

## **ROBERT HAMILL INQUIRY**

**Days 12 – 15: 30th January to 12th February 2009**

**On Friday 30th January 2009 (day 12), the Inquiry heard evidence from a police detective, known as P78, who interviewed several people who had been in the vicinity of Portadown town centre on the morning of the serious assault on Mr Hamill.** The Inquiry heard that two individuals who the detective interviewed have alleged that he put words into their mouths when they made statements, and that these statements were made under duress as the detective had intimidated and pressured them. Questions from Mr Adair, acting for a number of individual police officers (some who are serving officers, some who are retired) showed that a complaint had been made against this witness to the Police Ombudsman regarding these allegations. The witness said that he was cleared of any alleged misconduct and that he had handled all witnesses in accordance with police procedure.

The Inquiry heard evidence from a second witness was a prison officer, William Trevor Lethem, who worked on the prison wing in which Allister Hanvey was detained when he served time on remand as a suspect in the murder of Robert Hamill. The officer knew Hanvey from outside the prison, and the officer's son attended the same Tae Kwon Do class as Mr Hanvey. The prison officer told the Inquiry that he had asked Mr Hanvey why he 'did it' and Mr Hanvey responded by saying, "I don't know. I can't remember." The witness told the Inquiry that he felt compromised on the wing as he knew Allister Hanvey from outside the prison and he reported this to his senior officers after having this brief (one sentence) conversation with Mr Hanvey.

The witness also knew a Reserve Constable [P61] who is alleged to have kept Mr Hanvey informed of the police murder investigation into the death of Robert Hamill. The witness acknowledged that the daughter of this police officer also attended his son's Tae Kwon Do Class and that he had been a serving police officer in the Craigavon area when this officer was serving in Portadown (however this was several years before 1997 as the witness had joined the prison service in the 1980s). The witness alleged in his witness statement to the police in 2000 and in his evidence to the Inquiry that he had a discussion with [P61] at the Tae Kwon Do Class about Allister Hanvey and what happened on 27th April 1997. [P61] is alleged to have told him that he had seen Mr Hanvey on the night of the assault on Robert Hamill and told him to 'fuck off home out of the road', that he was either drunk or high on drugs and that he stood and argued with the officer for awhile. Ms Dinsmore who represents the officer made it clear that her client refutes these allegations and maintains that this conversation did not take place.

The third and final witness on day 12 was the proprietor of a shop called Paranoid where Tracey Clarke purchased a jacket for Allister Hanvey. The reason for calling this witness was to establish the type of jacket which she purchased for Mr Hanvey as it is alleged that Reserve Constable [P61] (who knew Mr Hanvey and others from the Tae Kwon Do class), instructed him how to dispose of a jacket which it has been claimed he was wearing at the time Robert Hamill was assaulted. The witness believed that a coat was reserved by Tracey Clarke for Mr Hanvey and that a purchase subsequently took place. He did not have a record as to the type of coat sold to them but indicated that he thought it may have been a blue Danielle Poole 1coat as he recalled Ms Clarke (who he referred to in a police statement dated 18th December 2000 as the girl who worked in Going Places) laying away a coat which retailed for at least £150. In the witness's police statement dated December 2000, he ruled out the possibility that a silver coat with orange stripes was sold to the couple

due to the lower price range that it fell into (retailing at £65-£75). He felt more certain that it was a blue puff jacket as he remembered that the couple had returned to the shop not long after purchasing the coat to have a repair carried-out to a small burn or tear on it.

*The Inquiry did not sit between Monday 2nd February and Monday 9th February 2009. It sits three out of four weeks in each month.*

**On Tuesday 10th February (day 13), the Inquiry opened by briefly hearing evidence from Mr Gordon Kerr QC.** Mr Kerr is a barrister who was present at a consultation held in 1997 with representatives of the Director of the Public Prosecution Service (DPP) and a number of prosecution witnesses regarding the criminal trial of a number of individuals suspected of seriously assaulting Mr Hamill. Inquiry Counsel Mr Underwood QC focused on the consultation with Tracey Clarke (known as witness A in the original murder investigation) and was interested in the witness's perception of the reliability of Miss Clarke's evidence at the time. The witness was of the opinion that Miss Clarke was reliable and credible in the evidence which she gave during the consultation which consisted of Counsel going over the content of the witness statement which she had provided to the police. All other legal representatives reserved the opportunity to cross-examine Mr Kerr until a later date when Mr Kerr is set to be recalled to the Inquiry to give evidence 'on a number of prosecutorial issues'.

