

## **ROBERT HAMILL INQUIRY**

### **Days 47- 53: 11<sup>th</sup> to 21<sup>st</sup> May 2009**

On Monday 11th May 2009, day 47, the Inquiry first heard evidence from Eleanor Atkinson. Mrs Atkinson's husband Robert was a Reserve Constable on duty in the police Land Rover, which was in Portadown town centre on the night that Robert Hamill was attacked. Also, another witness, Tracey Clarke, made allegations in a statement to police in 1997 that RC Atkinson had called former murder suspect Allister Hanvey (with whom Ms. Clarke had a relationship) and gave him information about the murder investigation and also advised Mr Hanvey on how destroy clothing<sup>1</sup>. Telephone records obtained by the police in 1997 show that a call was made from the Atkinson household to a property owned by Mr Hanvey's parents which was where he lived.

Mrs Atkinson maintained during the hearing that this telephone call was not made by her husband. She said that it was Michael McKee who had telephoned the Hanvey home. Mrs Atkinson told the Inquiry that Mr McKee and his wife Andrea had stayed in her home overnight after calling unannounced. She told the Inquiry that her husband had been recalled to the police station, in the early hours of the morning on 27th April 1997, due to an incident involving the bus returning to Portadown from the Coach Inn in Banbridge. Mrs Atkinson said that Robert Atkinson returned home around 8 am and went to bed without discussing what had happened and that he would have been sleeping at the time the telephone call in question was made.

During questions from Inquiry Counsel, Mr Underwood QC, Mrs Atkinson said that Mr and Mrs McKee had enquired as to why her husband had been home from work late. In response, she told them of an incident involving the bus returning from the Coach Inn and it was after this that Mr McKee called the Hanvey home looking for his niece Tracey.

Barra McGrory QC, representing the Hamill family, later questioned this version of events and put it to Mrs Atkinson that her husband was still in the police station at 8.07 am and as a result would have been arriving home in time to make the call to the Hanvey home around 8.30 am. Mrs Atkinson refuted this. Further questions from Mr McGrory outlined that Mr and Mrs McKee admitted in 2000 that the statements they had made corroborating this telephone call were false, and that Mrs McKee had received a suspended sentence for perverting the course of justice, while Mr McKee received six months imprisonment. Also, he indicated that there was reason to believe that another couple, Rodney Smyth and Joy Kitchen, were in fact with Mr & Mrs McKee in the McKee home on the night of 26th/27th April 1997 and that Mrs McKee has told the Inquiry that Robert Atkinson had asked Michael McKee to provide an alibi regarding this telephone call. Mrs Atkinson continued to maintain that Mr and Mrs McKee had stayed at her home and said that Mrs McKee was a liar.

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<sup>1</sup> Tracey Clarke is expected to give evidence in September 2009 via video link.

The second witness on day 47 was former RC Robert Atkinson. Mr Atkinson's evidence can be divided into two broad areas: 1) issues surrounding his acts or omissions during and after the assault on Robert Hamill, as one of four police officers in a Land Rover in Portadown town centre; and 2) allegations that he contacted former suspect Allister Hanvey and updated him on developments in the murder investigation, and that he told Mr Hanvey how to destroy clothing that he [Mr Hanvey] was believed to be wearing on the night that Robert Hamill was attacked.

Mr Atkinson's evidence regarding the assault differed from accounts given by other witnesses. For example, Thomas Mallon told the Inquiry that he stopped the Land Rover and told the police officers inside that there was the potential for trouble as other patrons would be making their way home from St. Patrick's Hall. However, Mr Atkinson told the Inquiry that he was not aware that Mr Mallon had said anything towards the Land Rover, which was in a parked position when Mr Mallon walked in front of the vehicle, and said something to two people on a nearby footpath. Mr Atkinson also believed that this person [believed to be Mr Mallon] had an altercation with Constable Neill after he [Mr Neill] was pulled from the Land Rover by someone. Mr Underwood outlined that Mr Atkinson's account that the man who walked in front of the Land Rover and the man who had an altercation with Officer Neill were the same person differed from the accounts given by other officers (as they describe these men as being two different people).

