

Investigation into the circumstances surrounding the death of Alice McLoughlin (16) at Portadown on 6 July 1991

STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT 1998

THE FUNCTIONS OF THE POLICE OMBUDSMAN FOR NORTHERN IRELAND

The Police Ombudsman for Northern Ireland is:

- Established by the Police (NI) Act 1998;
- Accountable to Parliament through the Secretary of State;
- Constituted and operated independently of the Northern Ireland Policing Board and the Chief Constable of the Police Service of Northern Ireland;
- Required to have regard to guidance issued by the Secretary of State;
- An executive non-departmental body financed by Grant in Aid from the Northern Ireland Office.

The Police (NI) Act 1998 directs the Police Ombudsman for Northern Ireland to:

- Exercise her powers in such manner and to such extent as appears to her to be best calculated to secure:
 - (a) the efficiency, effectiveness and independence of the police complaints system; and
 - (b) the confidence of the public and of members of the police force in that system;
- observe all requirements as to confidentiality;
- receive complaints and other referred matters and decide how to deal with them;
- receive and record policy complaints and refer them to the Chief Constable;
- make recommendations to the Director of Public Prosecutions for criminal prosecution;
- make recommendations and directions in respect of disciplinary action against police officers;
- notify the Secretary of State, the Northern Ireland Policing Board and the Chief Constable of the outcome of certain complaints, referred matters and any investigation which the Police Ombudsman initiates without a complaint;
- report to the Secretary of State annually.

The Police (NI) Act 2000 directs the Police Ombudsman to:

- carry out enquiries as directed by the Secretary of State;
- supply statistical information to the Northern Ireland Policing Board.

The Police (NI) Act 2003 directs the Police Ombudsman to:

- investigate a current policy or practice of the police if:-
- the practice or policy comes to her attention under the Police (NI) Act 1998, and
- she has reason to believe that it would be in the public interest to investigate the practice of policy.

STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT 1998

1.0 INTRODUCTION

- 1.1 At approximately 1am on 6 July 1991, 16-year-old Alice McLoughlin, who lived in Edenderry, Portadown, Co Armagh, was admitted to the Accident and Emergency department at Craigavon Area Hospital. She had been brought there by an off duty Royal Ulster Constabulary officer, Officer A, who worked in CID, Newry RUC Station.
- 1.2 She was suffering from massive trauma to the head caused by a single gunshot, fired from the legally held personal protection weapon of the officer. Alice McLoughlin was pronounced dead at 1.05 am. Alice's body was taken to the hospital mortuary and a post mortem examination was carried out.
- 1.3 Following Alice's death, the Royal Ulster Constabulary launched a major investigation, under the command of Detective Chief Superintendent B. During that police investigation a significant number of witnesses were traced and interviewed. The investigation was concluded, a file sent to the Director of Public Prosecutions and disciplinary matters resulting from the investigation were considered. The investigation was closely supervised by the Independent Commission for Police Complaints (ICPC), who issued a statement that they were satisfied with the investigation on 31 October 1991.
- 1.4 The Director of Public Prosecutions directed that there should be no prosecution of Officer A in relation to Alice's death. Disciplinary action was taken against Officer A, by the Royal Ulster Constabulary, for his failure properly to secure his gun. The officer pleaded guilty to a disciplinary charge of "disobedience to orders relating to the lack of proper care of his personal protection weapon"
- 1.5 An inquest was conducted, but no official transcript of the inquest hearing remains. It was determined by a jury that Alice's death was "as a result of a bullet wound to her head consistent with self infliction."
- 1.6 Three of Alice's friends gave evidence that she had talked about suicide on four occasions, and Officer A also stated that in the minutes before her death Alice had been very distressed and had talked about her life, saying that Alice had said "you know I tried to cut my wrists or something like that."

STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT 1998

The medical evidence shows that Alice was not drunk at the time. It is known that the gun had no safety catch (there were no safety catches on Ruger pistols of this type). In addition to this, it is a fact that it would have been very easy to fire the gun – very little pressure was required to fire it. When one of these guns was fired there was also a tendency to misfire slightly and it is most probable that her death was due to a tragic accident.

Alice's family have never accepted that she took her own life and immediately following her death, Alice's family launched their own investigation and sought their own witnesses.

- 1.6 Following the conclusion of the police investigation, a number of witnesses were identified by the Justice for Alice Group (which represents the family), and a complaint was made to the Police Ombudsman for investigation.
- 1.7 The investigation by the Police Ombudsman identified additional new witnesses and fully explored the allegations made by the family and others.
- 1.8 At the conclusion of the investigation the Police Ombudsman forwarded a full file of evidence to the Public Prosecution Service (previously known as the Office of the Director of Public Prosecutions), seeking direction on whether sufficient evidence existed to justify a criminal charge or charges against Officer A, or the Senior Investigating Officer (Detective Chief Superintendent B)
- 1.9 The Director of Public Prosecutions directed "No Prosecution" for all allegations, there being no sufficient evidence on which to mount a prosecution.

2.0 THE COMPLAINT

- 2.1 On 19 December 2003, Alice McLoughlin's family and their representative met the Police Ombudsman. A statement of complaint was later taken from the family's representative. The statement detailed in excess of thirty allegations relating to Officer A, the Senior Investigating Officer investigating the death, (Detective Chief Superintendent B) and the investigation as a whole.

STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT 1998

2.2 The allegations fall into six general areas and were that:

- 1) "Officer A was responsible for Alice's death, either by his gross negligence, or by conspiring with an unknown third party to kill her;"
- 2) "Officer A lied to cover up his prior knowledge of Alice;"
- 3) "Detective Chief Superintendent B suppressed information and conspired to cover up an ongoing relationship between Officer A and Alice;"
- 4) "Independent forensic evidence cast doubt on the investigation into Alice's death;"
- 5) "Significant shortcomings in the forensic investigation add weight to the belief that police tried to cover up what happened to Alice;"
- 6) "General Investigative failings amounted to an attempt to pervert the course of Justice"

3.0 THE POLICE OMBUDSMAN'S INVESTIGATION

3.1 Following receipt of the complaint, a Major Incident Room was established at the Police Ombudsman's Office. Extensive enquiries were made in order to retrieve all the material from the original police investigation. A significant amount of paperwork was retrieved from the following sources:

- The Police Service of Northern Ireland
- The Office of the Coroner
- The Director of Public Prosecutions
- The Forensic Science Service Northern Ireland
- The solicitor for the McLoughlin family

3.2 The files of evidence submitted by the Royal Ulster Constabulary to the Coroner and Director of Public Prosecutions provided an insight into the police investigation and the chronology of material / evidence coming into the investigative arena. The Police Ombudsman investigator sought to talk to the Coroner. However the legal adviser to the Coroner declined to allow his client to be interviewed, and also declined to provide written answers to questions provided by the Police Ombudsman investigators. The

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

Police Ombudsman has no powers to compel witnesses in cases such as this.

