

## ROBERT HAMILL INQUIRY

### Days 26- 28: 10<sup>th</sup> to 13<sup>th</sup> of March 2009

The Robert Hamill Inquiry did not hear evidence from 25th February until 9th March 2009 (inclusive).

On Tuesday 10th March, day 25, Inquiry proceedings began with emergency applications from Mr O'Hare who represents the Police Service of Northern Ireland (PSNI) as a result of the murder of two British soldiers and a civilian by dissident republicans on Saturday 7th March 2009<sup>1</sup>. Mr O'Hare (who represents a number of individual police officers) made the following applications:

1. Whilst police officers had been denied anonymity by the Inquiry in the past, he submitted that previous risk assessments of the officers' safety could now be invalid as the Chief Constable of the PSNI, Sir Hugh Orde, said that the risk level to officers was severe. As a result, he requested that all police officers were given a cipher (so that their names were not public) and that officers were permitted to give evidence in screened sessions (so they could not be visually identified by the public);
2. That transcripts of Inquiry proceedings up until this date were revised to reflect the anonymity of officers he was seeking.

Other legal representatives supported this application. However in her supporting submission Ms Dinsmore QC (who represents Mr & Mrs Atkinson) argued that evidence to be heard by the Inquiry that week regarding Reserve Constable Robert Atkinson (who temporarily had the cipher P60 which has now been lifted), would make her client identifiable. Ms Dinsmore made particular reference to evidence that Allister Hanvey was expected to give to the Inquiry and she invited the Inquiry to consider postponement of such evidence. Inquiry Counsel, Mr Underwood QC, indicated that measures advanced by Ms Dinsmore could halt the Inquiry's work and suggested that she make her submissions to the Panel in private so that she could outline her concerns.

The Chairman, Sir Edwin Jowitt, issued a restriction order under s.19 of the Inquiries Act 2005 preventing the publishing of police officers' names and enforced the temporary measure of ciphering. The Chairman also emphasised that this restriction applies to everyone and not just the press.

Mr McComb (who acts on behalf of Richard Monteith Solicitors who represent a number of civilians) requested that an in camera session was held before evidence was heard that day so that he could make a submission. No further information was provided and an in camera session took place.

The first witness to give evidence on day 25 was Dean Forbes, who was

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<sup>1</sup> <http://www.guardian.co.uk/uk/2009/mar/08/northern-ireland-soldiers-killed-antrim>

arrested and charged with the murder of Robert Hamill but against whom the charges were eventually dropped. During questioning from Inquiry Counsel, the witness told the Inquiry that he and Stacey Bridgett had crossed over to the other side of the street to avoid a group of 5/6 people who were having a row beside Eastwoods bookmakers; he also said that he heard slogans such as 'Orange Bastards' being shouted.

*Note: some Protestant witnesses have claimed similar sectarian slogans that would be considered offensive to Protestants were shouted, whilst some of the smaller group of Catholics at the scene have claimed that slogans offensive to Catholics were being shouted.*

Mr Forbes said that they heard officers in the police land rover call out Stacey Bridgett's name and as a result they went to the passenger side of the vehicle and talked to them. Then he recalled the driver's door of the vehicle being pulled open by a man who shouted, "Are you going to let these uns get away with this?"

Mr Forbes told the Inquiry that he then witnessed the crowd fighting (his description giving the impression that there were two opposing sides fighting).

Later questions from Mr McGrory QC (representing the Hamill family) showed that the witness was detained in a young offender's institution for the attack and was transferred to the Ulster Volunteer Force (UVF) section of the Maze prison at his request. When asked, the witness said that he was advised by a family friend to make this request after receiving death threats. When he was moved to the prison, he was housed in this wing along with his co-accused – Stacey Bridgett and Allister Hanvey. He was unable to explain when questioned why he felt safer in this loyalist paramilitary wing of the prison as opposed to other wings. Mr Forbes maintained that whilst he was housed with his co-accused, during his detention they never discussed the events which led to their imprisonment together regarding the attack on Robert Hamill.

Further questions from Mr McGrory highlighted that a police officer had noted the witness as wearing cream trousers, however when police arrested the witness at his home they only confiscated one pair of trousers that were black. The witness told the Inquiry that the police directed him as to what they were looking for (i.e. black trousers) when he was questioned regarding this discrepancy and the fact that only one pair of trousers had been taken. Mr McGrory also put the statements of two other witnesses to Mr Forbes that accuse him of asking one witness to approach the other and ask them to tell officers that he was wearing black Sonetti trousers – Mr Forbes said this was incorrect.

Mr Forbes also told the Inquiry that other witnesses were incorrect when they recalled him as being at Tracey McAlpine's house that night. He said that whilst he often went to her house on a Saturday night, he did not do so on this occasion.