Rodger Davison of the DPP was also present at this consultation and gave evidence to the Inquiry. He too found Tracey Clarke to appear truthful from notes which he had taken during the consultation. Subsequent questions from Mr Mallon showed that Mr Davison was not entirely satisfied that Tracey Clarke's evidence was accurate and verifiable, and that this was partly the reason why the consultation took place. Mr Mallon suggested that the witness's assessment of Tracey Clarke's credibility was not 'in-depth' when the witness was unable to recall whether she had made allegations about a suspect in the investigation (Allister Hanvey) in order to annoy him. Mr Davison disagreed with this assessment in later questioning and was of the opinion that the investigation was sufficiently 'in depth'.

The final witness on day 13 was a woman who worked as a sales assistant in the shop 'Paranoid' where Tracey Clarke purchased a coat for Allister Hanvey. However this witness was unable to aid the Inquiry in establishing what type of jacket was purchased as she could not recall either the purchase or the individuals.

**On Wednesday 11th February, day 14, the first witness was a woman known in 1997 by her maiden name, Joy Kitchen.** She has since become Mrs Smyth having married her then boyfriend Rodney Smyth. The purpose for calling this witness was that a Taxi collected a fare at around 2.30am on 27th April 1997 from the home of Andrea and Michael McKee. This taxi fare was to Thomas Street and questions by Mr Underwood showed that the witness's husband (then boyfriend) lived in Thomas Street at that time. Mrs Smyth could not recall being in the McKee household that evening but strongly dismissed claims (made by the wife of a Reserve Constable [P61]) that she and her then boyfriend would have stayed in the McKee household when Mr and Mrs McKee were not there.

Rodney Smyth gave evidence immediately after his wife and confirmed that he and his wife would not have been alone in the McKee house, and he couldn't recall being there on that date. As a result of questioning by Mr Underwood, it was established that Mr Smyth also knew Reserve Constable [P61] as Mr Smyth also attended the Tae Kwon Do Club.

The next witness on day 14 was a solicitor who represented Andrea McKee who was convicted in 2002 (along with her husband Michael McKee) for conspiring to pervert the course of justice. The convictions relate to admissions made in 2001 that they had provided false alibis for Reserve Constable [P61] and his wife during the 1997 murder investigation (see summary of events by Mr Underwood on day 1 of the Inquiry and below). Mrs McKee was to give evidence for the prosecution to this effect when the murder of Robert Hamill was reinvestigated in 2001 but the investigation failed to result in any criminal convictions. Inquiry Counsel, Mr Underwood, asked the witness what her impression was of Mrs McKee when she made her admission in 2000. The witness said that she was one hundred percent clear at the end of their consultation that Mrs McKee wanted to cooperate with the police and that she had no reason to doubt Mrs McKee's recantation from June 2000.

Questions from Mr Mallon who represents [P61] showed that the witness was surprised to hear that Mrs McKee had pleaded not guilty to charges of perverting the course of justice. The witness believed that Mrs McKee was to plead guilty and thought she hoped for leniency when sentenced.

The final witness on day 14 was Andrea McKee who was questioned for almost four hours by various legal representatives. Questioning from Mr Underwood showed that Tracey Clarke was the niece of the witness's then husband Mr Michael McKee. She considered her relationship with Tracey and her husband to be good at the time and revealed that Tracey and her boyfriend Allister Hanvey sometimes slept at Mrs McKee's house. Mrs McKee indicated that the relationship between Tracey Clarke and Allister Hanvey was 'on-off' and hard to keep track of. Whilst she could not remember the exact timing of when Miss Clarke began to reveal names of people she said were involved in the attack on Robert Hamill, she recalled Miss Clarke being 'excited' and 'elated' on the Sunday morning after the incident when she told her and her husband [Mr and Mrs McKee] there had been fighting.

Mrs McKee said in her witness statement to the Inquiry that Miss Clarke told her that Allister Hanvey thought he was going to be all right as he was being kept updated by Reserve Constable [P61] and she recalled that her husband phoned [P61] to discuss the matter. The witness, her husband and [P61] were involved in helping organise activities at a local gym (where the Tae Kwon Do class took place). She stated that on one occasion both she and [P61] overheard Tracey Clarke discussing the assault on Robert Hamill with others at the gym. Upon overhearing the discussion, [P61] asked if he could make a phone call and this call resulted in detectives visiting Mrs McKee. Mrs McKee then told the Detectives about the discussions that Tracey Clarke had with both her and Mr McKee.