Mr Atkinson also described the crowd that formed in the town centre as consisting of two opposing factions which were almost equal in number. He described how no-one was lying on the ground at the time when he and Constable Neill were outside the Land Rover. The first time that Mr Atkinson noticed two men lying on the ground was after he had an altercation with the same individual who had confronted Constable Neill after he was grabbed from the vehicle. Mr Atkinson also recalled standing between the two injured parties and the crowd as some individuals tried to continue the attack. He also said that he had to strike Rory Robinson 'and put him back up the street' at this stage. Mr Atkinson believed that the two injured men, one of whom was Robert Hamill, were part of a group of 10-12 Catholics which made-up one of the two opposing groups.

In addition, Mr Atkinson refuted evidence given to the Inquiry by Trevor Leatham, another police officer. In his witness statement to the Inquiry Mr Leatham said that Allister Hanvey was high on drink or drugs. However, when Mr Underwood put this evidence to Mr Atkinson he said that: *"Trevor – to be fair, Trevor has a drink problem. Most times Trevor was high on a drop of drink... Well, Trevor would have normally kept a bottle of cider in the car when he was going about. So Trevor had his own drink problem."*

Mr Atkinson's recollection of how and when he compiled his police statement after the attack on Robert Hamill appeared hazy. However, when Mr Underwood put it to Mr Atkinson that Sergeant Bradley's evidence is that when he came in to interview the four officers who were in the Land Rover on

28th April 1997, Mr Atkinson told him he had not finished his statement yet. Mr Atkinson said that the idea that he had not completed his statement had been put to him in an interview [presumably a police interview?] but that he had told the interviewer that he had completed his statement and that Sergeant Bradley had signed and dated it on the same day he had left his statement in the CID pigeon hole [which would have been 27th April when he was recalled to the police station to make a statement].

Questions surrounding the allegation that Mr Atkinson 'tipped-off' Allister Hanvey showed that only one call from the Atkinson home to Mr Hanvey's home was found on telephone records and that this call was made at 8.37 am on 27th April 1997. Mr Atkinson told the Inquiry that when he learned of this allegation he told his wife Eleanor who had said that Michael McKee had made the telephone call. He also said that he went on sick leave the day after this allegation emerged as a result of two injuries that he had previously obtained whilst on duty and said that the timing was coincidental.

It was also shown, during questioning from Mr McGrory, that in March 2001 Robert Atkinson was charged with conspiracy to pervert the course of justice, in light of the fact that Mr and Mrs McKee had admitted providing a fake alibi for the telephone call from the Atkinson home to the Hanvey home. Mr Atkinson was subsequently released and then on the 19 April 2001 he found a surveillance device behind the fireplace in his house.

When asked did he receive a tip off regarding the listening device, Mr Atkinson stated that he didn't and that he had been looking for a device as he was suspicious of the manner in which he and his wife were arrested. Also, Mr Atkinson could not offer an explanation as to why Allister Hanvey found a similar listening device in his house less than 24 hours later. Mr Atkinson told the Inquiry he did not believe that word of his discovery of the listening device at his home got out. He said he had only telephoned his local MLA and solicitor about it. Mr McGrory also had Mr Atkinson confirm that his solicitor and MLA would have had no reason to inform Allister Hanvey that a device had been found in the Atkinson home, to which Mr Atkinson replied 'it would be strange if they did'.

On Wednesday 13th May, day 48, the Inquiry heard evidence from Lawrence Marshall, a forensic analyst who tested blood found on Robert Hamill's clothes. Questions from Mr Underwood showed that not all of the specks of blood that could be seen on Robert Hamill's jeans were tested to see who they belonged to. One drop of blood that was tested belonged to Stacey Bridgett who has denied kicking Robert Hamill or being anywhere near Mr Hamill.

In 1997, when Robert Hamill's clothing would have been tested, Mr Marshall would not have been formally trained in blood pattern analysis. However he told the Inquiry that he had experience in that field and that he has since received formal training. During his original analysis he was reluctant to draw any conclusions as to how spots of blood got to be Robert Hamill's jeans as no strong pattern emerged. Mr Underwood asked if any of the blood stains,

that were not tested in 1997, were to be tested and turned out to be Mr Bridgett's, would this impact or change conclusions regarding how the blood came to be on Mr Hamill's clothes. Mr Marshall maintained his opinion that it was difficult to draw any conclusion given the amount of blood on the clothing.

