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RADIO 4

TRANSCRIPT OF "FILE ON 4" – "*AN UNSAFE CONVICTION*"

CURRENT AFFAIRS GROUP

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“FILE ON 4”

Transmission: Tuesday 24th May 2016

Repeat: Sunday 29th May 2016

Producer: Sally Chesworth

Reporter: Simon Cox

Editor: David Ross

MUSIC

RECONSTRUCTED 999 CALL

CALLER: Hello, it's Chestergate Autos here. There's been a shooting.

OPERATOR: Anyone been injured?

CALLER: Two people.

COX: It's 1993, on the afternoon of November 22nd, when police receive a 999 call from a garage in Stockport.

OPERATOR: Are the people still there that did this shooting?

CALLER: No, no they've run off.

OPERATOR: And they shot two men?

CALLER: There was two men in masks – they're in there, they're shot dead, I'm sure they are.

COX: The victims were MOT inspectors, shot in cold blood in the middle of the day. This call, which we have reconstructed, was read to the jury at the trial of a local garage owner called Thomas Bourke. He was found guilty and has spent the last 22 years in jail, but still maintains he is innocent.

HOLT: Unless he admits guilt, then he is stuck where is forever. Anyone who knows us knows he didn't do this.

COX: So did the police get the right man? There are disturbing questions about the way they handled the case, and tonight we reveal new evidence about serious police misconduct and, for the first time, details of a new suspect.

HICKMAN: This is one of the most shocking and outstanding miscarriages of justice that I have seen. The police investigation, looked at in its most charitable light, failed to do more than scrape the surface of what was going on. The trial was really a travesty.

SIGNATURE TUNE

ACTUALITY OF SHUTTERS BEING OPENED, VOICES

COX: This is not a straightforward tale. If anything, far from it. It's about what went on in garages here in and around Stockport. It's complex and messy. It has all the elements of a TV detective series – gangsters, guns, even police corruption - except it's not fiction, it's real. And to understand this story you need to go back to that November day and the brutal killing of two public servants in the line of duty.

ARCHIVE NEWS REPORT

MOIRA STEWART: Reports are coming in that two men have been shot dead in the centre of Stockport in Greater Manchester. Police have sealed off the area around the Chestergate Autocentre, where the shooting took place.

REPORTER: The shooting happened inside a small car repair garage ...

COX: It was just after 3.30 when Alan Singleton and Simon Bruno, two MOT inspectors, arrived here at Chestergate Autos on a busy junction in Stockport, and they had just gone inside, into the scruffy office with its old desk, sat down on the worn chairs when a masked gunman came in and shot them in the head before calmly escaping. It looked like a gangland hit, an execution. But why would anyone want to kill two government officials?

ACTUALITY OF RAMP

COX: And the whole setup here is very similar to when Thomas was here then?

BOURKE: Exactly. The only difference is we used to have quite a big shop next door, so that was our parts shop.

COX: But the actual garage here?

BOURKE: The actual garage is exactly the same. The office is exactly the same.

COX: Walter Bourke owned the Chestergate site, but he leased it to someone else and says he had little involvement in its day to day operations. It was one of a number of garages he had in Stockport with his brother, Tom. Walter is still in the motor trade. He is a shy, small man, no bigger than a featherweight boxer, with metal rimmed glasses and so softly spoken you sometimes have to lean in to hear him.

BOURKE: We found Fast Fit on the main A6 and we went there, and after that it just snowballed. A few other garages came up for lease or to buy and I started buying them and getting the leases from these garages and we were just expanding and having a really busy time of things. Business was booming, I'd say.

COX: They were making good money - turning over more than £150,000 from MOTs alone. Walter Bourke knew that as the ultimate owner of the Chestergate site, it was only a matter of time before the police knocked on his door - which is what happened two days after the shooting, when a senior detective called at the house.

BOURKE: He just said to us, 'Can we come in? I haven't got a search warrant and we would like to bring you to the station.' I said, 'Well, you can search my house by all means and we'll come to the police station, no problem,' so Thomas and I went to the police station, say about 8 o'clock in that morning.

COX: Walter wasn't worried - the police said they just wanted to get background details about the garage and others that he owned in Stockport with Tom. But after a few hours, the tone drastically shifted.

BOURKE: By about 11 o'clock they started accusing me of being the murderer or being involved in it as the getaway driver. At that time, I decided it best not to talk to them anymore and I asked for a lawyer, but I was told, if you're not under arrest, you don't need a lawyer. By about 4 o'clock in the afternoon, a detective came in and said, 'We've got some amazing new evidence and you're under arrest for a double murder.'

