

Statutory Report

Public statement by the Police Ombudsman in accordance with Section 62 of the Police (Northern Ireland) Act 1988.

**A SUMMARY OF THE INVESTIGATION AND FINDINGS
REGARDING INFORMATION PASSED TO POLICE PRIOR TO
THE BOMB ATTACK ON CONSTABLE PEADAR HEFFRON
08 JANUARY 2010**

1.0

INTRODUCTION

- 1.1 On the morning of 8 January 2010, Constable Peadar Heffron left his home and travelled via Milltown Road, Randalstown towards his work. An Under Vehicle Improvised Explosive Device (UVIED) exploded underneath the police officer's car, causing him significant and life changing injuries.
- 1.2 On 27 September 2012, the Police Ombudsman received a public complaint about information which had been passed to the Police Service of Northern Ireland (PSNI) prior to the attack. The complainant (Man A) believed that if this information had been acted on it could have prevented what happened.
- 1.3 In the course of the investigation of this complaint the Police Ombudsman identified additional matters of concern about the flow of information to the team of detectives investigating the attempted murder.
- 1.4. This public statement is made in accordance with Section 62 of the Police (Northern Ireland) Act 1998, in light of the significant public interest and public confidence issues raised in this investigation.

2.0

CIRCUMSTANCES

- 2.1 On 27 September 2012, the Police Ombudsman's Office received a complaint from Man A about the bomb attack on Constable Paedar Heffron.
- 2.2 Man A alleged that, prior to the bombing of Constable Heffron's car; he had passed information to the police about a possible terrorist attack on a police officer. He said he believed that if police had acted on the information given to them, the attack could have been prevented.

3.0

INVESTIGATION

- 3.1 My investigation focused on establishing the exact nature of the information Man A had provided to police and the actions they had taken in the light of this information.
- 3.2 My investigators spoke to Man A, who recalled, as best he could, the information which had been supplied to him and which he said he forwarded to police.
- 3.3 Man A did not have any notes or other records of the conversation he said he had with the person who provided him with details about an impending attack on police.
- 3.4 However, Man A did state that approximately a week prior to Christmas 2009, he received a text message which indicated that there was to be an attack on police officers in Milltown. Included in the text was the word 'bomb' which may have indicated the type of attack.
- 3.5 Upon receipt of this text Man A claims to have sent a text message to police along the lines 'Attack on police officers - Milltown – urgent'. Man A believed that the "Milltown" referred to Milltown in West Belfast but does not believe he specified the location of Milltown in his text message.
- 3.6 On 8 January 2010 Man A learned via a news report of a terrorist attack on a police officer in Milltown, Randalstown. Following this Man A alleged that Police Officer 1 contacted him and informed him that they

had checked all Milltown's but had missed out Randalstown.

- 3.7 In an attempt to determine exactly what information had been passed to the PSNI about the attack, my investigators spoke to the PSNI team responsible for the investigation of the attempted murder of Constable Heffron.
- 3.8 My investigation established that more than a month prior to the attack on Constable Heffron, a Detective Sergeant (Police Officer 1) attached to C3 Crime Operations, which is primarily responsible for the receipt and management of intelligence, received a text message from Man A. Police Officer 1 stated that he recorded the contents of the text message verbatim before deleting it. He added that the text message from Man A had warned of a possible attack on police in Milltown in Andersonstown. Police Officer 1 then produced an Electronic Briefing Document, which was issued to all officers in West Belfast, warning them of a possible attack.
- 3.9 Police Officer 1 denied telling Man A that all Milltowns had been checked with the exception of Randalstown. He added that on 8 January 2010 it was he who received a call from Man A, who was apologetic for incorrectly interpreting Milltown as being in Andersonstown.
- 3.10 Neither Man A or Police Officer 1 retained copies of the text messages sent between them. However after a careful examination of all available information, I am satisfied that on the balance of probabilities it was Man A who imposed the interpretation that the "Milltown" in question was in Andersonstown. Man A's complaint was therefore not substantiated.

Intelligence Issue

- 3.11 In November 2012 during the course of investigating Man A's complaint, my investigators were advised by Counter Terrorism Unit (CTU) staff that

a series of e-mailed requests for assistance on an intelligence issue had been sent to C3 over a protracted period. This was the only outstanding line of enquiry in the investigation of the attempted murder of Constable Heffron.