Mrs McKee accompanied Tracey Clarke to the police station in 1997 when she provided details of what happened and what Allister Hanvey was wearing on 27th April 1997. The witness thought that officers who interviewed Tracey did not put words in her mouth. A discrepancy arose in the witness's description of a jacket which she recalled Tracey telling the officers that Mr Hanvey had been wearing. Mrs McKee told the Inquiry that the jacket was silvery grey with an orange stripe down the sleeves, while her witness statement from 2008 describes the jacket as orange and black with a silver lining.

Mr Underwood also questioned Mrs McKee about the alibi that she provided for a phone call made to the Hanvey household from [P61]'s home phone on the morning of 27th April 1997. The statement - made on 27th October 1997 - supported an account given by [P61] on 9th October 1997 which said that Mr McKee had made the

phone call when both he and Mrs McKee had stayed at his house (unbeknown to him) – see summary of events by Mr Underwood day 1. Mrs McKee said that she became involved in the alibi after her husband had agreed with [P61] to support his account of events and that she had been concerned at having to back-up her husband's statement.

Counsel pointed to an inaccuracy in the witness's statement from 2000 when she recounted watching a Prince Naseem fight on 27th April 1997, with Joy Kitchen and Rodney Smyth also in attendance. Mr Underwood told the witness that no such fight happened at the time and the witness conceded that this was an error on her part. Questioning also highlighted that the witness had tried to 'blackmail' her husband in 2000 into a divorce by threatening to tell police of a theft (unrelated to the Hamill case) that she alleged he had carried out. Mr Underwood also explored the issue of the witness's failure to attend a hearing on 22nd December 2003 before a magistrate's court in Northern Ireland. Records were shown from the 11th and 18th December 2003 which showed that her son was suffering from glandular conditions and that medication had been prescribed. Mrs McKee asserted that she attended surgery with her son over the weekend before 22nd December 2003 (which was the reason she advanced as inhibiting her attendance at the court hearing). However, the doctors at the surgery which she said she attended have no record of her or her son having visited that weekend.

Later questioning from Mr Adair suggested to Mrs McKee that another witness (this appeared to be a reference to Tracey Clarke), may state in her evidence that police officers both banged the table and told Mrs McKee that 'she wasn't getting out of the police station'. Mrs McKee said that this was not the case and that it was a 'ridiculous' suggestion.

Mr McComb, who represents Tracey Clarke, told the witness that Tracey Clarke alleges that it was Mrs McKee who fed the names of individuals to her and not the other way about, and that Tracey Clarke had called her 'vindictive'. Mrs McKee disputed these accusations. Mr McComb highlighted a strangely worded section of Tracey Clarke's statement from May 1997 where the statement said she asked Allister Hanvey what he had done to the persons attacked in the centre of Portadown. He asked the witness why, if Tracey Clarke had witnessed what had happened, she would ask Allister Hanvey such a question. Mrs McKee confirmed that this was what Tracey had said and she could not comment on Tracey's words. Tracey Clarke (in her unsigned witness statement) has made a number of other accusations and has told interviewers for the Inquiry that a number of remarks in her statement from May 1997 were made by Andrea McKee. Mrs McKee refuted these points.

Ms Dinsmore highlighted differences between the witness's October 2000 statement and one made in June that year who represents Reserve Constable [P61] highlighted discrepancies between Mrs McKee's evidence to the Inquiry and statements made to police officers in 2000 (one dated June 2000, the other dated October 2000 which also conflict with each other). For instance, Mrs McKee said in a statement dated 25th October 2000 that she was in the company of two other persons (these appear to be husband and wife but their names have been redacted from the transcript) on the night of 26th/27th April 1997 and not Joy Kitchen and Rodney Smyth. The witness said that she was mistaken in relation to this and other discrepancies which Ms Dinsmore referred to.

During questioning from Counsel for the Hamill family, Mr Barra McGrory QC, it was revealed that Mrs McKee had received a threatening letter around the time that she

was called for a committal hearing (which she did not then attend). However Mrs McKee said that she was not afraid to give evidence as long as she was safe. On Thursday 12th February, day 15, the Inquiry first heard evidence from Mr Kenneth Hanvey who is the father of Allister Hanvey. Questions from Mr Underwood showed that the witness could not recall a conversation which Mr Michael McKee formerly claimed to have made from the home of Reserve Constable [P61] to the Hanvey home on 27 April 1997. Mr Hanvey said that he couldn't recall anyone questioning him about this call (which telephone records show took place between both households). He said that he didn't ask [P61] the reason for the prison sentence that he knew Michael McKee was given for perverting the course of justice by initially telling investigators that he made the phone call.

