

THE RESOURCES AVAILABLE ON THE NIGHT

1. The first issue is to determine the equipment available, and the training and experience of those on duty. Secondly, the Panel may wish to pose the question, could and should better use have been made of those resources so as to police public order at the junction?

Submissions by British Irish Rights Watch and Committee on the Administration of Justice

See section 4 below.

Submissions by the Police Service of Northern Ireland

See sections below.

THE FIRST ISSUE: WHAT WAS AVAILABLE

2. The materials are to this effect:
 - 2.1 On 12 May 1997 Res Con **P40** wrote to J division in relation to his scheduled training for 24 May 1997. He stated that he has problems with his right knee as a result of an injury on 12 October 1996 which forced him to take 15 weeks sick leave [until end January 97]. Sgt [REDACTED] recommended that he be taken off the list for public order training pending medical advice (46055).
 - 2.2 DCS McBurney's neglect report sets out the length of service of the Land Rover crew (9028).
 - 2.3 Insp McCrum's training record (44972).
 - 2.4 Sgt **P89**'s training record (44968).
 - 2.5 Con A's training record (72544).
 - 2.6 Con Cooke's training record (72546).
 - 2.7 Con Orr's training record (72549).
 - 2.8 Con Neill's training record (72551).
 - 2.9 Res Con James Murphy's training record (72553).
 - 2.10 Res Con Silcock's training record (72554).

- 2.11 Res Con Warnock's training record (72556).
- 2.12 Res Con Atkinson's training record (72558).
- 2.13 Res Con **P40**'s training record (72559).
- 2.14 Res Con Cornett's training record (72560).

Submissions by the Police Service of Northern Ireland

See section 4 below.

- 3. Witnesses addressed this issue, in their written and oral evidence, to this effect:

A

Statement

- 3.1 Para. 4: Her section contained Cons Orr, Cooke and Res Cons Silcock and Warnock. She was in the response car, which was detailed to attend incidents outside town centre.

Oral Evidence

- 3.2 She had been a Constable for 14 years (7 years in April 1997) (p.89) She had been in the MSU providing riot control (p.145) She received training per 72544 (p.89).
- 3.3 She was detailed in the response car with Con Orr (81684). There was no-one else in the car. "23:45 paraded for duty by Sgt **P89**" (9980). Detailed observer in JD70 with Con Orr & Con Cooke". She does not recall Con Cooke being in the car. The entry would have been made at the briefing (p.90) "JD" was the code for an armoured car (p.91).

Sgt P89

Statement

- 3.4 Para. 2: He had spent seven years in total in Portadown. On 27th April 1997 he was on his second tour that lasted one year.
- 3.5 Para. 4: The Land Rover crew had been on duty since 15.45 the previous afternoon. They normally worked until midnight.
- 3.6 Para. 8: He had been part of the MSU for five years and during that period had dealt with 50-60 riots in the town centre.

Stacey Bridgett

Statement

3.7 Para. 8: Everyone knew Res Con **P40** because he was in town all the time.

William Burrows

Statement

3.8 Para.2: On 27th April 1997 he was manning the security sangars at the entrance/exit of the police station. He had not had public order training.

Oral Evidence

3.9 He was trained in the use of firearms (p.77)

James Murphy

Statement

3.10 Para. 3: He was a serving officer in the RUC from 1976 to 5 May 2006. He became a full-time Reserve Constable in 1989 and he was posted to Portadown.

3.11 Para. 4: His vehicle's call-sign was JD80. He was in an armoured police car patrolling the town area of Portadown & the surrounding county areas. He was detailed as the backseat observer. He does not remember who was driving and who the observer was.

Oral Evidence

3.12 He was part of the late crew retained for public order duties (N.B: the late crew also contained the Land Rover crew). He was detailed in a mobile patrol with Con Cooke & Res Con Warnock (per 81710). He went in the car as Sgt **P89** felt that four officers in the Land Rover would be sufficient. Five officers would have been the normal complement in a Land Rover. He does not know why Sgt **P89** did not detail the normal complement in the Land Rover (p.76). He was normally put on security duty. This was one of seven or eight occasions when he was out of the station (p.86)

3.13 He was in a pool of 50 officers across four sections who could have be in a Land Rover on a Friday or Saturday night (p.101)

Paul Warnock

Statement

3.14 Para.2: He had been stationed in Portadown since January 1986. He had had three weeks training, whereas reservists now get six months training. He had had public order and First Aid training.

