.
- 3.19 Police Officer 3 said that, based on the information Witness A had provided to him, he had considered that there was no requirement to call the Fire Service as there was no danger to life or property. He further stated that normally a station patrol would have been tasked to the area to conduct a check, but as the fire was in what he called an 'out of bounds' area he believed, from past experience, that it was highly likely that permission would not have been granted for police to attend. He said that he therefore considered that the most appropriate course of action was to monitor the fire continually and reconsider the matter if there were any further developments. Police Officer 3 said that he told Police Officer 2 of this course of action, and that Police Officer 2 was in agreement. He acknowledged that he did not initiate a Command and Control log in respect of the reported fire, which is normal police practice and accepted that this was a failing on his part.
- 3.20 Witness A, confirmed Police Officer 3's account. Witness A said that after receiving instructions from Police Officer 3 he redirected Camera 1 onto the incident and reported back that there was a small fire. He said that he then left the camera pointing towards the fire for 'monitoring

purposes'. Camera 1 has a recording capability and the Police Ombudsman's Investigators have viewed the images of the fire which, from the available footage, indicate that the fire was not as serious as reported by the Community Safety Wardens.

3.21 Police Ombudsman's Investigators interviewed the Duty Supervisor (Police Officer 2), who confirmed the accounts given by Police Officer 3 and Witness A. He said that he had been aware of the fire but that all of the information, which he had been given had indicated that it was a minor fire in nature. He stated that he did not see the fire himself and had not been aware that it was in a 'wheelie' bin. He was willing to trust the judgement of Police Officer 3 and Witness A in respect of how the incident was handled.

3.22 **Witness Evidence: (b) monitoring the camera footage**

3.23 Police Ombudsman's Investigators established that Police Officer 1 and Witness A had been detailed to perform station security duties on the night of this incident. Both Police Officer 1 and Witness A told Police Ombudsman's Investigators that they did not see the attack on Mr Fox. They both said that they were not aware of the attack and did not see Mr Fox lying on the ground until it had been reported by the member of the public. It cannot be established conclusively whether or not both were present in the front security sangar at the time of the actual attack on Mr Fox as Police Officer 1 went elsewhere in the police station at various times during the course of his tour of duty. It is believed, however, that he was not in the sangar at the time when Mr Fox was found. Witness A was not precluded from leaving the sangar provided that it was not left unstaffed.

3.24 **Witness Evidence: (c) the discovery of Mr Fox's body**

3.25 Police Ombudsman's Investigators interviewed the police officers, who

had been in the patrol vehicle, which was flagged down by a member of the public, who reported that a body had been discovered. The officers said that they informed the Duty Supervisor (Police Officer 2), who directed Police Officer 1 and Police Officer 4, who were in the police station, to go to a rear security sangar and tasked another officer, who had been in the patrol car (Police Officer 5) to check the cameras in the front security sangar.

3.26 Police Officer 1 and Police Officer 4 stated that they made their way to a security sangar at the rear of the station and reported back that they could see paramedics working on a man at the rear of the station.

3.27 Police Officer 5 stated that he reported that he was also able to see images of the same scene relayed on the monitor from Camera 14.

3.28 Police Officer 2 told a Police Ombudsman's Investigator that as the scene of the incident was in an area, which had been put 'out of bounds' by police that night, he was required to telephone Police Headquarters to get clearance to send officers to the scene. He stated that once permission was granted he dispatched officers. He stated that this caused a small delay in police attending the scene. He said that he had attended the scene, where Mr Fox's body had been discovered and that he had supervised the crime scene but had neglected to check that a Command and Control log had been initiated in relation to the fire incident.

3.29 **'Out of Bounds'**

3.30 Police Ombudsman's enquiries established that at 23:02 hours on 21 April 2010 all police officers were notified by e-mail of an area in West Belfast being placed 'out of bounds' to police officers between 00:01 hours and 06:00 hours on 22 April 2010. This area was adjacent to and was the most direct route to where the 'wheelie' bin had been set alight.

The e-mail detailed the area in question and the restrictions imposed, which included that police vehicles were not to stop on certain roads and that officers were not to mount Vehicle Check Points.

- 3.31 The decision to place an area 'out of bounds' for police is made, in the main, either to protect the public or the police or to prevent the compromise of a police operation.
- 3.32 The Police Ombudsman's Office made enquiries with the PSNI in relation to the status of 'out of bounds' areas. In particular, Investigators sought to determine whether or not the existence of such a designation would have prevented local police from reacting to any crime committed within that area.
- 3.33 In a written response, the PSNI affirmed that the designation would not have had the effect of restricting local police from reacting to any crime within the designated boundary.
- 3.34 This PSNI position was strongly refuted by the local police, who were the subject of this investigation and who have stated that the 'out of bounds' direction formed part of their decision making process when considering what police action would be most appropriate. Police Officer 3 was clear that in his experience the existence of the 'out of bounds' designation prevented them from attending and this influenced the way in which he decided to deal with the incident.

4.0

FINDINGS

4.1 The Police Ombudsman's investigation sought to establish if police officers were guilty of criminal behaviour or misconduct in how they dealt with events, which unfolded early in the morning of 22 April 2010. It also sought to address the fears of the Fox family and of the wider community that the attack on Mr. Fox was witnessed from inside Woodbourne Police Station and that police chose not to go to his assistance. It also sought to address the possibility that had police attended the fire reported to them earlier that morning than the attack on Mr. Fox, almost 30 minutes later, may not have happened.

