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“13 yards off the big gate and 37 yards up the West Walls”. Crime scene investigation in mid-nineteenth century Newcastle-upon-Tyne.

Abstract

The chapter explores the role of the uniformed police in crime detection in connection with a murder case in Newcastle upon Tyne in 1863. The care and skill demonstrated in the police handling of the crime scene runs counter to the popular perception of constables as unskilled men whose chief function was crime prevention rather than investigation. Research into nineteenth-century policing has often focused on London, but the actions of the Newcastle police in this case indicate a level of sophistication in policing and a methodical, almost scientific, approach to crime scene analysis that has perhaps not previously been appreciated.

Keywords

Victorian policing; crime scene investigation; uniformed police; murder; Newcastle upon Tyne

All too often, the weakest link in the chain of criminal justice is the crime scene investigation. Improper collection of evidence blocks the finding of truth.¹

The foundation of all crime scene investigations is the ability of the crime scene investigator to recognize the potential and importance of physical evidence, large and small, at the crime scene... Proper crime scene investigation is the starting point for the process of establishing what happened and who did it.²

On 27th February 1863, at the Newcastle Assizes, George Vass was convicted of the wilful murder of Margaret Docherty. The murder took place in the early hours of New Year's Day and there was little doubt of Vass's guilt: witnesses gave evidence at the trial that they saw Vass assaulting a woman around 2am in the alleyway where the body was found, behind the West Walls of the town (see Fig.1³). Vass was arrested at his home, close to the murder scene, 12 hours later, on 1st January. This chapter will consider the duties and actions of the Newcastle upon Tyne Police Force in this case to reconstruct the approach to the processes of evidence gathering and crime scene investigation in a nineteenth century provincial force. Detailed descriptions of the careful and methodical examination of the crime scene and collection of material evidence by uniformed constables and sergeants of the Newcastle Police Force survive in newspaper reports of the proceedings at the inquest and the trial.

The role of the police, in the mid-nineteenth century, has traditionally been perceived as one of crime prevention rather than detection. This may be as a result of the parameters set out for the first police: 'The Metropolitan Police Act of 1829 specifically precluded Robert Peel's New Police from any involvement in the investigation and detection of crime.'⁴ However, what is evident from the way that constables of the police force in Newcastle approached the Vass case in 1863, is a recognition of the need to gather evidence for the legal process. This in itself suggests a level of professionalism and sophistication, and a methodical approach to crime scene analysis in the provinces in the mid-nineteenth century that has not previously been appreciated.⁵

A micro-historical investigation of the role of the police in connection with this crime offers an opportunity to challenge the London-centric focus of much research into Victorian policing, and to gain an understanding of the early development of scientific investigation of the crime scene. Drawing on the limited official records, newspaper reports of the murder of Margaret Docherty and the National Archives file of the proceedings at the trial of George Vass, we will question what the Vass case can tell us about how knowledge of a crime scene was constructed in Newcastle in the 1860s. In particular, we consider how ordinary witnesses and the police contributed to the making of that knowledge, and how this evidence led to the conviction of Vass. To enable a contextualised analysis of the police actions and investigation into the murder, we first briefly outline the historical background to the formation and function of the Newcastle police force, in the context of policing in the provinces and in England more generally in the nineteenth century.

The 'new police' in Newcastle

Surprisingly little has been written on the early years of the Newcastle Upon Tyne Police. Save for two short pamphlets, Newcastle policing remains ripe for research.⁶ Much research into nineteenth century policing has focused on London and the Metropolitan Force, and while some historians have addressed policing in the provinces, care must be taken not to over-generalise; not all 'new police' forces were the same.⁷ To an extent, the scope of this enterprise is restricted by the survival of records. The National Archives holds records relating to the Metropolitan Police, the Royal Irish Constabulary and the Transport Police.⁸ Surviving records of other police forces are held either by local archives or by the relevant force and there are significant gaps. The archives of Northumbria Police, into which the Newcastle Force was amalgamated in 1969, contain mainly twentieth century material, as do the holdings of the Tyne and Wear archives on the Newcastle Police, beyond the Watch Committee records that form part of the City Council archives.⁹ However, careful reading of the minutes of the Newcastle Watch Committee has proved informative on the early years of the force.

The Municipal Corporations Act 1835 empowered town councils to form subcommittees, which assumed responsibility for forming a 'new police' force for the borough. The first report of the first Committee in Newcastle was 11 February 1836. The Watch Committees were to appoint 'a sufficient number of fit men' to be sworn in to act as constables for 'Preserving the Peace by Day and by Night, and preventing Robberies and other Felonies, and apprehending

Offenders against the Peace'.¹⁰ Emsley has noted: 'much of the history of the English police has been written from the assumption of the Metropolitan Police model spreading from London into the provinces'.¹¹ This was likely to be the case in Newcastle, which followed many other provincial forces by contacting the Metropolitan Police for a recommendation for its first senior officer in 1836.¹²

John Stephens from the Metropolitan Police was engaged as first Superintendent in Newcastle, a position he held from 1836 until 1854.¹³ Although the activities to be undertaken by the 'new police' in Newcastle were largely under the control of the local Watch Committee, Stephens would have had a significant impact upon the nature of policing in the town as it stood in 1863. Interestingly, Stephens had been valet to Sir Robert Peel before he joined the Metropolitan police.¹⁴ As a result of this close relationship, it is logical to surmise that policing in Newcastle would have been directly influenced by the approach taken by Peel, the 'architect' of the new police. One aspect of this might have been the adoption of guidance along the lines of the *General Instruction Book* (often termed 'Peel's Principles'), issued to all members of the newly formed Metropolitan Police in September 1829, which set out the theoretical duties of policemen and their legal powers under common law.¹⁵ There is no reference to any form of crime scene investigation or detection of crime in these principles. This would suggest that detection and crime scene analysis were not regarded as tasks required or expected to be undertaken by the 'new police'.