The second witness on day 25 was Andrew Allen (also known as Fonzy) who

was also in the vicinity of the assault and was arrested and questioned about the murder in 1997. Throughout his evidence, Mr Allen told the Inquiry he could not remember incidents he described in his statement to police at the time e.g. an attack on David Woods, whom he said was with him that night.

Note: His description of events was similar to an attack that a resident in Thomas Street wrote about in a letter to the police.

Mr Ferguson highlighted that Mr Allen had not signed his statement to the Inquiry and when questioned, the witness explained that he had taken the statement to his solicitor (Richard Monteith Solicitors) who had advised him not to sign it. The witness explained further that he did not dispute what was contained in a transcript of a police interview (or his earlier statements). He told the Inquiry that he would accept what police officers have recorded him as saying as he can't now remember what happened on the night of the assault.

On Wednesday 11th March, day 26, the Inquiry first heard evidence from Rory Robinson who was arrested for the murder of Robert Hamill and was held on remand for six months in connection with the assault. Inquiry Counsel questioned the witness extensively about events on the night of the assault as some witnesses on 27th April 1997 had identified Mr Robinson as being in the large aggressive crowd and as punching a man lying on the ground. Mr Robinson discounted such accusations saying that they were incorrect. He could not offer any explanation as to why other witnesses would say such things. Inquiry Counsel also named a large number of individuals who were in the vicinity of the assault (who included Andrew Allen, who had described walking up the street with the witness) however the witness often said he did not know the individuals, relying extensively on his 1997 statement as the basis of his answers. On the other hand, Mr Robinson conceded in a similar fashion that he knew other individuals: for example, when asked if he knew Dean Forbes he replied, "...from my statement I knew Dean, yes".

Questions from Inquiry Counsel also highlighted that blood had been found on clothing taken from Mr Robinson's home by police; however, the witness said it was the first time he had 'heard of this' and maintained that he was not involved in a fight. Mr Robinson also refuted the suggestion made by Inquiry Counsel that he had refused to attend an identity parade because he was guilty. During later questioning by Mr Ferguson QC (representing the Police Service of Northern Ireland) the witness added that his solicitor had advised him not to agree to the identity parade due to the seriousness of the charge made against him.

Before Mr McGrory commenced his questioning of Mr Robinson he highlighted that he wanted to discuss matters with the Inquiry before proceeding and an in camera session was held. Mr McGrory asked the witness about a tattoo that he was described by a police officer as having - two union jacks and words to remember 1690. Mr McGrory implied that this was an indication of the witness's loyalist political belief which the witness disputed (giving the impression that his tattoo did not say this). The Inquiry

Chairman suggested that the Inquiry would look at the witness's tattoo when he completed his evidence and he had the witness confirm during evidence that the tattoo did not have any writing on it. After initially refusing the chairman's request, the tattoo was viewed in private and Mr McComb (who represents Mr Robinson) confirmed that the words 'REM 1690' were written on his client's tattoo. The Chairman later said that a report would be made to the Director of Public Prosecutions (DPP) regarding perjury which had been committed by Mr Robinson.

Questions from several legal representatives focused on the witness's loss of memory and during answers to Ms Dinsmore, the witness said he could not remember if he continued his education to A-level standard or if he had attended university – the last thing he could remember was looking at a glass of water (which appears to refer to the water the Inquiry provides to witnesses during hearings).

It was also shown that when the witness was detained in the Maze prison after his arrest for the murder he was not housed in the UVF wing with other suspects but was instead placed in the wing of a rival loyalist paramilitary faction, the Loyalist Volunteer Force (LVF). When asked if he supported this group the witness told Mr McGrory that he did not and that he was not aware of a loyalist feud between the groups in 1997 (nor was he aware of the existence of these loyalist groups or the Irish Republican Army (IRA)).

The second witness on day 26 was Jonathan Wright who continued to give evidence on Thursday 12th March (day 27). Mr Wright was called to give evidence as he was in the vicinity of the assault. The witness answered a police questionnaire on 11th May 1997 and also completed a witness statement on the same date. He was later re-interviewed on 15th May by the same officer, DC Honeyford, and a second statement was created. The witness told the Inquiry that DC Honeyford put him under pressure during this second interview and in his opinion, his second statement had more detailed information as the officer put details or suggestions to him. This statement contained allegations such as the following: that Marc Hobson was in the crowd of people being pushed and reached for someone; Rory Robinson was running around like a headless chicken in the crowd; and that Stacey Bridgett traded punches with someone.

Mr Wright attended a meeting in the Director of Public Prosecution's (DPP) office in October 1997 which was the first time he alleged that his second statement was false and made under duress. The witness was afraid that he would be in trouble for not telling the truth in his second statement and he dispelled any suggestion that he made this allegation for fear of paramilitary reprisals (which may have arisen from naming individuals in the statement). Mr Wright did not make a statement formally withdrawing his second statement until 13th March 1998.