3.15 Para. 5: He was on duty with Con Cooke & Res Con Murphy.

Oral Evidence

3.16 He was in an armoured car. He does not recall the call sign (p.35). The driver was Con Cooke (p.36).

David Orr

Statement

3.17 Para. 4: He was approximately 4.5 miles from the scene when he heard the back-up request. It took 5 or 10 minutes for them to arrive at the scene.

Gordon Cooke

Oral Evidence

3.18 Patrols would have a “long arm”. This was normal practice (p.46). An officer is not allowed to go into crowd with a “long arm”. The officer could lock it in the car (p.48). Normally the driver would stay in the Land Rover & look after the “long arms.” (p.49)

Robert Atkinson

Oral Evidence

3.19 All of the officers in the Land Rover had sidearm and it was normal to have one or two long arms. **P40** was carrying some sort of rifle. The guns would be used for self-defence. The person who signs out the gun would carry it with him(p.53).

3.20 The observer would stay with the Land Rover during public order incidents so as to use the radio and also because in the past Land Rovers have been taken and burned by crowds (p.54).

- 3.21 The officer with the long arm would stay in or about the vehicle with the weapon so only two of the four officers in the Land Rover were capable of giving assistance. It would not be difficult to see the long arm when the officer holding it out of the vehicle. The long arm would either be a rifle or a MP5 (p.55). He would find it very strange if there was no long arm present (p.104).

P40

Statement

- 3.22 Para. 3: In April 1997 he was a full time Reserve Constable. He had been for about 15 years.
- 3.23 Para. 5: He was on duty from 16.00 to 00.00hrs on 26th April 1997. His duty was extended to 03.00 for public order although they had no public order equipment & he had no public order training. It was normal for this to happen on a Friday or Saturday night.
- 3.24 Para 10: Exhaust fumes used to come in the back of the Land Rover through ill-fitting seals so if the officers stopped for a smoke they would open the back doors. However, they would not get out of the vehicle. It was too dangerous to patrol on foot in 1997.

Oral Evidence

- 3.25 He had a problem with his right knee from an injury (46055). This had occurred on 12th October 1996 (which had required him to have 15 weeks off work) and he sought to avoid public order training on 24th May 1997. It was not for him to say if he was fit for duty (p.21).
- 3.26 Per 44261 he had had 3 weeks training and was then given a training book. He had further training on the 6th September 1996. He does not recall what was in the training book. He had had one day of training on long shields. That was the extent of his public order training (p.83). He had never had any training about how to deal with a crowd as a member of a small unit, that was without protection. He had never before faced a crowd of 50 or 60 with four officers (p.76).
- 3.27 He does not know if he had a long rifle that night (p.102). He does not recall if other members of the Land Rover crew had a long rifle. He does not know if the crew carried a long rifle when they were on public order duty (p.103).
- 3.28 He would not have felt safer if he had faced the crowd in full riot gear (p.111) but he felt that with the right equipment you have a “fighting chance” (p.117).

Alan Neill

Statement

- 3.29 Para. 5: His initial training had included first aid & public order duty.
- 3.30 Para. 13: Res Cons Cornett & Atkinson had had MSU training. **P40** had public order experience in Portadown

Denise Cornett

Statement

- 3.31 Para.2: She had been attached to the MSU for 2 or 3 years.
- 3.32 Para. 3: She had received separate training in public order duty as part of her MSU training. At the time she was trained in First Aid.

Alan McCrum

Oral Evidence

- 3.33 At the time Mr McCrum felt that there were sufficient officers on duty. There were times when that would not have been sufficient numbers to deal with the violence (p.8) but it was not possible to have a large level of resources frequently available (p.9).
- 3.34 There were seven officers on duty in three mobile crews, not six available officers (p.6).
- 3.35 His responsibilities were for Lurgan, Portadown and Banbridge subdivision. The sergeants in each subdivision would have responsibility for the officers (p.2). His role was to be a reference for the sergeants if they had concerns and to provide quality control of policing actions and activities (p.4). He would expect to be notified about serious issues and would then go to the scene. Subject to that, the sergeant was in charge (p.5).
- 3.36 Mr McCrum thought that the actions of the Land Rover crew, when faced with violence, depended on the particular circumstances. The basic expectation would be that officers would get out and seek to protect people (p.9). If there were lots of people an immediate call for back-up would be required (p.10).
- 3.37 Mr McCrum did not have control of the MSU but could ask for its assistance (p.43).

