

# Statutory Report

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

Relating to a referral from the Chief Constable of the PSNI concerning:

**THE CIRCUMSTANCES SURROUNDING  
THE DEATH OF MR JOHN HEMSWORTH  
ON 1 JANUARY 1998**

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# 1.0

## EXECUTIVE SUMMARY

- 1.1 In the early hours of Monday 7 July 1997 there was serious public disorder in the Falls Road area of West Belfast arising from civil unrest at Garvaghy Road, Drumcree. During this disturbance, Springfield Road Police Station was repeatedly struck by petrol bombs and other missiles.
- 1.2 Specialist public order police officers of the Royal Ulster Constabulary (RUC) Operational Support Unit (OSU) were deployed to the area. The 'Blue Section' of the OSU were assigned responsibility for dispersing the rioting crowd and in doing so pursued some of them along Malcolmson Street, a nearby minor road.
- 1.3 As the Blue Section were engaged in dealing with the disturbance, Mr John Hemsworth, an American citizen living in Belfast, was walking home following an evening of socialising. As he walked along Malcolmson Street Mr Hemsworth received a heavy strike to his face causing him to fall to the ground, where he was further assaulted.
- 1.4 Although badly injured, Mr Hemsworth was able to walk the short distance to Conway Square and the home of his wife. Recognising that her husband appeared to have injuries to his jaw, Mrs Hemsworth insisted that he attend hospital for treatment. During their brief exchange Mr Hemsworth disclosed to his wife that he had been the victim of an unprovoked assault by police officers at Malcolmson Street

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- 1.5 While walking to the Royal Victoria Hospital (RVH) Mr Hemsworth passed security gates at Dunville Park, where he saw a group of police officers. One of the officers, who Mr Hemsworth believed had been involved in assaulting him earlier, allegedly directed a comment at him similar to, "that's my man!". Mr Hemsworth continued on his journey to the RVH without further incident, where he presented himself at the Accident and Emergency Department (A & E) shortly afterwards.
- 1.6 Records held by the RVH indicate that Mr Hemsworth was seen at the A & E Department at 2.21am the same morning, diagnosed with a broken jaw and detained in a ward for further observation and treatment. Whilst in hospital he was visited by his father, to whom he repeated his account of having been assaulted by police officers at Malcolmsion Street.
- 1.7 Mr Hemsworth's injuries were serious enough to keep him off work for a number of weeks. He was supported by visits from friends and work colleagues, to whom he maintained a consistent account of the manner in which he had allegedly been assaulted by police officers at Malcolmsion Street.
- 1.8 On 10 July 1997 Mr Hemsworth reported the assault to his solicitors, who recorded his account of the assault in relatively brief detail.
- 1.9 On 13 August 1997 Mr Hemsworth again met with his solicitors. On this occasion his solicitors recorded a number of additional facts and established that Mr Hemsworth wished to make a formal complaint against the police officers, who he alleged had assaulted him.
- 1.10 In undertaking preparation for Mr Hemsworth's complaint, his solicitors sought to explore his allegation in detail. This included making an application for his medical records from the RVH. At that stage there was no contact with the RUC.

- 1.11 In November 1997 Mr Hemsworth complained of severe head pains and was treated at home by a doctor, who diagnosed a panic attack. On 27 December 1997 Mr Hemsworth became ill and was admitted to Belfast City Hospital, where he died on 1 January 1998.
- 1.12 Mr Hemsworth's solicitor informed the RUC of the allegations previously made by Mr Hemsworth regarding the assault and registered a formal complaint on 7 January 1998.
- 1.13 A post-mortem examination of Mr Hemsworth did not directly link the injuries sustained during the assault on 7 July 1997 to his death, which was attributed to thrombosis of the right internal carotid artery, an artery which supplies blood to the head. Having taken expert advice from a consultant neuro-pathologist, the reporting pathologist concluded that, "*It was not in my view possible to correlate the recent thrombosis causing the fatal cerebral infarction with any facial injury sustained in July 1997*". As a result of that finding an Inquest was not ordered and the death of John Hemsworth was registered.
- 1.14 In January 1999 the RUC forwarded a file to the Independent Commission for Police Complaints (ICPC) recommending that further investigation of the complaint made by Mr Hemsworth's solicitors was impracticable. Police cited a failure by Mr Hemsworth's family to engage with their enquiries and lack of cooperation from his solicitors. The ICPC approved curtailment of the investigation.
- 1.15 A series of related legal hearings subsequently took place which resulted in the Attorney General directing an Inquest in respect of Mr Hemsworth's death. A second police investigation, on this occasion supervised by the ICPC and latterly the Police Ombudsman for Northern Ireland, was undertaken between 1999 and 2000. This led to the submission of a file of evidence to the Director of Public Prosecutions, who directed 'no prosecution' in the matter.