*Note: during questioning a diagram was shown to illustrate where Robert Hamill's jeans were blood stained. Mr Underwood alluded to the fact that the jeans cannot be located.*

The second witness on day 48 was Colette Quinn, a forensic scientist who joined the murder investigation in 2002. Miss Quinn evidence supported that of Mr Marshall regarding Mr Marshall's decision to select which blood samples on the items of clothing were tested as she regarded this as standard practice. Mr Underwood was interested to hear how the Forensic Science Agency of Northern Ireland (FSANI) and the police would have interacted with each other regarding an incident, such as the attack on Robert Hamill in 1997, and what the relationship between the organisations would be today.

Miss Quinn told the Inquiry that in 1997 she would have expected further discussions to take place after an initial form (Form A) had been lodged outlining the incident concerned if the case was a large and complex case. Miss Quinn then outlined that the approach taken today was to have crime scene managers who interfaced a lot more with the FSANI and police and also to have case conferences in relation to major incidents.

The third witness on day 48 was a civilian, Jason McClure. Mr McClure was in the vicinity of the assault on Robert Hamill and is believed to have attended a party in Portadown after the attack took place. Mr Underwood outlined that Mr McClure had made two statements concerning the incident, one in 1997 and one in 2001 and that there appears to be a number of additions in the second statement which he made to the police.

The statement dated 2001 referred to Mr McClure leaving a party at around 5.00am /6.00am and walking into Portadown town with Christopher Henderson and former suspect Allister Hanvey to get a taxi. Mr McClure told the Inquiry that he could not be sure if he was referring to the night that Robert Hamill was attacked when he remarked that he was with Mr Hanvey and Mr Henderson.

On a number of occasions Mr McClure told the Inquiry that he was unsure of events and that he had drank a lot of alcohol on the night in question.

The final witness on day 48 was Sergeant Donald Keys who retired from the police in 2007. Mr Keys was a Detective Constable in 1997 during the investigation into Robert Hamill's death. He told the Inquiry that he would have: debriefed officers; asked them to make statements recording the sequence of events and any potential witnesses or suspects that they recognised, as well as recording descriptions and clothing of such persons. Mr Keys was clear that he would not have taken a statement from a police officer as he would have wanted them to make their own statements as they

had received basic training to enable them to do so. Mr Keys confirmed that these instructions would have been given not only to the four officers that were on duty in the Land Rover on 27th April 1997, but to all uniformed officers who were available that morning, with the exception of Constable Neill.

Mr Underwood asked questions regarding taping off the scene of the assault, which did not take place until around 7.30 am that morning. Mr Keys told the Inquiry that whilst he had one or two officers at the scene, he initially did not have enough information to determine the perimeters of the scene to be taped-off. He had been accompanied to the scene by Constable Cooke who had attended the incident; however Constable Cooke could not indicate where the fight started. As a result the scene was taped-off when Mr Keys revisited it with Detective Chief Inspector P39.

Mr Underwood also queried Mr Keys' recollection of security tapes from a number of premises in the area. In particular, Mr Underwood put to the witness that evidence from Robert Hamill's sisters alleges that Detective Inspector Irwin said that the police Land Rover had appeared on surveillance tapes. Mr Keys told the Inquiry that the police Land Rover did not appear in any tapes that he viewed.

Further questions from Mr McGrory highlighted that there may still have been some evidence on some of the security tapes which may have been relevant. He outlined that Mr Keys may have been looking for something that was directly related to the assault but that someone walking past e.g. the Northern Bank ATM machine in the relevant time frame would have been significant as they could have been a potential witness. Mr Keys could not say that he did not recall anyone walking past on the CCTV tapes at the Northern Bank.

Mr McGrory gave a further example of how the CCTV tapes of premises may gain importance as an investigation progresses. He referred to Allister Hanvey using an ATM machine at the First Trust Bank at 8.00 am on 27th April 1997 and said that if there had been CCTV coverage of that area then it could have helped to prove what Mr Hanvey was wearing. Mr Keys indicated that he understood Mr McGrory's point but reiterated that there was nothing of value on the tapes and that it was not policy in 1997 to have kept the tapes.

On Thursday 14th May, day 49, the first witness was Charles Andrews who was a police officer involved in searches of the homes of Allister Hanvey and Stacey Bridgett. Mr Andrews could not specifically recall the searches and based his answer on his experience of searches, the record kept by the log keeper, the warrant and other documents shown to him. From the evidence available it is apparent that only one room in Mr Hanvey's home was searched. Mr Andrews said that in certain cases a warrant may only cover one room or area that is of particular interest, for example, where stolen goods are believed to be stored. Mr Andrews was of the opinion that Allister Hanvey's bedroom was of particular interest but he added that he couldn't really recall much about the search.

