

# Statutory Report

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

**THE CIRCUMSTANCES OF THE FATAL SHOOTING OF  
STEVEN COLWELL AT BALLYNAHINCH  
ON 16 APRIL 2006**

## Contents

	Page
<b>Section 1 Introduction</b>	2
<b>Section 2 The Shooting of Steven Colwell</b>	3
<b>Section 3 The Police Ombudsman Investigation</b>	11
3.3 Forensic Investigation	11
3.10 Police Officer 1	12
3.15 Police Officer 1's Interview	13
3.24 Other Police Interviews/Other Witness Interviews	15
<b>Section 4 Police Orders, Policy and Training</b>	17
<b>Section 5 Direction by the Public Prosecution Service</b>	19
<b>Section 6 Ancillary Issues</b>	20
<b>Section 7 Findings</b>	21
7.6 Finding One	22
7.12 Finding Two	23
7.25 Finding Three/Finding Four	25
7.30 Finding Five	26
<b>Section 8 Conclusions</b>	27
<b>Section 9 Recommendation</b>	28
<b>Appendices 1 – 4</b>	

# 1.0

## INTRODUCTION

- 1.1 The Office of the Police Ombudsman for Northern Ireland was established by the Police (Northern Ireland) Act 1998, for the purpose of independently investigating complaints relating to the conduct of police officers and other matters, which the Police Ombudsman considers to be in the public interest.
- 1.2 On the morning of 16 April 2006 Mr Steven Colwell, aged 23 years, was shot dead by police outside Ballynahinch Police Station, County Down whilst driving a stolen car.
- 1.3 The death of Mr Colwell was immediately referred to the Police Ombudsman for Northern Ireland for investigation under the provisions of Section 55(2) of the Police (Northern Ireland) Act 1998.
- 1.4 The investigation by the Police Ombudsman examined the actions of the police officer who shot Mr Colwell and the issue of any wider PSNI responsibility.

# 2.0

## THE SHOOTING OF STEVEN COLWELL

- 2.1 This section is a factual account of the key events of Sunday morning, 16 April 2006 leading up to and including the shooting of Mr Steven Colwell. It is drawn from witness statements taken from members of the public and police officers and from other material gathered during this investigation.
- 2.2 **Early Morning, Easter Sunday, 16<sup>th</sup> April 2006**
- 2.3 At 2.05am a silver coloured BMW car was stolen from outside a house on the Lismore Road in Ardglass. The car was next seen twenty minutes later by police officers in Downpatrick as they transported a member of the public to hospital. During the hour which followed two separate police patrols searched for the car, without success.
- 2.4 During the period from 7.40am until 8.15am there were three reported sightings of the car: it was captured on CCTV travelling at speed on the Saintfield Road towards Downpatrick; it was seen in the Carryduff area; and it was seen at 8.09am travelling through Ballynahinch.
- 2.5 Witnesses say that Steven Colwell was driving the car, which also contained two male passengers.
- 2.6 These two passengers later told Police Ombudsman's Investigators that they had driven to Coney Island Caravan Park near Ardglass, where they had met up with another friend and two 18 year old women. The men said that the car, with all five passengers on board, had set off for Belfast with Steven Colwell driving.

- 2.7 At 10.49am police received a report from a woman who said that she had disturbed two men, who were attempting to break into her house on the Killough Road in Ardglass. A few minutes later the householder telephoned police again and provided them with the registration number of the BMW, in which the men had made off. The number she gave to police was that of the car, which had been stolen earlier that morning.
- 2.8 At 11.08am police received a mobile telephone call from a woman (Witness A) who said that she was in a car, being driven by her husband (Witness B), which was following the stolen BMW. It was quickly established that both cars were near the Clough Roundabout. The driver of the car, which was a black BMW, later explained to Police Ombudsman's Investigators that he was related to the owner of the silver car and knew that it had been stolen. He said that he had been driving his car with his wife and one year old child on board and that as they had left Clough Village, heading towards Tyrella, the stolen silver BMW passed them travelling in the opposite direction. Witness B said that he had turned his car around and had begun to follow the stolen car.
- 2.9 Witness A's telephone call was received by Downpatrick Police Control Room. The woman remained on the phone for 2 minutes and 45 seconds. A recording of their conversation revealed that initially the Police Controller believed that the cars were travelling towards Castlewellan. During their conversation the Police Controller obtained clarification from Witness A that they were actually on the road towards Seaforde. At no time was she asked at what speed her car was travelling and she was not given any safety advice or dissuaded from pursuing the stolen BMW.
- 2.10 During the telephone conversation with Witness A the Police Controller was also relaying information about the movements of the stolen car to other police officers in Down District through their radio system. Consistent with the initial misunderstanding, two unmarked police cars which had been at Newcastle and Dundrum responded in the direction of Castlewellan. The police cars had two tone horns and blue lights activated.

- 2.11 Witness A told Police Ombudsman’s Investigators that the stolen car was being driven at speeds in excess of 100 miles per hour at this stage. However, this had not been relayed to the Police Control room. A member of the public, who had been driving towards Newcastle, said that he had had to brake suddenly to avoid hitting the car, which had emerged suddenly from a side road.
- 2.12 **Preparations by Police in Ballynahinch**
- 2.13 As soon as it had been established by the Police Controller that the stolen car was at Seaforde this information was relayed to police.
- 2.14 The road from Seaforde into Ballynahinch passes the town’s police station. St Patrick’s Catholic Church is beside the police station and the Church of Ireland Magheradroll Parish Church is on the opposite side of the road. Aerial photographs of the police station and its surroundings are attached at Appendix 1.
- 2.15 Mass at St Patrick’s Church began that morning at 11:00am and was due to finish by 11.45am. A service was due to begin at Magheradroll Parish Church at 11:30am. Both churches had expected particularly large congregations at their Easter services.
- 2.16 Three police constables – Police Officer 1, Police Officer 2 and Police Officer 3 were on duty that morning at Ballynahinch Police Station. At the beginning of their shift they consulted briefing material left for them, which included details about the theft of a silver BMW, a ‘creeper burglary’ and reference to a general threat from active Dissident Republicans. Shortly before 11:00am they heard radio transmissions about the movements of a stolen BMW in the Killough Road area of Ardglass and, whilst continuing to monitor radio information, at 11:10am heard that the stolen car was being followed by another vehicle and was at Seaforde, seven miles away. The officers believed that the car was likely to be travelling towards Ballynahinch and decided to establish a vehicle check point outside the police station.
- 2.17 Police Officer 2 drew a Heckler and Koch MP5 semi-automatic firearm from the station armoury. It had three magazines of 9mm ammunition, one of which was loaded into the weapon. He was authorised to carry this weapon. All three officers were armed with 9mm semi automatic Glock personal protection weapons.