However, it is apparent that such activities were not reserved for a separate branch of what we may think of now as a detective force. The Metropolitan Police established a separate Detective Branch in 1842, and by the 1850s, some provincial towns had detective forces.¹⁶ Newcastle too established a small detective force; although it is not recorded when precisely, a local newspaper refers in December 1846 to a detective force being active in Newcastle.¹⁷ The role of these early detectives was intended to be distinct from that of the uniformed officers, and it is significant that it was only uniformed officers who were involved in investigating the murder of Margaret Docherty. For this reason, we will not address the detective force of Newcastle police in this piece.

By the early 1860s, the police force in Newcastle was under the command of John Sabbage. An 1863 guide to Newcastle confirms that the force then comprised 140 men 'formed into four

divisions, each being provided with an inspector and sub-inspector'.¹⁸ However, this was short of the target set, and there was an increase of six men to 146 in the official 1863-64 report.¹⁹ In October 1861, the population of Newcastle was 109,291.²⁰ The ratio of inhabitants to police officers compared favourably to other areas of the country.²¹

Most men joining the Newcastle force conform to the view that 'a high proportion of recruits were always drawn from the unskilled and semi-skilled working class'.²² From the Watch Committee minutes, we collated statistics of recruits to the Newcastle force in 1862: of the 34 appointees, 22 were listed as 'labourer'. Although Emsley cautions, 'labourer' was a general term used by the unskilled in Victorian society and not simply by those who worked on the land', of the 1862 Newcastle recruits, more than half came from Northumberland or other rural locations.²³ Recruits also included three men who had been police constables in other forces. This picture of diverse recruitment is confirmed in broader analyses of the occupational background of police recruits in England from 1840-1900.²⁴ In age, the Newcastle recruits also conform to national patterns, being men in their twenties. Despite Emsley's observation that interest in attracting rural labourers as recruits to the urban forces may have stemmed from a belief that 'agricultural labourers were thought to be fitter and healthier than the urban working class and more willing to take orders and to fit in with the hierarchical structure of the police', we found no difference in height between those recruited from urban or rural locations.²⁵ All but one recruit were 5 feet 10 inches to six feet tall. Only one of the 1862 recruits had his appointment made subject to being passed fit by the doctor; presumably the others were suitably physically strong and in evident good health. Emsley suggested nineteenth century policemen needed a certain physicality and toughness: 'in many working class districts ... men continued to gain and maintain a reputation by physical strength and aggression, if police officers were to survive in these areas ... they had to be as hard as the local hard men'.²⁶ This may well have been true, but a different aspect of nineteenth century policing is evident in the Vass case. We can now turn to an analysis of the police actions and investigation into the murder of Margaret Docherty in 1863.

Crime scene investigation in the Docherty murder

Crime scene investigation is both the collection and interpretation of evidence and information for identification, and apprehension of criminals and the process of reconstructing past events.²⁷ Crime scene processing can consist of:

an examination and evaluation of the scene for the express purpose of recovering physical evidence and documenting the scene's condition in situ, or as found. The end goal of crime scene processing is the collection of the evidence and scene context in as pristine a condition as possible.²⁸

We will examine the actions of the Newcastle force in the Vass case in this light.

Consider, for example, the detailed evidence given by PC William Tate to the Inquest on Friday 2nd January, the day after the crime:

On Thursday morning, about half past three o'clock, I was on duty in Newgate Street, when a man, named Parker, came to me and said that a woman was lying dead in the West Walls. I said, 'Nonsense, she will only be drunk!', but he told me he had lifted her up, and felt her, and she was dead. I went with him and found that the woman was lying there quite dead. I found Archbold and PC Hepple standing there. We all arrived about the same time. The woman's clothes were all torn off her; she was bare legged, and her breast was bare. Her face was covered with blood and mud, and her legs with mud. Her hair was all covered with the mud also. There was blood on the ground; and about twelve or fourteen yards further up the lane I found the woman's stockings and cap. There were pieces of her dress lying about. There were marks of a struggle at the place where I found the stockings. It looked as if someone had been trailed about. The West Walls are not paved, and there had been a shower of rain a short time before. The struggle appeared to have taken place about thirteen yards above where I found the body. There was an appearance as if someone had been dragged along from where the struggle took place to the spot where the body was. We found that some of the woman's teeth had been knocked out. I went with the body to the Westgate Station, and afterwards took it to the Dead House. The same body was shown to the jury today.²⁹

He was the last witness called before the Coroner adjourned the inquest to allow for the post mortem examination.³⁰ At the resumed inquest, Sergeant Thomas Watson gave evidence:

I produce the pair of shoes, an apron, and part of a dress which was shown to the witness Docherty just now. I found them at the West Walls last Thursday morning, about half-past four o'clock. One shoe was lying on the ground, and about seven yards nearer to the Darn Crook, another shoe, and the apron and the piece of dress, and a tumbler glass belonging to the Adelaide Hotel. The words 'Adelaide Hotel' are engraved upon it. The body part of the dress was found about half way between the first shoe and the second. The West Walls is a narrow lane which is not paved. The road-way is formed of a sort of black ash. When I saw the place that morning,

it was soft on the surface. Some rain had fallen lately. Between the first shoe and the second the ground had the appearance of something having been trailed along. At the place where the second shoe and the apron were found lying, the ground was paddled round, as though a scuffle had taken place. There was some blood on the ground at the last place; and on the town wall there were several spots of blood just opposite. I have measured the spot where the body was found this morning; it is 13 yards nearer Stowell Street; and when I saw the ground about that spot on Thursday morning it was also all paddled, as if a scuffle had taken place. The marks were chiefly where the apron was found.³¹

Sub Inspector Thomas Scott gave evidence to the coroner's inquest and material evidence was produced at the inquest, including the trousers Vass had worn on the night of 1 January. Scott stated: "On Friday, the 2nd inst., I took the prisoner's trousers off, and now produce them. I found marks of blood in the pockets." After the police surgeon confirmed that the marks were of recent blood, Scott continued: "The marks on the pockets are outside, not inside, and there are no corresponding marks on the cloth of the trousers. I asked the prisoner how he accounted for having blood on his coat. He said he could not tell."