Also, Mr Andrews could not recall being instructed to look for signs of evidence being destroyed. In addition, questions from Mr Adair QC showed that only one room was searched in both suspects' homes and that this was not uncommon at that time.

The second witness on day 49 was William Stewart, the log keeper, who kept a record of the searches on Allister Hanvey's and Stacey Bridgett's rooms. Mr Stewart's recollection was also vague and he relied on the documents presented in order to answer questions. Questions from Mr McGrory showed that Mr Stewart could not recall seeing or being instructed to search a large area of out-houses beside the Hanvey home.

Mr O'Connor, who represents Michael Irwin, asked if the search team had been instructed to look for clothes and trainers why the search team did not take all clothes and trainers from the Hanvey home. Mr Stewart indicated that the search team members would have asked their team leader what to take and that the team leader would in turn have liaised with CID.

The third witness on day 49 was Detective Sergeant Dereck Bradley who was involved in taking statements when the assault upon Robert Hamill was being investigated. Mr Bradley said that he became involved in the investigation on Monday 28th April 1997. His first task was to brief himself about the case and read statements from the officers who were on duty on 27th April, and in particular, the statements made by the four officers who were in the Land Rover. In addition, Mr Bradley said that he went through the statements of those who were part of the Land Rover crew with each officer and took notes as he was specifically asked to do so by P39. Mr Underwood highlighted that no-one took this action in relation to other uniformed officers at the scene.

In addition, Mr Bradley confirmed that he had learned that the actions of the four officers from the Land Rover were under investigation. He said that this was made known to him on 28th April 1997 as a result of P39 speaking with him.

Note: this may prove important as a complaint, that questioned the conduct of the police officers, had not yet been lodged by the Hamill family.

Mr McGrory asked a number of questions regarding DC Keys viewing CCTV footage of Portadown town centre and deciding that there was nothing of value on them. Mr Bradley said that the procedure was changed and provided that CCTV tapes should be retained and that two officers would view the tapes; however he could not recall when this change took place. Mr Bradley told the Inquiry that if he had been sent to view the CCTV footage he would have retained the tapes.

A number of legal representatives questioned Mr Bradley about the warrants used to search the homes of Hanvey and Bridgett. Questions from Mr McComb, who acts for a number of civilians represented by Richard Monteith Solicitors, showed that Mr Bradley made the warrants out after he had been briefed by P39. Mr Bradley offered this brief by P39 as an explanation for the

reference to clothes and trainers in one of the warrants. Mr McComb highlighted that the warrant for Mr Hanvey's home did not state burnt clothing as a concern for the search team and Mr Bradley confirmed that he was not aware of the possibility that clothing may have been destroyed.

During questioning it became apparent that evidence such as statements and forms completed by police officers would have been logged on a computerised system. However, in order for officers on the investigation team to get an overview of events based on statements and other relevant documents, they would have had to go to Gough Barracks. The computer processing centre was located at Gough Barracks and they did not have access to the system at night-time and in particular the night before a number of suspects were arrested on suspicion of murdering Robert Hamill. Instead, Mr Bradley was of the opinion that the search warrants would have been informed by the statement Tracey Clarke had made, and the knowledge that Detective Inspector Irwin had of the case.

The final witness on day 49 was Darren Wright who was a representative of the Police Ombudsman in a police interview with Michael McKee in 2001. It was during this interview that Mr McKee admitted providing a false alibi for RC Robert Atkinson after his wife (from whom he is separated) made a similar confession to investigating officers. Mr Underwood outlined that there was a concern that Mr McKee had made this admission of guilt when he was in fact innocent. Mr Underwood referred to the fact that Mr Wright had described Mr McKee as a 'broken man' as Mr McKee had a troubled life involving alcohol.

Mr Wright thought that it may have been a possibility that Mr McKee's admission was in fact untrue. However, Mr Wright referred to the evidence that was presented to Mr McKee as giving him 'no room for manoeuvre', in light of telephone records that were presented to him.

Mrs Dinsmore QC also asked a number of questions regarding Mr McKee's demeanour in the interview and sought to emphasise that his admission was given in the context that he was a broken man.