- 2.18 Police Officer 2 then moved the police car into a side lane between the police station and St Patrick's Church, obscuring it from the view of motorists driving into the town from Seaforde. He took a Stinger device (a device containing hollow spikes designed to safely deflate the tyres on a moving vehicle) from its boot. He put the MP5 across his chest. He then positioned himself so that he could continue to hear the police car radio.
- 2.19 PSNI instructions at the time allowed the supervising officer or person in charge of a patrol to authorise the use of a Stinger at suitable locations. In deciding on a location for deploying a Stinger, police officers were instructed, inter alia, to consider the nature of the road; the use of the road, actual or potential, including pedestrians; and a position where other vehicular traffic is light or can be excluded. The safety of pedestrians in the vicinity of the stopping zone was identified as being the paramount consideration.
- 2.20 Traffic entering Ballynahinch from Seaforde was 'bumper to bumper' whilst by contrast the traffic flow in the opposite direction was light. Pedestrians were in the area, making their way to church. Police Officer 1 positioned himself in the centre of the road outside the police station, holding a red traffic wand attached to a torch, which he used to wave past the slow moving traffic from Seaforde.
- 2.21 Police Officer 3 took up a position in the area of an entrance further along the road in the Seaforde direction and tested her radio with Police Officer 1.
- 2.22 **The Shooting**
- 2.23 Within a few minutes of establishing the checkpoint, Police Officer 2, whose view of Police Officer 3 was obscured, used the radio in the police car to request an update on the movement of the stolen car. Events then unfolded quickly.
- 2.24 At almost the same time Police Officer 3 saw the stolen car in the queue of slow moving traffic some 50 metres from Police Officer 1's location. Behind it was the black BMW, which had been following it. Police Officer 3 believed that the occupants of the stolen car had seen her.

- 2.25 Police Officer 3 tried to radio Police Officer 1 to advise that she had seen the stolen car but when this proved unsuccessful she began to shout and wave to him. Police Officer 1 then shouted to Police Officer 2; 'the car's up here, the car's up here'. Police Officer 1 ran towards the stolen car, followed by Police Officer 2. Police Officer 3 shouted; 'they're trying to get away', and ran back towards the police car, intending to move it onto the road and block the traffic coming in the other direction from Ballynahinch town centre.
- 2.26 As Police Officer 1 approached the BMW, shouting for the occupants to get out, Steven Colwell turned the car right, out of the queue of traffic, apparently in an attempt to turn and drive back towards Seaforde.
- 2.27 Witness B, who had been following the stolen car, then drove his car across the country-bound lane of the road, blocking the potential escape route. At this stage the occupants of both cars were in close proximity, gesturing at each other. Steven Colwell was unable to complete the turn because of the limited turning circle available and the obstruction presented by the black BMW. A number of witnesses told Police Ombudsman's Investigators that during these manoeuvres the stolen car was driven back and forwards a few times.
- 2.28 There are differing accounts as to the point at which Police Officer 1 drew his handgun. Witnesses in a Mondeo, which had originally been directly in front of the stolen BMW in the queue of traffic, described how Police Officer 1 had run past them with his handgun already drawn. Others said that they had seen him with the handgun drawn when he reached the stolen car. Police Officer 1 stated that he had drawn his handgun as he got to the stolen vehicle. Police Officer 2 had by then raised his MP5 which was loaded but not made ready. Police Officers 1 and 2 were by then on either side of the stolen car: Police Officer 1 was on the driver's side and Police Officer 2 on the front passenger's side.
- 2.29 Steven Colwell then reversed the car into the rear of the Mondeo. An illustration of the position of the vehicles and police officers at this point is provided at Appendix 2.
- 2.30 Witness B had partially reversed his car out of the path of the stolen car and into the country-bound lane, which created a potential escape route between his car and a



wall bordering the footpath.

- 2.31 Police Officer 1 then took up a position to the front, off centre of the stolen car, in front of Steven Colwell, while Police Officer 2 resumed his position at the front passenger's side of the car. During the incident Police Officer 2 had tried to open a door on his side of the car but had found that it was locked.
- 2.32 The stolen BMW remained stationary for a short period, during which Police Officer 1 had both his arms raised in front of him, aiming his handgun directly at Steven Colwell.
- 2.33 One of the men inside the stolen car later told Police Ombudsman's Investigators that a police officer with a rifle had taken up a position next to his front passenger's door and had shouted; 'stop the car' and 'get out of the car', whilst a second officer who was six to nine feet in front of the car shouted; 'stop or I'll shoot'. Thirteen other members of the public described hearing police repeatedly shout commands at those in the car to stop and/or get out of the car. Two passengers in the stolen car heard commands to stop or police would shoot.
- 2.34 The car was being revved loudly at that stage and it suddenly lurched forward, its tyres screeching and immediately turned hard left.
- 2.35 Police Officer 1 made an instantaneous decision and discharged two shots at Steven Colwell. The first shot went through the front windscreen of the vehicle and the second shot went through the driver's window. Most witnesses, including Police Officers 2 and 3, describe hearing the shots being in quick succession. At the scene the two police officers were initially unsure from where the shots had originated. Witnesses heard the sound of glass breaking. Illustrations of the position of Police Officer 1 in relation to the stolen vehicle at the time of the firing of the shots are provided at Appendix 3.
- 2.36 The passengers in the car have told Police Ombudsman's Investigators that they heard Steven Colwell say that he had been shot. The car quickly lost speed and rolled into a driveway, where it came to rest.

