

ROBERT HAMILL INQUIRY

Days 37-42: 3rd to 30th April 2009

On Friday 3rd April 2009, day 37 [there was no Day 36; the Inquiry made a mistake in numbering the days], the Inquiry first heard evidence from Robert Hamill's sister, Mrs Fiona Ryan. Mrs Ryan had attended Craigavon Area Hospital to see Robert after the assault had taken place and had attended a meeting with her sister Diane at Portadown police station prior to Robert's death. Mrs Ryan told the Inquiry that at this meeting with Detective Inspector Irwin in the presence of Chief Inspector Bradley, she got the impression that witnesses to the attack were being intimidated although she was not told which ones. Also, she maintained that Inspector Irwin was negative in discussions over CCTV footage of the incident and classed the recordings as insignificant despite confirming to Mrs Ryan that the police Land Rover present at the scene had been caught on the footage.

The second witness to give evidence was another of Robert Hamill's siblings, Mrs Diane Hudson. In her statement to the Inquiry she recalled a meeting in Portadown police station and her sister's question regarding the presence of the police Land Rover in the CCTV footage. Mrs Hudson also described Chief Inspector Bradley's reaction to confirmation that the Land Rover had been recorded: "He [Chief Inspector Bradley] just swung round and looked at him [Inspector Irwin] as if to say, 'What did you just say?'" Further questions showed that the witness believed the recordings to be significant and that she was 'dumbstruck' that they had been handed back to local businesses and not retained as evidence. The evidence of Colin Hull [who pulled an officer from the police Land Rover] and Dermot McNeice was discussed and the witness confirmed that she had initially heard of their accounts (that Robert was attacked and no one had helped him) from other people before seeing Mr Hull a few weeks after the attack and meeting Mr McNeice at the Inquiry for the first time.

Mr Adair QC (*who represents a number of individual police officers*) referred to a 'wall of silence' from Protestant witnesses to the attack but also asked Mrs Hudson about a similar lack of co-operation with the police investigation from the Catholic community. In doing so, he referred to statements being taken from Mr Hull and Mr McNeice by a solicitor [name redacted] which were not brought 'to anyone's attention' until a year and a half after they had been made. Mrs Hudson confirmed she had been aware that some witnesses had made such statements but did not know of the delay regarding Mr Hull and Mr McNeice's statements; nor was she aware of reasons why the solicitor had not forwarded these statements sooner. Further questions highlighted that witnesses, including Mrs Hudson, had been invited to make a police statement at a time convenient to them but that they did not attend. Mrs Hudson said that she was not there and did not witness the events and that is why she did not make such a statement.

In addition, Mrs Hudson was clear that neither she nor other family members gave any instruction not to cooperate with the investigation, either to the legal

representative handling their complaint against the police, or to witnesses.

Note: Whilst the Inquiry has redacted the name of the solicitor who initiated the complaint against the police, it is known that the solicitor was Rosemary Nelson as she represented the Hamill family at that time.

Questions from Mr Adair also said that another witness, Colin Prunty, (whom Mrs Hudson confirmed she had spoken to about the attack) told others that the police got out of the Land Rover and tried to break-up the fighting while Robert was lying on the ground. However, Mrs Hudson said that she did not learn of this evidence from Mr Prunty until she had heard it at the Inquiry.

The third witness on day 37 was an employee of the Alliance and Leicester bank in 1997 and she gave evidence in relation to bank tape-handling procedures. She recalled handing the tapes in question to the police and as far as she is aware they were returned. In her statement to the Inquiry, the witness said she was surprised that the police had said there were no night scenes on the tapes and implied that there should have been as 'this was the reason [the bank] carried out the task of changing tapes at the weekend'.

The final witness on day 37 was Gareth Cust who was 12 years old at the time of the attack in 1997. He had been in the vicinity of the assault and in the company of Kyle Woods, Simon McNally and Andrew Hill. Mr Cust told the Inquiry that he recalled seeing the police Land Rover parked in a lay-by outside a shop called In-Step. He said he did not see fighting, hear sectarian shouting or see any police officers in the street and that he witnessed the usual rowdiness for that time of night in Portadown.

At the end of proceedings Inquiry Counsel, Mr Underwood QC, read out a statement that he wished to highlight. It was a statement from Father Sean Dooley who was attached to Drumcree Parish around the date of the attack on Robert Hamill. The statement refers to Father Dooley receiving an anonymous telephone call alleging that the four police officers in the Land Rover had been sleeping on the night of the attack, as they had been working over-time having been on duty since 4 pm the previous day. The caller alleged that: the officers were awakened by the two girls who had been with Robert Hamill that night; that the police officers saw people jumping on Robert Hamill's head; that one of the officers had the name Atkinson and was linked to a Karate Club in Brownstown connected to Jameson's Enterprises; that the names of Allister Hanvey (incorrectly written as Handy whilst receiving the call) and Stacey Bridgett were mentioned by the caller; and it was also implied that one male and one female officer present were too weak to intervene in the attack.

