

ROBERT HAMILL INQUIRY

Days 29- 35: 18th to 26th March 2009

On Wednesday 18th March 2009, day 29, Inquiry Counsel, Mr Underwood QC, outlined that evidence from civilian witnesses was complete (except for some witnesses who had to be rescheduled). He explained that the next group of witnesses were RUC officers and indicated that he was going to call those officers who arrived as back-up at the scene of the assault first, then those in the police land rover. Mr Underwood summarised the issues to be covered in the evidence of this group of witnesses as follows:

- 1) What the officers in the Land Rover were told - by way of briefing- to do on the night;
- 2) What the officers in the Land Rover [Constable Neill, Reserve Constable Cornett, P40 and Robert Atkinson] saw and did that night:
 - A. Did they get out of the Land Rover?
 - B. If so, what did they see when they got out?
 - C. A witness, Mr Blevins, has suggested in his evidence that he witnessed fights in the same location on other occasions and that police officers in the Land Rover never got out as the fights were not serious. Did this happen on 27th April 1997 and the fight get out of hand?
 - D. What steps did they take to call back-up?
- 3) What back-up officers saw that night:
 - A. Particularly what they saw the officers in the Land Rover doing when they arrived on the scene and the 'anatomy' of the fight;
 - B. The form and adequacy of the back-up; was Robert Hamill being attacked? If so what did they do about it?
- 4) Issues highlighted above, were also said to go to the question of whether Robert Atkinson, the officer who may or may not have had a conversation with Allister Hanvey (i.e. they may shed light on this situation) (Note: Inquiry Counsel later said that Mr Atkinson now accepts that he did see Allister Hanvey and did not record this in his notebook.)
- 5) Issues highlighted above may also impinge upon scene preservation and the early stages of the investigation (in terms of what the officers on the scene reported to detectives and the hand-over of the scene); (Note: Inquiry Counsel also highlighted later that other officers, including Sergeant McClean, saw Allister Hanvey and did not tell detectives.)
- 6) What was the experience and training of officers on duty and the adequacy of such training in, for example, scene preservation;
- 7) How officers were briefed and if such briefings are in accordance with the standard set out in the relevant protocol [cited as document 10810, paragraph 20.1 and 20.2];
- 8) Whose responsibility was it to secure the scene of the assault and what steps were taken?

Counsel then proceeded to give a summary account of the perspectives that the forthcoming witnesses may have had on certain issues. Recordings of radio communications to and from the scene were played to help provide a

better picture of what was happening on the night in question.

Note: members of the public were not permitted to attend the Inquiry while police officers gave evidence as anonymity had been temporarily granted at the time of hearings. This now been lifted in most cases and instead of using ciphers for such witnesses, the use of their name is now permitted.

The first witness on day 29 was Reserve Constable Godfrey [Dean] Silcock, who may have been the first back-up officer to arrive on the scene. The witness described the scene when he arrived in a saloon car: there were approximately 60 people and four police officers; there were two individuals lying on the ground, one of whom later became known to him as Robert Hamill. The witness said he did not see anyone assault the men on the ground but the crowd was quite vocal and aggressive. He also had to take his baton out and physically push the crowd back as they came close to one of the men on the ground (witness 'D') although he did not have to strike anyone with it. The witness told the Inquiry in his statement that he saw Rory Robinson in the crowd and described him as aggressive. He said that a woman in a white top pointed to a man [Rory Robinson] who she alleged jumped on Robert Hamill's head. The witness heard others call the man who had been brought to his attention 'Stacey' and he noticed that his nose was bleeding. When asked by Inquiry Counsel, the witness said that if he had had the opportunity he would have arrested this man. The witness later conceded that he should have sought the name of the woman in the white top but felt he could not have at the time due to the nature of the situation. He believed that he passed his statement on to DS Lawther but was not asked about the woman in the white top.