- 3.3 Owing to the passage of time and the fact that the police investigation was closed as not involving any crime, much of the original material was lost or destroyed.
- 3.4 The initial complaint made by the McLoughlin family was subsequently considerably expanded upon. Clarification was also sought by the family, in relation to a wide range of investigative issues. The expanded list of specific allegations formed the basis of the investigative strategy for the Ombudsman investigators.
- 3.5 Following receipt of the files from the 1991 police investigation, the material was extensively reviewed and initial lines of enquiry were identified. The primary focus of the enquiry was to:
- 1) Establish what evidence existed to support or refute the allegation that Officer A knew Alice prior to her death, or that he was involved in her death;
 - 2) Re-interview all relevant witnesses;
 - 3) Evaluate the original forensic findings and identify forensic evidential opportunities;
 - 4) Ascertain whether there was evidence of witness evidence being suppressed;
 - 5) Establish whether the investigative process was flawed.
 - 6) Collate evidence to enable an interview to be conducted with Officer A;
 - 7) Assess the level of family liaison;
 - 8) Assess the extent to which, if any, the complaints made were substantiated.
- 3.6 As the investigation progressed, a number of issues became apparent, which are cause for concern. They are detailed in this report.

STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT 1998

- 3.7 One of the first tasks of Police Ombudsman investigators was to recover all the relevant paperwork. When decisions are made in an investigation of this type each decision, and the reason for that decision, is recorded in a policy file, created for the purpose of the particular investigation, which normally forms part of the investigation file.
- 3.8 There was, at that time, no central store for the paperwork generated by large enquiries such as the enquiry into Alice's death, leading to ad-hoc storage and disposal of vital papers. Despite numerous file stores being searched, no policy file for the enquiry into Alice's death has been found-
- 3.9 Examination of the policy file is a critical process, which would have enabled the Police Ombudsman investigators to determine how the enquiry into Alice's death was conducted. The examination of this policy file would undoubtedly have enabled the Police Ombudsman's investigators to assess the professionalism and direction of the original investigation more speedily and accurately. Several allegations could have been resolved by simply viewing and authenticating policy file entries, had a policy file existed.
- 3.10 Failure to access and review a policy file has seriously impeded enquiries undertaken by the Police Ombudsman, particularly in relation to issues such as family liaison and forensic strategies. It has also effectively prevented the allocation of responsibility for individual decisions made by senior officers.

4.0 FINDINGS

The various complaints and the findings in relation to them are detailed in the paragraphs which follow.

5.0 COMPLAINT No. 1

“Officer A was responsible for Alice McLoughlin's death, either by his gross negligence, or by conspiring with an unknown third party to kill her”

- 5.1 Officer A's account of the circumstances surrounding Alice's death has remained consistent since 1991.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

- 5.2 Officer A stated that he had picked Alice up on a country road shortly before the incident which led to her death. This was the Mullabrack Road, which joins Markethill with Richill and Portadown. He stated that she was distressed and appeared drunk. He said he agreed, because of her emotional state, to take her home to Portadown. Officer A also stated that he was running out of petrol and he needed to get money from a cash point in order to buy petrol. Whilst in the town centre of Portadown, therefore, he used a bank cash point at 12.47 am, leaving Alice in his car for a short time.
- 5.3 The officer said he returned to the car and drove a short distance, before he heard a gunshot to his left. He realised almost immediately that Alice had found his personal protection weapon and had fired a shot. He drove immediately to the hospital, where Alice was declared dead.
- 5.4 The car, a Fiat Regatta, which was driven by the police officer, was seized by police from the front of the hospital and later forensically examined. The officer was not arrested but went voluntarily that night to Portadown police station. He was later interviewed by detectives before he was allowed to go home with his wife. An investigation then took place.
- 5.5 Officer A has consistently denied any involvement in Alice's death. He has, however, always accepted that he left his loaded police issue revolver in the car in which Alice was sitting, whilst he used the cash point in Portadown, but stated that he considered her to have been unaware of its presence when he got out of the car to use the cash point.
- 5.6 A forensic expert was instructed by the McLoughlin family after Alice's death. That expert concluded that Alice could not have fired the shot herself. Coupled with the initial forensic findings that Officer A almost certainly did not fire the shot, the family concluded that a third party must have killed Alice.
- 5.7 However the forensic evidence which is available in this case does not support that conclusion and the forensic expert, who had based his initial conclusions on poor quality photographs, subsequently changed his mind when given the opportunity to study the original photographs at the inquest in 1993. He stated that Alice could have fired the shot herself.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

5.8 Alice's family said that there was a third party in the car with Alice and Officer A. They had suggested that this was Alice's best friend Ms Y. However this investigation has been able to establish that Ms Y was NOT in Officer A's car on the night in question, as had been alleged. There is no evidence that there was a third person in the car at the time when Alice suffered the injuries which led to her death. (This issue is dealt with in paragraph 9.6 of this Report.) The forensic findings tend to refute that possibility.

5.9 There is no evidence that the officer was responsible for the death of Alice, either directly or in conspiracy with a third party.