Most of the email requests did not receive any meaningful response. Any responses received were of a 'holding' nature. This issue was also identified by the PSNI when conducting an internal review of the investigation into the attempted murder.

When my investigators met with CTU staff a response to this specific request had been outstanding for 28 months. Additionally, my investigators were provided with a number of internal PSNI memoranda which sought assistance in expediting this request.

- 3.12 I assessed that the lack of response to the requests was unacceptable and required further investigation.
- 3.13 The Intelligence Officer within C3 (Police Officer 2) who was responsible for liaising with the team of detectives investigating the attack on Constable Heffron provided a witness statement to my investigators. Following further investigation, my investigators subsequently asked him to make himself available for misconduct interview.
- 3.14 The cooperation provided by this officer to my investigation fell below that expected of a police officer. This caused delays in the provision of information and in interviewing the officer.

- 3.15 When this officer was eventually interviewed, my investigators found many of the answers he gave to questions to be vague and equivocal in nature.
- 3.16 My investigators also spoke to senior officers within C3. They said that on a number of occasions the intelligence requested was disclosed to the detectives investigating the attempted murder of Constable Heffron.
- 3.17 Police Officer 3, a Superintendent attached to C3, who retired from PSNI in April 2012, provided a statement to Police Ombudsman investigators in which he stated that at a meeting on 20 January 2010 he verbally supplied the intelligence requested to detectives investigating the attempted murder.
- 3.18 Police Officer 4 also a Superintendent attached to C3 was interviewed under misconduct caution. He stated that whilst he did not receive any requests for this intelligence he did, of his own motion, request research to be carried out. He stated that within a week of the attack he arranged a meeting with a senior detective working on the investigation and verbally provided him with the intelligence.
- 3.19 However, C3 has been unable to provide any documentation or other audit material which would confirm that information had been supplied to detectives investigating the murder at an early stage of the investigation.
- 3.20 My investigators also uncovered an email thread which suggested that C3 had only obtained the intelligence at issue in September 2010 which calls into question the account provided by both Police Officer 3 & 4.
- 3.21 A senior detective has also challenged the account of Police Officers 3 & 4. He stated that the intelligence had not been provided and in one

instance refuted that a meeting referred to by Police Officer 4 to discuss this issue had ever taken place.

- 3.22 In May, June and October 2011 Senior Officers attached to CTU submitted a number of internal reports via their line management which highlighted their difficulties in obtaining a response to their request. In October 2011 an email was forwarded to Police Officer 5 (a C3 Detective Superintendent) who had taken over from Police Officer 3.
- 3.23 On 16 December 2011 Police Officer 5 was issued a further email from the Senior CTU Detective which highlighted that the intelligence request remained outstanding and asked for a meeting to discuss the matter. Police Officer 5 did not respond to this email. On 4 April 2012 the Senior Detective sent a further email to Police Officer 5 asking for assistance with the request and highlighted that this was the only line of enquiry that remained outstanding in the investigation. On 8 April 2012 Police Officer 5 replied stating he would look into the matter.
- 3.24 On 2 and 12 November 2012 Police Officer 5 was sent further emails again highlighting that the request was still outstanding. The email dated 12 November 2012 also made reference to the fact that the Police Ombudsman's Office was now making enquiries into the delays in C3 actioning this request for assistance.
- 3.25 My investigation has established that the information sought by the detectives was eventually made available in December 2012.
- 3.26 Police Officer 5 was interviewed under misconduct caution. During interview he asserted that as far as he was concerned the matter had been dealt with prior to him coming into post. When asked if he had conveyed that to the CTU Senior Detective he stated he believed he would have done so, but could not provide any detail of this and had no records that he had ever responded or discussed this with the Senior

Detective. Police Officer 5 added that he felt that had this been such an urgent line of enquiry then he would have expected the matter to have been chased up every week by the Senior Detective.