4.2 **Finding One**

4.3 **No member of the PSNI or civilian employee witnessed or was aware of the attack on Mr Fox prior to it being reported by a member of the public.**

4.4 The Police Ombudsman has established that two cameras were relaying pictures of the attack on Mr Fox as it happened onto monitors in a front sangar. Neither the police officer on duty nor the civilian security guard on duty that night had the sole task of monitoring the images from the security cameras. This task fell to both, and was only one of the several duties given to them that night. It is not clear whether or not both were present in the sangar at the time of the attack but it would not have been unusual for the police officer to have left the sangar to attend to other matters elsewhere in the police station.

4.5 The position of more than a dozen monitoring screens was such that not all could be viewed from one vantage point. Had someone been looking at the poor quality pictures from Camera 5 or Camera 14 exclusively at the time of the attack, then it would not have been clear what was happening.

4.6 The Police Ombudsman has established that neither of the sangars at the rear of Woodbourne Police Station, one of which overlooked the area of the attack, was staffed on the night of the attack on Mr Fox. This was normal practice in 2010.

4.7 **Finding Two**

4.8 **The existence of the ‘out of bounds’ order influenced the manner in which the police responded to the report of the fire.**

4.9 A decision was taken by Police Officer 3 to monitor the incident involving the fire using CCTV cameras. He considered that the matter was relatively minor in nature and that in his experience permission would not have been granted to breach the ‘out of bounds’ order. Police Officer 2 was in agreement with this chosen course of action.

4.10 Evidence obtained from elsewhere in the PSNI would suggest that it would have been possible for a response to have been made. Indeed when the serious assault was reported, Police Officer 2 was aware of and made use of the procedure to obtain permission to send officers to the scene.

4.11 It is clear that the uncertainty regarding procedures to be followed in respect of areas designated as ‘out of bounds’ contributed to the inconsistent approach adopted by the local police on the night. This issue is the subject of a recommendation made by the Police Ombudsman (see Section 5).

4.12 **Finding Three**

4.13 **A police response to the scene of the fire may have reduced but not eliminated the opportunity for Gerard Connors to attack Mr Fox.**

4.14 Had police attended the scene and arrested Gerard Connors or engaged with him for sufficient time to allow Mr Fox to reach home safely then events may have unfolded differently. Alternatively, however, on the approach of the police Gerard Connors might have fled the scene, in which case he might still have encountered Mr Fox. These and other possibilities remain imponderable.

4.15 The decision not to respond to the fire was a judgement made by the police officers working at the time. They elected to monitor the situation with a view to making a reassessment should matters have deteriorated. This was an understandable course of action, particularly given their perception of the restrictions placed on them by the 'out of bounds' order. They could not have foreseen the tragic consequences of their chosen course of action.

4.16 What is clear is that the blame for Mr Fox's death rests with Gerard Connors, who beat him in a vicious and senseless attack. The Police Ombudsman has found no evidence to suggest that anyone on duty that morning should share this responsibility.

5.0

RECOMMENDATIONS

- 5.1 The PSNI's primary responsibility is the protection of life, both for members of the public and its own officers. It has a duty to protect life when an attack is imminent or expected.
- 5.2 The PSNI also has a responsibility to avoid activity, which could compromise pre-planned policing operations. Therefore the declaration of 'out of bounds' areas can be a necessary tactic.
- 5.3 The PSNI also has a responsibility, as far as is possible, to provide effective community policing and to tackle crime and anti-social behaviour. The declaration of 'out of bounds' areas, though at times absolutely necessary, has the potential in the short term to diminish the Service's ability to deliver on its day-to-day policing priorities.
- 5.4 In order to balance these two obligations properly, and ensure as far as is possible that day-to-day policing continues, even when areas have been placed 'out of bounds', it is vital that officers are issued with clear guidelines on how to deal with such circumstances.
- 5.5 **Recommendation 1**
- 5.6 At the time of this tragic incident, Service Procedure 33/2009 did not provide clear instructions to the Police Service on what actions police should take in the event of a reported crime within an existing 'out of bounds' area, where a response would be appropriate, if the restriction were not in existence. Historically, police operating in areas under high

threat have tended to deploy either a 'non-attendance' strategy or to attend in 'slow time', for fear of unnecessarily putting officers' lives in danger or of compromising planned policing operations.

5.7 It was the view of the Police Ombudsman that Service Procedure 33/2009 should be amended to provide guidance, particularly for response police Supervisors, so that appropriate authorisation could be more readily sought to enable police to attend incidents within areas, which had been placed 'out of bounds', safe in the knowledge that a risk assessment had been conducted to consider officer safety and/or operational compromise.

5.8 This recommendation was made to the PSNI on 7 December 2010. The PSNI conducted a review of Service Procedure 33/2009 and informed the Police Ombudsman on the 12 October 2011 of an amended Service Procedure, which provides officers with further clarification and guidance in the matter in accordance with Paragraph 5.7.

5.9 **Recommendation 2**

5.10 The Police Ombudsman has made appropriate disciplinary recommendations concerning Police Officer 2 and Police Officer 3 in relation to the failure to create a Command and Control log in respect of the reported fire.

5.11 These recommendations have since been acted upon by the Police Service of Northern Ireland.

MICHAEL MAGUIRE
POLICE OMBUDSMAN FOR NORTHERN IRELAND

19 NOVEMBER 2012

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Police Ombudsman for Northern Ireland
New Cathedral Buildings
St. Anne's Square
11 Church Street
Belfast
BT1 1PG

Telephone: 028 9082 8600

Textphone: 028 9082 8756

Witness Appeal Line: 0800 0327 880

Email: research@policeombudsman.org

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