5.10 **The complaint made by the McLoughlin family about the criminal culpability of Officer A for Alice's death is not substantiated.**

6.0 COMPLAINT No. 2 – "Officer A lied to cover up his prior knowledge of Alice McLoughlin."

6.1 The McLoughlin family alleged that Officer A was involved in a relationship with Alice and lied during the police investigation and the Inquest to conceal this. They based this on the following:

- 1) An alleged sighting by two witnesses of Alice and Officer A at the Coach Inn, Banbridge.;
- 2) Witness evidence alleging that Officer A was with Alice at the Normandy Inn, Richhill;
- 3) A visit to the family home by a man, alleged by Alice's father to be Officer A. This is commonly referred to as the "Sunday Night Caller";
- 4) An alleged sighting by Alice's sister of Officer A with Alice at a July bonfire in Portadown;
- 5) Allegations by several of Alice's friends that she was involved in a relationship, either with a married man or a policeman;
- 6) There was no other reason for Alice to have walked the Mullabrack Road, unless she had pre-arranged a meeting at this location. They allege that this meeting was with Officer A;

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

7) The family allege that because Officer A was stationed in Portadown for a period of time, it would have been almost impossible for him not to know Alice, at least on a professional basis.

6.2 Officer A has consistently denied that he had met Alice before he gave her a lift in his car on the 05 July 1991. The veracity of the various alleged sightings of Alice and Officer A, by Alice's friends, was extensively tested during the Ombudsman's investigation. The alleged sightings are dealt with in the following paragraphs.

6.3 **1) An alleged sighting by two witnesses of Alice and Officer A at the Coach Inn, Banbridge**

The most significant allegation that Officer A may have already known Alice is provided by a friend of Alice's (Ms X), who told Police Ombudsman investigators that she, her boyfriend and her brother saw Alice with Officer A at the Coach Inn, Banbridge, some time prior to her death. Ms X said that her party joined Alice and Officer A. She said that when the officer went to the bar, her brother identified him as a police officer but Alice denied this. Ms X said that she had made this information available to the police investigating Alice's death, who failed to record it, and that she had also pointed the officer out to Alice's mother at the Inquest.

Ms X's brother, in his statement to Police Ombudsman investigators, said he had been able to recognise Officer A as he had been arrested by him previously and taken to Portadown Police Station. He said he was particularly able to recall the incident because there had been a death at the station that night.

Police Ombudsman investigators have established that Ms X did not mention this identification in her original statement to police officers investigating the death, nor did she mention that her brother was present.

Alice's mother has rejected the suggestion that Ms X identified the officer to her at the inquest.

STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT 1998

Police Ombudsman investigators have also established that Ms X's brother had been arrested on two occasions. They established that the first death at Portadown Police Station happened four years after the second occasion on which Ms X's brother was arrested, and three years after Alice's death. Therefore there was no death in Portadown Police Station on either of the occasions on which Ms X's brother was arrested. There is no record of Officer A having been involved on either occasion on which Ms X's brother was arrested.

Police Ombudsman investigators also established that Ms X's boyfriend, in his original statement to police, made no mention that Ms X's brother was present, nor that he had identified the man with Alice as being a police officer. He has said that Alice denied that he was a police officer and referred to him as "Colly, the farmer".

The Police Ombudsman has interviewed a man, known as Colly, who gave evidence that he had had a brief relationship with Alice in 1991, and that he worked in a garden plant nursery. He confirmed that he would have visited the Coach Inn, but could not remember being there with Alice.

The evidence shows therefore that Ms X, who was a close friend of Alice, gave statements to the police, to the McLoughlin family solicitors and to the Justice for Alice group, but did not mention this alleged identification of a police officer until 2003, twelve years after Alice's death. The Police Ombudsman is therefore unaware of any credible evidence that Officer A was in the Coach Inn with Alice at some point prior to her death.

6.4 2) Witness evidence alleging that Officer A was in the company of Alice at the Normandy Inn, Richhill

The alleged sighting at the Normandy Inn was made by a female who has since died. Witnesses to the sighting were named by the McLoughlin family. Police Ombudsman investigators spoke to them all. None corroborated the claim. There is no factual evidence, therefore, that Officer A and Alice were present together at this location.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

6.5

**3) A visit to the family home by a man, alleged by Alice's father to be Officer A.
This man has been referred to as the "Sunday Night Caller"**

The family believe a man who called to their home on a particular Sunday night asking to see Alice was Officer A. Alice and her sister were said to be present on this occasion. At the Inquest, Alice's father said he answered the door to the man. In talking to Police Ombudsman investigators, Mr McLoughlin described the man, and said he had the appearance of a police officer and was wearing a gun. Mr McLoughlin said he later established the man was Officer A. Mr McLoughlin did not however tell the police investigating Alice's death about this alleged incident. The Police Ombudsman has noted there is no record of Mr McLoughlin giving the police a description of this man, or alerting them to the significant fact he was wearing a gun. The family would not allow Alice's sister to be interviewed about the caller because of her distress at Alice's death.

However, in an interview with Police Ombudsman investigators, Alice's sister said she had been in a bedroom with her sister Alice, when the knock came to the door on that Sunday night. She said Alice looked out the window, identified the caller, using the Officer A's first name and asked her to get rid of him. She said that it was she, and not Mr McLoughlin, who asked the man to leave. She said that Alice later told her all about her relationship with Officer A.

The identity of the "Sunday Night Caller" has never been established. There is no evidence to indicate that it was Officer A.

6.6 **4) An alleged sighting, by Alice's sister, of Officer A with Alice at a bonfire in Portadown on 1 July 1991**

Alice's sister has alleged that she saw Officer A with Alice at a bonfire in Edenderry on 1 July 1991. She also alleged that Alice fell out with one of her friends, who was pregnant at the time, because she believed Officer A was the father of the child Alice's friend was expecting.

STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT 1998

This allegation was not raised until the Police Ombudsman's investigation started. Alice's sister's story was denied by her brother, who was also present at the bonfire.

Police Ombudsman investigators did make strenuous attempts to establish whether Alice's friend had a baby at the relevant time. They established that she did and it also appears that the father was her boyfriend at the time, whose first name was the same as Officer A's first name. This was confirmed by Alice's friend - the mother of the child. Police Ombudsman investigators have also spoken to Social Services and to the foster parents of the child to whom Alice's friend gave birth after July 1991.

There is no record, nor is there any other evidence, that Officer A was present at the bonfire, nor that he was the child's father.

6.7 **5) References by several of Alice's friends that she was involved in a relationship, either with a married man or a policeman**

Several of these people were interviewed by Police Ombudsman investigators. None of them have named Officer A. The detailed descriptions which they have given of the man, his home and lifestyle, do not fit those of Officer A. There is no evidence to suggest that Alice was involved with a police officer.