- 1.16 A full Inquest was heard during May 2011. The jury delivered a verdict that, on the balance of probabilities, Mr Hemsworth was assaulted by police officers attached to the Blue Section of the OSU at Malcolmsen Street and that the injuries sustained in that attack were most probably the underlying cause of his death.
- 1.17 The Inquest verdict was referred to the Office of the Police Ombudsman by the Chief Constable and in January 2014 a new investigation commenced.
- 1.18 My Investigators have conducted a thorough investigation into the circumstances of the assault and subsequent death of Mr Hemsworth. This has included the interview of 16 serving or retired police officers, suspected of assaulting him on 7 July 1997 at Malcolmsen Street, none of whom made admissions in relation to the incident. Insufficient evidence was gathered to enable the identification of the officer(s) responsible for the alleged assault.
- 1.19 A file detailing my investigation was forwarded to the Public Prosecution Service (PPS), who concluded that it was not possible to identify any specific officer as having been involved in the assault on Mr Hemsworth and in the absence of such evidence that there could not be a prosecution.
- 1.20 The same identification issues prevented my investigation from recommending misconduct proceedings in respect of any specific officer(s).
- 1.21 The RUC investigations, which were undertaken did not establish an accurate timeline for Mr Hemsworth's movements in the early hours of 7 July 1997. Police have attributed this to information provided, albeit latterly, by members of Mr Hemsworth's family and to a lack of engagement from the local community. Consequently it was not established that police officers were present at Malcolmsen Street at the time Mr Hemsworth was believed to have been assaulted.

- 1.22 My investigation has, however, gathered reliable evidence, which is consistent with Mr Hemsworth having been at Malcolmson Street at the same time as officers from the Blue Section of the OSU. Unfortunately, due to the passage of time there was no relevant forensic or identification evidence available to my investigation, which might have enabled the PPS to bring a successful prosecution of those responsible for assaulting Mr Hemsworth.
- 1.23 Nevertheless, I am satisfied that Mr Hemsworth was the victim of a serious assault by unidentified police officers in the early hours of 7 July 1997; that the injuries he sustained amounted to grievous bodily harm; and that these injuries were the underlying cause of his death on 1 January 1998.

# 2.0

## INTRODUCTION

- 2.1 On 6 June 2011, following a related Inquest, the Chief Constable referred the circumstances of Mr John Hemsworth's death, allegedly as a result of an assault by unidentified police officers, to the Office of the Police Ombudsman for Northern Ireland. The Inquest verdict implicated members of the RUC in serious criminal offences.
- 2.2 In the context of previous police investigations, my Office reviewed the referral in order to make a proper assessment as to whether or not the matter was in fact within my remit. Having considered the new evidence which arose during the Inquest, it was clear that the matter met the required statutory criteria for a new Police Ombudsman investigation.
- 2.3 On 7 January 2014 my investigation commenced with the following terms of reference:
1. A full investigative response to recommendations made by the pre-investigation review conducted by my Office.
  2. A full investigation that will involve the family in the process, that will be timely, effective and independent, in line with the guidelines provided by the Human Rights Act 1998 and which is both proportionate and relevant to the findings of the Inquest.
  3. Trace and interview all pertinent surviving witnesses, who were members of the public, to the assault and movements of the deceased on the evening of the assault.



4. Trace and interview all the soldiers who were in company with the Blue OSU on the night/early morning of 6 to 7 July 1997.
5. Trace, interview and obtain formal statements from all expert witnesses utilised to support the Inquest.
6. Formally review all the forensic opportunities that still exist to support this investigation and utilise the most modern techniques available to enhance previous investigation work.
7. Carry out a full investigation of any intelligence available.
8. Carry out a trawl of all open source material that may serve to support/undermine the findings of the 2011 Inquest.
9. Secure and preserve evidence, if available, to identify and successfully prosecute any police officers involved in the assault on the deceased on the evening/early morning of 6<sup>th</sup> to 7<sup>th</sup> July 1997 that resulted in the injuries subsequently identified as being the likely causation of Mr Hemsworth's death.
10. Provide a full file of evidence to the PPS (if appropriate) to obtain a decision as to any prosecutions in respect of this matter or in the absence of evidence beyond reasonable doubt provide an investigation report to inform the outcome of this investigation.

2.4

My investigation of these matters has now concluded and is addressed in this public statement.

# 3.0

## THE EVENTS OF 6/7 JULY 1997 – JOHN HEMSWORTH

- 3.1 John Hemsworth was a 39 year old plumber, who worked for a Belfast company. He was born in the United States of America (USA) but moved to Northern Ireland as a one-year old child, where he remained before, at the age of twenty, returning to work in the USA.
- 3.2 In 1984 Mr Hemsworth returned to Belfast for an extended holiday. It was his intention to return to the USA, however, he met and subsequently married his wife, who at the time of the assault was living at Conway Square, Belfast.
- 3.3 On the evening of Sunday 6 July 1997, Mr Hemsworth visited St. Galls Gaelic Athletic Association (GAA) Club before visiting the home of a relative at Brittons Parade in the Whiterock Road area. His intention was to travel home by taxi, however, due to the public disturbances, taxis were scarce and so he decided to walk home, accompanied for part of the journey by acquaintances, who had also been at the house.
- 3.4 Mr Hemsworth later told family and friends that as he walked along Malcolmsen Street alone, he was passed by rioters running towards Waterford Street, pursued by police officers on board Land Rovers.
- (A map indicating relevant locations and the route Mr Hemsworth is believed to have walked is attached at Appendix A).

3.5 The police vehicles were forced to stop at bollards on Malcolmson Street and officers alighted to pursue the rioters. Although some of the housing in the area has changed since 1997, the layout of the roads and bollards remains the same.