Mr McGrory QC (representing the Hamill family) had the witness clarify what help he offered to Robert Hamill as witness 'F' (a female related to Robert Hamill who was with him that night) gave evidence that no-one came to help. Mr McGrory also drew attention to the evidence of an ambulance-man who arrived on scene and described Robert Hamill as lying on his back. The witness maintained that he put Robert Hamill into the recovery position and left him in the care of those that had been with him [i.e. Mr Hamill] that night. The witness told the Inquiry that he had not been trained in scene preservation and he was of the opinion that he had no personal role to play in the preservation of this scene.

The second witness on day 29 was an anonymous female officer known as witness 'A'. This officer detained Wayne Lunt at the scene in the back of the police Land Rover. However she released him as she was of the opinion that arresting him would have taken too many officers off the ground and the situation was escalating. She recalled a man cursing at her as she released Mr Lunt and regretted not recording this detail along with the man's accusation that Mr Lunt had been one of the attackers at the time of the incident (she reported this detail in May 1997).

Witness 'A' noted in her notebook that Dean Forbes and Stacey Bridgett were at the scene and in her statement she said that she knew them to be

inseparable and aggressive. She disagreed with their descriptions that they watched the scene from a distance.

When asked about a 'debrief' by her own legal representative Mr Adair QC, the witness said that she was surprised there had not been a debriefing with CID after they realized the seriousness of Robert Hamill's injuries. Further questions showed that in 2001, the witness had accepted a reprimand regarding her actions in relation to the events on 27th April 1997 but that the witness was not told she could refuse to accept it. It appears that her grievance regarding this admonishment relates to the lapse in time between the events and date of the admonishment, which came about because of the time taken by an investigation by the Police Ombudsman.

The final witness on day 29 was Constable John Adams who was also an officer arriving on scene to provide support. He could not recall witnessing fighting when he arrived and instead recalled a boisterous crowd. The witness could not recall anyone hitting or kicking Robert Hamill or if he had helped to pull people off Mr Hamill.

On Thursday 19th March, day 30, the Inquiry heard evidence from Constable David [Alan] Orr who arrived on scene to provide back-up. The witness told the Inquiry that he had no scene preservation training. The witness was driving the vehicle in which Constable 'A' arrived at the scene and he could not recall if she got out before or after he had parked the car. He described the scene as tense and could recall one officer being with the men on the ground while the others, including him, were 'trying to prevent further incidents'. In his statement to the Inquiry, the witness described how he was the most senior officer at the scene and he instructed Constable Warnock to return to the police station and sign out a riot gun. The witness told the Inquiry that he believed the riot gun may have deterred people from escalating the situation.

Questions from Inquiry Counsel showed that an Inspector and a Sergeant arrived on the scene after the riot gun had been sought and that the witness could not remember if they were debriefed on the situation. The witness taped off the scene at 7.25 am and told Inquiry Counsel that it was not done before then as it was not apparent how serious the situation was (in terms of the injuries to Mr Hamill).

Further questions from Inquiry Counsel and Mr McGrory showed that a police Inspector alleged that the witness failed to follow an order to obtain the clothing of Robert Hamill and witness 'D' from the hospital. The witness was of the opinion that this accusation resulted in an investigation against him in 2001. However he maintained that he did not receive this order; if he had, he would have carried it out as he was already in the hospital at the time, albeit in relation to another matter.

Mr McComb (acting for Richard Monteith Solicitors who represent a number of civilians) highlighted that the witness had previously referred to a group of 30/35 loyalists and a group of up to 50 nationalists and queried the location of

the rival factions.

Mr Adair QC (representing a number of individual officers that appears to include the witness, Constable Orr) highlighted a number of allegations that were made against the witness and allowed him to comment on them: 1)that the witness neglected his duty in failing to preserve the scene for expert examination – the witness said he was not instructed to do so; 2)it was alleged that the witness failed to mention involvement with Wayne Lunt and Mr Lunt being seen carrying a bottle – the witness said he did not know this person; 3)the allegation previously referred to regarding retrieval of the victims' clothing.