- 2.37 Witness A got out of her vehicle and ran towards the silver car. As she did so, Steven Colwell stumbled out of the vehicle and said to her; 'I've been shot. Am I going to die?' before collapsing next to the car. Police Officer 1, along with Witness A and another woman, both of whom were nurses, tended to the injured man, applying a dressing to the bullet wound in his chest and attempting resuscitation. By this time one of the officers, who had been in the police car travelling from Dundrum and who was a trained emergency medical technician, arrived on the scene. He checked Mr Colwell's 'vital signs' and continued with chest compressions.
- 2.38 At 11:23am Police Officer 2 reported by radio; 'one person down here....vehicle tried running the police. Shots fired...'
- 2.39 A rapid response paramedic unit and an ambulance were tasked to the scene. They arrived shortly after 11.30am and began various procedures. A doctor pronounced Steven Colwell dead at 12.07pm.
- 2.40 **Post Incident Management**
- 2.41 By that stage both unmarked police cars, which had responded to the incident, had arrived at the scene. The Police Ombudsman's Office was notified of the incident. Prior to the arrival of Police Ombudsman's Investigators, one of the officers began a log of the scene, which was later passed to Police Ombudsman's Investigators. Another Police Officer seized Police Officer 1's Glock handgun and removed the magazine and live round and later seized two spare magazines, each with ammunition.
- 2.42 In discussion with a police officer immediately after the shooting, Police Officer 1 said that he had called on the driver to stop and that he had found himself in the position of being in front of the car as it came towards him. He also said that he was trapped by something behind him and that the driver did not turn the wheel until after he had fired. He also said that he had fired either two to three shots.
- 2.43 Police Officers 1 and 2 were asked about the firearm discharge. Police Officers 2 and 3 compiled brief notes of the incident. All this material was given to Police Ombudsman's Investigators.

- 2.44 A doctor examined all three police officers. Police Officer 1, who fired the shots, was shaken and was offered medication and advised to go home. The doctor declared all three officers unfit for interview.
- 2.45 Members of the public, whose cars were in the vicinity of the shooting and by that point inside the police cordon, were requested to leave their vehicles in-situ.
- 2.46 The five passengers, who had been in the stolen BMW, were arrested by police on suspicion of Attempted Murder, Burglary and Theft. The PPS subsequently directed no prosecution of these individuals

# 3.0

## POLICE OMBUDSMAN INVESTIGATION

- 3.1 Following the shootings, the Police Ombudsman's Office was alerted and dispatched a team of Investigators to Ballynahinch. They took charge of the scene and began an investigation.
- 3.2 Police Ombudsman's Investigators initiated a forensic examination of the scene, which included photographing and mapping the location of all the vehicles involved. Experts in road traffic collision and in ballistics were also in attendance. Police Ombudsman's Investigators set about taking statements from members of the public and from police officers. In total, 31 members of the public provided statements about what had happened. Police Ombudsman's Investigators, in an effort to establish the sequence of events, sought photographic and video evidence and listened to the police radio transmissions and telephone calls made to the police.
- 3.3 **Forensic Investigation**
- 3.4 A forensic expert, specialising in the investigation of road traffic collisions, attended the scene. His examinations suggested that when the BMW 'accelerated hard' to get out of the flow of traffic, this would probably have been accompanied by a 'brief screeching noise' but that 'acceleration would have been reduced at some point'. He believed that the car could have been travelling at speeds of between 10 and 24 mph but as evidence indicated it had slowed as it crossed the road before coming to a gentle rest against the pillar. It could not have achieved the maximum speed.
- 3.5 Two cartridge cases recovered at the scene were established to have originated from Police Officer 1's Glock handgun. A forensic ballistics expert examined the scene to establish the trajectories and ranges, from which the shots were fired and the positions of the officer who fired them. He found that the first shot was fired

almost directly to the front of the car, penetrated the windscreen, hit the top of the driver's console and then entered Mr Colwell's chest. The ballistics expert reported that the car had then moved forwards to the left and that the police officer had moved to his right and had fired a second time, smashing the driver's window. This bullet grazed the front of Mr Colwell's tee-shirt before hitting the central console of the car.

3.6 Assistance was also obtained from a glass expert employed by the manufacturers of the glass installed in the stolen BMW. He was able to calculate, within a small margin of error, the point at which a bullet had penetrated the driver's side window of the silver BMW. This assisted in establishing the trajectory of the second shot into the car. Appendix 4 illustrates the distribution of the broken glass on the road and the final position of the stolen vehicle.

3.7 A Post Mortem examination was held at the Forster Green Mortuary. The Pathologist found an entrance bullet wound on the left side of Steven Colwell's chest. He reported the cause of death as being due to the bullet wound to the chest. The Pathologist also observed that the presence of Ecstasy and a tranquilliser in Steven Colwell's blood 'could have affected his ability to control a motor vehicle'.

3.8 On the basis of this scientific analysis, an animated model was developed by the Metropolitan Police Computer Aided Modelling Bureau to reconstruct the movements of the stolen BMW and the relative position of Police Officer 1.

3.9 A reconstruction of the incident events was held at Ballynahinch on 18 June 2006 to help the scientific personnel test their different hypotheses.

### 3.10 **Police Officer 1**

3.11 The three police constables on duty in Ballynahinch that morning had been aware that, if necessary, they could have sought supervisory support from a Sergeant in a neighbouring policing sector.