The Inquiry then entered a recess period from Monday 6th April 2009 until Tuesday 21st April 2009 (inclusive). On Wednesday 22nd April, day 38, the Inquiry sat in closed session and no transcript of hearings will be released.

On Thursday 23rd April, day 39, the Inquiry heard evidence from Ms Jennifer Carol O'Neill via electronic link. Ms O'Neill was in the vicinity of the assault on

Robert Hamill and had alleged in statements that she witnessed a man who she believed to be Robert Hamill shouting something like, 'I'm a Fenian. This is my town,' before the fighting started. The witness told the Inquiry that she cannot now recall whether this man shouted the word 'fenian' at the time, or whether other individuals had said it. The witness agreed with Mr McGrory QC (representing the Hamill family) that she did not mention this in her original statement to the police made on 13th May 1997, and that this was when events would have been freshest in her memory. Further questions revealed that the witness was of the opinion that information which was not contained in her police statement appeared in her statement to the Inquiry (taken in 2008) because she had not been asked specific questions in her police interview in 1997. Furthermore, Ms McNeill told the Inquiry that she believed the man to have been Robert Hamill, as she did not recognise him as someone who had been on the same bus as her returning to Portadown (from the Coach Inn in Banbridge). However subsequent questions from Mr McGrory showed that Ms O'Neill would have been unable to recognise half the people on the bus at the time of the incident. As a result, Ms O'Neill accepted that she could not have used the fact that she did not recognise the man she alleged was shouting in the middle of the town as a basis for identifying him as Robert Hamill.

On Tuesday 28th April, day 40, the Inquiry held a closed session from 11.30 am until an undetermined time. No transcript of what was discussed in this session will be released publicly. The Inquiry first heard evidence in open session that day from 2.55 pm from a technician who was tasked to test the level of sound which could be heard within the Land Rover with the engine and fan running. The witness confirmed that he performed tests with doors opened and closed and that he had not been instructed to see if noise from outside sources could be heard. He was reluctant to suggest what individuals may have heard inside the Land Rover as his expertise was in measuring sounds in terms of decibels. The witness highlighted that he cannot assess what an individual may hear as this depends on a number of factors (for instance some people can hear better than others).

The second witness on day 40 was Ms Rachel Murphy, a police officer who was involved in searches carried out on homes of potential suspects, including the homes of Marc Hobson and Allister Harvey's parents (which was the second search of their home). Ms Murphy was the log keeper and her role was to record what happened or was found as a search took place. She was unable to recall details of the searches and often referred to her notes or other evidence relevant to the searches in her answers. However, Ms Murphy was of the opinion that a face-to-face debriefing took place prior to the searches. Mr Mallon (representing Reserve Constable Atkinson and his wife Eleanor) asked the witness if she had ever been the log keeper during a search in which a team placed a covert listening device in a property. Ms Murphy confirmed that to her knowledge she has not been involved in such an operation.

Finally, Mr Underwood outlined that whilst a number of civilians and police officers have still to give evidence, oral hearings were entering the next stage

and focusing on the investigation into Robert Hamill's murder. He explained that some of the evidence previously heard may relate to this stage of oral hearings (e.g. that of D.C. Honeyford) and proceeded to chart what evidence will be heard, some of which is summarised as follows:

- The Inquiry will hear evidence from an officer who was tasked on 27th April 1997 with ensuring that detectives had enough resources to deal with the serious assault upon Mr Hamill – Mr Underwood said that he would deal with the standards expected of the early investigation.
- Scientific evidence will be heard which has two aspects: 1) what the forensic scientists were able to discover; and 2) if there was any want of due diligence on the part of the forensic scientists.
- Mr Underwood explained that Wayne Lunt's finger prints were found on a bottle at the scene which is controversial as the finger-printing technique may have destroyed any DNA evidence there may have been. As a result, if there had been any of Robert Hamill's tissue on the bottle it would be impossible to know. Also a lot of blood was found on Robert Hamill's clothing and near where he lay in Portadown and the person to which it belongs has not been identified.
- D.C. Keys will also give evidence about seizing and viewing the Land Rover tapes.
- Evidence from those involved in the second investigation into the murder which indicates that aspects of the initial investigation were not conducted properly.

On Wednesday 29th April, day 41, the first witness to give evidence was Andrew Hill who was 15 years old at the time of the attack on Robert Hamill. He had been in the vicinity of the attack in Portadown town centre with friends, who have given statements alleging that the witness became separated from them. Three police officers also identified the witness (two by name and one by his address) as being part of the hostile crowd which was pushed back from the scene of the assault. Mr Hill said that the other witnesses must be mistaken as he did not get separated from the individuals he was with that night, nor was he part of the crowd.