On Friday 15th May, day 50, the Inquiry heard evidence from Gregory Mullan, a member of the former Independent Commission for Police Complaints (ICPC). Mr Mullan assisted an individual from the ICPC (name redacted) who acted as the ICPC supervisor of the murder investigation conducted by the RUC into Robert Hamill's murder. Mr Underwood first highlighted that Mr McBurney had been appointed Senior Investigating Officer (SIO) for the complaint regarding police conduct whilst he was SIO of the murder investigation. He said that Mr McBurney's selection as the SIO investigating the complaint was said to be as a result of the complaint and murder investigation being inextricably linked. Mr McMullan said he was not aware of this reason but that Mr McBurney's role regarding the complaint investigation had been approved by the ICPC supervisor and as a result he did not query it.

Mr Underwood also asked Mr McMullan if he was aware of Tracey Clarke's allegation regarding R.C. Atkinson allegedly updating Allister Hanvey about

the murder investigation. Mr Mullan could not recall if he had received Tracey Clarke's statement which would have included this accusation. He said that he had summarised all statements received in his file notes and Mr Underwood said that they would check his notes to clarify if he did receive the statement. Mr McMullan continuously referred to the fact the ICPC were asked to supervise the allegation that police officers in the Land Rover did not act promptly to intervene when Robert Hamill was being attacked (the neglect complaint). He said that the Atkinson allegation was 'a matter arising' and appeared to be indicating that this allegation was not the subject of the complaint which they were investigating.

Mr Mullan emphasised that the ICPC did not have a power of self referral and relied on a complaint or issue to be referred to them by the RUC. He said that the ICPC supervisor never discussed that possibility of the ICPC approaching the RUC to ask to have the Atkinson allegation referred to them so that they could supervise that issue.

A report prepared for the Director of Public Prosecutions (DPP) by Mr McBurney, which concerned the neglect complaint, also made reference to Tracey Clarke's allegations. In the final paragraphs, Mr McBurney referred to telephone records being the only other piece of evidence supporting Ms Clarke's claims and recommended that no prosecution should arise out of this allegation. In a response to the DPP report, Mr Mullan commented on the allegation saying that whilst he had suspicions regarding telephone calls he thought that the prospect of proving the allegations was remote. Mr Underwood queried why Mr McBurney would include the Atkinson allegation in a report on the neglect complaint if they were not connected and why the witness commented on that section. Mr Mullan responded by saying that the ICPC were not supervising that issue and that he probably should not have made this comment as it was just an observation.

Mr McGrory asked a number of questions which explored the possibility that Robert Hamill's case was referred to the ICPC by the RUC before a formal complaint had been made. He said that Assistant Chief Constable Hays was of the opinion that there had been such a referral to the ICPC under Article 8 of the Police (Northern Ireland) Order 1987<sup>2</sup>. Mr Mullan said that he was not aware of an Article 8 referral and that the ICPC dealt with the formal complaint lodged on behalf of the Hamill family as a complaint under Article 7 of the 1987 Order<sup>3</sup>.

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<sup>2</sup> **No. 938 (N.I. 10). Article 8 states the following:**

**8.—**(1) The appropriate authority may refer to the Commission any matter which—  
(a) appears to the appropriate authority to indicate that a member of the police force may have committed a criminal offence or an offence against discipline; and  
(b) is not the subject of a complaint, if it appears to the appropriate authority that it ought to be referred by reason (i) of its gravity; or ii) of exceptional circumstances.

<sup>3</sup> **Article 7 states:**

**7.—**(1) Where the appropriate authority decides under Article 5(3) or (5) or Article 6(3) to appoint a member of the police force or a member of another United Kingdom police force to investigate a complaint, the appropriate authority shall refer that complaint to the Commission.

*Note: If an Article 8 referral was made as suggested by Mr McGrory then the ICPC could have supervised the investigation against RC Atkinson without being expressly asked to do so.*

The second witness on day 50 was Paul McCrumlish was a member of Regional Crime Squad brought in to assist the police investigation.

Questions from Mr Underwood showed that Mr McCrumlish was involved in interviewing Allister Hanvey and questioned Mr Hanvey about the tipping-off allegation involving RC Atkinson. Mr Underwood put it to Mr McCrumlish that it was a possibility that he was told by other officers to ask Mr Hanvey about the allegation and thus unwittingly alert him to the fact that Detectives were aware of it. Mr McCrumlish said that he thought it would have been wrong of him not to mention the allegation as he assumed that they [the investigation team] were trying to identify the officer in question.