COX: So you've gone from being there in the morning, where they're just calling you in as a witness or for information, and then by late afternoon ...

BOURKE: By 4 o'clock I'd been arrested on suspicion of a double murder.

COX: And what was that like?

BOURKE: It's shocking, my stomach lurched down. I couldn't believe it, I was in shellshock.

COX: We'll come to what this 'amazing' evidence was later. But at this point the police thought Tom was the killer and Walter his getaway driver. After several days, detectives applied to magistrates to extend the time they wanted to question the Bourke brothers. They were still saying two people were involved, which is what had been said in the initial 999 call. The Bourke brothers lived with their sister, Jo, in a house in one of Stockport's plusher neighbourhoods. They were all close. And by the time Jo got to see her brothers, they had been in custody for four days. What was that like, when you first saw them then?

HOLT: Oh, it was horrible, because they hadn't had a shave, a wash or anything, and this was Saturday and they were in there since the Wednesday morning.

COX: And what were they saying to you, that first time you saw them?

JO: They were saying, 'It'll be all right when the forensics come back - they'll know it's not us, they'll know.'

BOURKE: It was pretty traumatic, you know. Obviously we were devastated. We were just trying to reassure her - 'Don't worry, things will work out and it's not an issue here.'

COX: And you were convinced it was going to be fine?

BOURKE: Exactly, because obviously during the police interviews it was put to me that I was the getaway driver, which was ridiculous.

COX: There must have been something about you and Tom that made them think, we need to focus on these guys.

BOURKE: I had a conviction for obtaining goods by deception in Bradford, about £14,000. That's my only record, but Tom was not known whatsoever to the police.

COX: And no violent crime or anything like that?

BOURKE: None at all. No violence at all.

COX: And they were accusing you of being involved in gangland criminality, weren't they?

BOURKE: That's right. But there was never any proof about that, we didn't know anybody in gangland England or Manchester. And it was all sorts of these accusations, they were just throwing mud at us, hoping something would stick. They said to me, 'We believe that you were there; you were there at the scene,' so I said, 'Well, I never left where I was all day and I can prove it with x amount of witnesses,' so I gave an alibi statement.

COX: That alibi was from a customer who was adamant that Walter was dealing with him when the killings took place. So the charge against him was dropped. But Tom's wasn't. Tom had said on the afternoon of the murders he had been working at another garage the brothers owned in Stockport, alongside his main mechanic, Steve McGahey. When we meet, he has come straight from work in his overalls. With his buzz cut and glasses, he looks stern and guarded. What were you doing this morning?

MCGAHEY: Repairing a Land Rover, MOTing

COX: But as he relaxes, there is the occasional toothy grin. He has known Tom Bourke since they were both young men, when he probably spent more time with him than his wife.

MCGAHEY: A bit Jack the Lad, maybe, Tommy. He was honest, he was friendly. I have never seen him aggressive towards anybody. He never lost his temper.

MCGAHEY: Well, it would have hindered their case and helped Tommy. I think they were hell bent on not helping Tommy and, you know, I probably helped them more by not knowing the time. Looking back now, I suppose I didn't do Tommy any favours by not telling them a time, but I wasn't prepared to lie.

COX: Then were they asking you about Tom and Walter and what they were like?

MCGAHEY: Oh yeah, they said, 'We know you are scared of them.' I said, 'I am not scared of Tommy and Walter.' 'They are like the Kray Twins but with more money.' I don't know, like the Kray Twins, I never seen any of that, but they definitely didn't have more money.

ACTUALITY AT MANCHESTER CROWN COURT

COX: This picture of Tom Bourke as a ruthless gangster was the one presented at his trial here at Manchester Crown Court in late 1994. Prosecutors presented a compelling case. They said Tom had been in a dispute with the MOT inspectors at one of his garages. He had waited at Chestergate for the inspectors and then killed them before driving away in a red Sierra car he had bought weeks earlier, and they had several witnesses to back this up.

During the trial, the prosecution's star witness was the manager of the Chestergate garage, David Mitchell. He had made that initial 999 call. Mitchell had arranged the meeting with the MOT inspectors and at first told police about a masked man being the killer. That man later changed to Tom Bourke. Now we will come back to Mitchell's evidence later. It was the same story though for some of the other prosecution witnesses - they changed their statements gradually so that they all implicated Tom. In his summing up, the judge reminded the jury of this and the fact that Tom Bourke was a man of good character with no previous convictions. The family had been told his defence team was so confident he would be acquitted, they didn't even put him in the witness box. The jury was sent away for the weekend, but before their deliberations began, there was a major incident at Strangeways Prison, where Tom was on remand.