6.8 **6) There was no other reason for Alice to have walked the Mullabrack Road, unless she had pre-arranged a meeting at this location. Alice's family allege that this meeting was with Officer A.**

The family believe the only reason Alice would have been on the Mullabrack Road, was if she had planned to meet someone.

The events of the evening of the 5 July 1991 have been closely examined. They demonstrate that:

- 1) Alice left work at 1.00pm. She spent the afternoon with a friend Ms Y.
- 2) She was picked up at 3.00pm by an identified taxi driver and taken home. She had scratches to her face and was using crutches. She told the taxi driver she had fallen. It has been established that Alice had fallen the previous evening, and had been taken to Craigavon Hospital by two police officers. She had been treated by a doctor, who has also been identified, and who treated her when she was admitted on 6 July 1991 with the fatal gunshot wound.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

- 3) Alice left her home with Ms Y after 6.00 pm and was taken by the taxi driver to Markethill. She did not take her crutches with her.
- 4) She remained in Markethill and was seen by a number of witnesses until shortly after 11.45 pm. One witness has said that he had seen Alice going into a phone box he heard her say that she was going to phone a taxi. She came out of the phone box saying that she could not get a taxi. Alice's family believe the telephone call made by Alice may have been to try and arrange to meet Officer A.

Police Ombudsman investigators sought British Telecom and RUC phone records for the period. However they no longer exist, so it is not possible to establish whom Alice phoned. Witnesses then stated that the two girls separated, having "fallen out," and that Ms Y took a lift from an identified individual. She was simply driven around and remained in the general Markethill area.

- 5) A different witness said she spoke to Alice who had asked for direction to Portadown and saw her walk towards the Mullabrack Road, which is the most direct route.
- 6) At about 12.15 a girl matching Alice's description was seen by witnesses walking along the footpath of the Mullabrack Road at Martkethill towards Portadown.

In relation to Officer A his statement demonstrates that

- 1) He left work in Newry at about 10.30pm, collected a Chinese meal in Richhill and took it home, arriving at about 11.05-11.10.
- 2) He, his wife and daughter ate the meal.
- 3) He and his wife had a row over domestic matters and he left his home at about 12.10-12.15 am "to cool off."
- 4) He drove from his home to Hamiltonsbawn, then towards Markethill and up the Markethill Road towards Newry.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

- 5) Then he thought “this was stupid” and he turned and came back to Markethill and turned for Hamiltonsbawn. He saw Alice walking on the left side of the road on her own.
- 6) He stopped because she did not look when the car appeared and appeared to be “staggering.” When he stopped she was crying, and he asked her if something had happened to her. She opened his passenger door and sat down still crying. She said she needed a lift to Portadown.
- 7) He said he could leave her in Richill because he had no petrol. She burst into tears and was “fairly distressed”, so he agreed to take her to Portadown.
- 8) Officer A states that Alice talked and cried a lot during the period in which she was in his car. He gave accounts of her telling him about a relationship she had had with a man. Alice’s friends also gave evidence that she had told them the same story before she died.

The reasons why Alice decided to walk the dark and deserted Mullabrack Road will never be known.

The evidence suggests, however, that no meeting with Officer A was arranged. There is no evidence which contradicts Officer A’s explanation as to why he was on the road at that time.

6.9 7) Owing to the fact that Officer A was stationed in Portadown for a period of time, it would have been almost impossible for him not to know Alice, at least on a professional basis.

The Police Ombudsman has found no evidence that the officer knew Alice personally or professionally. Alice had no convictions and no identifiable contact with CID officers, such as Officer A. Officer A served in Portadown between March 1988 and July 1990. He was a CID officer, and was not routinely deployed on the streets of Portadown.

The family believe that given the fact Officer A had served in the town for a long period, it would have been almost impossible for him not to have known Alice. However there is no verifiable evidence to suggest that he did.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

6.10 Alice's diary

Police Ombudsman investigators were given access to Alice's diary, which had not been available to the RUC investigators. It does not contain any reference to Officer A, nor to a relationship with a police officer.

6.11 The allegation that Officer A lied to cover up prior knowledge of Alice is not substantiated. No evidence has been found to establish that Officer A knew Alice before the night on which she died.

7.0 Complaint Three: "Detective Chief Superintendent B suppressed information and conspired to cover up an ongoing relationship between Officer A and Alice."

7.1 The McLoughlin family have consistently maintained that Officer A knew Alice. They provided information in relation to five issues, which they claimed were proof that Officer A and other police officers had lied.

7.2 1) The Mortuary Attendant.

Alice's family say the mortuary attendant at Craigavon Area Hospital allegedly told his son, during the early hours of 6th July, prior to the official identification, that Alice McLoughlin was dead. The family believe this man could not have known her name, without having been told it by someone who knew it.

However, when interviewed by the Ombudsman's investigators, the mortuary attendant vehemently denied that he had told his family of Alice's identity or that he knew her prior to her death. He maintained that her body was not identified until the partial identification by a uniformed officer, Officer C, who had responsibility for Edenderry. The mortuary attendant also added that there were legal and procedural reasons why he could not have divulged this information, even if he had known it.

STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT 1998

Officer C had been called to the mortuary because Officer A had stated that Alice had told him that she was from Edenderry. Officer C identified her as “a daughter of Mr McLoughlin”. He did not know which daughter she was. Alice had also allegedly told Officer A that she was studying Spanish and German at Portadown College, and the Principal of the College was asked to attempt an identification. Alice was not a student at Portadown College.

Alice’s body was then formally identified by Mr McLoughlin.

There is no evidence to support the suggestion by Alice’s family that the mortuary attendant identified Alice to his son before the official identification.

7.3 **2) The police search**

Prior to the official identification by Mr McLoughlin, a police search was carried out near the location where Alice was picked up by Officer A. The officer leading this search said in his statement that he was “looking for items belonging to Alice McLoughlin”. The family believe that this indicated that Alice’s identity was known before she was formally identified by her father.