Mr McGrory subsequently outlined that there had been an investigation into complaints made against the police in 1997, the result of which was inconclusive. Therefore, in 2000 the matter was referred to the Police Ombudsman's Office. This led to the investigation in 2001 that served a notice on the witness outlining the allegations referred to above. Mr McGrory had the witness confirm that as a result of the 2001 investigation, he had been exonerated.

The second witness on day 30 was Reserve Constable Paul Warnock. The witness had arrived at the scene as a passenger in an armoured saloon car. He said that it was driven by Constable Cooke and he believed it was the second back-up vehicle on the scene. The witness statement describes two men lying on the ground and officers being out of their vehicles at the scene. He told the Inquiry that he now knows those officers to have included those who had been assigned to the police Land Rover. Questions from Inquiry Counsel showed that in the witness's opinion, the crowd in front of the line of police officers was singular (i.e. not two separate groups) and that there was a smaller group of people in the Woodhouse Street area. He also confirmed that most of the sectarian shouting and cursing that he heard was coming from the larger crowd in front of the police officers.

Inquiry Counsel attempted to find out why the witness was accompanied by another officer to get the riot gun as this took two officers away from the scene. The witness explained that due to the weight of the gun, baton rounds and their case, it was easier to drive back to the station. The witness thought that he may have been the only officer on the scene trained in the use of the riot gun and it was unclear if he had been trained to drive a police vehicle. If he was not trained to drive police vehicles, this could explain why it was necessary for two officers to leave the scene.

Inquiry Counsel recited protocols pertaining to the use of riot guns in defence of a station against a mob. These included the following rules:
"When circumstances permit, a warning should be given before baton rounds are fired. If not given initially, the warning should be given at the earliest opportunity by the senior member present. A record of words used when giving the warning should be kept. The warning should be in the following words: "Attention, attention. This is a police officer speaking. Unless you stop rioting immediately, baton rounds will [perhaps again] be fired. No further

warning will be given.”

The Inquiry Chairman appeared to interpret these rules as requiring the use of a megaphone in order for a mob/crowd to hear the warning being issued. The witness recounted shouting out a warning and gave an estimation as to the wording he used. He was of the opinion that the warning that a riot gun may be used deterred some of the crowd as some individuals drifted away and stayed away. Further questions showed that the witness was not instructed by a Senior Officer to issue a warning. This constitutes a breach of the rules mentioned above. The riot gun was not used.

Inquiry Counsel also highlighted that the witness failed to record a sighting of ‘Harvey and Hill’ in his notebook or statement at the time. It was shown through subsequent questions from Inquiry Counsel and Mr Atchison (who represents Mr Harvey) that the witness recalled: the description he had given of Mr Harvey included a description of his jacket but he could not recall other descriptive features; and he recognised Mr Harvey from local newspaper photos and checked with other officers what his name was.

Questions from Mr McGrory showed that this witness also received an Ombudsman’s notice which contained allegations regarding his actions/inactions that night.

The final witness on day 30 was Reserve Constable James Murphy. The witness was part of the crew of officers referred to as the late crew who were detailed for public order duties. This ‘late crew’ included the officers in the Land Rover; however the Sergeant in charge felt that having only four officers in the Land Rover was adequate (when five officers was the usual number detailed) and the witness was instead detailed to a police car. His account of the scene was similar to that of other officers in that he described a large crowd being pushed back by police, although he felt the officers were outnumbered.

Inquiry Counsel asked why the witness did not report seeing Allister Harvey at the scene until 2001. The witness told the Inquiry that this was as a result of being asked direct questions in 2001 and at the time, he had not noticed Mr Harvey doing anything of particular interest to have warranted a note in his [the officer’s] statement in 1997. When asked about the scene by Mr McComb (acting on behalf of Richard Monteith Solicitors who represent a number of civilians) the witness could recall pushing a smaller group of people back down Woodhouse Street.