MUSIC

NEWS ARCHIVE

NEWSREADER: It's been confirmed tonight that a number of people are to be interviewed by police following the discovery of a gun at Manchester's Strangeways Prison, but officers are refusing to confirm reports that a warder is to be questioned about allegations that he hid the weapon on behalf of a remand prisoner who intended to break out if he received a long sentence.

HOLT: On that Sunday, when they were talking about this gun, we had a laugh saying, 'Oh, they'll be blaming Tom for that next,' you know, as a joke, but on that Monday morning, when Mum and I went back to court, he came with all the armed police, the outriders and people on the roofs of the places. So it wasn't a joke, but nobody said it was for him, so nobody could say anything, so we just assumed everybody was coming that way but they weren't, he was the only one. He had become very dangerous then in other people's opinions.

COX: When the jury returned on Monday morning, stories about the gun were all over the news and the trial was suddenly surrounded by armed police with snipers on the roof. The jury couldn't reach unanimous agreement, but in a majority verdict they found Tom Bourke guilty and he was sentenced to a minimum of 25 years. Two decades on, this is still raw for his sister, Jo.

HOLT: I walked out. Mum stayed, my daughter stayed and my sister stayed. I couldn't listen to it [CRIES]. I'm sorry.

COX: No, no.

HOLT: That court was absolutely packed then, I don't know where everybody came from. And I just walked out. I'll never get over it. [CRIES]

COX: But for the families of Simon Bruno and Alan Singleton, the murdered MOT inspectors, there was a very different reaction.

EXTRACT FROM ARCHIVE

WOMAN: Just relieved that it's all over and that we can now try and rebuild our lives. He's an evil man. He's destroyed my life completely.

MAN: I just wish that there was a death sentence basically. I believe in an eye for an eye.

REPORTER: Does the sentence, a life sentence go some way towards?

MAN: It goes some way towards it.

COX: Down in the bowels of the court, Jo said her goodbyes to Tom, but she was determined to clear his name, whatever it took. But where could she start?
Before this happened, you obviously had got no connection to crime, you'd got no connection to criminal?

HOLT: No, I am a chiroprapist going about my normal daily business. What happened, Thomas' solicitor gave me the name of a person who had got out of prison, and he told me he knew all the local people who were into crime and he would help me. And I went to see this man and he took me to meet other people, and then these other people gave me other information that led me to other people.

COX: And what were they like, these people you were seeing?

HOLT: Very scary people. Some of them I had heard of by reputation, others were just frightening.

COX: And what about the kind of places you'd have to meet them?

HOLT: Well, I got some paperwork one day, and I'll not forget this. Even the warehouse looked a bit scary, never mind the people I was meeting. Along the way, when they knew all I was trying to do was help my brother, they did help me, and I did get paperwork that other people wouldn't have got.

COX: Tom's lawyers used some of the evidence she gathered as part of an appeal against his conviction in 2007, but this was knocked back by judges. Undeterred, Jo pressed on and in 2009 she got a new lawyer with a long track record in miscarriages of justice.

ACTUALITY WITH FILES

COX: Are these all the Tom Bourke files here then?

HICKMAN: Yes, that's right. There's 45 of them. They came in dribs and drabs.

COX: In the office at the end of her garden is shelf after shelf of the evidence that Jane Hickman received about Tom Bourke's case. She set aside a week to prepare an application for the Criminal Cases Review Commission, but this snowballed.

HICKMAN: I am about to retire, but I already have plans to take it with me into retirement. It is the one bit of my practice that I will keep going with. Probably 20, 25 years I have been dealing with appeals, some of the most serious appeals, and I've dealt over my career with perhaps 45 or so murders, and this is one of the most shocking and outstanding miscarriages of justice that I've seen. The police investigation, looked at in its most charitable light, failed to do more than scrape the surface of what was going on. And so much material wasn't disclosed to the defence, the trial was really a travesty.

COX: Her initial week turned into months and then years. And finally, last year she applied to the Criminal Cases Review Commission to try and get Tom an appeal. There is a long list of evidence that she says makes the conviction unsafe, but there are two main areas we are focusing on. The first is about:

MUSIC

COX: Wrong car, wrong man.

ACTUALITY IN STOCKPORT

COX: So I am in the centre of Stockport, I am on my way to the scene of the crime, to what was Chestergate Autos, and with me is Bob Duffield. He's a journalist who has spent a long time looking into this case, didn't you, Bob, as a miscarriage of justice?