Ross M Gardner and Tom Bevel define crime scene processing as involving six steps: assessing, observing, documenting, searching, collecting, and analysing scenes.³² We suggest that in the reports from this case, and the evidence, at the inquest and at the trial, we can identify the six steps outlined by Garner and Bevel, as follows:

Assessing

The first police at the scene carried out this work. PCs Tait and Hepple examined Margaret Docherty's body and ascertained that she was dead. They removed her body on a stretcher. Unlike modern crime scenes, it appears that there was no attempt, or even an expectation, that the scene would be cordoned off or secured.

Observing

The constables noted the appearance of the crime scene, including the position of the streetlight, the weather, and the position of the body; the state of Margaret Docherty's clothing and the attitude of her limbs; the ground was "paddled" and there were drag marks. The need to be vigilant extended to the work of the arresting officer, Sub Inspector Scott. He made specific observations in Vass's house and as a result confiscated Vass's clothing for analysis by the Police Surgeon.

Documenting

Sadly, there is no surviving contemporaneous documentation prepared by the police officers; however, the detail in the written record of their oral evidence suggests strongly that the constables kept a written record of their activities; evidently a degree of literacy was expected of uniformed officers, as Emsley noted, 'each man had his personal notebook'.³³ The officers carried out detailed measurements to document their observations. These included the distance of the body from the end of the road, and from the gate together with the location of bloodstains, and the position of Margaret Docherty's shoes and stockings. They took statements from witnesses, including one from Vass himself. It is likely that they produced a detailed plan of the crime scene, as one is referred to in the court reports.

Searching

The scene was carefully searched. This is particularly apparent from the evidence of Sergeant Thomas Watson, which resulted in the finding of a glass from the Adelaide pub, where Margaret Docherty had been drinking, and the bloodspots on the wall.

Collecting

The discarded clothing, scraps of dress, apron, shoes, stockings and bonnet were collected. The glass was picked up, and Vass's coat and trousers were preserved. Sub Inspector Scott produced these as evidence at the inquest.

Analysing scenes

It is difficult to assess the extent to which the evidence from the crime scene investigation was analysed, and how or whether the information obtained at the crime scene was brought together. Indeed, it is questionable whether this alone would have led the police to identifying Margaret Docherty and George Vass. The evidence of other witnesses was to prove crucial in this regard – we will return to this later. However, it is clear that the police drew some conclusions from what they observed at the crime scene. For example, PC Tate's evidence at the inquest includes statements indicating some form of analysis of the evidence at the crime scene: 'It looked as if...', '... struggle appeared to have taken place ...', 'there was an appearance as if...'.

Against this background, and evidence of a careful and skilful approach to examining a crime scene, we want to address a number of questions: Why did they do this? Was it for clues, or

deduction? Was crime scene investigation part of the force's modus operandi for detection? And would this make detection a function of 'ordinary' policing in Newcastle? How did the policemen learn these skills? What does this type of process tell us about how the police force in Newcastle perceived its role?

The personnel of crime scene investigation

Emsley has suggested that 'uniformed patrolmen have never been much concerned with the detection of crime'.³⁴ However, the actions identified above would indicate that the Newcastle force expected ordinary uniformed constables to engage in investigative aspects of police work. It is notable that no one seemed surprised that the police had carried out a detailed survey of the crime scene. When this was described in court, prosecution counsel stated explicitly: '... the evidence of the policemen, Hepple and Watson, who, *as their duty called upon them to do*, made a most careful examination of the body of the deceased, and of the ground around it'.³⁵ Thus, the barrister referred to it as part of their duty as police constables: it is clearly assumed to be part of the job. This suggests it was the standard and expected response in that place and at that time, to the most serious of crimes. That such activities were part of the identity of the regular police constable in Newcastle in 1860s appears to challenge commonly held assumptions about the role and function of uniformed police at this time.

It is instructive to identify and establish a little more about the policemen involved in the Vass case, and their activities. The area in which the crime took place formed part of the beat of B Division, based at Westgate Road Police Station. The 'new police' forces were divided into Divisions, each with a hierarchy: a superintendent, inspectors, sub-inspectors, sergeants, and then constables. Turnover of constables was high in most forces in England, and police recruits often served no more than a year. Taylor noted in his study of Middlesbrough in the 1850s, at least 30% of recruits served less than one year and 55% served less than 5 years.³⁶ Many men resigned, but it is clear that a large number were dismissed. The Newcastle Watch Committee minutes reveal a similar picture, with almost every meeting of the Committee receiving notice of resignations from the force. However, the three constables and the senior officers involved in the investigation of the Docherty murder were not recent appointees and had unusually long careers in the force.

The first policeman at the crime scene was PC John Hepple. He joined the Newcastle police in 1855.³⁷ At the inquest he stated that he and PC Galbraith had found the body after two witnesses, Archbold and Shearer, came to the Westgate Station about twenty minutes past three o'clock on Thursday morning, to report a woman lying dead drunk in the West Walls. His evidence was a detailed description of the position and condition of the body as they found it. He made no comments as to the crime scene more widely. His evidence at the trial was brief and factual.³⁸ PC Galbraith, who had joined the force in 1861, was not called to give evidence at either the inquest or trial.