- 3.38 The Land Rover was predominantly there for prevention but was also there to respond to spontaneous incidents (p.66).
- 3.39 The role of the back-up crews in the 3 cars was to respond to calls in the wider Portadown area (p.43).

Colin Murray

1st Report

- 3.40 Para. 3.4: The type and nature of the incidents that occurred in Portadown between the 4th January 1997 and the 31st August 1997 were not unusual compared to any other town in the United Kingdom.
- 3.41 Para. 3.5: The role of the Land Rover crew was to police within the barriers. They would pay particular attention to known trouble spots. This is common practice in the United Kingdom and Northern Ireland.
- 3.42 Para. 3.10: In total there were 18 officers on duty that night, including 11 in vehicles, one Inspector and one Sergeant.
- 3.43 Para. 3.12: At the time of the assault there was one MSU on duty, which comprised of two Sergeants and 12 Constables.
- 3.44 Para. 3.14: In the absence of pre-planned events, the MSU policed the entire division. At the time of the assault the MSU was deployed in Banbridge town centre.
- 3.45 Para. 3.17: The resources supplied were sufficient in 1997. In the absence of specific intelligence and with knowledge of previous incidents, it was reasonable to deploy four officers within the barriers.
- 3.46 Para.3.19: Deployment of similar numbers in the past had been sufficient.

Ken Armstrong

Oral Evidence

- 3.47 There were heavy demands on resources, both time and training (p.171). This does not detract from the internal training given by observing senior officers (p.172).

Please insert any submissions or comments if you so wish

Comment

4. Mr. Murray's conclusions on this issue appear to be uncontroversial. In the context of the violence that could reasonably be expected to occur in the town centre on a Saturday night it seems to have been reasonable to station one Land Rover within the barriers with access to back-up officers. It was unfortunate that of the four officers in the Land Rover, one was expected to remain with it to handle the radio traffic and, of the other three, one of those regarded himself as unfit for public order training, let alone duty. Essentially, therefore, only two officers were fully available to deal with an outbreak of violence. That fact throws a particular spotlight on the question whether violence should have been headed off or nipped in the bud.

Submissions by British Irish Rights Watch and Committee on the Administration of Justice

The evidence seems to suggest that the RUC's training and strategy for dealing with what were routine public disorder situations was minimal. Both the evidence contained here and the civilian evidence contained in module 2 suggests that four or five officers would be deployed to the town centre in a Land Rover, and that they would be armed with sidearms and one "long arm". Their main task was to act as a deterrent to disorder by their very presence, and only to intervene if serious trouble broke out. If the trouble seemed to be more than they could handle, they would not intervene but call for backup. If the presence of the Land Rover did not deter violence, then police officers had no means of nipping violence in the bud. They did not seem to routinely carry plastic baton rounds, which meant that, were they to use their weapons, there was the immediate risk of serious injury or a fatality. The presence of the long arm meant that police officers either had to lock the Land Rover if they left the vehicle to deal with an incident, thus depriving themselves of any refuge and anywhere to place persons under arrest, or leave an officer behind to guard the long arm. There is no suggestion that any officers had received any training in negotiating skills to defuse potentially violent situations. We do not accept that the situation in Northern Ireland was comparable to elsewhere in the United Kingdom, because RUC officers were routinely armed whereas their counterparts elsewhere were not. That fact, combined with the lack of negotiation skills, both dictated and explained the actions of the officers on duty in the Land Rover on the night of the assault on Robert Hamill.

Submissions by Edwards & Co Solicitors (Serving and Retired Police Officers)

Perhaps more pertinent is the question-could, in effect, two officers have headed off or nipped an outbreak of violence in the bud?