DUFFIELD: Absolutely. I have no doubt it is a miscarriage of justice. I certainly didn't think that when I first started the investigation, but the more I looked into it, the more I was convinced that something had gone drastically wrong, not least in the way the police had investigated it. I think we go left here. Oh that's right, it's here on the right.

COX: Oh, okay.

DUFFIELD: This is where the killer came out. See those doors there?

COX: Ah, okay.

DUFFIELD: The killer was in a red Sierra, but he nearly took some guy's toes off as he came speeding out of the garage. For me, the case has always been about that car.

COX: Let's go and have a look.

This red Sierra played a key role in the prosecution case. Star witness David Mitchell said Tom Bourke told him to put a bag with guns in the front seat of the Sierra and that Tom Bourke had driven away in this car after the shootings. There were various witnesses who also saw a red Sierra before and after the killings. Bob Duffield began looking into this.

COX cont: could be taken, which was later condemned by a High Court judge. Jane Hickman says this calls into question his involvement in Tom Bourke's case.

HICKMAN: The problem with Caldwell's involvement is not the evidence he gave, which was pretty short and formal. It was the role he played in planning and directing the case, so that it determined what officers looked at, it determined those areas that really weren't looked at that should have been. It was about the way that witnesses were handled, how evidence such as the red Sierra and other pieces of physical evidence were treated. And the jury needed to know about that and it's not a matter now of re-evaluating his evidence, it's about re-evaluating the whole case. If the jury had known in 1994 that the officer who had planned this case was somebody who was prepared to suppress evidence in order to convict people who in all likelihood were innocent, then they would have taken a much more sceptical view of Tom's case and the gaps in the evidence in it.

MUSIC

COX: This is a story where there is a lot to absorb and there is one final element that has also not been aired before, but that Tom's family believe casts further doubt on the conviction. The new suspect. Now remember back during Tom Bourke's trial, a gun was smuggled into the jail for a prisoner on remand. Well, many years later it emerged that the gun had been planted by two big time drug dealers from Liverpool called John Haase and Paul Bennett. They came up with an elaborate scheme where they set up weapons caches and then tipped off the police about them. It eventually won them a Royal Pardon from a long jail sentence. Now I've come to Liverpool, to the outskirts of the city, and I'm just about to go into the home of the former Labour MP Peter Kilfoyle, and he has taken a close interest in this case.

KILFOYLE: Strangeways Prison incident with the gun, it was one of three things, which Haase and Bennett claimed credit for, effectively, which led to their early release from an 18 year sentence. And in that, they were given the credit for pre-empting a hostage-taking situation in Strangeways Prison because of a gun that had been planted in the prison. Now, from that Thomas Bourke was blamed. He may not have been

HOLT: Yes, because the CPS put the case together and the police are the ones who went around and got all these answers.

COX: And what would be interesting to know is whether that man who is named as thought to be guilty of those two murders, whether that's been pursued in any way.

HOLT: I have written all over and nobody, to the best of my knowledge, have pursued this at all.

COX: And that man who is named, do you know of him? Have you come across him?

HOLT: I came across him, yes, when I was chasing who brought this gun in, so I did meet him. It's dreadful, and it's dreadful the fact that so many agencies have seen this and nobody is willing to help us.

COX: So what this means is that the Police and Customs had intelligence naming another suspect thought to be responsible for the murders of the MOT inspectors. Now this isn't a name you've heard before in this programme. But of course the police already had their man, Tom Bourke - he had been in jail for over a decade. And the suspect's name was in a document answering questions put in the House of Commons by Peter Kilfoyle in his dogged attempt to get to the bottom of the case.

ACTUALITY WITH DOCUMENTS

COX: So on this page, this is quite interesting. It's this part here, which the family thought was obviously very striking.

KILFOYLE: I had no knowledge of any of this. It was Jo Holt who sent me a copy of this, but I've never got those answers. There has been a massive cover up. The Customs Handler for Haase and Bennett, he signed a statement which was a court exhibit ten years ago in which he said that he believed that there was another person who was guilty. He named the person guilty of the two MOT murders. These are things which seem to have

BOURKE: I'd like to see justice prevail for everybody, so I'd hope he'd walk out of the Court of Appeal a free man and that that person who actually did it or the police and the Customs think might have done it should be in the dock himself, and then everybody – that's Thomas, our family and the victims' family – all get their own case of justice.

SIGNATURE TUNE