We have referred above to the detailed crime scene evidence given at the inquest by PC Tate. We cannot know exactly when Tate was appointed; sadly, a volume of Watch Committee minutes covering 24 October 1851 – 3 February 1860 has been lost. We assume Tait's appointment must be in this period, as he does not appear in entries for 1846-1851 and February 1860 to January 1863. We can therefore assume that he had at least 3 years' experience and possibly up to 12 years, by the time of the Vass murder. His evidence reveals in part the more expected actions of a nineteenth century police constable. He was patrolling his beat. He reported passing along the West Walls at 1am, and again at a 1.45 am, when he 'went 13 to 14 yards down the West Walls but saw nothing then'.³⁹ He said that he had then walked to Stowell Street and from there to the Westgate Station and then to Prudhoe Street to deliver some dispatches (see Fig. 1). At 3.30am, Tate was in Newgate Street when he was approached by the witness Parker and told that there was a dead woman in the West Walls.⁴⁰ Clearly, the crime scene was on Tate's regular beat, and this is interesting. The evidence indicates that rather than going direct to a police station, at least seven witnesses (including, strangely, Vass himself) had sought a policeman on his beat around 2-2.30am and had been unable to find one. This suggests that, despite a failure to do so, they expected to find a policeman passing. Indeed, the witness William Gillespie's evidence referred to looking for 'the policeman' and being unable to find 'him', suggesting perhaps that he was familiar with the policeman who usually walked that beat.⁴¹

Witnesses suggested that PC Tate was not around the West Walls at 2-2.30am. The Watch Committee records frequently reveal policemen cautioned for being absent from their beats; this was a common problem. The hours policemen spent on duty were usually long, and they covered many miles on each beat. We have not found any detailed information on shift or beat patterns in Newcastle, and it seems there were wide variations across the country. Men may

have been tired or needed shelter from inclement weather. The addition of waterproof leggings to the policeman's uniform gives some indication of the conditions policemen might face. However, none of the reports to the Watch Committee from 1st January 1863 of policemen being absent from their beat related to officers from B Division.

In addition to constables, senior officers were involved in the crime scene investigation. Sergeant Watson was a long-serving member of the force, appointed in 1853; he was promoted to sergeant in 1861. Scott was to be appointed Inspector in May 1863, after fifteen years' service. At 4.30am, Watson went to the West Walls and undertook a detailed search of the crime scene: he gave evidence to the inquest, as set out above. Sub Inspector Scott apprehended Vass and wrote down his statement. At the inquest he produced the trousers he had removed from Vass on 2nd January, and gave evidence that he had observed marks of blood on the outside of the pockets; he made clear that there were no such marks on the inside, nor corresponding marks on the cloth of the trousers.⁴² Again, this indicates a detailed approach to examining the material evidence.

[‘Scientific’ investigative methodologies](#)

Can we see in the approach of B Division in the Vass case evidence of a professional ethos? At the very least, the case would suggest that the role of ordinary PC in Newcastle in 1863 routinely included duties and activities that went far beyond those envisaged in ‘Peel’s Principles’. How did they learn the investigative methodologies we see in this case? Bob Morris has noted ‘So far as investigative methodologies were concerned ... pragmatism ruled. There was no formal training’.⁴³ This might suggest policemen were expected to ‘learn on the job’, but this is problematic. Several members of B Division were involved in examining the crime scene, and all had relatively long service records, yet it is likely that few local police officers would have much experience of dealing with such a serious crime, or of preparing to give evidence at a murder trial. Murder was a rare occurrence in Newcastle. The judicial statistics show that for the year to September 1862 there were only 3 cases of homicide reported to the police and for the year to September 1863 there was only one reported homicide in Newcastle.⁴⁴ Despite limited opportunities to acquire relevant experience, the actions of those involved in the Docherty case are thorough, and in many respects, surprisingly modern.

We believe that the Newcastle police force may have received guidance, if not actual training, in some investigative aspects of their role. A *Police Officers Catechism or Handbook* written by Major A. Browne and Samuel James Nichols gives explicit instruction on how a police officer should respond to certain situations.⁴⁵ The *Catechism* was written and revised by Chief Constables of Northumberland and Newcastle and therefore reflects the practice and procedure of the North East England Forces.⁴⁶ It refers constables to *Snowden's Magistrates Assistant and Police Officers and Constables Guide* for further advice and advises police officers to spend their spare time studying its rules.⁴⁷ Thus, police officers had a framework and guidance for their everyday conduct. Indeed, the *Newcastle Courant* on 23 December 1842 published a guide to the duties of Constables for the consumption of the public.

Consider paragraph 44 of the *Catechism*, which indicates that the duties of police constables included the 'detection of crime':

Paragraph 44. Q. – What are the most important duties of a constable?

A. – The preservation of life and property, the prevention and detection of crime, the speedy capture of criminals, secrecy, and strict discipline, to protect and not to oppress the public.

Rather than reserving such activities to a specific detective force, which Newcastle undoubtedly had at this time, ordinary constables were not merely encouraged but specifically required to take action to detect crime. Several further recommendations in the *Catechism* could relate directly to the actions of the police in the Docherty case. For example, advice also covered how they should act in a case of murder:

Paragraph 135. Q. – What is the duty of a constable in cases of murder...?

A. – He must immediately repair to the spot, and take such means as he thinks may lead to the apprehension of the offenders.

Paragraph 137. Q. – What should be done in cases of murder?

A. – Find out what instrument, or how the murder has been committed and the cause. Ascertain if any person or persons be suspected or have been seen about; make a close examination of the premises and call in a surgeon to examine the body.

Guidance in the *Catechism* also seems to cover some of the crime scene processing activities undertaken following the discovery of Margaret Docherty's body:

Paragraph 143. Q . – If foot-prints or other marks be found, what should be done?
A. – A correct measure of the length and width of the prints should be taken, and a drawing of the same... The foot-prints or other marks must then be carefully covered up so as to preserve the impression.