- 3.12 As part of the investigation, Police Officer 1's service history was examined, from which material believed to be relevant to the investigation was identified. Whilst attempting to explore further this line of enquiry through access to additional information from the PSNI Occupational Health & Welfare Unit, the Chief Constable's potential release of the material was the subject of legal challenge by Police Officer 1.
- 3.13 In delivering judgment on 14 May 2008, Justice Gillen summarised the aims of the Police Ombudsman's investigation as having been to seek 'information in respect of (Police Officer 1's) history relating to health, conduct and complaints in view of the information received in the investigation and (Police Officer 1's) assertion that his ability to recollect the events of 16 April 2006 was hampered by post incident treatment from OHW'.
- 3.14 Justice Gillen concluded that the information sought by the Police Ombudsman encroached on the private life of the subject police officer and his rights under Article 8 of the European Convention of Human Rights and Fundamental Freedoms, with the effect that disclosure of the material without his consent, entailed an interference with his right to respect for private life.
- 3.15 **Police Officer 1's Interview**
- 3.16 While Police Officers 1 & 2 initially told Police Ombudsman's Investigators that they had acted on instinct in setting up the vehicle checkpoint, when subsequently interviewed Police Officer 1 said that when he had realised that the stolen car was near Seaforde he had told his colleagues that they should set up a checkpoint outside the station. He said that he had asked Police Officer 2 to check that there was a Stinger device in the police car
- 3.17 Police Officer 1 said that he had intended to stop the stolen car under the guise of a routine enquiry and that whilst engaging the driver in conversation he had intended to reach into the vehicle and seize the keys.
- 3.18 Police Officer 1 said that when he and his colleagues went out onto the A 24 road outside the station Police Officer 2 had gone to the opposite side of the road but

that he had directed him to return to the police car so that he could access the Stinger quickly.

- 3.19 Police Officer 1 told Police Ombudsman's Investigators that he had decided that the driver posed a 'serious threat' to the police and general public and drew his Glock handgun prior to the point when the stolen car had reversed into a Ford Mondeo. He said that; 'the drawing of my firearm was to enable me to stop the vehicle by means of a hard or what is now called a firm stop. That doesn't involve firing at the vehicle'.
- 3.20 Police Officer 1 said that he had pointed his firearm at the stolen vehicle and had shouted 'armed police, stop your vehicle, stop it now, show me your hands'. He said that he had been aware of pedestrians in his peripheral vision.
- 3.21 The Officer said that when the BMW reversed he was between 10 and 15 feet in front of the car. He said that he again shouted 'stop, armed police'; brought his Glock handgun into a raised position; and saw the driver look directly at him. He said that he had heard the engine 'raise', accompanied by 'the sound of wheels spinning' and said that the car had been driven straight at him 'targeting right on me'.
- 3.22 Police Officer 1 said that he could not get out of the path of the car in time and said that he had believed that his only option was to open fire if he were to save his life and the lives of members of the public behind him. He said that he had aimed at the central mass of the driver and had discharged a single shot from a distance of between 10 and 15 feet.
- 3.23 The officer said that the vehicle had continued straight at him and that consequently, without moving position, he had fired a second shot at the driver. He said that as he had discharged this shot the car began to swerve and passed close to him and he had seen the driver's window shatter. The officer said that this had surprised him as he had believed that the second shot had also gone through the front window of the stolen car. He disputed the forensic findings, which indicated that his second shot had gone through the side window.

### 3.24 **Other Police Interviews**

3.25 Police Officers 2 and 3 told Police Ombudsman's Investigators that they had instinctively decided to establish the vehicle checkpoint outside the police station because of the time constraints involved; because previous practice of using the location had shown that the narrowing of the road at that location provided a natural choke point for traffic; and because the road was the main route between Newcastle and Belfast, via Seaforde and Ballynahinch.

3.26 Police Officer 2 explained that he had drawn the Heckler and Koch MP5 from the station armoury because of the 'threat from dissident republicans close to (their) area which was current' and because on previous occasions he had carried the weapon at vehicle checkpoints.

3.27 At Downpatrick Police Station, Police Ombudsman's Investigators spoke to the police officer, who had taken the mobile phone call from Witness A. He said that; 'because of the nature of the call and the necessity of me having to establish the direction the silver BMW was travelling in, I kept the caller on the line until such times as I had sufficient information to enable other police to be able to intercept the stolen vehicle'.

3.28 A Supervisory Officer at Ballynahinch Police Station told Police Ombudsman's Investigators that police regularly established vehicle checkpoints outside the station as it was a 'natural choke point.....not too close to residential properties and did not expose members of the public to unacceptable risk'. He expressed an opinion that ; 'when there are a lot of people attending the Church of Ireland or the chapel, which are both close to the station, I would not consider setting up a vehicle check point outside Ballynahinch Station unless there were very extenuating circumstances'.

### 3.29 **Other Witness Interviews**

3.30 The Police Ombudsman's Investigators took statements from more than 30 members of the public as well as the occupants of the stolen BMW. Many of



these witnesses were supportive of police actions during the incident.

- 3.31 When interviewed one of the occupants of the stolen BMW said that he believed that the car had not been moving when the shots were fired. Another added that all the people in the car, including Steven Colwell, had their hands up when the shots were fired.
- 3.32 Police Ombudsman's Investigators took statements from members of the public who were in the area at the time. Five people said that Police Officer 1 had his personal protection Glock handgun drawn at the point when the car had turned out of the queue of traffic. Two other witnesses said that he had the handgun drawn as he ran towards the BMW.

# 4.0

## POLICE ORDERS, POLICY AND TRAINING

4.1 Article 4 of the PSNI Code of Ethics states:

‘Police officers, in carrying out their duties, shall, as far as possible, apply non-violent methods before resorting to the use of force or firearms. They may use force or firearms only if other means remain ineffective or without any realistic promise of achieving the intended result.’

‘Police officers responsible for the planning and control of operations where the use of force is a possibility, shall so plan and control them to minimise, to the greatest extent possible, recourse to force and, in particular, potentially lethal force.’

‘A police officer shall discharge a firearm only where the officer honestly believes it is absolutely necessary to do so in order to save life or prevent serious injury...’

‘Whenever police officers resort to the use of firearms, they shall identify themselves as such and shall give a clear warning of their intent to use firearms, with sufficient time for the warnings to be observed, unless to do so: (a) would unduly place any person at a risk of death or serious injury; or (b) would be clearly inappropriate or pointless in the circumstances of the incident.’