The second witness, Mr McMullen, was the weekend duty officer on the morning after the assault took place. He told the Inquiry that he was in charge of ensuring that the investigating officers had all the required resources in order to investigate the assault. There had also been a serious assault in Banbridge that night and he had to co-ordinate resources for that separate investigation as well. He indicated to the Inquiry that in his opinion there was no stress upon resources made available for the investigation. Furthermore he explained that a scene of crime officer may on occasion be delayed due to attendance at another crime scene. *This may be a reason why there was a delay in attendance by the scene of crime officer to the scene of the assault on Robert Hamill.*

The third and final witness on day 41 was Detective Constable McAteer who was involved in various aspects of the investigation into Robert Hamill's murder. D.C. McAteer dealt with the allegation from Tracey Clarke that Reserve Constable Atkinson had informed Allister Hanvey about the police

investigation and how to destroy clothing. He met with Andrea McKee and interviewed Tracey Clarke regarding the allegation. Mr. McAteer was of the opinion that Ms Clarke's account of events during this interview were truthful and that the detail she provided could only have come from someone who had witnessed the scene. He dismissed the following allegations Tracey Clarke had made in an account to the Inquiry (as she has not yet attended the Inquiry): 1) that police officers or Andrea McKee put words into her mouth before she gave her statement; 2) that officers banged the interview table and shouted at her when she was giving her statement (the officers present were the witness and P39); and 3) that officers would not allow her to leave the station until she had said the things contained in her statement. Mr Berry QC (counsel for Andrea McKee) told the witness that despite the fact that Ms Clarke's husband Allister Hanvey (the pair married in the years after Robert Hamill's murder) maintains that he and Ms Clarke never discussed events surrounding Robert Hamill's murder, Mr Hanvey also claims that his wife was treated in this way by police officers. Mr McAteer refuted any suggestion that these allegations were true.

On Thursday 30th April, day 42, the first witness was Reserve Constable Ian Ritchie who was one of several officers involved in searches of the Hanvey home. Inquiry Counsel, Mr Underwood made reference to a previous search on the 10th May 1997 which is thought to have only concentrated on one room (presumably within the property where the Hanvey family resided). However, the witness said that he could not recall being aware of this first search (the witness was involved in two searches which took place at the Hanvey home on 13th May 1997).

Questions from legal representatives mainly focused on Mr Ritchie's recollection that officers were instructed to look for a silver or grey jacket. Mr Underwood highlighted that neither the application for the search or the search warrant referred to a silver jacket and that the documents referred to 'clothing' more generally. Mr Ritchie stood-by his recollection that he had been briefed to look for a silver jacket.

The second witness on day 42 was Constable Geoffrey Ward who was involved in both searches on the Hanvey household on 13th May 1997 and a search of Marc Hobson's residence on 10th May 1997. Questions from Mr Underwood showed that the searches which took place on 13th May had fewer police officers present. Mr Ward explained that there were normally six police officers (two teams of three) to carry out a search, whereas in this instance only three were in attendance. The witness was of the opinion that the search did not suffer because fewer officers were present, adding that a log was still kept and that it would just take longer as the officers had more rooms to search.

During the hearing it became apparent that Mr Ward could not recall whether or not a specific item of clothing was to be searched for. Questions from Mr Adair QC showed that Mr Ward did not refute Mr Ritchie's evidence. He also agreed with Mr Adair's suggestion that the fact that warrants referred to clothing generally and that no items of clothing were taken, suggests that the

officers may indeed have been debriefed to look for a particular item.

The third witness was Detective Eric Williamson who worked on the initial investigation into the assault on Robert Hamill prior to his death (which Mr Underwood described as the GBH investigation). Mr Williamson was tasked to investigate the alleged party at Tracy McAlpine's home and conduct interviews regarding this as the investigation team believed that some witnesses to the assault or events in Portadown town Centre may have attended the gathering. He also interviewed John Johnston (formerly referred to as P45, from whom the Inquiry has been unable to hear evidence) who lived above Jameson's bar which was close to the assault. Mr Williamson was able to recall that when he took Mr Johnston's statement, he checked the view from Mr Johnston's window and could see the junction where the assault took place and where the Land Rover was believed to be parked.

The final witness on day 42 was Detective John McDowell who worked on the murder investigation and it appears he was involved in the GBH investigation also (although this was not explicitly said). During the hearing, Mr Underwood tried to establish why the officers in the Land Rover and other Reserve Constables were not interviewed about what they had seen. In particular, Mr Underwood queried if in Mr McDowell's opinion it was standard practice for statements to be taken from Reserve Constables by a Detective; or, if Reserve Constables made their own statements, were they subsequently interviewed by a Detective on the contents of their statement (*as this is what another witness has told the Inquiry*). Mr McDowell said that he could only speak for himself and he would not have interviewed such officers or taken a statement from them, indicating that it was the Reserve Constable's own statement of events. He worked on the assumption that they had recorded everything of relevance in their statements.

In addition, Mr McDowell told Mr Mallon (acting on behalf of R.C. Robert Atkinson) that in 1997, officers [such as Mr McDowell himself] were not provided with suits to help preserve evidence before they entered a crime scene. Mr Mallon also had the witness clarify the chain of command at the scene, which was as follows (starting in order of seniority and working down the chain to the witness's level): Superintendent McBurney; P39; Detective Inspector Irwin; and then the witness who was the exhibits officer but was also involved in other investigatory procedures when directed to carry out other tasks by senior officers'.