Snowden's Guide, published in 1859, offered further advice:

The officer should take charge of, and produce on the inquest, any papers or other property that may be found on searching the body of any one unknown, that may be found dead in the street, highway, or other by-place.⁴⁸

Again, we see evidence of such police activity in the Docherty case. The *Newcastle Daily Chronicle* on 3 January 1863 praised the 'active endeavours of the police' in being 'successful in unravelling to a great extent the mystery' of Margaret Docherty's murder. The notion of constables in a provincial police force in the mid-nineteenth century being involved in a form of policing requiring mysteries to be unraveled seems far removed from the traditional view of the role of the 'new police' as 'a patrolling, preventative police who went looking for offences'.⁴⁹ And yet, this behaviour appeared to be expected, and appreciated, in Newcastle in 1863.

In the nineteenth century, we see the influence of scientific methodologies, with the police starting to take a rational and scientific approach to the investigation of crime. Arguably, this may be due in part to a wider appreciation of scientific discoveries, and perhaps a public acceptance or awareness of the importance and possibilities of scientific method. The evolutionary theory of Charles Darwin, forensic science, fingerprint technology, etc all helped to make the general population aware or, arguably, accepting of the possibility of applying scientific methodologies to police work.⁵⁰ The first recorded case of a successful investigation of a murder, applying what could be termed 'scientific' processes of careful observation, rational thinking, and awareness of surrounding circumstances, was in 1835, when a Bow Street runner, Henry Goddard, solved a murder by identification of the source of a fatal shot. In this case, much as in that of Vass thirty or so years later, we see a systematic approach to the investigation of a crime.

What is striking in the Vass case is that the techniques involved rely primarily on the human senses, largely unaided by technology. This distinguishes the police activity from what today would be recognised as forensic science, i.e. the application of scientific techniques to the

evidence in a criminal investigation.⁵¹ What we see is rather the application of a scientific, or forensic, approach to investigating a crime: the uniformed police constables had been encouraged to develop ‘on the job’ their skills of crime scene investigation and their understanding of the possibilities offered by close attention to the collection and analysis of material evidence. An example from literature serves to indicate the contemporary awareness of the possibilities promised by the ‘science of detection’. In 1862 Mary Elizabeth Braddon’s *Lady Audley’s Secret*, one of the most widely read novels in the Victorian period, expressly linked the evidence-gathering activities of a ‘detective officer’ to the subsequent execution of a criminal:

Circumstantial evidence ... Upon what infinitesimal trifles may sometimes hang the whole secret of some wicked mystery, inexplicable heretofore to the wisest of mankind! A scrap of paper; a shred of some torn garment; the button off a coat ... a thousand circumstances so slight as to be forgotten by the criminal, but links of steel in the wonderful chain forged by the science of the detective officer; and lo! the gallows is built up.⁵²

This contemporary awareness of the importance of material evidence in securing a conviction may offer some indication why the Newcastle force adopted such a painstaking approach to the crime scene, taking care to secure material evidence found in the alleyway, taking detailed measurements, and recording the state of the ground, before their evidence was brought before a court. It is also clear that work was carried out which has not survived or been documented. For example, counsel for the prosecution at the trial referred to a plan, which he used to point out the locations of the various places referred to in the case. Although not stated explicitly in the accounts, it is likely that this was prepared by the police. Sadly, we have been unable to find the plan, which is referred to in the account in *The Newcastle Chronicle and Northern Counties Advertiser* and the *Newcastle Courant*. Such a plan would depend upon the police making detailed measurements at the crime scene and recording precisely the location of material evidence. It is clear that these measurements were taken and recorded. However, far from Braddon’s statement that such approaches were the province of the ‘detective officer’, the Newcastle police evidently expected members of its uniformed force to apply a methodical, ‘scientific’ approach to investigating a crime, and this tells us much about how the police force in Newcastle perceived the role of its uniformed officers in 1863. This phrase may suggest a lack of understanding by Braddon, or a possibly wider lack of clarity over respective roles, or that the terminology was elastic or used imprecisely at this time.

When we see the police in the Docherty murder case involved in the collection of material evidence – items of Margaret Docherty’s clothing, a glass from a public house, a bloodstained pair of trousers – and making accurate documentary records of these details, we can question: why did they do this? What were they intending the evidence would be used for? Was the evidence for the coroner, to identify the victim? Or to be used at trial, to help secure a conviction? Or, both?

‘Expert’ evidence at trial

Gardner and Bevel suggest that the express purpose of crime scene processing is ‘to document the context of the scene and collect any physical evidence present in a usable form.’⁵³ We must therefore consider how and when the evidence gathered from the crime scene by the Newcastle police force was used in the Vass case. The trial of George Vass took place at the Newcastle Spring Assizes on 27 February 1863. The prosecution called a total of sixteen witnesses, including ten witnesses to aspects of the lead-up to the crime, the crime itself, or Vass’s behaviour thereafter. The evidence of these lay witnesses served to link Vass to the assault on Margaret Docherty. Four police witnesses and the police surgeon also gave evidence at the trial and it is important to consider how their evidence was used alongside that of the other prosecution witnesses, and how their evidence was utilized by the prosecution to construct the case against Vass.