After the witness had completed his evidence, a short closed session was held by the Inquiry to facilitate submissions from Ms Dinsmore QC (who represents Reserve Constable Robert Atkinson and his wife Eleanor).

On Friday 20th March, day 31, the Inquiry heard evidence from Constable Gordon Cooke who was the driver of the second of three police support vehicles said to have been detailed to the scene. As with other witnesses, Mr Cooke confirmed that he had not been trained in scene preservation. The

witness did not recall anyone attacking the two persons lying on the ground but he had the impression there were persons in the crowd trying to get towards the injured men; but the police officers were preventing them.

In his original statement in 1997, the witness had identified a man in the crowd but made a mistake and recorded the wrong name. As a result, he made a further statement to this effect and said that the correct name for this individual was in fact Marc Hobson. Later questions from Mr Greene (who represents Marc Hobson) highlighted that the witness had recorded the same incorrect name in both his statement and notebook in 1997; The Chairman, however, interjected that the witness had already explained he had copied the detail from one source to the other e.g. from the notebook to the statement.

Questions from Inquiry Counsel showed that whilst the witness recalled returning to the scene around 6.30 am with Detective Constable Keys, the scene was not taped-off until approximately 7.00 am.

Mr McKenna (who represents the Hamill family) focused on the communication between the witness and Inspector McCrum who arrived on scene with officer 'P89'. Inspector McCrum's journal (as referred to in an interview between the witness and investigators in 2001) records that he had told the witness to construct a list, in consultation with other section officers, of those people positively identified at the scene. The witness told the Inquiry that this was not asked of him in these terms and he said that Inspector McCrum told him to speak to the CID officer (Detective Constable Keys) who would be arriving about the individuals that he recognised. In addition, the witness said that, had he been asked to make a list, he probably would not have done so as he recorded who he saw in his statement for the CID officer. He said he would not have consulted others as: 'who [he] recognised was [his] business and for [his] statement not anyone else.' Inspector McCrum's journal also refers to asking the witness to obtain the clothing of the injured parties from the hospital. The witness said he was not instructed to do this.

The Reverend Baroness Richardson had the witness clarify that he would not have compiled a list of people recognised with other officers in case they influenced one another's recollection.

Later questioning by Mr Mallon (representing Reserve Constable Atkinson and his wife Eleanor) focused on practices regarding a long arm rifle that was held in vehicles such as the Land Rover and how that vehicle was a place of safety for the officers. It appeared the purpose of such questions was to offer an explanation for the officers not getting out of the Land Rover all at once. He said that Constable Atkinson's evidence will be that two officers got out to deal the crowd initially, then a third who would have been the officer in charge of the long arm rifle in this instance, and finally the fourth – who would have been the officer tasked to 'stay with the Land Rover' in case officers had to get back in quickly for their own safety. The witness commented that in his experience the driver would have been the officer who stayed with the vehicle.

The second witness on day 30 was Reserve Constable William Burrows who

had been manning the town centre security barrier between 1.00 am and 2.00am that evening.

Note: It was still common in 1997 for town centres to have barriers closed at night time to prevent the access of vehicles – this was a security feature relating to the conflict as many town centres were subjected to bombings.

In what appears to be his Inquiry statement, the witness recalled letting two police cars (with sirens sounding) through the barrier around 1.45 am. He later gave access to an ambulance. He also referred to meeting Sergeant 'P89' and Inspector McCrum; he was asked to accompany the Sergeant to the scene. The witness told the Inquiry that he met these senior officers at approximately 2.00am when someone would have relieved him of his duty operating the barrier (officers rotated this duty on an hourly basis).

When at the scene, the witness had either: to stay in the vehicle in which he arrived as there was a submachine gun (presumably the long armed rifle previously highlighted by Mr Mallon) in it that could not be left unattended; or to exit the vehicle and take the rifle with him. The witness took the rifle with him and viewed his role as providing cover, not from the crowd but from the other direction in case others were to approach. (This may have been because most officers appear to have been facing in the direction of the crowd and would have been vulnerable to attack from behind).

