

## ROBERT HAMILL INQUIRY

### Day 57: 4th September 2009

The Inquiry heard evidence from David Wood, who was the investigation supervisor for the Police Ombudsman for Northern Ireland (PONI) in 2000. Mr Underwood asked the witness a number of questions about the decision to place covert surveillance in the Atkinson home. Mr Wood said that the RUC investigators did not present a viable strategy for placing surveillance in the Atkinson home prior to arrest. The RUC investigators felt that installing surveillance at the time of arrest would be useless as RC Atkinson was a technophile but Mr Woods said that the investigators could not substantiate such claims beyond stating that Mr Atkinson was someone who was interested in technology.

In his statement, Mr Woods spoke of resistance from the RUC at the prospect of intrusive surveillance. He clarified what he meant by resistance during the hearing and described it as 'culturally' and said:

*"... I think it was about the stomach to do this to one of their own."*

Furthermore, Mr Wood's statement also referred to an approach being taken that Mr McBurney was not doing his job well as opposed to viewing his actions as criminal misconduct or perverting the course of justice. Mr Underwood had Mr Woods confirm that his impression at the time [regarding Mr McBurney's investigative actions] was neglect rather than anything more sinister. Mr Woods said:

*"Yes, it was. It was, as I say, some aspects of cultural difficulties, I think, with confronting what had to be done and, secondly, just absolute neglect and, you know, just a poor investigation. That's how I interpreted it at the time, a neglect of duty, rather than anything worse than that."*

Mr Underwood suggested that an SIO might have held back on the RC Atkinson tip-off allegation until the murder investigation was better sorted out and asked what Mr Wood thought of that. Mr Wood said it was quite important to the murder investigation to pursue RC Atkinson and the tip-off allegation, an allegation which he thought was quite central to the investigation.

Mr Adair QC asked Mr Wood if Mr Atkinson and the others [a house that Allister Hanvey frequented was also placed under surveillance] found that their houses were being bugged almost immediately. Mr Wood said yes, that he thought the operation had been compromised which meant that those under surveillance were told by someone within the RUC. Mr Adair said that what Mr Wood had said was just speculation and said that he [Mr Wood] had thought RC Atkinson was not 'savvy enough' to find the surveillance devices. Mr Wood replied that he was not trying to say someone compromised the operation and that there was an investigation into how the leak occurred at the time.

Mr McGrory QC, asked if the arrests and planting covert surveillance devices were designed to stir the pot and see what comes out [i.e. to prompt discussion of events]. Mr Wood explained that this was a tactic he had used in the past [he had experience of covert surveillance operations in England].

The second witness on day 57 was Patricia Murphy who was a liaison officer with the PSNI whose role was to accompany Andrea McKee from her home in Wales to Craigavon Courthouse in County Armagh in 2003 and back again. Mrs McKee was due to give evidence in the case R v Atkinson and Others regarding the telephone call made between the Atkinson and Hanvey homes around 8:30 am on 27th April 1997. Mrs McKee travelled to give evidence in 2003 but the case was adjourned until a later date.

Ms Murphy took a telephone call from Andrea McKee on Friday 19th December 2003 informing her that he child was sick and asking her to cancel travel arrangements for 21st December 2003 when Mrs McKee was due to travel again to give evidence. Mrs McKee explained that her child had mumps and ochtitis and said there was a fear that her son would have a fit. Ms Murphy took a note of the conversation which was displayed during the Inquiry hearing.

Mr Underwood QC, asked Ms Murphy if she knew whether the fear of fitting that she noted was a fear that Mrs McKee had or whether it was a fear expressed by her doctor. Ms Murphy could not say either way from whom the fear originated.

Ms Murphy also noted in 2003 that she discussed future dates for Mrs McKee attending court. The responses that Ms Murphy noted refer to Mrs McKee: 1) being reluctant to leave her child when he was so sick and not wanting to agree to attend court the following week as she did not know if he would still be sick; and 2) that she was returning to college in January 2004 and with the workload a better time for her to give evidence was half-term in February 2004.

Mr Underwood highlighted documents which showed that as a result of Mrs McKee's reasons for not attending, a medical certificate had to be produced to the court by 2nd January 2004 and that the case was adjourned until 8th March 2004. Ms Murphy did not know if Mrs McKee was required to attend court on 2nd January 2004.