4.0

CONCLUSIONS

- 4.1 The initial complaint, which alleged police had been provided with information which, if acted upon, could have prevented the attack on Constable Heffron, is not substantiated.
- 4.2 Man A has not been able to supply his original records of the information said to have been passed to police. While PSNI records show that whilst a warning was received, it indicated a possible attack on police officers in West Belfast. That information was assessed and a warning was issued to officers in West Belfast, alerting them to a possible attack.
- 4.3 However this complaint and its subsequent investigation has raised important issues about the information made available to the police officers investigating the attack on Constable Heffron.
- 4.4 Given the audit trail of emails from detectives requesting this information and the absence of any documentation providing evidence of a meaningful response, the delay in providing the requested information cannot be attributed to a communication breakdown. It is also difficult to dismiss as a coincidence the fact that the information was only provided after my office became involved.
- 4.5 I have concluded that C3 did not supply detectives with the information they sought. I am of the view that this was contrary to PSNI procedures documented in the PSNI Guidelines “Crime Operations Procedures for the Dissemination of Intelligence to Serious Crime Investigators” which

states that C3 personnel “will fully co-operate with and give relevant support to, SIO’s and others investigating serious crime.”

The information was not provided until 19 December 2012. This was 28 months after a request was forwarded to C3 seeking the provision of the intelligence required by the investigation team.

4.6 I have concluded that Police Officer 2 failed in his handling of relevant intelligence in this case, lacked urgency in addressing the requests and failed to communicate adequately with his senior officers about the progress of the intelligence requests. This officer subsequently demonstrated obstructive conduct in his dealings with the Police Ombudsman’s investigation.

4.7 The evidence demonstrates that Police Officer 5 failed to deal with requests from his colleagues investigating the attempted murder of Constable Heffron. Police Officer 5 by his own admission did not respond to these requests, albeit he would state, this was because he believed it had already been dealt with. However that position must be contrasted with the fact that there is no indication that Police Officer 5 ever communicated this.

4.8 I have also concluded that the account provided by Police Officer 4 in which he stated he met and verbally briefed the Senior Detective was not credible. There are no records to support that any of these events took place and close analysis of relevant emails would suggest that he would not have been in a position to provide this information in January 2010.

4.9 I also concluded that Police Officer 1 had failed to keep accurate records in respect of enquiries he allegedly carried out in January 2010.

4.10 The Police Ombudsman acknowledges that when the information was eventually provided, it did not ultimately lead detectives to significant

evidence in the investigation of the murderous attack on Constable Heffron. However, it is also appropriate to conclude that investigative momentum was lost by these delays.

In major crime investigations it is a matter of PSNI policy (reflected in the PSNI Crime Operations Procedures), that investigators are provided with intelligence at the earliest opportunity. They are best placed to develop lines of enquiry that may translate into evidence that could otherwise be lost by delay.

4.11 Those tasked with investigating serious crime can only do so effectively if relevant intelligence is gathered and disseminated. The expectation, which is underpinned by PSNI policy, is that intelligence should be passed to investigators in a timely fashion. This case demonstrates clear shortcomings in that regard.

4.12 Any investigation into matters such as murder/attempted murder should also attract the fullest adherence to the procedural and investigative obligations of both Article 2 of the European Convention of Human Rights and s. 32 of the Police (Northern Ireland) Act 2000.

5.0

RECOMMENDATIONS

5.1 I recommended disciplinary sanctions in respect of four police officers, two of whom are Detective Superintendents and two Detective Sergeants.

5.2 These recommendations mainly relate to the officers' misconduct in their failures to take measures to bring offenders to justice, to discharge their duties with due diligence and to conduct enquiries in a prompt thorough and careful manner in support of colleagues who were investigating Constable Heffron's attempted murder.

5.3 In relation to one of the Detective Sergeants I also recommended disciplinary action in relation to the inaccuracy of information provided to my investigation.

5.4 In response to the my recommendations, a Senior PSNI Officer, who was the 'Supervising Member' for the purposes of discipline, accepted the recommendations and directed misconduct action.

However, another Senior Officer (equivalent in rank to the Supervising Member) who had responsibility for *imposing* the discipline sanctions in respect of the two Detective Superintendents, disagreed with the level of sanction.

5.5 In the circumstances, the disputed sanction was referred to a more senior officer, who directed a reduction in the level of sanction for the two Detective Superintendents from my recommendation and agreed by the

Supervising PSNI Member.

- 5.6 The disciplinary sanctions I recommended in relation to the two Detective Sergeants have not yet been acted upon by the PSNI and remain outstanding.

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