3.6 A number of the police officers confronted Mr Hemsworth, who explained that he was making his way home, adding that he was an American citizen. Mr Hemsworth alleged that the police officers directed sectarian abuse at him before one struck his face with a police baton. He described falling to the ground, where he was kicked to his jaw and struck on his back with a baton.

3.7 After the incident Mr Hemsworth made his way to Conway Square where he disclosed to his wife that he had been assaulted by the police. Mrs Hemsworth, who stated that her husband arrived at her home in his injured state at approximately 1.00am but no later than 1.15am, saw that he had been injured and advised him to attend the RVH for treatment. Mr Hemsworth left the house and walked to the hospital.

- 3.8 While walking to the RVH Mr Hemsworth saw a number of police officers at the gates of Dunville Park on the Falls Road, including one who he recognised as having been responsible for assaulting him. This officer allegedly directed a comment at him similar to, “that’s my man!”.
- 3.9 Hospital records place Mr Hemsworth at the RVH at 2.21am when he was initially seen by a Senior House Officer. My investigation could not establish if this reflects the time of his arrival at the A & E Department or the time of his actual treatment. It is not known how long Mr Hemsworth may have had to wait for treatment.
- 3.10 After being admitted to a ward for further treatment and observation, Mr Hemsworth was seen by other medical staff. Medical records show that Mr Hemsworth stated to a number of staff at the RVH that he had been assaulted with a ‘stick’. There was no reference in the hospital records to his assailants being police officers. In view of his time spent living in America, it is possible he may have referred to a police baton as a ‘(night) stick’, albeit he used the word ‘truncheon’ in a subsequent statement to his solicitor on 10 July 1997.
- 3.11 Mr Hemsworth was visited in hospital by his father, to whom he provided his account of having been assaulted by police officers at Malcolmson Street.
- 3.12 Following Mr Hemsworth’s discharge from hospital, his wife took a number of photographs of his injuries using a 35mm camera. The photographs and expert evidence relating to the manner in which bruising seen in the photographs was likely to have been sustained became significant during subsequent Inquest proceedings.

# 4.0

## THE EVENTS OF 6/7 JULY 1997 – THE BLUES OPERATIONAL SUPPORT UNIT

- 4.1 The weekend commencing Friday 4 July 1997 saw widespread public disorder in the West Belfast area associated with disturbances at Drumcree.
- 4.2 One of the main RUC units tasked with dealing with the rioting was the Blue Section of the OSU, known as the 'Blues'. This was one of a number of OSUs, who were specially trained, equipped and experienced in dealing with public disorder. They operated as a group of seven separate mobile units on board armoured Land Rover vehicles, under the command of an Inspector. The units had trained baton round gunners and were capable of deployment as combined or individual units. When not deployed as a combined unit it was common practice for them to operate as 'paired' units. They operated under the individual call signs of Blue1 to Blue 7.
- 4.3 The PSNI have advised me that the routine patrolling profile of the Blues was 1 police Land Rover accompanied by one military escort Land Rover.
- 4.4 On Friday 4 July 1997 the Blues commenced their shift at 5.00pm and worked one continuous shift until 3.00am on Monday 7 July. When not deployed they took rest periods at Grosvenor Road RUC Station.

- 4.5 In the early hours of Monday 7 July 1997 the Blues were deployed as a combined unit to serious rioting in the Lenadoon area of Belfast. They returned to Grosvenor Road RUC Station at 1.25am for a rest period. However, at 1.34am they were deployed again to Springfield Road RUC Station, which was under sustained attack from rioters throwing petrol bombs and missiles.
- 4.6 Police records show that the combined unit responded, under the command of an Inspector, Police Officer 1.
- 4.7 The available evidence supports the assertion that Blue 1 and Blue 2, accompanied by Police Officer 1, went to the north west side of Springfield Road RUC Station, where they made two arrests in an alley adjacent to Hawthorn Street at 1.50am before conveying their prisoners to Grosvenor Road RUC Station at 1.56am.
- 4.8 There is also evidence that Sections 3, 4, 5 & 6 of the Blues went directly to Springfield Road Police Station, where they began to clear the area of members of the public engaged in rioting. During the course of these actions some of the officers entered Malcolmson Street. This is a minor side road off Springfield Road, which is divided by bollards some way into it to prevent vehicular travel along its full length.
- 4.9 There is evidence that after the Springfield Road area was cleared Sections 3, 4, 5 and 6 of the Blues were deployed to Dunville Park, where a search located a cache of petrol bombs at 2.04am.
- 4.10 There is no evidence to place any members of Section 7 of the Blues in Malcolmson Street and Sections 1 and 2 were with prisoners at Grosvenor Road Police Station. Similarly there is no evidence that Sections 1, 2 or 7 of the Blues were deployed to Dunville Park.