4.2 The PSNI General Order 61/2001 “Human Rights and Police Use of Firearms” makes the following statements:

‘Police officers will not, in normal circumstances, fire at or from moving vehicles. However, there may be circumstances where the life of an officer or member of the public is at risk and the only course of action available is to engage a subject

in, or from, a moving vehicle. If such a course of action is deemed absolutely necessary, the following matters must be borne in mind and officers must be aware of the potential consequences and their responsibilities to innocent bystanders under Article 2 ECHR: (a) Due to the construction of modern vehicles, shots are likely to be ineffective in immobilising the vehicle and cause a very real danger of ricochet. Rounds may also over penetrate the vehicle to the danger of innocent persons; (b) if the driver is killed or injured, there is a high risk of the vehicle going out of control...'

'Firearms will NOT be discharged at a vehicle: (a) Simply because it has failed to stop for a signal at a road check or (b) to immobilise the vehicle.'

- 4.3 Chapter 23 of the PSNI Road Traffic Manual provides general guidance including a reference to the need for a plan of action to be drawn up for vehicles failing to stop and a requirement that each member of a patrol be informed of it prior to the vehicle checkpoint being established and also reminded of the restriction on the use of firearms.

# 5.0

## DIRECTION BY THE PUBLIC PROSECUTION SERVICE

- 5.1 Where the Police Ombudsman considers a criminal offence may have been committed he is required by law to submit an investigation report to the Public Prosecution Service (PPS) for its consideration. In accordance with this requirement the Police Ombudsman submitted a file to the PPS.
- 5.2 In order to initiate a prosecution the PPS must be satisfied that the evidence, which can be adduced in court, is sufficient to provide a reasonable prospect of conviction and, secondly, that the prosecution is required in the public interest. In this case the PPS considered that there was no reasonable prospect of a prosecution being able to prove beyond a reasonable doubt that Police Officer 1 did not honestly believe that his life was in danger and that he did not act in self defence. The PPS consequently directed no prosecution and explained the decision to the family of Steven Colwell.

# 6.0

## ANCILLARY ISSUES

- 6.1 During the course of the Police Ombudsman investigation personal information concerning Steven Colwell, particularly in respect of his alleged involvement in crime, appeared in the media.
- 6.2 This prompted a joint enquiry by the PSNI and the Police Ombudsman, which revealed that numerous police officers had accessed information pertinent to Steven Colwell on the PSNI computerised 'Integrated Criminal Intelligence System' following his death. Investigation of the grounds on which each of the identified police officers accessed the information resulted in the Police Ombudsman establishing that eleven officers did not have proper authority for accessing the material.
- 6.3 The Police Ombudsman made appropriate misconduct recommendations to the Chief Constable which were acted on.
- 6.4 The investigation was unable to identify any police officer as having been responsible for an unauthorised disclosure to the press.

# 7.0

## FINDINGS

- 7.1 On the morning of 16 April 2006, whilst driving in the Clough area of County Down, a husband and wife and their one year old child encountered a silver BMW car which had been stolen from their relatives earlier that day. They began to follow the stolen car and shortly afterwards the woman telephoned the police.
- 7.2 The woman later told Police Ombudsman's Investigators that she and her husband had travelled at speeds in excess of 100 miles per hour through the countryside in pursuit of the stolen car. The police officer who spoke to her on the phone did not at any stage enquire as to the driving manner or speeds involved but did request that the woman advise police if the stolen car left the main road.
- 7.3 The police officer kept her on the phone to communicate the direction in which the stolen car was travelling. Whilst the Police Ombudsman accepts that this helped police establish the location and movements of the car, he found that the fact that two members of the public were not discouraged from engaging in a dangerous pursuit was inappropriate.
- 7.4 The occupants of the car continued to follow the stolen vehicle until they both arrived at a vehicle checkpoint, which had been established by police outside Ballynahinch Police Station to intercept the stolen vehicle.
- 7.5 By not advising the couple in this car to disengage from following the stolen vehicle, the officer had introduced another dimension to the issues being faced by police. There were then two cars travelling at speed towards Ballynahinch, one of which was stolen and the other containing occupants with considerably heightened levels of anxiety who must, even at an unconscious level, have considered themselves to have had tacit police approval for participation in the incident.

- 7.6 **Finding One: The Police Ombudsman has found that inadequate call-handling by police of the report by members of the public that they were following a stolen car put their lives at potential risk and drew them into the incident.**
- 7.7 When it became apparent to the three police officers at Ballynahinch Police Station that the stolen vehicle was likely to travel into Ballynahinch they decided to establish a vehicle checkpoint outside the Station.
- 7.8 The two probationary police officers on duty at Ballynahinch, Police Officer 2 and Police Officer 3, considered that all three officers on duty that morning had made the decision jointly to set up the vehicle checkpoint. They accepted, however, that Police Officer 1 had assumed the senior role. Police Officer 1 believed that as the senior constable on duty it had been his responsibility to take the lead in such decisions.
- 7.9 When interviewed Police Officer 1 said that the operation he had initiated had been to slow down traffic entering Ballynahinch; to engage the driver of the stolen BMW in conversation through his open driver's window; and then to seize the car keys from its ignition and that if this were unsuccessful to use the Stinger device to stop the stolen vehicle. The plan was based on the assumption that Steven Colwell believed that the silver BMW had not been recognised as a stolen vehicle. Police Officer 1 declined to confirm whether or not he had considered any risks, which might have been created by his chosen tactics.
- 7.10 In establishing the vehicle checkpoint at that location, on a morning when hundreds of members of the public were attending churches adjacent to the Police Station and where there was heavy vehicular traffic, significant risks to the safety of both civilians and the police officers themselves were created.
- 7.11 The Police Ombudsman accepts that the road outside Ballynahinch Police Station was a recognised location for conducting vehicle checkpoints and accepts that there was little time available for officers to organise themselves. The establishment of a police vehicle checkpoint in the vicinity of two churches

on a busy Easter Sunday morning, with one about to commence a service and the other due to finish a Mass, however, required careful assessment of risks and other options. There is no evidence that either were considered.

7.12 **Finding Two: The high risk strategy employed by the three Police Officers to intercept the stolen vehicle outside Ballynahinch Police Station was ill-considered.**

7.13 As the stolen car arrived at the outskirts of Ballynahinch it joined a slow moving queue of traffic. The car containing the husband and wife, who had earlier telephoned police about the stolen car, was directly behind it.