The officer who searched the area where Alice met Officer A was interviewed by Police Ombudsman investigators. It has been established that he completed his statement on 11 July 1991; some 5 days after the search took place. He said he believed he was asked to search for items belonging to ‘the deceased.’ He said he later established that her name was Alice McLoughlin, and inserted this into his statement ‘for completeness.’

There is no evidence to support the allegation that the officer leading the search knew who Alice was before she was identified at 11.40 am on 6 July.

7.4 **3) Witnesses**

The family believe that witnesses who saw Alice and Officer A at the Coach Inn, Banbridge, which provided a link between the two, were either never interviewed or their evidence was destroyed.

STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT 1998

As has been detailed earlier in this report, there is no evidence that the names of the witnesses, who were said to have identified Officer A, were made available to the police. Nor did the family produce any evidence of this identification to the Inquest.

Those witnesses have now been identified and questioned. Their evidence does not confirm the allegation that Alice was with Officer A at the Coach Inn. Two other witnesses give evidence that they met Alice at the Coach Inn with a man whom she described as a farmer from Markethill.

7.5 **4) Inquest Statements.**

The family also believe that witness statements which were not presented to the Inquest had been destroyed.

Police Ombudsman investigators have established that these statements were not destroyed. Investigators have viewed and fully considered them all. They are 'unused material.' The Coroner has discretion as to which witnesses he wishes to call. He saw all the material and then decided which witnesses to call. He chose not to call these witnesses.

7.6 **5) Paramilitary issues**

The family also alleged that the Senior Investigating Officer approached a senior paramilitary figure in the Portadown area, to get him to dissuade witnesses from assisting the investigation. They based this allegation on several witnesses to whom they had spoken, but who refused to become involved in the enquiry because of this paramilitary influence.

Several of the witnesses named by the McLoughlin family were interviewed by the Ombudsman's investigators. None alleged any paramilitary intervention or dissuasion.

7.7 **The allegation that the police suppressed information and conspired to cover up a relationship between Officer A and Alice McLoughlin is not substantiated.**

The allegation that the police conspired with paramilitary figures to dissuade witnesses is not substantiated.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

8.0 Complaint Four: Independent forensic evidence cast doubt on the RUC investigation into Alice's murder.

This complaint involves consideration of the forensic evidence in relation to the shooting and to fingerprints.

8.1 1) The shooting

The original forensic evidence was that the vehicle in which Alice died was heavily bloodstained, and that the blood distribution indicated that she had been sitting in the passenger seat with the window halfway down. Officer A had been sitting in the driver seat and the doors were shut.

Alice's injury occurred at a point immediately above and to the right of the passenger seat. The bullet and bullet jacket were found in the car roof-lining. The blood distribution was consistent with Alice having slumped into the space between the two front seats after the shot was fired. There was blood in the two rear foot-wells, which was consistent with the assertion that she had slumped into the space between the two front seats. That blood was not smeared in any way. This was suggestive of the fact that no-one was sitting in the rear seat when the shot was fired.

The blood distribution on Officer A's clothes was consistent with him having been seated in the driver's seat.

There was no evidence that Officer A fired the shot and the evidence was that Alice could have fired the shot herself. The gun had no safety catch.

The family hired an independent forensic expert to report on the circumstances of Alice's death. His conclusions, which were based on copy photographs supplied to him by the McLoughlin family, included the view that, given the position of the bullet mark in the roof lining of the car, it was most unlikely that Alice shot herself. It was also stated that because Alice was left-handed she could not have shot herself.

This view was contrary to the original forensic findings, which indicated that there was nothing to suggest Alice could not have fired the gun herself, even if she had been left-handed and which also indicated that the pattern of blood in the car was not consistent with Officer A having fired the gun.

STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT 1998

Police Ombudsman investigators established that the family's independent expert had never been given an opportunity to examine the car, and that he had been working from poor quality copies of photographs. As stated previously when he was presented with the original photographs at the inquest, he reversed his decision that Alice could not have shot herself, and said she could have done so.

A separate independent forensic expert was then asked by the Police Ombudsman investigators to review all available material. He too agreed with the view of the initial forensic analysis and the revised view of the family's expert.

The scientists all agreed that it was physically possible for Alice to position herself to fire the shot. The independent advice is that there was no physical bar to Alice firing a gun of the type used. More significantly, there was no forensic evidence that Officer A fired the shot.

8.2 **2) Fingerprint Analysis of the gun**

The family say that fingerprints were seen on the gun, yet experts were not able to identify them. They have reasoned that if Alice had fired the gun, her fingerprints must surely have been on the weapon. They have also questioned why there was no blood on Alice's hands if she had fired the weapon. They also asked why the gun holster was not examined.

Ombudsman investigators are satisfied that while the gun contained fingerprint ridges, it had not been possible to secure enough detail to identify them as any individual's fingerprints. Some surfaces are more conducive to retaining fingerprints than others. Presumably Officer A handled the gun on a daily basis yet the process used was not able to identify his prints or anybody else's prints on the gun.

Police Ombudsman investigators established that the holster was examined for fingerprints but none was identified.

It has not been possible to establish if Alice had blood on her hands after the shooting. No record remains in existence, which would clarify this matter. However it has been established that Alice was washed after she died by hospital staff.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

8.3 The complaint by the McLoughlin family about the impact of independent forensic evidence is not substantiated.

9.0 Complaint Five: “Significant shortcomings in the forensic investigation into Alice’s death add weight to the belief that senior police officers tried to cover up the truth about what happened to Alice.”

9.1 Police Ombudsman investigators have concluded that the RUC’s forensic strategy appears to have been too narrowly focussed, intent simply on proving or disproving the account of Officer A.

No consideration appears to have been given to the benefit of examination to determine whether there had been any fibre transfer, which might have come from contact between the clothes which they were wearing, to prove or disprove contact between Alice and Officer A.

There was no evidence that the McLoughlin family had been given the opportunity to engage their own forensic scientists to examine vital exhibits and the records of scientists acting for the police. This lack of opportunity contributed significantly to the original erroneous findings of the forensic scientist employed by the family.

The lack of forensic clarity had a significant impact upon the family ability to understand what did and did not take place in Officer A’s car.

In particular, the family had concerns about seven issues. These are dealt with in the paragraphs which follow.

9.2 1) Alice’s family contend that the cash machine in Portadown where Constable A withdrew money, and the scene where the shot was allegedly fired, should have been forensically examined.