# 5.0

## THE MONTHS AFTER THE ASSAULT

- 5.1 Mr Hemsworth was discharged from hospital on Monday 7 July 1997. He underwent dental treatment over the ensuing weeks and was unable to work for a prolonged period due to his injuries and post-incident trauma.
- 5.2 On 10 July 1997 Mr Hemsworth sought legal advice from his solicitors. He first saw Solicitor 1 to whom he made a statement concerning his allegations. The Solicitor made notes consistent with the accounts he had given to both his wife and father, but which did not provide great detail about the circumstances of the assault.
- 5.3 On 13 August 1997 Mr Hemsworth saw another solicitor, a partner in the practice, Solicitor 2. The purpose of this meeting was to establish the course of action Mr Hemsworth wished to take in relation to his complaint. Solicitor 2 told my investigation that at the time Mr Hemsworth had a choice between making a claim for criminal injury compensation or instigating proceedings against the RUC. The former was seen as a more straightforward form of litigation with a better chance of receiving compensation in a timely manner. The latter was seen as being a more protracted exercise with less chance of success on behalf of the plaintiff.
- 5.4 Mr Hemsworth was advised of his options by Solicitor 2, who vividly recalled that Mr Hemsworth chose the latter as he was deeply distressed and aggrieved at his treatment at the hands of the police. It did not appear that Mr Hemsworth's motivation for seeking legal guidance was monetary.

- 5.5 During the course of this meeting, Solicitor 2 recorded further details from Mr Hemsworth, the most significant of which was that the police who assaulted him had not been wearing what was referred to as 'riot gear'.
- 5.6 Solicitor 2 set about conducting enquiries to corroborate the account given by the deceased. His first action was to apply for Mr Hemsworth's medical records from the RVH. Shortly after the medical records were received Solicitor 2 wrote to Mr Hemsworth on 16 December 1997 requesting he attend his office on 7 January 1998 in order to progress the matter. At this stage a complaint in relation to the assault had not been made to the RUC.
- 5.7 On 27 December 1997 Mr Hemsworth became ill at his home and was taken to hospital. He died on 1 January 1998. His death was dealt with as a routine hospital death.
- 5.8 The pathologist who conducted the post mortem examination of Mr Hemsworth on 3 January 1998, and who had access to the deceased's medical records documenting his treatment at the RVH on 7 July 1997, concluded; *"There is no doubt that the deceased suffered a complete thrombosis of his right internal carotid artery a few days before his death and that this caused a major infarct in the right side of the brain, the swelling and extension of which led to his death. The onset of the thrombosis was responsible for the symptoms of which he complained on 27 December.....It is not in my view possible to correlate the recent thrombosis causing the cerebral infarction with any facial injury sustained in July 1997"*.



- 5.9 On 9 January 1998 Solicitor 2 wrote to the RUC on behalf of Mr Hemsworth's family, to make a complaint in relation to the assault. The complaint was allocated to a Detective Chief Inspector, Police Officer 2, who was attached to the RUC's Belfast Regional Criminal Investigation Department (CID) for investigation.
- 5.10 On 30 April 1998 the Coroner ruled that there was no requirement to hold an Inquest into the circumstances of Mr Hemsworth's death.
- 5.11 In a statement to my investigators, Solicitor 2 explained that as a matter of routine his initial advice to the Hemsworth family would have been not to make statements to police as he viewed the police complaints system, at that time, as lacking independence. His experience was that statements made by his clients were used by the RUC primarily to assist defence of civil actions and consequently was concerned that exposing his clients to police may have disadvantaged the outcome of the matter.
- 5.12 In January 1999 Police Officer 2 recommended that in the absence of evidence to implicate any police officer(s) in the assault on Mr Hemsworth, he intended to curtail enquiries. This recommendation was ratified by the ICPC.
- 5.13 In August 1999 the legal representatives of the Hemsworth family secured an expert medical opinion regarding the causation of John Hemsworth's death which concluded; *"....notwithstanding the delay between initial trauma and the final death, which is a recognised but uncommon occurrence, it is in my view highly likely that the trauma (i.e. the alleged assault) was the sole direct underlying cause of death"*.

5.14

The new medical opinion, which was provided to the police and the Coroner in December 1999, formed part of the argument that an Inquest should be held. On the application of the legal representatives of the Hemsworth family, in February 2000 the Attorney General directed an Inquest.

# 6.0

## THE SUPERVISED RUC INVESTIGATION

- 6.1 The Attorney General's decision that an Inquest in respect of the death of John Hemsworth should be held, led to a second RUC investigation of the matter, again led by Police Officer 2 but on this occasion supervised by the ICPC. My Investigators have examined the evidence gathered by that investigation.
- 6.2 Thorough enquiries were carried out in tracing and identifying police officers and military personnel, who had been deployed to the Springfield Road area at the time at which Mr Hemsworth was believed to have been assaulted.
- 6.3 Witness statements were taken from all police officers, who were on duty in the area. Police notebooks were examined. Records regarding the discharge of plastic baton rounds were collated. Officers were re-interviewed when discrepancies in their accounts were identified.
- 6.4 All military personnel were traced and statements obtained. None of the soldiers witnessed anything untoward with the exception of Soldier 1, who will be discussed later in this public statement.
- 6.5 Police Officer 2's investigation included house-to-house enquiries in Malcolmson Street and the surrounding area and appeals in the locality for witnesses to come forward. Two residents of Malcolmson Street came forward, one of whom described witnessing, from her bedroom, a number of individuals, who she believed to have been soldiers assaulting a member of the public. This witness is now deceased.