7.14 The occupants of the stolen BMW quickly became aware of the presence of police. Police Officer 3 shouted and gestured to alert her colleagues further down the road. Steven Colwell then attempted to turn the stolen car apparently in order to flee back into the countryside. In response the driver of the black BMW directly behind the stolen vehicle positioned his vehicle across the road in order to obstruct the escape.

7.15 Police Officers 1 & 2 ran towards the stolen car from their positions further down the road. By the time they got to the stolen car it was across the road, unable to complete its manoeuvre due to the tight turning circle and the obstruction created by the other car. Police Officer 1 positioned himself on the driver's side of the stolen car with his personal protection Glock handgun drawn, whilst Police Officer 2 was on the other side of the car.

7.16 The stolen car was then reversed and collided with the rear of the Mondeo, which had originally been to its front in the queue of traffic. This action caused Police Officers 1 & 2 to re-position themselves. Police Officer 1 was then at the front of the stolen car, off-centre, facing the vehicle. He was pointing his Glock handgun at Steven Colwell. Police Officer 2 was at the front passenger's side of the car. During these events the black BMW, which had been driven across the road to prevent the stolen car from being driven away, had also been reversed although it was still obstructing the potential escape route.



- 7.17 During this time many witnesses heard instructions being shouted repeatedly for the occupants of the stolen car to stop and get out of the vehicle. One of the people in the stolen vehicle reported having heard Police Officer 1 shout that he would shoot if they did not stop. Police Officer 1 stated that he had shouted repeatedly 'stop, armed police' though his colleagues did not hear this warning.
- 7.18 Contrary to accounts of witnesses inside the stolen BMW, who said that the car was not moving when the shots were fired, other witness and forensic evidence indicates that the car had moved forward slightly, accompanied by elevated engine noise and the screeching of tyres. It has also been established that the front wheels of the car had been turned to the left whilst stationary and that as a result the vehicle abruptly turned left away from Police Officer 1 when it started to move.
- 7.19 Police Officer 1 stated that he had been between 10 and 15 feet from the bonnet of the car. Forensic findings, however, place him at between 3 and 4 feet away. The police officer said that as the car had moved forward towards him he had been left with no alternative but to discharge his firearm in order to prevent serious injury or death to himself or others. He explained that he had fired two shots directly at Steven Colwell.
- 7.20 Forensic findings indicate that, contrary to Police Officer 1's account of events, he rotated to his right before discharging the second shot through the driver's window as the car passed close to him.
- 7.21 The Police Ombudsman has found that at an early stage of the incident Police Officer 1 had escalated the situation by drawing his personal protection weapon, which he proceeded to use as a tactical option in trying to stop the car.
- 7.22 Having found himself directly in front of the vehicle with his handgun drawn, Police Officer 1 chose to stand his ground, aim his handgun directly at Steven Colwell, and shout for him to stop the car. His decision to remain in this position rendered little or no possibility of an alternative outcome in the event that the driver failed to comply with his instructions.

- 7.23 At this point neither Police Officer 2 nor Police Officer 3 were in immediate danger from the movements of the stolen car. There is no evidence that any pedestrians were in the immediate vicinity. This must be balanced against the accounts of witnesses in nearby cars, who expressed their alarm at what they had perceived to be the dangers presented by the behaviour of the driver of the stolen car.
- 7.24 The cumulative effect of Police Officer 1's actions in drawing his personal protection firearm at an early stage of the incident and positioning himself in front of the stolen car, where he remained, escalated the likelihood of him discharging his firearm if Steven Colwell failed to comply with his instructions.
- 7.25 **Finding Three: Police Officer 1's decisions to draw his gun at an early stage in the incident, to place himself in front of the car and to remain there were critically flawed and contributed directly to Steven Colwell's death.**
- 7.26 The first shot discharged by Police Officer 1 at Steven Colwell also presented a significant risk to the five passengers in the car and the occupants of other vehicles in the queue of traffic. The second shot, which entered the driver's window, was discharged in the direction of the front seat passenger and Police Officer 2.
- 7.27 **Finding Four: Police Officer 1's action in discharging two shots was a decision, which created significant risks and which could have resulted in additional casualties.**
- 7.28 During the course of the Police Ombudsman investigation information was identified in relation to Police Officer 1's previous conduct and medical history. Additional information was sought from the PSNI Occupational Health & Welfare Unit but Police Officer 1 mounted a successful legal challenge to the Police Ombudsman's request for disclosure of this material.

7.29 The Police Ombudsman has been unable to determine to what extent, if any, Police Officer 1's previous conduct and medical history impacted upon the events at Ballynahinch on 16 April 2006. However, the Police Ombudsman had sufficient concerns to cause him to provide information to the Chief Constable to facilitate an effective review of Police Officer 1's suitability to be armed and to engage in direct contact with the public.

7.30 **Finding Five : As a result of information gathered during the course of his investigation, the Police Ombudsman has grave concerns about the appropriateness of the deployment of Police Officer 1 as a frontline response officer, who was armed with a personal protection firearm, at Ballynahinch on 16 April 2006.**

# 8.0

## CONCLUSIONS

- 8.1 The fatal shooting of Steven Colwell on 16 April 2006 by Police Officer 1 was a tragedy, which deeply affected his family.
- 8.2 The police failures in the call handling decision making coupled with the high risk strategy associated with the location of the vehicle checkpoint combined with Steven Colwell's decision to ignore police commands, including his attempt to drive off, began a series of events which ultimately brought about Steven Colwell's death.
- 8.3 Police Officer 1's decision to draw his gun at an early stage in the incident, and before the car was in front of him, cannot be justified and escalated the likelihood of him discharging his firearm in the event that Steven Colwell failed to comply with his instructions. His decision to place himself in front of the car and to remain standing there compounded these actions and brought about a situation which resulted in the fatal shooting of Steven Colwell. Whilst The Police Ombudsman accepts that Steven Colwell's actions on the road outside Ballynahinch Police Station were reckless, he concludes that the critically flawed judgements and actions of Police Officer 1 played a greater part in Steven Colwell's death.
- 8.4 Arising from the attempt to examine personnel material relating to Police Officer 1, the Police Ombudsman investigation identified concerns with the deployment of this particular officer. It is for the PSNI to determine this officer's suitability for frontline operational policing duties.