They stated that the bullet had not been found during the early stages of the RUC investigation and could have been lodged in the wall of one of the nearby buildings.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

No forensic examination appears to have been carried out at the cash point at which Officer A drew money. It is not clear whether any searches or forensic examinations took place at the scene where, according to Officer A, the shot was fired. However the single bullet which was fired from officer A's gun, and the bullet's "jacket," were found in the roof of the car by a forensic scientist who examined the car after Alice's death. The scene of her death was therefore forensically examined. It is not clear what forensic examination of the cash machine would have added in investigative terms. The time at which Officer A used the cash machine was verified.

It is therefore not possible to reach any decision on this matter.

9.3 **2) There is concern that there was no examination to determine whether there had been physical contact between Officer A and Alice.**

Police Ombudsman investigators have established that a swab was taken from Alice's body during the post-mortem. This did not show the presence of semen. This was the only examination conducted to determine whether there had been contact between Alice and Officer A. As Officer A was not under arrest, there was no legal basis for requesting intimate samples, such as blood samples.

There appears to have been little consideration, during the early stages of the investigation, to the possibility of there having been close physical contact between Alice and Officer A prior to her death. Fibre and hair transfer could have assisted in proving or disproving this allegation. However although Officer A's clothing was seized it appears only to have been examined to determine the location and distribution of blood on it.

Police Ombudsman investigators examined the sequence of events on the night in question. (see paragraph 6.8). There was limited opportunity for contact between Officer A and Alice. Alice was seen by witnesses on the Mullabrack Road between 00.15 and 00.30, the cash was withdrawn from the dispenser at 00:47 and the car arrived at the hospital at 00:50. At the time police estimated the journey from where Alice was seen on the Mullabrack Road to the cash dispenser (a distance of 10.8 miles) as 16 minutes, and from there to the hospital as 4 minutes.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

9.4 **3) Police failed to discount the possibility that a struggle had taken place in the Fiat Regatta**

The car in which Alice McLoughlin died had damage to the interior of the rear door, and hairclips belonging to Alice were found on the floor and rear seat. The family claim that this is potentially indicative of a struggle in the rear seats.

The photographs of the car do indeed show damage to the interior trim of the rear offside door. The cause of this was never queried during the police investigation, nor was this area subjected to forensic analysis. It has not been possible for the Police Ombudsman to establish how this damage occurred. Further forensic examination of the damage to the car and the hair clips should have been considered.

9.5 **4) The car was disposed of without the family being given the opportunity to have it independently examined.**

The timing of the disposal of the car cannot be substantiated from the investigation file. It had been returned to Officer A before 22 June 1992. It was sold on and ultimately disposed of. Returning the car to Officer A, without the consent of the family and the Coroner was inappropriate. Some of the issues which have arisen might have been resolved had the Coroner and the family been able to visit the scene of the shooting.

9.6 **5) Police failed to discount the possible presence of a third party in the car, whom the family believe may have been a close friend of Alice, Ms Y**

The forensic strategy, particularly with regard to the examination of the car, leaves much to be desired. The RUC investigation apparently concentrated on whether or not Officer A killed Alice, rather than trying to establish the facts.

The rear seat of the car was never swabbed for blood or examined for fibre transfer. Again, this indicates that the forensic strategy was either not in place or was ignored. This is indicative of a narrow-minded approach to the scene of an unexplained death.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

The biologist from the Forensic Science Service of Northern Ireland stated, (as has been reported in paragraph 8 of this Report), that whilst there was blood in the rear footwells, there was no smearing of that blood, which could have been expected, had someone been sitting in the rear seats after the shot was fired.

Despite the suspicions of her family, Alice's best friend Ms Y was not with her in the car when she was shot. Ms Y was seen by a number of witnesses referred to by the McLoughlin family, with an arm injury in Markethill, (it was later proved that Ms Y had put her fist through the window of a hairdresser's salon) at about the time the shot was fired in Portadown. She arrived at Craigavon Hospital by ambulance from Markethill at 01.45, accompanied by police officers. Her account of the cause of her injury is corroborated by at least five separate sources. She was admitted to hospital three quarters of an hour after Alice. It is the conclusion of this investigation that the Ms Y was not in the car when Alice died.

In the absence of any other evidence, the Ombudsman investigation has failed to establish whether there was a third party in the vehicle when Alice died. On balance however the evidence would appear to indicate that there was no third person in the car.

9.7 **6) The family alleged that Officer A's clothing was not examined for powder burns or evidence of sexual contact with Alice.**

It is correct that the clothing of the officer was not specifically examined in these two areas.

The question of whether there was any evidence of sexual contact between Officer A and Alice has been considered elsewhere in this report (see paragraph 6)

The lack of forensic evidence in this regard, coupled with a lack of opportunity leads the investigation to conclude that there is no evidential support for the alleged sexual contact between Officer A and Alice.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

9.8 **7) The gun was moved in the car between the time it arrived at the hospital and the time the photographs were taken.**

The Detective Inspector who responded at the hospital examined the car at approximately 2.20am and the gun was between the handbrake and the seat belt anchor on the passenger side. He removed the gun, checked how many shots had been discharged (one shot had been discharged) and replaced it. He instructed that the car and its contents be taken to the police station at Mahon Road in Portadown for further examination.

The Detective Inspector (now retired) admitted in his statement of evidence, to handling the weapon and replacing it.

The most likely explanation is that the gun was replaced in a slightly different position to that in which it was originally found.

It is accepted that the Detective Inspector had a duty to examine the firearm, as the discharge of multiple shots would certainly have altered the initial response to the incident.

Best practice however would suggest that the gun should have been photographed before it was handled.

This said however, the forensic evidence concluded that the blood splashing on the weapon is consistent with it having lain, upside down whilst Alice bled above it. There is no evidence that the gun was maliciously returned to a different position.

The complaint by the McLoughlin family that there were significant shortcomings in the forensic investigation is partially upheld.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

10.0 Complaint Six: General Investigative failings by the police amounted to an attempt to pervert the course of justice.

10.1 The family point to 13 issues to demonstrate inadequacies with the police investigation:

10.2 1) Treatment of Officer A.