- 6.6 In parallel to the police investigation, Mr Hemsworth's family placed adverts in a local newspaper appealing for witnesses. This appeal resulted in two additional witnesses providing accounts of having seen police officers beating a man at Malcolmson Street, who they believed to be Mr Hemsworth. Both of these witnesses, one of whom is now deceased, stated that the person they saw being beaten was heavily bloodstained and had significant visible injuries to his jaw. There is, however, no evidence that Mr Hemsworth suffered bleeding as a result of the injuries he sustained.
- 6.7 Although members of the Hemsworth family provided statements to the second investigation in 2000, including Mrs Hemsworth, who stated that her husband had returned home no later than 1.15am on the morning of 7 July 1997, police did not identify the witnesses with whom Mr Hemsworth had spent the period immediately prior to being assaulted
- 6.8 During the course of this second police investigation, responsibility for supervision of the matter passed from the ICPC to the Police Ombudsman for Northern Ireland, which was established in November 2000.
- 6.9 A file was submitted to the PPS on 3 May 2001. A direction of 'no prosecution' was subsequently received from the PPS. The material collected during Police Officer 2's investigation formed the primary source of evidence presented at the subsequent Inquest.

# 7.0

## THE INQUEST

- 7.1 A number of preliminary hearings in respect of Mr Hemsworth's death was held by the Coroner between 2001 and 2009 and on 21 September 2009 an Inquest commenced.
- 7.2 During the proceedings in 2009, the photographs taken by Mrs Hemsworth of the injuries sustained by her husband were introduced as evidence. The Inquest was adjourned whilst experts studied the photographs.
- 7.3 During the 18 months that followed, evidence was received from experts on behalf of the Coroner and the legal representatives of the Hemsworth family that tramline bruising sustained by Mr Hemsworth was consistent with strikes from a cylindrical object such as a police baton.
- 7.4 The Coroner had also received a report from a Consultant Pathologist to the Home Office which concluded that, *'In summary, my opinion, despite the time delay between the fatal cerebral infarct and the injury received, it is likely that they are linked in terms of causation'*.
- 7.5 On 16 May 2011 the Inquest resumed and on this occasion ran to its conclusion on 27 May 2011. My Investigators have had access to the material produced by the Inquest and the related transcripts of evidence.

- 7.6 In total 36 people gave sworn evidence to the Inquest and 17 others had statements or documents read.
- 7.7 The Inquest Jury returned a verdict in response to a series of questions from the Coroner. In summary, the jury found; *“The medical cause of Mr Hemsworth’s death was cerebral infarction due to thrombosis of the right internal carotid artery...the injuries he sustained included fractures to both the right and left hand sides of his jaw bone (mandible) and also tramline bruising to the left jaw, neck and lower left hand side of back. There was also general bruising to the right jaw...the injuries sustained on 7 July were most probably the underlying cause of his death on 1 January 1998.....the fractures and bruising injuries were caused by being struck by a baton and kicked...as the only police in Malcolmson Street it is highly probable that one or more officers of the RUC Operational Support Unit Blue Section was responsible for the injuries to Mr Hemsworth.”*
- 7.8 Following the Inquest verdict the Chief Constable of the PSNI referred the matter to my Office on 6 June 2011.

# 8.0

## THE POLICE OMBUDSMAN'S INVESTIGATION

- 8.1 During 2006 and 2007, Mr Hemsworth's father and other parties representing the family, wrote to one of my predecessors requesting the investigation into the circumstances of Mr Hemsworth's death be reconsidered. The Police Ombudsman considered the evidence available at that time, including the expert opinion received by the Coroner indicating a causation link between the injuries sustained by Mr Hemsworth on 7 July 1997 and his death, but concluded that there was nothing further the Office could do in relation to the matter.
- 8.2 Following the Chief Constable's referral to my Office and disclosure of new photographic, and related expert, evidence, in January 2014 my Investigators commenced a new investigation of the circumstances of Mr Hemsworth's death. The aim of this investigation was to secure and preserve all relevant evidence; identify offenders; and, subject to the evidence obtained, make recommendations to the PPS in respect of the assault on Mr Hemsworth on 7 July 1997.
- 8.3 My Investigators reviewed documentation available from the previous enquiries and court hearings. An investigation strategy was established, which resulted in investigative actions, many of which are outlined in this public statement.
- 8.4 My Investigators conducted house-to-house enquiries in the Malcolmson Street area with a view to establishing if any of the occupants could offer any new evidence. These enquiries proved negative.

- 8.5 On 20 March 2014 my Investigators conducted a public meeting at Conway Mill, Falls Road between 3.00pm and 9.00pm. This followed a local media appeal via radio and newspapers. A statement was recorded at this meeting but no new information was forthcoming.
- 8.6 My Investigators posted letters appealing for information at all the residential and commercial properties along the route it was believed Mr Hemsworth had walked in returning to Conway Square. No relevant information was forthcoming.
- 8.7 Posters, showing an image of Mr Hemsworth and appealing for information, were placed in areas frequented by him. Of particular interest was St Gall's GAA Club, a location visited by Mr Hemsworth on the night of 6 July 1997. These enquiries led to the identification of a number of Mr Hemsworth's friends who, although not with him on the night, offered my Investigators an insight into his lifestyle and character.
- 8.8 Attempts were made to trace those witnesses, who had provided statements or given evidence at the 2011 Inquest in order to establish if they had any further evidence to offer. Unfortunately, several of these people were deceased and my Investigators were unable to trace some others.
- 8.9 A significant line of enquiry for the original investigation was the evidence offered by Soldier 1, who claimed that he witnessed officers from the Blue Section assault a member of the public. Soldier 1 stated that this member of the public had earlier assaulted him outside New Barnsley Police Station. He alleged that his supervisors had told him not to mention this matter.