Two policemen gave evidence at the trial of examining the crime scene. It is helpful to set out in full some of the evidence. Consider for example PC Tate’s evidence at the trial:

I am a police constable, and was on duty on New Year’s morning in Newgate Street. Parker came up to me about half-past three o’clock, and said there was a woman lying dead in the West Walls. I went with Parker and Rutherford (police constable) [This is the only mention of PC Rutherford. He was an officer in the force at the time but Tate may have given his name in error.], and found the dead body of a woman lying about 37 yards up the West Walls, from Elliott’s corner, at the end of Darn Crook. It was thirteen yards off the big gates. The body was lying on the back, in the carriage way. The clothes were all torn off her. Her legs were quite exposed and bare, and all mud and dirt. Her breast was all bare. She had nothing on her head. Her face was covered with blood. Round about blood was lying where the head was lying, the place was all ‘paddled’, as if a struggle had taken place where the big gates are, about thirteen yards from where the body was. There was a quantity of blood lying there. The marks were newly done there had been a shower about one o’clock that morning. The West Walls is a wet place anyhow. About one o’clock there was nothing there, and I was about thirteen yards up the Walls at a quarter before two o’clock, and saw nothing.⁵⁴

The manner in which he presented his evidence at the trial is rather different in tone to the evidence that he gave at the inquest where, in his account, he drew far fewer conclusions from what he had seen. This is not unexpected. The function of the inquest, as an inquiry into a death, is different from the purpose of the criminal trial to decide guilt beyond reasonable doubt. However, we still see attention to detail, in the measurements of distance where evidence was found, for example.

In response to a question from Mr Seymour, counsel for the prosecution (again, not set out in the newspaper account), Tate clarified “The blood was at the gates.” There are frequent references to bloodstains in the newspaper reports of the crime and its investigation. Evidently the importance of bloodstains was recognised, although there were limits to what could be drawn from them. Material evidence was produced at the trial including the coat Vass had worn on the night of 1st January, for example, by Sub-Inspector Scott:

he was wearing this coat. I examined it, and found various marks of blood upon the sleeve and the chest. I asked him how he accounted for any blood on his coat, and he said he could not tell. I could not say whether they were recent stains or not. I observed on the trousers he had on some blood on the front part of the pockets, outside. I did not direct his attention to these marks and did not say anything to him about it.⁵⁵

The significance of bloodstains was becoming of scientific interest. Bloodstains on a pair of trousers featured in a case in 1866, when a Scotland Yard detective asked a Professor of Chemistry and Medical Jurisprudence at Guy’s Hospital to analyse the stains.⁵⁶ Similarly, in the Vass case, the presence of the bloodstains was described by prosecuting counsel, Mr Seymour, as ‘another link’ to be ‘taken together with other facts’.⁵⁷ There was, of course, as yet no means of establishing that the blood was human, let alone who might have shed it. The police surgeon was quite circumspect in his conclusions regarding the bloodstains, stating at the trial: “I was shown a coat and trousers, and saw some stains which I thought were blood, as far as my experience goes.”⁵⁸ This was all that he was prepared to say on oath.

The Newcastle Police Surgeon, Septimus William Rayne, had been admitted to the Royal College of Surgeons in London in 1839.⁵⁹ He was appointed as surgeon to the Newcastle Police in 1845.⁶⁰ By the mid-nineteenth century, the role of a police surgeon was predominantly to carry out post mortem examinations of the deceased victims of crime to assist the coroner and

to enable medical evidence to be presented at trial.⁶¹ In his evidence at Vass's trial, Rayne specifically referred to his experience. We think it significant that Rayne described himself in court as 'formerly a pupil of Liston', to give added weight or authority to his evidence. Liston was a famous surgeon, noted for his expertise in the operating theatre and his knowledge of anatomy.⁶² Much of Rayne's testimony at the Vass trial dealt with the mechanics of the crime. Rayne dissected and analysed Margaret Docherty's body.⁶³ He described in court how the marks on her buttocks suggested that she was 'dragged along the ground or that she had had a scuffle'.⁶⁴ This evidence, together with witness accounts that asserted that Vass was seen dragging a woman towards the West Walls, and the evidence from the police officers about the state of the 'paddled' ground, developed a compelling picture of the crime. Rayne's description, in detached medical language, of the damage to Margaret Docherty's face and internal organs made clear the brutality of the attack: she had been punched and kicked to death. No weapon was involved. Rayne expressed his professional opinion that a number of the injuries would have proved fatal.

The trial jury had no doubt of the guilt of George Vass and, after hearing a day of evidence from ten eye-witnesses, five police witnesses, and the police surgeon, returned their verdict after only 18 minutes of discussion. What 'proved' Vass's guilt so conclusively to the jury?

We suggest that the Vass trial needs to be considered in light of the changing nature of the jury trial in the nineteenth century, which led to a greater emphasis being placed upon the importance of material evidence. The nineteenth century saw new focus on 'science of proof' e.g. Bentham's *Treatise on Judicial Evidence* in 1825 which arguably led to the probative force of circumstantial evidence over direct testimony.⁶⁵ In addition, it has been argued that that following the Prisoners Counsel Act 1836, the role of lawyers meant that the trial became a forum in which evidence would be weighed and contested, making the gathering, presentation and use of evidence more important. Such developments served to enhance the importance attached to close observations of physical evidence at the crime scene. In such circumstances, the role of the policeman in both gathering such evidence and subsequently presenting it at trial could have led to their being perceived as some form of 'expert witnesses'.⁶⁶ As part of an increasingly 'scientific' approach to police work, the use of the 'expert witness' brought authority to testimony regarding, for example, medical matters, or forensic science.

However, it is wrong to suggest that these members of the Newcastle force were acting as ‘expert witnesses’, as we would understand the term today. The role of the expert witness is to draw on expertise to offer an opinion as part of their evidence at trial; however, as noted above, it is noticeable that the police witnesses in the Vass trial offered fewer opinions in their evidence than they had done at the inquest.⁶⁷ Rather, the police witnesses at the trial offered evidence based upon their experience and knowledge of investigative aspects of police work at crime scenes. This form of ‘expert’ testimony was utilized by prosecutors, probably in the belief that police evidence derived from such processes would have an enhanced impact on juries when considering their verdict. Arguably, a rational and scientific approach to detection increased the importance attached to evidence of the police witnesses. In effect, the weight attached to the police evidence depended upon their expertise in crime scene investigation and their professionalism in investigating crimes.