# 9.0

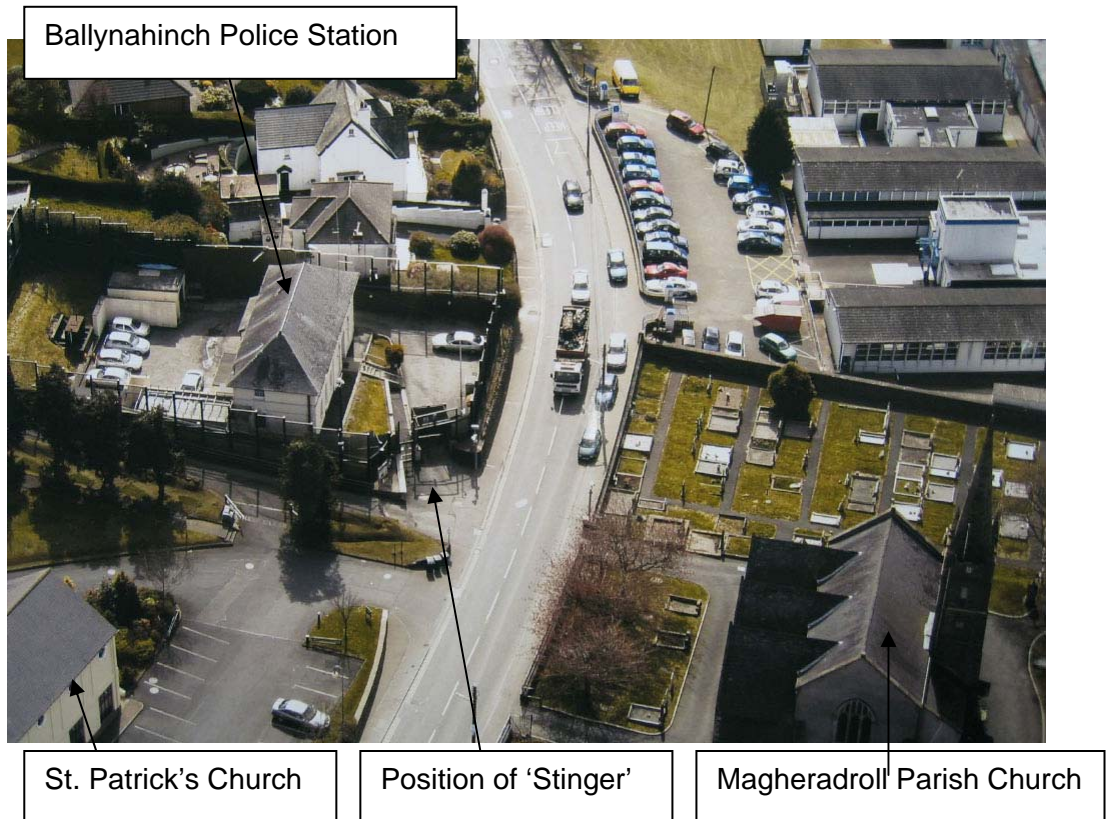
## RECOMMENDATION

- 9.1 The Police Ombudsman recommends that the Chief Constable keeps under review the arrangements, which he has in place to ensure that the identification and linkage of factors, which may impact on the operational deployment of individual police officers, are subject to prompt and appropriate intervention.

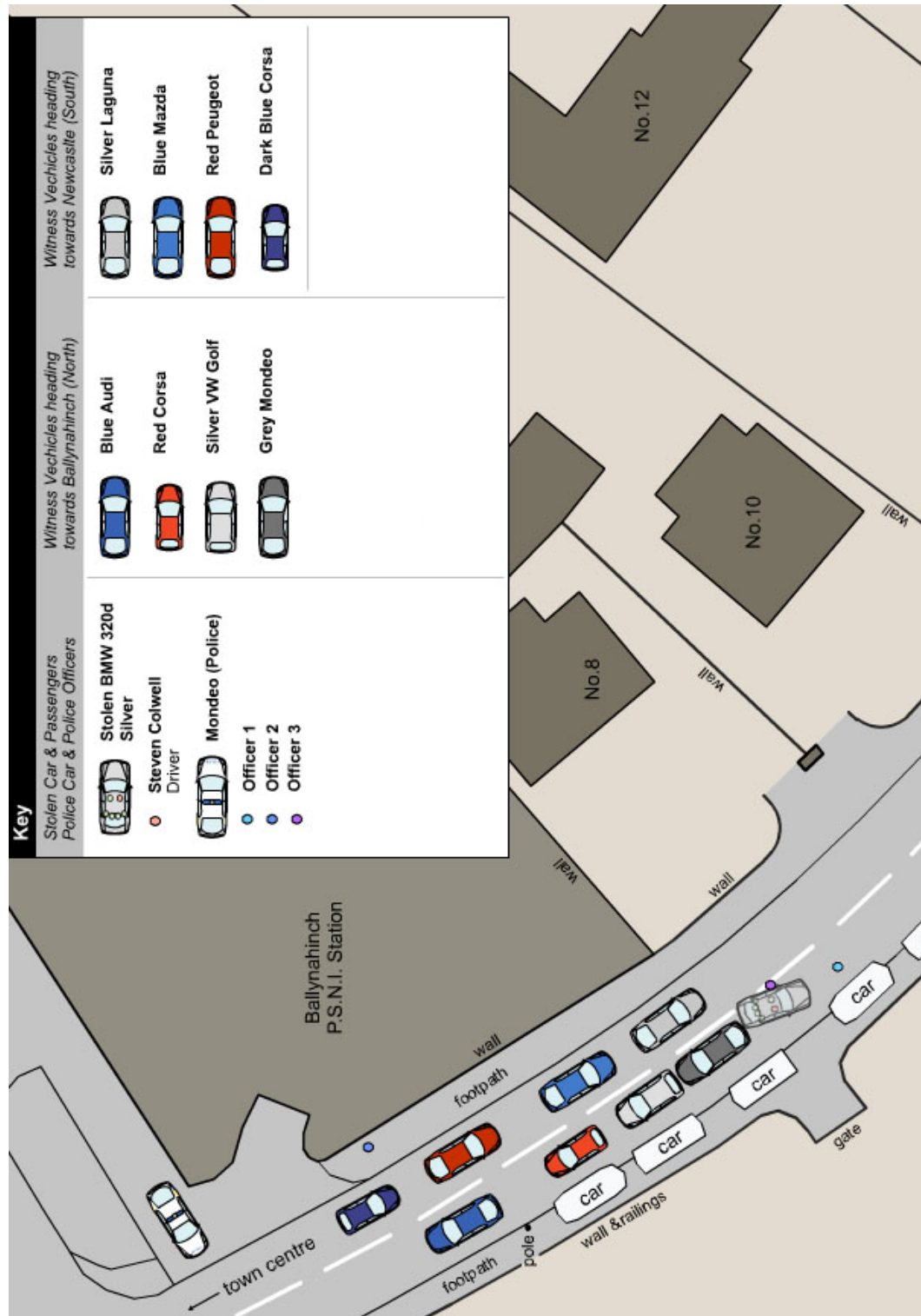
**AL HUTCHINSON**  
**Police Ombudsman for Northern Ireland**