The statement of a detective who visited the Hanvey home on 11 May 1997 notes that Mr Hanvey told him (and another detective who was present) that his son Allister had stayed in his uncle's house and was wearing items of clothing which did not fit the description of Robert Hamill's attackers. The detective's statement also said that Mr Hanvey indicated that a police officer would be giving evidence on his son's behalf to the effect that Allister had helped the police push the crowd of people back on the night of attack, but that Mr Hanvey would not give the officer's name.

He told the detectives that he was not willing to give a statement and when Mr Underwood queried this, Mr Hanvey responded that *'it was [his] legal right not to make a statement'*. Mr Underwood suggested that the witness had received a call that morning from [P61] and that the witness was being untruthful. Mr Hanvey refuted these suggestions and told the Inquiry that he did not seek or receive legal advice before he refused to make a statement to the police.

Barra McGrory QC asked questions for the Hamill family which further established that Mr Hanvey knew [P61]. In addition to Mr Hanvey knowing [P61] from his association with the Tae Kwon Do gym which his son Allister attended, the witness knew [P61] from playing under-18 football.

Mrs Elizabeth Hanvey, Allister Hanvey's mother, was the next witness to give evidence to the Inquiry. She told the Inquiry that she couldn't remember a phone call or details surrounding her son's arrest as she found the situation upsetting. She told the Inquiry that she had blocked it from her mind and had forbidden talk about the incident by the family as it upset her. The detective's statement, based on his notes of the visit on 11 May 1997, referred to the fact that they had spoken to both Mr and Mrs Hanvey, but Mrs Hanvey told the Inquiry that she could not remember the visit.

Mr Underwood asked the witness why Mr Hanvey refused to make or sign any statements. Mrs Hanvey said that this was due to the advice of their solicitor. Mr McComb (representing Tracey Clarke) interjected and said that this was misleading the witness while Kenneth Hanvey refused to make a statement to the police, it was not made clear whether the advice from Mr Hanvey's solicitor (as referred to by Mrs Hanvey) related to him not making a statement to the police or if it related to other statements which he may not have signed (no further references or examples were given). Further questions from Barra McGrory QC showed that Mr Hanvey's solicitor in 1997 was Mr. Richard Monteith (who is also currently Mr Hanvey's solicitor for the purposes of the Inquiry).

The third witness was a lady who knew Mrs Andrea McKee and received several calls from her when she was re-interviewed by police in 2001. The witness explained that she felt Mrs McKee knew she was 'in trouble' and was not going to fight the case in relation to her prosecution for perverting the course of justice which was pending

at that time.

*Before moving to the final witness on day 15, Mr Underwood (Inquiry Counsel) stated that the next group of witnesses were people who had been in the town centre around the time of the attack but were not police officers. He hoped that these witnesses would assist with a number of issues:*

- 1. Shed light on the sequence of events, the outbreak of violence and whether the Land Rover crew could have prevented it taking place.*
- 2. Whether the police officers got out of the vehicle and if so what they did.*
- 3. Whether [P61] saw Allister Hanvey do anything and then went on to obstruct the investigation.*
- 4. To help understand what the murder investigation was capable of covering: had they got the right witnesses and were they co-operating?*

*He indicated that the witnesses included the ambulance crew and the evidence would touch on the issue of times as they had automatic timing devices in operation on the night in question. However he indicated that there is a variety of accounts on the issue of time.*

*He described how different groups of Protestants came in 'dribs and drabs' to the town centre: some from a bus which dropped people off having collected them from the Coach Inn in Banbridge; others from the West Street area.*

*Mr Underwood highlighted that he would be calling those witnesses against whom allegations had been made towards the end of this group. He said it would give them and their legal team a better assessment of what they were being accused of having heard the accounts of other witnesses in this group.*

*Mr Underwood highlighted that a number of people, including Allister Hanvey gathered in a house belonging to Tracy McAlpine where violence relating to the attack was said to be the topic of conversation. He said that this is significant for two reasons:*