Conclusions

It is reasonable to suggest that there would be little requirement for ‘forensic’ work in the majority of cases the men of the Newcastle force were likely to encounter in the 1860s. Indeed, it could be questioned how much ‘detection’ was needed to secure the evidence leading to the arrest, trial, and conviction of George Vass. However, our research into the police investigation into the murder of Margaret Docherty suggests that the Newcastle police sought to take a rational and scientific approach to investigating crime, and recognised that the officers, including ‘regular’ police constables, had an important role to play in that process. In revealing and examining the processes and procedures of a provincial force in the latter half of the nineteenth century, the Vass case can tell us much about how knowledge of a crime scene was constructed in Newcastle in 1863. Further, it can demonstrate how the police, via the meticulous gathering of evidence, were vital to the process of building knowledge that led to the conviction of Vass for the murder of Margaret Docherty.

What is evident from the way that ordinary constables approached the Vass case is a recognition of the need to gather evidence for the legal process, which in itself suggests a level of professionalism and sophistication, and a ‘scientific’ approach to crime scene analysis in the Newcastle police force in the 1860s that has not previously been appreciated. It is arguable that

we can discern in this case a methodical and structured approach to the crime scene that would eventually develop into the modern techniques of crime scene examination.

¹ R. M. Gardner and T. Bevel, *Practical Crime Scene Analysis and Reconstruction*, London: CRC Press, 2009: rear cover.

² M. T. Miller and P. Massey, *The Crime Scene A Visual Guide*, London: Elsevier, 2016.

³ Map copyright authors- with thanks to Newcastle City Library, Local Studies and Family History Centre.

⁴ L. T. Roach, 'Detecting crime: Part I - detection and the police', *Criminal Law Review* 2002, May: 379-390.

⁵ It was the observation of Professor Adam in response to our paper at the British Crime Historians Symposium 2016 that made us aware of how unusual our findings in the case of *Regina v George Vass* might be and sparked our deeper research into the police investigation. Our thanks are recorded here.

⁶ J. Evans, 'The Newcastle Upon Tyne City Police 1836-1969', *Journal of the Police History Society*, Volume 3 1988:74-79; --*The Newcastle Upon Tyne City Police 1836-1969*, Newcastle upon Tyne: Reid and Co., 1988.

⁷ For an overview, see C. Steedman, *Policing and the Victorian Community: The Formation of English Provincial Police Forces, 1856-80*, London: Routledge and Kegan Paul, 1984.

Studies addressing policing in major provincial towns and cities include: R. Swift, *Police Reform in Early Victorian York, 1835-1856*, York: University of York, 1988; D. Taylor, 'Crime and Policing in early Victorian Middlesbrough, 1835-55', *Journal of Local and Regional Studies*, Volume 11, 1991; M. Weaver, 'The new science of policing: crime and the Birmingham Police Force, 1839-1842', *Albion* 26, 1994: 289-308.

⁸ I. Bridgeman and C. Emsley, *A Guide to the Archives of the Police Forces of England and Wales*, Bodmin and King's Lynn: Police History Society, 1991. The question of records of provincial forces is discussed in C. Emsley, *The English Police a Political and Social History*, London: Longman, 1996: 276.

⁹ Emsley's *Guide* states that the Northumbria Police Archive includes 'Guidance and Government of the Police Force. Newcastle upon Tyne. 1836' but we have been unable to trace this item.

¹⁰ Municipal Corporations Act 1835 (5 and 6 William IV, Chapter 76). The first report of the first Committee in Newcastle was 11 February 1836.

¹¹ Emsley, *The English Police*: 276.

¹² *Newcastle Daily Journal* (NJ) 13 February, 1836.

¹³ The Watch Committee minutes refer to 'Superintendent', although the terms Chief Officer, Chief Constable or Chief Inspector may also be used, which suggests the nomenclature might have been inconsistent. This variation in terminology is considered in M. Stallion and D. S. Wall, *The British Police: Forces and Chief Officers 1829-2012*, Braintree: The Police History Society, 2011: 48.

¹⁴ R. Cowley, *A History of the British Police: From its Earliest Beginnings to the Present Day*, Stroud: The History Press, 2011: 157.

¹⁵ Cowley, *History of the British Police*: 28.

¹⁶ S. Wade, *Plain Clothes and Sleuths*, Stroud: The History Press, 2007: 42.

¹⁷ *NC*, 11 December, 1846.

¹⁸ J. Collingwood Bruce, *Reid's Handbook to Newcastle upon Tyne*, London: Longman, Green, Longman, Roberts and Green, 1863: 132.

¹⁹ Reports of Commissioner, Police (Counties and Boroughs), *Reports of the inspectors of constabulary for the year ended 29th September 1864, made to Her Majesty's principal secretary of state, under the provisions of the Statute 19 & 20 Vict. c. 69.*, 1864: 90.

²⁰ House of Commons Papers, *Reports of Inspectors of Constabulary to the Secretary of State 1861-62*, 1863.

²¹ *Cardiff and Merthyr Guardian*, 7 December, 1861.

²² C. Emsley, *The Great British Bobby*, London and New York: Quercus, 2009: 143. On recruitment, see C. Emsley and M. Clapson, 'Recruiting the English Policeman c.1840-1940', in D. Taylor, *The New Police in the Nineteenth Century*, Manchester: Manchester University Press, 1997: 161-177.

²³ Emsley, *English Police*.

²⁴ Emsley, *English Police*, Table 9.1. See also Taylor, *New Police*: 48.

²⁵ Emsley, *Great British Bobby*: 142-3; see also Emsley, *English Police*: 191. Taylor similarly noted: "In the eyes of many chief constables and recruiting sergeants, the ideal recruit was an agricultural labourer". *New Police*: 47.