In addition, Mr Underwood highlighted that there had been two searches on the Hanvey home, one on 10th May 1997 and a second search on 13th May 1997. He suggested that the second search was a more extensive search and involved looking for evidence of burnt clothing whereas the first only concentrated on one room. Mr McCrumlish could not recall why the second search took place but suggested that it was to gain more information.

In his witness statement, Mr McCrumlish said that officers on the murder investigation had the general feeling that Robert Hamill was ‘the author of his own misfortune’ and ‘brought it on himself’ by starting the fight. Mr McGrory explored whether this was a personal opinion and Mr McCrumlish reiterated that it was a general feeling that existed.

On Tuesday 19th May, day 51, the Inquiry heard evidence from Mr Alan Neill who was one of the four police officers on duty in the Land Rover which was in Portadown town centre when Robert Hamill was attacked. During questioning by Mr Underwood, Mr Neill implied that the Land Rover stopped and a female officer spoke to Mr Mallon before the vehicle parked across the entrance of Woodhouse Street.

*Note: this supports Mr Mallon’s recollection that he stopped the Land Rover to warn officers that there was the potential for trouble as some people will be making their way home from St. Patrick’s Hall; however, this conflicts with Robert Atkinson’s recollection.*

Some officers in the Land Rover have described Mr Neill as being pulled out of the Land Rover by an unknown civilian. Mr Underwood queried Mr Neill’s recollection of the incident and Mr Neill said he recalled that the Land Rover doors were closed but unlocked. He said that someone pulled on his shoulder

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(2) Where a complaint falls to be referred to the Commission under paragraph (1), it shall be the appropriate authority’s duty to refer it to the Commission not later than the end of a period specified in regulations made by the Secretary of State.

strap and accused him of just sitting and watching it happen. However, he did not know what this individual was talking about.

Mr Underwood put Mr Atkinson's evidence to the witness as Mr Atkinson is of the opinion that Mr Mallon was the individual who pulled Mr Neill from the Land Rover. Mr Neill told the Inquiry that he did not believe that it was Mr Mallon.

From Mr Neill's recollection of fighting it appears that there was some shouting and name calling before a fight broke-out. It is unclear from his evidence when Robert Hamill and witness 'D' came to be injured and lying on the ground. However, Mr Neill maintained during questions from Mr McGrory, that no-one was lying on the ground when officers exited the Land Rover.

Mr Neill said he briefly tended to both injured and commented that Robert Hamill's breathing sounded raspy and he initially thought Mr Hamill had been stabbed. However, he could not see any wound or blood and a small pool of liquid near Robert Hamill's head appeared to be alcohol. He could not recall if his checking of the two men was before, after or coincided with RC Silcock putting the men into the recovery position.

Mr Green (representing Marc Hobson and Jonathan Wright) questioned Mr Neill at length about his allegation that he saw Marc Hobson kick Robert Hamill. Mr Neill told the inquiry that he could only remember who the person was – Marc Hobson, and he could not remember if an officer other person pulled Mr Hobson back. He recalled that Mr Hobson swung his foot at Mr Hamill, however he did not see if the kick connected or not.

Mr Neill told the Inquiry that the officers were recalled to make their statements on 27th April 1997. He told the Inquiry that he believed that the practice for making statements now is that officers should not discuss an incident with each other and have two 'sleep patterns' before making a statement. It appeared that Mr Neill was of the opinion that allowing officers to discuss an incident could be beneficial; he indicated that whilst recollections could be different, discussion can unlock some detail that officers would have otherwise forgotten.

The second witness on day 51 was former Social Democratic Labour Party (SDLP) politician Brid Rodgers. At the time of the attack on Robert Hamill, Mrs Rodgers would have been regarded as a representative of the Nationalist community in the Portadown, Lurgan and Craigavon area<sup>4</sup>. Mrs Rodgers spoke generally about a distrust which the nationalist community had regarding the police. Her evidence portrayed reluctance amongst that community to help the police as they believed that the police would not deal with complaints in an even-handed way or conduct impartial investigations.