During questions from Mr Ferguson it became apparent that a solicitor was not present when the witness was interviewed for his second police statement in 1997. Mr Wright told the Inquiry that DC Honeyford had said that one was

not available and when Mr Ferguson asked why the witness did not wait for one to become available, he said that he could not recall.

On Thursday 12th March, day 27, the second witness to give evidence was Carol-Anne Jones who lived in a flat in Thomas Street during 1997.

*Note: Mrs Jones was due to give evidence on 18th February 2009 under her maiden name, Carol- Anne Woods, however it appears that she could not be contacted by her legal representative (Richard Monteith Solicitors) at that time and as a result her evidence was rescheduled.*

Mrs Jones made three statements to police officers regarding two groups of people she had seen outside her first floor flat – one group in Thomas Street, the other group standing at the corner of Market Street close to Eastwoods bookmakers. In her first statement, made on 16th March 1997, the witness said she got the impression both groups were friends, then her boyfriend who was also looking out of their flat window saw the witness's younger brother, David Woods, in Thomas Street and told her he had been hit by someone.

The witness also viewed the scene from her front door after she had been informed that her brother had been struck, however she told the Inquiry that she could not really remember events and that she was relying on statements from the time. The witness's brother was arrested and questioned about the attack on Robert Hamill, however she was unable to recall if she had learned of her brother's arrest before she gave her first statement to the police.

The third witness, Donald Blevins, was parked in a car park near the scene of the assault on Robert Hamill. He told the Inquiry that he had walked into the town centre to see what was happening as he described the police separating two crowds who were shouting at each other. He did not make a statement to the police in 1997 and said in his statement to the Inquiry that, "... [he] would not have gone to the police with information in any case. You just don't grass on anything like that because if you were found out, then you would probably end up in the same place as Robert Hamill."

The fourth witness on day 27 was Marc Hobson who was arrested and charged (along with others previously referred to) initially with the murder of Robert Hamill but was found not guilty on this count but was convicted of other offences<sup>2</sup>. The witness told the Inquiry that reference in Jonathan Wright's second statement (which Wright alleges was forced) to the witness running towards the crowds were lies. Mr Hobson told the Inquiry that he cut-off contact with Wright after he learned what Wright had alleged in his statement. Another witness, Timothy Jameson, also claims that his statement which identified Hobson as punching two individuals was made to police officers under duress and claims that the interviewing officer had pressurised him.

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<sup>2</sup> (full name Paul Rodney Marc Hobson) for details of the verdict, see: <http://www.rte.ie/news/1999/0325/hamill.html>

Mr Hobson confirmed that he knew the other suspects, namely, Stacey Bridgett and Allister Hanvey; he also knew Rory Robinson and Dean Forbes although to a lesser extent than the others. A third witness, Tracey Clarke<sup>3</sup>, said in a statement to police in 1997 that Mr Hobson (who she identified by his nickname 'Muck') was part of this group of people who were 'jumping all over' and kicking one of the men who was lying on the ground. Mr Hobson could not offer an explanation as to why these witnesses had identified him as an attacker or why the subsequently withdrew their statements (which he viewed as false).

Mr Adair QC (who represents the same group of police officers as Mr O'Hare) asked the witness if he found the proceedings amusing or if he was treating them with contempt as he [the witness] was grinning throughout. Mr Hobson said that he was nervous and not treating them with contempt as he 'got time for something that [he] didn't do'. Mr Adair suggested to the witness if what he was telling the Inquiry was that police officers had lied in their statements, and then conspired to 'frame' Mr Hobson and other Protestants for the murder of Robert Hamill –the witness agreed. Mr Adair finished questioning by putting it to the witness that he had 'lied in the witness box practically from start to finish' and Mr Hobson refuted this allegation.

During questions from Mr McGrory, it was shown that the witness had contact with Jonathon Wright whilst in prison via telephone. The witness told the Inquiry that the calls to Jonathan Wright's home stopped once he received prosecution papers which referred to the second statement made by Mr Wright (a statement that the witness contends is made up of 'lies'). Mr Hobson asked if there were any records of telephone calls after 21st October 1997 and Mr McGrory said that they (presumably all legal representatives and the Inquiry) had not been provided with records after this date but that the records have been requested. Consequently, Mr Hobson alleged that the calls stopped on this date and that was why there was no record, as communication had ceased when he received his committal papers (on occasion he referred to them as prosecution papers). However, Mr McGrory inturn suggested that he received his committal papers around March 1998 in an effort to discount the witness's theory.

Mr McGrory also highlighted a high level of calls from Mr Hobson to Mr Wright in the days leading- up to Mr Wright's consultation with the DPP on 17th October, and he put it to the witness that this was too much of a coincidence considering that it was on this date that two key witnesses who had identified him and others 'withdrew'. The Chairman interjected to help place the number of calls in context and said that between June and September 1997 there were 15 calls in total, whereas in a 10 day period in October there were 11 calls - Mr Hobson could not offer an explanation for the increase in calls.