- 1. If Mr Allister Hanvey was indeed there, then the alibi provided by his uncle Mr Thomas Hanvey is likely to have been false due to the time he claimed that Allister arrived at his house. He said this could also shed light on whether there was an obstruction of justice;*
- 2. Also, if Mr Hanvey was there, then others there should be able to shed light on his clothes. Counsel highlighted that no steps were taken in 1997 to investigate what others in the house remembered Hanvey to be wearing (if he was there). Counsel said that this should also aid the question of what the police did to break his alibi and find out what may have happened to his clothes.*

The fourth and final witness on day 15 was (Robert) Timothy Jameson who was 18 years old at the time of the attack on Robert Hamill. Mr Jameson was among a group of people who arrived back from the Coach Inn on a bus on 27th April 1997 and walked through Portadown close to the scene where Robert Hamill was attacked. He is the son of a contractor (Bobby Jameson) who carried out a substantial amount of work for the police. In 1997, as a result of his father's work, the Jameson family warranted police protection and his father had police escorts. It is alleged that the witness told two police escorts about being present in Portadown town centre when the assault on Robert Hamill took place and that he 'put the boot in' as he ran past Robert Hamill whilst others were assaulting him. The witness disputed that this conversation took place and explained that the relationship that he had with such close protection officers would not give rise to any conversations. Mr Jameson was

questioned extensively about the content of a statement which he gave when answering a standard format police questionnaire on 29th April 1997 and a statement which he later gave to the police during an interview lasting several hours on 9th May 1997. Inquiry Counsel, Mr Underwood, explained to the witness that it was the statement of one of the close protection officers (officer G) about the conversation relating to the assault on Robert Hamill which led to this second statement being taken. In the second statement (signed as correct on 9th May 1997), a number of people were named and implicated in the fight that resulted in the death of Robert Hamill. Police activity was also described – the statement ended: ‘The Land Rover was parked at the side of the street. I didn’t see any police get out of it’.

Throughout Mr Jameson’s evidence to the Inquiry he claimed that Detective P78 pressurised him and put words in his mouth when he interviewed him on 9th May 1997 and as a result he said he had made the statement under duress. Mr Jameson said that he felt stupid signing a statement that was not his own words and that he did not tell anyone about alleged falsities in the statement until approximately two weeks later when he told his father, Bobby Jameson. The main points which the witness said he did not say or could not recall surrounded sections of the statement when crowd fighting was discussed and suspects were named. All but one of these names were also provided to the police on 9th May 1997 by Tracey Clarke in a separate interview that took place as Mr Jameson’s interview was finishing or when it had just finished.

The witness told the Inquiry that detective [P78] had made suggestions naming individuals and that [P78] may have known the names from talk about the town. However the witness did not make a complaint against [P78] or approach the police to have his statement corrected. Questioning then focused on the issue of when precisely the witness had retracted his statement and, in particular, when he first made the allegations against detective [P78]. A faxed submission to the Inquiry from a Banbridge solicitor (whose name is redacted), dated 20 December 2006, recalled a meeting with the witness and his father on 21 May 1997. Whilst stating that the witness claimed that ‘substantive averments made to RUC officers were based on rumour and supposition as opposed to personal knowledge’ and ‘that on the night in question he was inebriated and could not actually recall details of the incident’, no reference was made to duress or any alleged impropriety on the detective’s behalf. Nor did any such reference appear in the DPP’s record of a subsequent consultation that took place with the witness and his father on 21st October 1997 when the witness first told the prosecution that it was a false statement.

Questions from Mr Daly, representing the coroner Mr Leckey, implied that his client recalled contacting the witness in 2000 when he was arranging an Inquest into Robert Hamill’s death. It was further implied that Mr Leckey recalled the witness communicating fears for his safety and that if the coroner were to seek a new statement, that the witness would say he could not remember anything. The witness refuted this suggestion and said he couldn’t remember such a call.

Barra McGrory QC highlighted (during questioning) that the witness’s current solicitor for the purposes of the Inquiry is Richard Monteith and that Mr Monteith was regularly instructed by the witness’s father. The witness accepted that Mr Monteith had been present when he was interviewed about the remarks he is alleged to have made to his father’s police guards (though he could not confirm if his father had arranged Mr Monteith’s presence on his behalf). When asked whether he could remember visiting Mr Monteith before he went to the Banbridge solicitor on 21st May 1997 (12 days after the police interview on 9th May), the witness said he could not recall whether he had visited Mr Monteith before seeing this other solicitor.