- 8.10 A statement of evidence was made by Soldier 1 and the matter referred to the RUC's Complaints & Discipline Department, who concluded that his allegations had no connection to the alleged assault on Mr Hemsworth. When Soldier 1 gave evidence, via video link, at the Inquest he altered his account, stating that he could not recall witnessing an assault; speaking to any investigating police officers; or indeed making a statement. His evidence was dismissed as being unreliable.
- 8.11 I have considered the potential evidence of Soldier 1 and have concluded that his evidence cannot be regarded as reliable.
- 8.12 Enquiries have also been made with the Ministry of Defence (MOD) in respect of military logs and imagery footage from both the regiment on the ground and what is known as 'HELETELE' (military helicopters). No evidence, which might have assisted my investigation was obtained from the MOD.
- 8.13 My investigation implemented a family liaison strategy, as a result of which family members were re-interviewed in order to obtain detailed 'victimology' statements. As a result of this strategy additional witnesses were identified. The witnesses, who made statements to my Investigators and who I believe to be reliable, had contact with Mr Hemsworth shortly before he was assaulted at Malcolmson Street. Their accounts had not been known before but were significant in clarifying the timings of Mr Hemsworth's movements immediately before he was assaulted.

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<sup>1</sup> **'Victimology** is the total assessment of the circumstances of a victim with the aim of establishing the reason for their death and the likely identity of the offender.....Although not totally foolproof, the old maxim "*find out how a person lived and you will find out how they died*", has relevance to the majority of murder investigations.....' **Murder Investigation Manual (2000) National Crime Faculty/ACPO (Association of Chief Police Officers) Crime Committee.**

**'Victim Lifestyle Enquiries.** Once the family of the victim has been identified, FLOs (Family Liaison Officers) are usually tasked to gather as much information as possible about the victim. Commonly referred to as 'victimology', such enquiries into the lifestyle of a particular subject.....commonly begin in the initial stages of the enquiry, usually as officers are trying to establish why the body is in a particular place.....the aim of a lifestyle enquiry may be to establish links between suspects, victims and crime scenes.' **Murder Investigation Manual (2006). Produced on behalf of ACPO by the National Centre for Policing Excellence.**

- 8.14 The new witnesses, who corroborated each other's evidence, described Mr Hemsworth leaving St Gall's GAA Club at around midnight on Sunday, 6 July 1997 and visiting a relative at Brittons Parade in the Whiterock Road area until shortly after 1.00am. Accompanied by other visitors to the house, all of whom were unable to secure taxis home and were concerned about their safety, Mr Hemsworth left the house on foot. He was described as being in good spirits. The group, which initially included a heavily pregnant woman, made slow progress during the early stages of their journey. One of these witnesses provided a statement to my Investigators, in which she described being the last person to part company from Mr Hemsworth at Oakman Street. In view of his destination, Mr Hemsworth's direction of travel (as described by the witness) is consistent with him continuing his journey from Oakman Street along a side street (as indicated by the number 4 on the attached map) across the Springfield Road and into Malcolmson Street.
- 8.15 The timings established by evidence obtained from the witnesses who initially accompanied Mr Hemsworth are consistent with his presence at Malcolmson Street at the same time as the Blue Section of the OSU arrived at that location. These times are supported by a reconstruction that was undertaken by my Investigators. It is a short walk from Malcolmson Street to Conway Square.
- 8.16 The police investigations did not identify these witnesses and therefore did not obtain evidence of Mr Hemsworth's specific movements. As a consequence, the second police investigation is likely to have placed some reliance on Mrs Hemsworth's recollection that Mr Hemsworth arrived at her Conway Square home at or about 1.00am but "*not any later than 1.15am*". This would have been prior to the recorded arrival of the Blue Section of the OSU to Malcolmson Street shortly before 1.45am on the morning of Monday 7 July 1997.

- 8.17 My Investigators also established that not all members of the Blue Section could be placed at Malcolmsion Street as part of that deployment. Evidence was obtained that Units 1 and 2, accompanied by the Inspector in command of the Blue Section of the OSU, went directly to the north west side of Springfield Road Police Station, where they dispersed rioters and made two arrests. They then escorted the persons arrested to custody at Grosvenor Road Police Station.
- 8.18 The timings of the movements of Units 1 & 2 of the Blue Section and Police Officer 1, which are corroborated by custody records and statements of evidence, show that they were not in Malcolmsion Street at the time Mr Hemsworth was assaulted.
- 8.19 Similarly there was no evidence to place Section 7 of the Blues in the vicinity of Malcolmsion Street at the time Mr Hemsworth was assaulted.
- 8.20 There is, however, significant evidence to place the crews of Units 3, 4, 5 & 6 of the Blues OSU at Malcolmsion Street at the relevant time. This evidence includes duty statements from individual officers made in 2000 and evidence provided by officers during the Inquest of 2011. Blues 3 to 6 were also deployed to Dunville Park at around the time Mr Hemsworth is believed to have been making his way to the RVH.
- 8.21 During the summer of 2014 my Investigators interviewed 16 police officers under criminal caution. These suspects were identified as the crew members of Blue Section Units, 3, 4, 5 & 6. Some were retired officers, who attended voluntarily whilst others remain serving with the PSNI.
- 8.22 The officers were interviewed on suspicion of inflicting grievous bodily harm with intent, a serious offence, triable only on indictment and carrying a maximum penalty of life imprisonment.