The family complain that Officer A was never treated as a suspect or subjected to the same degree of forensic examination as a murder suspect. They see this as evidence of a lack of police impartiality during this investigation

It is evident that in the early stages of the investigation police were seeking to verify Officer A's story. He was therefore treated as a witness, not a suspect. The decision as to whether a person in this position is a witness or a suspect is an objective one, based on interpretation of the evidence available in the case under investigation. There are many examples of cases in which people, who are initially treated as witnesses, later become suspects and are convicted. There is no evidence that not treating the officer as a suspect during the early stages, adversely affected the enquiry into Alice death.

During a subsequent interview on 21st August 1991, Officer A **was** cautioned, (and therefore treated as a suspect), as the enquiry team had uncovered apparent discrepancies in his account.

The family's claim that Officer A was not breath tested is also a legal issue. As there was no suggestion that the officer was intoxicated at the time of the incident, there was no legal basis for requesting a specimen of breath or a blood sample under the Road Traffic legislation in these circumstances. This was therefore not done.

10.3 2) Friends of Officer A were involved in the RUC investigation.

The family believe that a police officer who spoke to them during a visit to Lurgan Police Station, and identified himself as a friend of Officer A, was part of the team which investigated Alice's death.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

Police Ombudsman investigators have not found any evidence that this officer, who has been identified, was involved in the investigation.

10.4 **3) Police never investigated Officer A's alleged history of drunkenness and violence towards his wife**

This "history" was disclosed by Officer A's parents-in-law, during an interview with a television reporter for the BBC documentary called "Spotlight".

Information regarding the alleged domestic violence was also apparently passed to the Justice for Alice Group, by two boys who used to associate with Officer A's daughter. It was alleged that they had first hand knowledge of the domestic violence.

The documentary has been reviewed, as has the rest of the material presented by the family.

Officer A's wife made no allegations regarding alleged domestic violence.

Officer A's wife's family, when interviewed by Police Ombudsman investigators, gave a different analysis of the relationship between their son-in-law and his wife than that they had given to the documentary makers.

Despite extensive inquiries, Police Ombudsman's investigators were not able to trace the two boys who had made allegations about the Officer's past behaviour.

The Police Ombudsman has concluded that there is no verifiable evidence that such a history existed or that the police knew about it.

10.5 **4) Officer A was never interviewed about frequenting the Coach Inn, the Normandy Inn or calling at Alice's home on Sunday evening.**

The police investigation effectively concluded on 7th April 1993, following the Inquest.

There is no evidence that the family had notified the police of their belief that Officer A had visited their home. In a note contained within the files of the family's solicitor, it is clear that the solicitor only became aware of the alleged link to the Normandy Inn on 8th June 1993.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

The alleged sighting of Alice with Officer A at the Coach Inn was not mentioned until 2003.

10.6 5) Police failed in their duty by not interviewing taxi drivers in the area.

Police Ombudsman investigators have established that police enquiries were made with local taxi companies after officers received the account from Officer A, and a statement was taken from one taxi driver.

There is no evidence that the police failed in this regard.

10.7 6) A police Landrover, described by Officer A as being parked in Portadown, was not seen by any of the taxi drivers in the town.

Officer A, in his statement to police said that while in Portadown getting cash from the cash machine that night, he saw a Land Rover parked nearby. The Police Ombudsman's investigators have established that a police Land Rover was parked in that location that night.

10.8 7) No photograph albums containing pictures of Officer A were shown to witnesses who may have recognised him as the man with whom Alice was having a relationship

Identification of suspects must be made in strict compliance with the law, which would not permit the showing of photographs of one person only in this manner.

As soon as Officer A became a suspect, the correct course of action would have been to utilise other identification procedures.

Although Alice had told some of her friends that she was having a relationship, the evidence provided by the witnesses did not suggest that Officer A was the person with whom Alice was having a relationship.

10.9 8) No statement was taken from a witness at the Gosford Hotel.

This witness was interviewed by a Detective Inspector during the police investigation and a statement was recorded.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

10.10 **9) The shot that killed Alice was fired near Gosford Forest**

The family base this allegation on the evidence of three boys who heard a shot being fired near Gosford Forest, Markethill at approximately the time that Alice was picked up by Officer A. The family also allege that the boys were later accused of making up the story by a police officer whose name the family provided.

Only one of the boys replied to an Ombudsman's request to make a statement. He re-iterated that he had heard the shot and that he had made a statement to a CID officer. He did not allege that he had been intimidated or dissuaded from doing so by anyone. Investigators have been unable to identify the police officer named by the family.

There is no evidence that this shot was related to Alice's death

The evidence does not identify the location where the shot was fired.

10.11 **10) Officer A gave differing accounts to the first officers he spoke to and to senior officers.**

Officer A spoke to two colleagues who were at Craigavon Hospital when he arrived. He gave his first statement on 06 July 1991. The account given in this statement did not vary in Officer A's subsequent account to police and Ombudsman investigators. However two officers both gave written statements dated 9 July 1991 in which they stated that they had helped lift Alice out of the car at the hospital and that Officer A had then told them what had happened. Their statements contain a slightly different account from that which Officer A gave in his statement of 6 July.

The discrepancies identified involved two issues:

- 1) Both officers stated that Officer A said that he pulled up alongside Alice, got out and spoke to Alice. She then got into his car. Officer A stated that he stopped, leaned over and opened the passenger window to talk to her. She then got into his car.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

2) Both officers also said that Alice asked him how “if she would be alright” with him and that he told her he was a policeman.

Officer A however consistently said that the first mention of him being a police officer came when he got back into the car after withdrawing money, and she had discovered his gun and said that he was a policeman.

It is not possible to reconcile these two accounts. However it can be stated that there is no contradiction of any kind in any of Officer A’s testimony, and that the only contradictions are those identified above which emerged from the statements made by two officers three days after the incident.

10.12 **11) Lack of Communication**

The McLoughlin family allege that they were not kept informed by the RUC during the course and at the conclusion of the investigation. The apparent lack of information flow and the delay in notifying the family undoubtedly raised their suspicions regarding the investigation.

The RUC family liaison strategy appeared to be non-existent and was too heavily reliant on third party contact with the family’s solicitor.