**14 December 2011**

Aerial photographs of Ballynahinch.

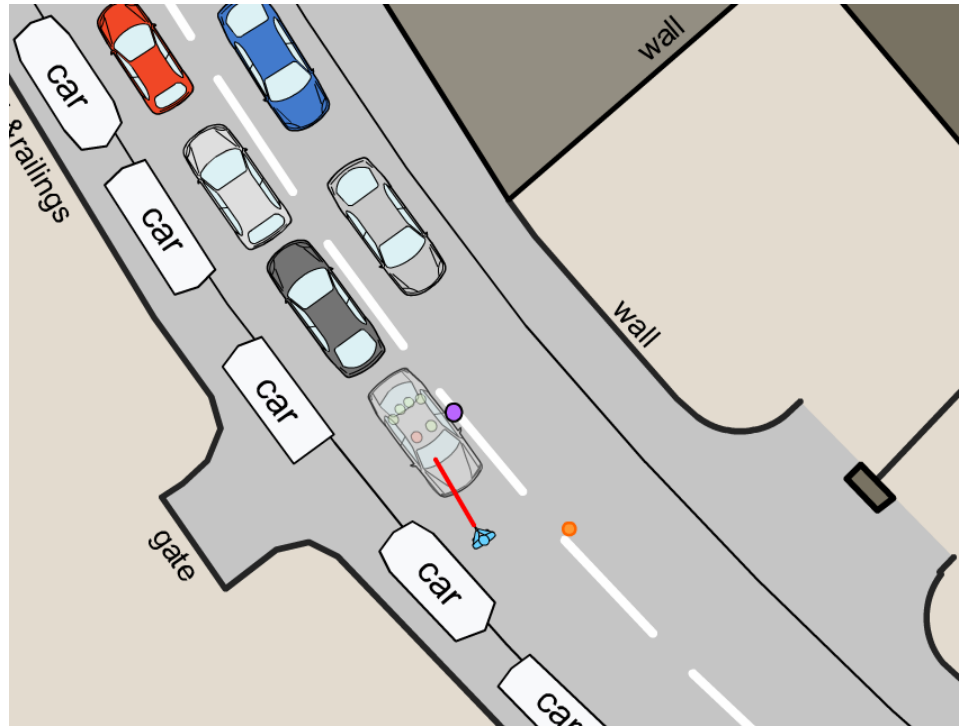


Position of Police Officer 1 and stolen BMW before shots discharged.

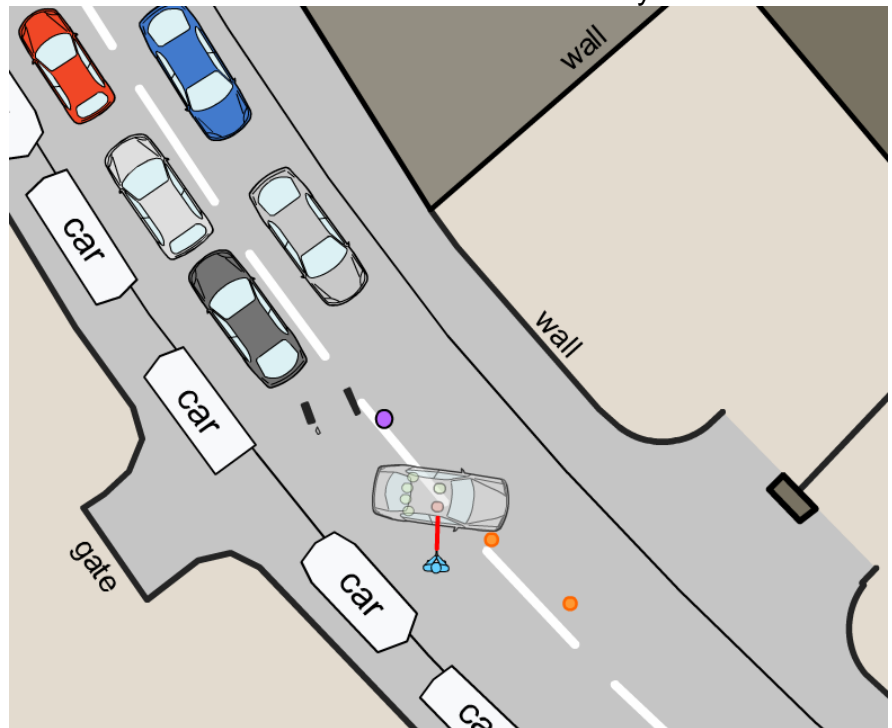


### Appendix 3

First shot by Police Officer 1.



Second shot by Police Officer 1.





Final position of the stolen BMW car.