- 8.23 All officers gave an account of their movements at the relevant time. Many stated that their recollection of their precise movements before, during and after being in Malcolmson Street had been affected by the passage of time, albeit in their opinion, they did not witness anything out of the ordinary.
- 8.24 As at the Inquest, some of the officers contradicted themselves. Other officers maintained that their duty statements, which they made to the original police investigation, were an accurate account and that they were now unable to recollect events in any greater detail. No police officer made an admission to any criminal actions nor did they implicate any other officer.
- 8.25 A file detailing my investigation was forwarded to the PPS in September 2014. Having examined the available evidence the PPS concluded that it was not possible to identify any specific officer as having been involved in the assault on Mr Hemsworth and in the absence of such evidence there could not be a prosecution.

# 9.0

## CONCLUSIONS

- 9.1            Shortly after 1.00am on the morning of Monday, 7 July 1997, Mr John Hemsworth left the home of a relative at Brittons Parade with a number of witnesses with whom he had been socialising. During the latter stage of his walk home, an early part of which he shared with the aforementioned witnesses, Mr Hemsworth sustained injuries, the most significant of which transpired to be the area of his jaw and neck. His account of the location at which he was attacked, the assailants and the manner of the assault remained consistent until his death on 1 January 1998.
- 9.2            Mr Hemsworth's medical records contained references to him having told medical staff at the Royal Victoria Hospital that he had been struck by a 'stick'. The notes did not record the allegation he had made to his wife prior to attending hospital, which he repeated to his father later the same day and subsequently to others, that he had been assaulted by police officers. I do not, however, believe that the absence of a reference to police officers in the hospital notes undermines the account that Mr Hemsworth maintained so consistently over the following months.
- 9.3            My investigation has secured direct witness evidence of the route taken by Mr Hemsworth during the first half of his journey from Brittons Parade to Conway Square on the night he was injured. In the context of his destination, the direction of Mr Hemsworth's travel set him on a course for the immediate area of Springfield Road Police Station and on to Malcolmson Street.

- 9.4 The timings provided by the witnesses who initially accompanied Mr Hemsworth are consistent with him being at Malcolmson Street at a time when units of the 'Blues' Section of the RUC's OSU are known to have been present; at or about 1:45am.
- 9.5 Although Sections 1 to 7 of the 'Blues' OSU were despatched to the Springfield Road Police Station area at 1.34am on 7 July 1997, only Sections 3, 4, 5 & 6 are known to have entered Malcolmson Street. These are the only police units identified as having been in Malcolmson Street at the time Mr Hemsworth is believed to have been assaulted. Officers from these units were also deployed to the Dunville Park area, when the Springfield Road area had been cleared of rioters.
- 9.6 Mr Hemsworth told his solicitor that the army were present at the scene but not responsible for the assault and that the police officers who assaulted him were not wearing 'riot gear'.
- 9.7 It is unlikely that an unidentified police patrol was operating in that area at the relevant time. None of the soldiers traced by the original investigation provided evidence, which would have assisted my inquiry.
- 9.8 It is equally unlikely, given the short space of time available, that officers from the besieged Springfield Road Police Station managed to exit the station and assault Mr Hemsworth.
- 9.9 The evidence indicates that police from the Blues OSU were wearing full riot uniform. This equipment was relatively new, having been issued during 1997. Great issue was made at the Inquest about what would constitute the wearing of the 'full kit' and whether the absence of a riot helmet would have misled the deceased as to whether the police who assaulted him were in 'riot gear' or not.

- 9.10 The account given by Mr Hemsworth to his solicitors was brief. Both solicitors, who dealt with Mr Hemsworth believed firmly that he had been assaulted by police officers. They were struck by his steadfastness and his determination to pursue full redress rather than a less challenging form of litigation in the form of criminal injuries compensation. It is possible that if more detailed information had been recorded it may have assisted in identifying the exact scene of the assault and identity of his assailants. Ambiguities in his account could have been explained and confusion eliminated.
- 9.11 It is clear, however, that no person expected or foresaw that Mr Hemsworth would die some six months after the assault and it is equally clear that the actions taken by Solicitor 1 and Solicitor 2 were the common working practices at that time.
- 9.12 After the death of Mr Hemsworth, the lack of detail in his account led to difficulties for the original RUC investigation, which was unable to establish properly his movements and identities of persons with whom he had contact during the period preceding his assault at Malcolmson Street. The police have stated that their efforts were frustrated by a lack of engagement from members of Mr Hemsworth's family and the reluctance of other potential witnesses to cooperate. The situation was exacerbated by the initial decision not to hold an Inquest into Mr Hemsworth's death.
- 9.13 As a result, the second police investigation, which commenced a number of years later, worked to a flawed timeline in which it was highly unlikely that Mr Hemsworth would have been at Malcolmson Street at the same time as the Blues OSU. Whilst this information would have had an adverse impact on the initial direction of that inquiry, it was also incumbent on the second police investigation to undertake sufficient enquiries to establish Mr Hemsworth's movements in the early hours of 7 July 1997.