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<sup>4</sup> Mrs Rodgers was formerly an SDLP councillor for Craigavon between 1985 – 1993 and during 1997 was the Chairperson of the SDLP Talks Team in Castle Buildings:  
<http://www.niassembly.gov.uk/members/biogs/brodgers.htm>

Mr Underwood asked if she was aware of a reluctance to help the inquiry with its investigation. Mrs Rodgers was reluctant to answer this question as she retired in 2004 and felt that she may be out of touch.

On Wednesday 20th May, day 52, the Inquiry first heard evidence from Archibald Hays was a Senior Officer in the Complaints and Discipline department of the RUC (G department). Mr Hays was of the opinion that the ICPC could, and on occasion, did approach the Chief Constable and ask for a matter to be referred to them. However, he could not recall an example of the ICPC making such a request. Mr Hays had no involvement with the file regarding the neglect complaint or the potential discipline issues which may have arose concerning the Atkinson allegation. His evidence was based on his experiences and professional opinion.

Mr Hays believed that G Department was not responsible for investigating the Atkinson allegation. He was of the opinion that this allegation would have been part of the murder investigation which was lead by Mr McBurney. He said that G Department appointed an officer to deal with any disciplinary matters which arose as CID's criminal investigation progressed.

The second witness on day 52 was former Assistant Chief Constable (ACC) of Crime Raymond White. Mr White's department would have been responsible for overseeing investigation files being sent to the DPP for a decision on whether or not to pursue prosecutions.

Mr Underwood referred to the report made by Mr McBurney regarding the neglect complaint which briefly dealt with the Atkinson allegation at the end. In this report Mr McBurney recommended that no prosecution regarding this allegation should be made. Mr Underwood suggested that it could be a possibility that Mr McBurney may have structured the report so as to 'mislead the reader about the evidence there was and the way in which the investigation was conducted' regarding the allegation.

As a result, Mr Underwood sought to establish what checks existed to ensure that a Senior Investigating Officer (SIO) could not manipulate such reports and mislead the reader. Mr White indicated that others within the RUC would have had to rely on the integrity of a SIO and trust that they did not have an ulterior which resulted in evidential material not being included in the file in question.

Mr Adair summarised that Mr White had told the Inquiry [during earlier cross-examination] that his [Mr White's] department had a quality control function. Md Adair asked a number of questions in order to establish what a file, such as that relating to the Hamill case, is likely to have contained when Mr White's department received it. Mr White confirmed that the file could have contained information such as: 1) statements from the police and civilians that gave e.g. a description of what Allister Hanvey was wearing on the night of the attack; 2) search records and statements from those who performed searches on the Hanvey home; 3) statements such as that made by Tracey Clarke in which

she made the allegations against RC Atkinson; 4) and statements of those 'involved' with Andrea McKee such as Mrs McKee's own statement and that of Constable McAteer.

Mr White confirmed for Mr Adair that those reading the file would not only have Mr McBurney's report in which he set out his thoughts, but they would also have had statements on which the report was based. However, it was not clear from the questions asked and Mr White's subsequent replies whether his office did in fact receive the file.

In addition, Mr Adair sought to establish Mr White's opinion on the professionalism and integrity of Mr McBurney. Mr White described Mr McBurney as competent, professional, 'old school' and a man that in a sense lived for his work as an investigator. Mr White said that Mr McBurney may have been lax regarding record keeping but that he did his job to a very high standard.

The final witness on day 52 was George Lawther who was an officer that reviewed the statements of other police officers after the assault on Robert Hamill. Mr Lawther said that he had been instructed to debrief officers following the incident but could not recall who gave him the instruction. Mr Underwood explored why Mr Lawther did not go over Mr Atkinson's statement with him as he did this for the other officers in the Land Rover; Mr Lawther said that he could not explain why he was not asked to do so with Mr Atkinson, nor could he explain why other back-up officer were not debriefed in this manner.

On Thursday 21st May 2009, day 53, Mr Underwood made an announcement regarding the Inquiry's procedure of informing individuals if they were to face perceived criticisms during the course of hearings. He described how such individuals are provided with legal representation and given notice of potential criticism. This group of witnesses is being referred to category B witnesses by the Inquiry. Mr Underwood highlighted that a protocol was being drafted so that category B witnesses could be informed of any new criticisms which emerge in the course of final submissions by parties and in the Inquiry's draft report. In addition, the Inquiry Chairman said that the interested parties would have an opportunity to view and comment on this protocol.