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<sup>3</sup> Who has failed to give evidence to the Inquiry and the matter has now been referred to the High Court for consideration to possibly comply her to attend the Inquiry.

The fifth witness on day 27 was Allister Hanvey whose evidence continued into day 28.

Mr Hanvey was charged with the murder of Robert Hamill and held in the UVF wing of the Maze prison but the charges were later dropped. It was alleged by Hanvey's girlfriend in 1997, Tracey Clarke, that he received calls regarding the police investigation into Robert Hamill's murder from Reserve Constable Robert Atkinson. Since 1997, Allister Hanvey and Tracey Clarke have married and separated.

During questioning from Inquiry Counsel Mr Hanvey was reluctant to confirm that his statement to the Inquiry was a true account. He said he had no recollection of the incident in 1997 and repeatedly referred back to his original police statement on which he based his answers to questions. He also added on occasion that the statement made in 1997 was a true account that he gave voluntarily at the time.

Inquiry Counsel referred Mr Hanvey to statements which contradicted his account of what he was wearing and Mr Hanvey responded by saying that Jonathan Wright's description was not correct and he also implied that a police officer's description was incorrect and he referred back to his statement from 1997 being a true account. When shown a statement from Tracey Clarke's mother which described a silver jacket with orange stripes (not a black CAT jacket which the witness claims to have been wearing) he said that this woman had a history of psychiatric issues and he could not offer any reason why she would have made-up the description or information about the purchase of this jacket. However, Tracey Clarke's stepfather also gave a similar account as his former partner in which he described a silver jacket being purchased as a Christmas present by Tracey for Allister Hanvey.

When referred to Tracey Clarke's statement (describing him attacking one of the men lying on the ground) Mr Hanvey said that it was false. In his opinion, the statement was a story concocted by the police and Andrea McKee (the wife of Tracey Clarke's uncle, who alleges that Tracey had told her information regarding the night and as a result she took Tracey to make a statement). Counsel asked Mr Hanvey when he became aware that Tracey Clarke was the primary witness against him, he replied:

*"Pretty much through time, through paperwork. I could not give you an exact date or time, but we all know now that Andrea McKee had met up with police officers, of which names wouldn't have a clue, at a graveyard to sort this out, to bring a 16/17 year-old girl into the police station, concoct a story to take the heat off themselves."*

In 2003, the Police Ombudsman for Northern Ireland initiated an investigation into Robert Hamill's murder after the collapse of a second murder trial and as a result the home that Allister Hanvey and Tracey Clarke shared was placed under surveillance. Mr Hanvey discovered the device and told the Inquiry that he was not 'tipped-off' and the discovery was the result of a 'hunch'. Mr Hanvey told the Inquiry that the police arrived unannounced within 20 minutes of him finding and disconnecting the device. Subsequent questions and

answers showed that the witness did not give the device to the police until they returned with written confirmation from the head of the investigation team to say that the surveillance equipment was retrieved from the property. The Inquiry has given the cipher of officer 'H' to the officer who called to collect the device. In his statement (presumably to the Inquiry) officer H recalls being met at the property under surveillance by an unhappy Hanvey family, their solicitor (Richard Monteith), politicians and members of the UVF. Regarding the allegation that loyalist paramilitaries were present at the house, the witness said that this was 'more lies from the police'.

On Friday 13th March, day 28, a second witness, Mr Kenneth Milligan, gave evidence to the Inquiry (Andrew Hill was scheduled in the Inquiry's witness timetable however he did not give evidence until 29th April 2009, day 41). Mr Milligan and two females were stopped by a police patrol in Portadown just before 6.00 am on the morning of the attack on Robert Hamill. One of the police officer's in that patrol recognised the individuals as being in the crowd that police had pushed back after the assault on Robert Hamill. Mr Milligan told the Inquiry that he couldn't 'really remember' but that he did recall talking to the police that night. He told the Inquiry that he was with Lee Stockwell and another individual (whose name has been redacted) inferring that he was not with the two females whom the police officer has identified him as being with. Mr Milligan knew a number of people in the crowd that night however, out of all the former suspects in the murder case, he would only have frequented with Marc Hobson on occasion as he 'used to drink' with Mr Milligan and his friends – but Mr Milligan said he did not count Mr Hobson as a friend.

Inquiry Counsel said that Mr Milligan had told the Inquiry that he knew Stacey Bridgett and Allister Hanvey as they used to 'beat the hell' out of him, however Mr Milligan said he did not say this and that it was Lee Mahood and Wayne Lunt who used to beat him-up. Mr Milligan maintained that he was not in the crowd that night, did not riot, and nor was he involved in fighting.