- 9.14 The police investigations were not aware of the witnesses, in whose company Mr Hemsworth spent the hours preceding his assault in the early hours of 7 July 1997. The important evidence subsequently provided by these witnesses to my investigators as a result of victimology enquiries was therefore not available to the police investigations. There is little evidence in the police papers that any significant investigative work was done around victimology. The course of both police investigations may have been different had they been aware of these witnesses and their evidence, a shortcoming which police have attributed to the initial lack of engagement from Mr Hemsworth's family.
- 9.15 The evidence available leads me to conclude that John Hemsworth was assaulted at Malcolmson Street by police officers from the Blue Section of the RUC's OSU and that the injuries he sustained from that assault were the underlying cause of his death on 1 January 1998. After 19 years it is not now possible to identify the individual police officer(s), who assaulted Mr Hemsworth.
- 9.16 Whilst mindful of the public order situation prevailing at the time Mr Hemsworth was assaulted, it is a matter of concern to me that throughout the course of three investigations and an Inquest, no police officer who was present at Malcolmson Street at the relevant time has been able to recall the incident.
- 9.17 Due to insufficient evidence to enable reliable identification of those police officer(s), who were responsible for the assault on John Hemsworth, it has not been possible for successive police investigations, my Office and the PPS to properly address culpability for the assault.

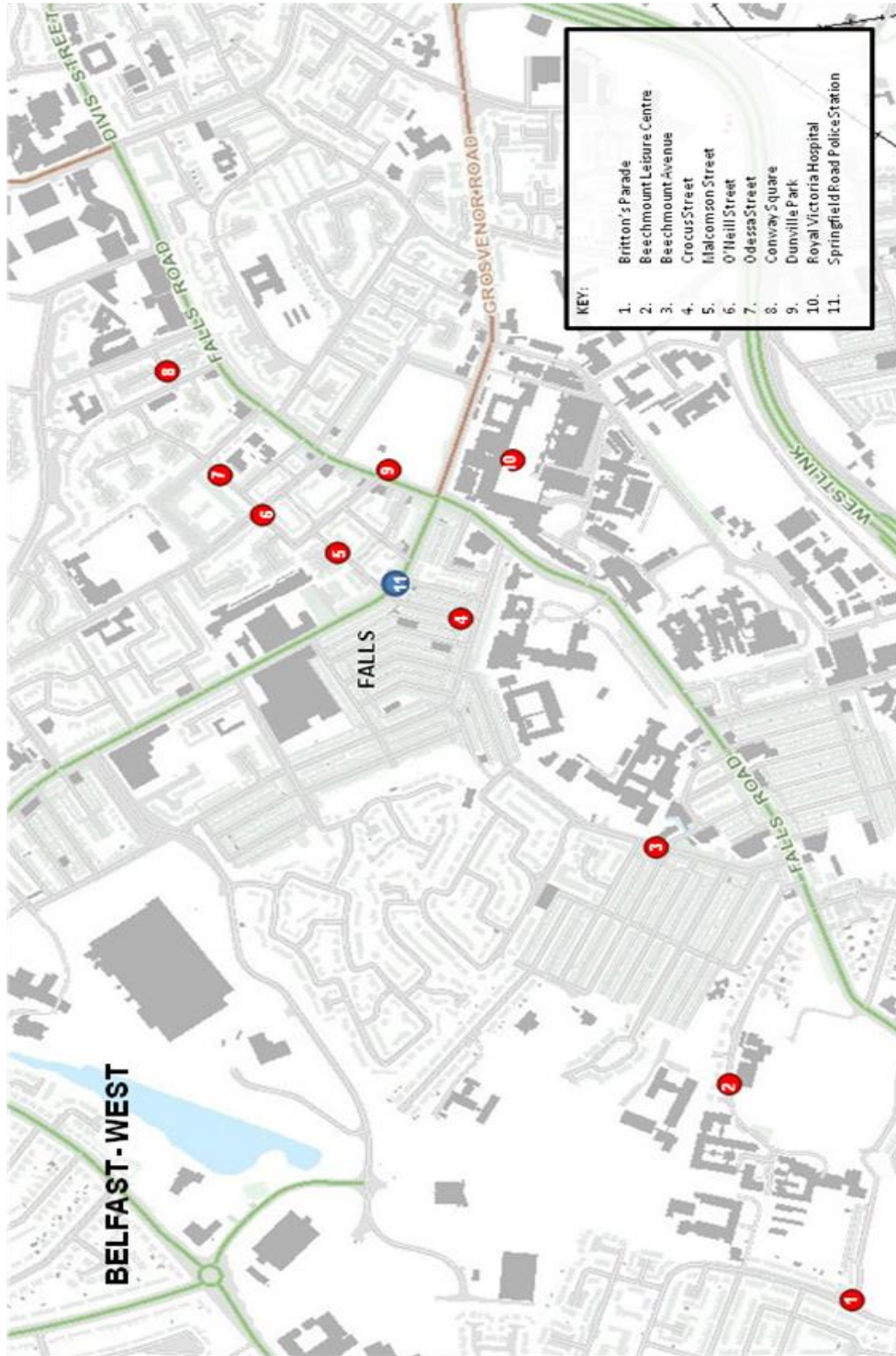
**Michael Maguire**

**Police Ombudsman for Northern Ireland**

24 November 2016



Route (1-10) believed to have been taken by Mr Hemsworth



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