There was a reluctance on the part of the family to engage with the police, but this does not excuse a lack of timeliness in updating them about the conclusion of the investigation.

The formulation and implementation of a Family Liaison Strategy in the short, medium and long term, would have better informed the family and may have led to an increased level of trust and confidence in the investigative process.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

10.13 12) Hospital staff had treated Alice 25 hours previously and should have readily identified her

On the evening of 4 July 1991, as stated previously, Alice fell and injured the top of her leg. She was taken to hospital by three police officers, who described her as showing signs of intoxication. She was treated by a doctor, and discharged with crutches. The same doctor also treated her when she was admitted the following night after the shooting. Immediate attempts were made to resuscitate her. Her clothing was searched for information about who she was but nothing was found which could identify her. One of the police officers present said that she was the girl on crutches from the previous evening, but staff could not see any leg injury (Alice was wearing jeans) and were unable to identify her. She was subsequently identified as described in paragraph 7(2) of this Report.

10.14 13) The timings on the hospital admissions form were changed

It is clear from the admission form that the admission time of Alice to the hospital was altered. The McLoughlin family have alleged that this was to protect either Officer A, or the hospital staff. The investigation has discovered that the alteration was in fact made independently of the police, by the hospital doctor who initially treated Alice for the gunshot wound.

The doctor has stated that in cases of such dire emergency, patients are admitted and treated without waiting for the forms to be completed.

These forms are created retrospectively and details are amended by hand. The doctor also commented that other entries on Alice's admissions forms (personal details) had been altered by hand and these attracted no adverse comment from the family.

The evidence does not suggest that hospital staff or police officers altered the timings to protect themselves or Officer A.

STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT 1998

10.15 **Post mortem examination and exhumation requests**

Since the start of the Police Ombudsman's investigation, the McLoughlin family have made two requests for investigators to exhume Alice's body, as they believe that the angle of the shot will prove that she did not shoot herself.

The Police Ombudsman has concluded that exhumation in these circumstances is neither necessary nor justified. The pathological evidence is not in dispute and there is now a broad agreement between the forensic scientists.

The family sought the advice of the Deputy State Pathologist in the Irish Republic, and was given a similar response.

In the course of carrying out this investigation the Police Ombudsman has uncovered significant failures within the investigative process, which have contributed to the family's suspicions that Senior Investigating Officer had perverted the course. There is, however, no evidence to support this allegation.

This complaint is not substantiated.

11.0 ALLOCATING RESPONSIBILITY FOR THE FAILURES IDENTIFIED IN THIS REPORT

11.1 In any major investigation the police officer responsible for that investigation is the Senior Investigating Officer. He has now retired and refused to cooperate with the Police Ombudsman's investigation.

The Deputy Senior Investigating Officer has also retired from the police service, and has provided an account of his involvement in the investigation.

(The law states that a retired officer cannot be made amenable after retirement for any **misconduct** occurring before his retirement: He or she can, however, be investigated for any alleged criminal activity.)

11.2 The criminal allegation of an attempt by the Senior Investigating Officer to pervert the course of Justice was the subject of a file submitted by the Police Ombudsman following investigation to the Public Prosecutions Service. No criminal proceedings have been directed.

STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT 1998

11.3 The lack of a policy file (see paragraphs 3.7 - 3.10) has prevented the Police Ombudsman from allocating responsibility for the decision making processes during this investigation. In the absence of this file it would not be right or possible to attempt to hold junior officers to account for the investigative failures.

12.0 CONCLUSION

12.1 There were many things which were wrong in this investigation which are no longer the current practice of the PSNI.

- The Police Service of Northern Ireland (PSNI) now have a policy requiring that accurate and accessible policy files are maintained during major investigations. At the conclusion of the investigation, the policy file should be stored with the case papers to facilitate external review if necessary.
- It is now normal practice for a Family Liaison Officer to be appointed to assist families involved in major investigations.
- Policy now requires that the Senior Investigating Officer asks a Crime Scene Manager to record a forensic strategy for each identified scene. The strategy should be open and transparent and intended to prove evidentially what took place at a scene.
- Policy also requires that exhibits located at potential scenes, should not be touched or moved until the forensic strategy for that scene has been fully considered. If it is essential to compromise the scene in any way, full records should be made of the original state of the scene, and where possible, photographs of it should be taken.
- The Police Service of Northern Ireland is bound by the principles of the Criminal Procedures and Investigation Act 1996, with regard to exhibit retention and disposal. The defence solicitors and those acting for the family in cases such as this should be given the opportunity to examine relevant material. In any case, the material must be retained in a retrievable format until the conclusion of proceedings. Decisions to destroy or return property should now be properly recorded in the policy file to complete the audit trail.

**STATEMENT UNDER SECTION 62 OF THE POLICE (NORTHERN IRELAND) ACT
1998**

12.2 The terrible tragedy of the death of Alice McLoughlin at the age of sixteen years has caused incalculable distress to her family over the fifteen years since 1991. The Police Ombudsman is now satisfied, having considered and analysed all the evidence, which was available previously, having identified new witnesses, and having commissioned further expert forensic scientific opinion that there is no evidence that Alice's death was anything other than a tragic accident. The forensic scientists are all in agreement that she could have shot herself and there is no evidence that anyone else shot her. The forensic evidence has been analysed in great detail, and it gives no indication that there was a third person present in the car.

The Police Ombudsman has substantiated some of the complaints made by the McLoughlin family – there were very clear failures in the investigation of Alice's death but there is no evidence to support the family's contention that officers perverted the course of justice. No serving officer was responsible for the errors in the investigation, and the retired officers cannot be made amenable in respect of such investigative failings were it possible to allocate responsibility to them. The Senior Investigating Officer ultimately had responsibility and therefore responsibility for the conduct of the investigation must rest with him.

The Police Ombudsman understands that when officers have retired they very often wish to leave their policing obligations behind them. However failure by a retired police officer to co-operate with an investigation such as this has the effect of ensuring that evidence which might be available which would enlighten the investigator, is not forthcoming. The Police Ombudsman is of the view that it would be both morally and ethically desirable for retired police officers to assist investigation into cases of which they have knowledge, particularly where the family of someone whose death is being investigated need as much information as possible to facilitate some form of closure on such tragic incidents.

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