On Tuesday 24th March 2009, day 32, RUC Sergeant 'P89' gave evidence to the Inquiry. He confirmed that he had been in charge of C section on the night of the assault and had met two officers in a police car who were on their way to the police station to obtain a riot gun. The witness subsequently authorised the issuing of a riot gun to the officers and took a second riot gun himself to the scene.

Note: it is unclear from transcripts of proceedings if Inspector McCrum was with the witness at this point in time.

'P89' recalled Reserve Constable Atkinson spending a few moments with him after he arrived on scene. The witness described the crowd as drunken and rowdy, but also hostile. He said that he saw RC Atkinson talk to Allister Hanvey, who appeared intoxicated, and try to calm him down as well as a female whom he believed may have been Mr Hanvey's girlfriend. The witness told the Inquiry that Allister Hanvey was brought to his attention by RC Atkinson. However, he later indicated that RC Atkinson may not actually have named Hanvey. He also said that it was RC Atkinson who told him that this individual (Mr Hanvey) was a martial arts expert and would be capable of putting him [the witness] down.

The witness did not make a statement regarding the attack on Robert Hamill until 7th May 1997 whereas other officers made statements before finishing their shifts on 27th April 1997. He thought the reason for the delay may have been that had not 'got round' to it at the time and that the investigating Detective may not have asked him for a statement until this date.

Inquiry Counsel asked 'P89' about debriefing practices and if one had occurred regarding the attack. The witness said that he generally brought the C6 occurrence book (relating to incidents in C section area) and any other intelligence with him, but he said reserve officers usually knew what their duties were without being told. He could recall what he believed to be a debriefing taking place between the four officers who had been in the Land Rover, a detective and an inspector in the communications room at Portadown police station after the attack; however he was not involved in this debriefing and merely came upon it.

Later questions by Mr McGrory discussed the detail of debriefing that the witness received from Constable Cooke when he arrived on the scene. The witness did not recall Constable Cooke highlighting the seriousness of the situation in terms of the injuries sustained by Robert Hamill and witness D. Mr McGrory explored the possibility that the witness subsequently failed to establish with hospital staff the severity of the injuries when he went to the hospital to check on the injured men's status, a visit which he conceded lasted a number of minutes; however the witness maintained that hospital staff told him they could not give him any information.

Mr McGrory also questioned 'P89' regarding an entry in this note book about the attack. He sought to establish why the entry relating to the attack amounted to seven or eight lines and was 'sandwiched' between entries relating to a single drink driving incident, entries which totalled one and a half pages. The witness explained that he had filled in the initial details regarding the drink driving incident at the time of the incident, which was prior to the attack, so that he had a record of times etc. that matched the details on forms he had completed for that incident. 'P89' told the Inquiry that he had made the entries regarding the attack on Robert Hamill and supplementary information regarding the drink driving incident when he commenced his next shift. Mr McGrory suggested to the witness that the lack of detail in the entry regarding the attack was neglectful of duty; the witness, however, disagreed.

In addition, it was highlighted that in 2001, the witness (who was then retired from the police service) was asked to meet Superintendent Karen Kennedy as part of the investigation relating to the actions/inactions of police officers on the night of the assault. Before the meeting, the witness was not aware that it related to possible disciplinary actions against officers (the witness himself would not be affected by virtue of his retirement). However, after seeking advice whilst waiting on the Superintendent's arrival and having a discussion with her and a Chief Inspector, the witness declined to be interviewed formally. He said that he wanted to be sure of the facts before answering questions as it had been some time since the incident; he wanted his answers to be accurate and truthful. Mr McGrory finished his questioning by inferring that the witness had been unhelpful to the investigation in the following ways: 1) refusing a formal interview; 2) lack of detail in statements made on 7th and 15th May [year appears to be 1997] that was subsequently included in his statement in December 2000 e.g. reference to RC Atkinson warning that Allister Hanvey was a martial arts expert.