The first witness was Albert McIntosh who was a police officer involved in interviewing Allister Hanvey on 10th May 1997 and also Mr Hanvey's parents on 11th May 1997. Mr McIntosh confirmed that he knew Robert Atkinson as he had met him during the 1970s when he and Mr Atkinson served in the RUC at Tandragree. Mr Underwood sought to establish if Mr McIntosh had been briefed and instructed not to mention or probe the allegation that Atkinson had 'tipped off' Allister Hanvey. Mr McIntosh indicated to the Inquiry that he believed he was unaware that Mr Atkinson was the involved in the allegation at the time of the interviews. He also said that a briefing involving a request not to mention the allegation would be unusual and he can't recall any such requests being made.

In addition, Mr O'Connor asked if either the witness or Detective McCrumlish (who interviewed Allister Hanvey with Mr McIntosh) had deliberately made Mr Hanvey aware of the tip-off allegation. Mr McIntosh refuted any such allegation and confirmed that both he and Mr McCrumlish would have been careful not to have alerted Mr Hanvey to the allegation.

The second witness on day 53 was Mr Wallace, a former Deputy Chief Constable of the RUC who gave evidence in a screened hearing.

*Note: At the Robert Hamill Inquiry, if a witness has been afforded partial anonymity their appearance is to be screened from public view. However, members of the public cannot attend such hearings for practical reasons; the chamber in which the Inquiry conducts hearings makes screening the witness from the public area difficult. However, our observers have been granted access to the Inquiry's media room. From the media room it is possible to hear audio of proceedings as they take place. Transcripts of such hearings are made public via the Inquiry's website.*

Mr Wallace told the Inquiry that he did not become aware of the tip-off allegation until two or three months after the allegation arose. Mr Underwood asked Mr Wallace about the referral procedure to the ICPC in terms of what Mr Wallace thought should have happened with regards the allegation. Mr Wallace was of the opinion that if the Senior Investigating Officer (SIO) became aware of such an allegation and thought it merited referral, the SIO would have communicated the issue to the Assistant Chief Constable (ACC) in charge of Complaints and Discipline. Mr Wallace said if the ACC thought that ICPC supervision was needed then he (ACC of Complaints and Discipline) would have been made a referral to the ICPC.

Mr Wallace was of the opinion that the tip-off allegation was part of the neglect complaint as it had arose out of investigations into the neglect complaint. However, he did not know whether or not the ICPC viewed the tip off allegation and neglect complaint as one. Mr Wallace agreed with Mr Underwood's suggestion that there was a perception within the RUC that the ICPC were supervising the tip-off allegation involving R.C. Atkinson.

Questions from the Inquiry Chairman, Sir Edwin Jowitt, showed that the ICPC was not officially notified of the Atkinson tip-off allegation until June 2000. However, Mr Wallace was of the opinion that the ICPC would have learned of the allegation and been aware of its gravity as a result of supervising the neglect complaint. He said that the ICPC would not have been 'at a disadvantage or working in the dark' regarding the allegation as it arose from the original complaint that they were supervising.

Mr McGrory discussed the possibility that the details of the allegation could have been shared with the Secretary of State for Northern Ireland at the time regarding the allegation. Mr McGrory highlighted a briefing paper prepared by ACC White for the Chief Constable after the Chief Constable received a letter from the then Secretary of State, Rt Hon Marjorie (Mo) Mowlam, requesting Information on the Hamill case. The paper did not provide any detail of the

relationship between Mr Atkinson and Allister Hanvey and simply noted that the allegation was being investigated and a file referred to the DPP.

Mr Underwood asked further questions which further probed the Secretary of State's knowledge of the case. Mr Underwood displayed a letter from the Hamill family in November 1997 to the Secretary of State which raised a number of questions about the case. This was the precursor to the Secretary of State's request to the RUC as Mrs Mowlam wanted as much information as possible so that she could provide the Hamill family with an honest response. Mr Underwood asked Mr Wallace if the response in the briefing paper to the Chief Constable was an adequate response in light of the request made. Mr Wallace was of the opinion that it was.

The final witness on day 53 was Mr Bingham who was a team leader for the search conducted in Hanvey home on 10th May 1997. Mr Bingham could not recall if the search team had been briefed to concentrate on Allister Hanvey's bedroom (the search warrant was not specific to any room). When a number of scenarios were put to him by Mr Underwood, Mr Bingham accepted that the detective who accompanied the search team may have been debriefed to concentrate on one room and that the search was conducted accordingly.