²⁶ Emsley, *Great British Bobby*: 143, quotation at p.149.

²⁷ J. W. Osterburg and R.H. Ward, *Criminal investigation: a method for reconstructing the past: a study guide*, Newark, NJ: LexisNexis/Matthew Bender, 2007.

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- ²⁸ Gardner and Bevel, *Practical Crime Scene Analysis*: 1.
- ²⁹ TNA: ASSI 44/180.
- ³⁰ *Newcastle Courant* (NC) 9 January, 1863.
- ³¹ *NJ*, 6 January, 1863; reported in identical words in *NC*, 9 January, 1863.
- ³² Gardner and Bevel, *Practical Crime Scene Analysis*: 1-2.
- ³³ Emsley, *Great British Bobby*: 118.
- ³⁴ C. Emsley, 'The Origins of the Modern Police', *History Today*, April 1, 1999: 11.
- ³⁵ *NC*, March 6, 1863- our emphasis.
- ³⁶ Taylor, *New Police*, Table 3.3
- ³⁷ Tyne and Wear Archives, MD.NC/274/2, Watch Committee reports, February 1860-June 1867: 408.
- ³⁸ *NC*, 6 March, 1863.
- ³⁹ *NJ*, 28 February, 1863.
- ⁴⁰ *NJ*, 28 February, 1863.
- ⁴¹ *NC*, 9 January, 1863.
- ⁴² *NC*, 9 January, 1863.
- ⁴³ B. Morris, 'History of Criminal Investigations', in T. Newburn, T. Williamson and A. Wright *Handbook of Criminal Investigations*, Cullompton: Willan Publishing, 2007, with reference to the 'heroic period' 1829-1878: 19.
- ⁴⁴ Table 4 in Return of Judicial Statistics of England and Wales, 1862 and 1863.
- ⁴⁵ A. Browne and S. J. Nichols, *The Police Officers Catechism or Handbook*, London: Shaw & Sons, 5th edition, 1877: 11.
- ⁴⁶ We have been able to locate only the 5th edition of the Catechism. This is a revised edition and therefore it may be assumed that the original edition was produced in the 1860s.
- ⁴⁷ J. F. Archbold, *Archbold's Snowden's Magistrates Assistant and Police Officers and Constables Guide* 4th Edition London: Shaw and Sons, 1859.
- ⁴⁸ *Archbold's Snowden's Guide*.
- ⁴⁹ Cowley, *History of the British Police*: 59.
- ⁵⁰ For example, Alfred Swaine Taylor (1806–1880), professor of medical jurisprudence at Guy's Hospital Medical School in 1834, wrote *Principles and Practice of Medical Jurisprudence*, first published in 1865.
- ⁵¹ W. J. Tilstone and K. A. Savage, *Forensic science: an encyclopedia of history, methods, and techniques*, Santa Barbara and Oxford: ABC- CLIO, 2006: 5.
- ⁵² For a discussion of this point, see C. J. Rzepka, *Detective Fiction*, Cambridge: Polity Press, 2005: 29.
- ⁵³ Gardner and Bevel, *Practical Crime Scene Analysis*: 1-2.
- ⁵⁴ *NC*, 9 January, 1863.
- ⁵⁵ *NC*, 9 January, 1863.
- ⁵⁶ A. Moss and K. Skinner, *The Victorian Detective*, Oxford: Shire Publications, 2013: 27.
- ⁵⁷ *NC*, 6 March, 1863.
- ⁵⁸ *NC*, 6 March, 1863.
- ⁵⁹ Royal College of surgeon's website <https://livesonline.rcseng.ac.uk/biogs/E003052b.htm> (accessed 31 May 2018)
- ⁶⁰ *NJ*, 25 January, 1845.
- ⁶¹ A complete historical account of the police surgeon does not appear to have been produced, but on the role of the police surgeon, see R. D. Summers, 'History of the police surgeon', *The Practitioner*, vol.22 (1), 1978: 383-7.
- ⁶² See Liston's entry in the Oxford Dictionary of National Biography www.oxforddnb.com.libproxy.ncl.ac.uk/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-16772?rskey=YOElrH&result=6 (accessed 31 May 2018)
- ⁶³ C. Sandford-Couch, and H.J. Rutherford, 'From the 'Death of a Female Unknown' to the Life of Margaret Dockerty: Rediscovering a Nineteenth Century Victim of Crime', *Law, Crime and History*, 8 (1). 2018: 21-37.
- ⁶⁴ TNA, ASSI 45/74.
- ⁶⁵ J. Bentham, *A Treatise on Judicial Evidence*, London: J. W. Paget, 1825.
- ⁶⁶ D. Cox has considered their role as prosecution witnesses in trials at the Old Bailey. He examined the extent to which their professionalism in investigating often complex and complicated crimes was utilized by prosecutors as 'expert' testimony. He argued that far from being regarded as incompetent and untrustworthy, they were often respected for their competence and composure both whilst investigating and in the court: see, Cox, D. (22 June, 2017). *The use of Bow Street Runners as prosecution witnesses, 1792-1839*. Paper presented at Union and Disunion in the Nineteenth Century, Plymouth.

⁶⁷ The Expert Witness Institute website advises: “An expert offers special expertise in a particular field. As an expert witness however, he or she needs to offer additional skills and abilities When in court, the expert witness methodically presents opinion evidence based on evidence of fact.”

www.ewi.org.uk/membership_directory_why_join_ewi/whatisanexpertwitness (accessed 10 June 2018)

KEY

- A** – Buckingham Street – Margaret Docherty's house
- B** – West Walls (rear of Stowell Street) – scene of murder
- C** – Back Stowell Street – George Vass' house
- D** – Newgate Street - Location of PC Tate
- E** – Westgate Road Police Station
- F** – Prudhoe Street Police Station