The Inquiry held a closed session on day 32 to hear an application submitted on behalf of Constable Cornett, due to give evidence the following day. Inquiry Counsel also indicated that an application on behalf of Tracey Clarke requesting that a notice requiring her to attend the Inquiry needed to be heard in closed session but that it may be heard the following morning.

On Wednesday 25th March, day 33, the Inquiry held closed hearings. The content of these is not known and a transcript will not be published; however, it is thought that some of this hearing related to anonymity applications.

On Thursday 26th March, day 34, the Inquiry heard evidence from police officer 'P40' who was one of four police officers on duty in the Land Rover in Portadown town centre on Sunday 27th April 1997 prior to the assault taking place. The witness's statement to CID at that time recalled that around 1.43 am the officers were talking to young men (one of whom was Stacey Bridgett) and Constable Cornett was approached by a man who said that his friends were coming from St. Pat's Hall. The witness said that he could see a crowd of approximately 25 people walking towards St. Mark's Church in the town centre from Woolworths when he heard shouting coming from Thomas Street. He then recalled a man opening Constable Neill's (the driver's) door and grabbing his arm and shouting at him. It was at this point the witness said that they exited the Land Rover to see 50 youths and men; several fights were taking place.

Inquiry Counsel, Mr Underwood, pointed out that the other three officers recall a different sequence of events, namely that the man who warned of people coming from St. Patrick's Hall stopped the police Land Rover to tell the officer's this. The witness said he could only go by what he had written down. The witness told the Inquiry that he was sitting behind the driver's seat in the Land Rover; he could not see out of the side window and he could see very little out of the back windows.

A number of medical reports regarding the witness were displayed and questions showed that he had claimed for a Post Traumatic Stress Disorder or similar type of illness in connection with the murder of Robert Hamill (this application for compensation was unsuccessful). Reference was also made to a comment that the witness made during an interview with the Independent Commission for Police Complaints (ICPC) when he remarked concerning the crowd that '[his] wife could have been walking behind a coffin as well' if he had of been 'in the middle of that'. In response the witness told the Inquiry that: "...four people could not have held... that crowd back."

The witness was of the opinion that had a debriefing taken place after the incident, he may have been able to name more people. He had recognised some faces in the crowd but it appears he did not know the names of these individuals to record them in his statement. Several suggestions were put to the witness based on accounts of other witnesses (e.g. that the police ignored a warning that individuals were coming from St. Patrick's Hall); some the witness refuted and on at least two occasions he told Inquiry Counsel:

“...that’s your version of events.”

Inquiry Counsel suggested to the witness that the officers sat in the Land Rover and did nothing while a man died; Mr Underwood subsequently accepted that this assertion was not factually correct after Mr Adair QC (who it appears represents this witness) interjected.

Note: Robert Hamill died in hospital some days later as a result of the injuries he sustained and not at the scene.

Mr McGrory recounted the evidence of Tracey Clarke and Timothy Jameson to show the witness that when their evidence is combined it suggests that fighting, including the assault on Robert Hamill, took place while the Land Rover was at the scene and that officers did not get out. The witness confirmed that what he had seen was scuffles and not punches (or kicks) as described by these witnesses. Mr McGrory also focused on an incident when the witness alleges that Detective Sergeant Bradley approached him after he made his statement about the attack on Robert Hamill and asked him did he want to change it. The witness said that D.S. Bradley highlighted that the incident was now a serious matter and did not refer to any specific detail in the statement; D.S. Bradley just asked him if he wanted to change it.

Mr Greene (who represents Marc Hobson and Jonathan Wright) drew the witness’s attention to a comment in his Inquiry witness statement which refers to a man at the scene shouting, “I hope he fucking dies.” He emphasised that this was the first occasion that the witness made this comment and that it had not appeared in his police notebook or witness statement from 1997.

On Tuesday 31st March, day 35, the Inquiry sat in closed session and no transcript or summary of proceedings will be published.