Submissions by John P Hagan Solicitors (Robert and Eleanor Atkinson)

We would respectfully agree with the above with the exception of the final sentence - "That fact throws a particular spotlight on the questions whether violence should have been headed off or nipped in the bud." This proposition does not follow as a matter of logic as it is based on the assumption that there was perceptible or potential violence of which the police officers should have been on notice of in order to be put in a position of being able to "head off" or nip in the bud".

Submissions by the Police Service of Northern Ireland

The PSNI concur with the view expressed by Mr. Murray that the adequacy of the resources which were deployed to the town centre in the early hours of 27 April 1997 must be assessed, not on the basis of the vicious crime and the tragedy which actually occurred there, but on the basis of the information known to police at the time of deployment.

Police resources are necessarily limited. Demands on those resources are in the nature of things variable and difficult to predict. Police commanders rarely have the luxury of holding resources which would allow them to deploy with excess capacity. They must deploy carefully and proportionately taking into account what is known at the time and what previous events have taught them.

The Inquiry has been told what resources were available to the RUC in Portadown for the late turn on the 26 and early on the 27 April 1997. It is submitted that in the absence of specific intelligence pointing to a real risk of disturbances in Portadown town centre on the 27 April 1997, the decision to deploy four land rover based officers to the area within the security barriers can be viewed as a reasonable decision.

Of course there had been fights and assaults in Portadown town centre in the past and the Inquiry is entitled to allow for this fact in its analysis of this issue. However, the Inquiry has heard that the nature and extent of the violence which occurred on the 27 April 1997 was unheard of at that location.

Accordingly, by applying the test that decisions about resources and deployment must necessarily be informed by lessons learnt from patterns of past criminal behaviour at a particular location (see 3.19 of Mr. Murray's report), the decision to deploy four officers must be regarded as sufficient at the time the decision was made.

Mr. Murray's conclusions at 3.17 have been summarised above. It is worth setting out his conclusion in full:-

"It is my opinion that the resources supplied to the RUC for policing public order incidents were sufficient in 1997. There was no intelligence to show the attack on Robert Hamill and [D] was planned in advance. It is my view the attack was a spontaneous event. In the absence of such intelligence, and with the knowledge of previous incidents within Portadown, it was my view reasonable to deploy only the 4 officers to public order duties within the barriers. In this instance the 4 officers were not sufficient in number to prevent the attack on Robert Hamill. This is not a contradiction in reporting the adequacy of resources to be supplied to the RUC as sufficient."

It is submitted that this conclusion is sound and that any criticism of the amount of resources deployed is one that is without force because it is founded on hindsight. If the decision to deploy four officers was sound at the time it was taken, the more significant questions, perhaps, are in terms of how those resources were used (tactics) and how those resources performed on the street on the morning of the 27 April 1997.

The point has been made that from a land rover crew of four, only two were "fully able to deal with the outbreak of violence." It is submitted that this oversimplifies the position. All four officers dealt with the outbreak of violence albeit in different ways: Con Neill and Res Con Atkinson dealt directly with the Protestant violence and tried to force the crowd back and away from the victims; Res Con P40 took up a position at the top of Woodhouse Street and attempted to deter others from joining the violence so as to prevent further disorder and injuries; Res Con Cornett performed the communications duty of summoning reinforcements and ambulance, she checked with the injured, assisted Con. Neill (at one point) and guarded the vehicle.

It is submitted that all four officers played a full and active role in dealing with the violence and its consequences. Inevitably each officer did not perform the same role, and while the effort of Neill and Atkinson in dealing directly with the seat of the violence was obviously important, there was also value in what the other members of the team did.

Finally, there is a suggestion that Res Con P40 was not fit for duty. Police officers are generally fully aware of the procedures for reporting themselves unfit. P40 had not done so. He had suffered an injury in October 1996, but had returned to work in January 1997, and had no further absence before the incident on 27 April 1997. It was some four weeks after this incident that he raised an issue about his health in the context of public order training. It is well known that the RUC had an informal system of arranging light duties for officers who were unfit for the full range of policing duties. There is no evidence that P40 sought to avail of this. All of the evidence suggests that P40 was fully fit for public order duties on the 27 April 1997. If he was not the onus was on him to bring it to his employer's attention.

THE SECOND ISSUE: COULD THE AVAILABLE RESOURCES HAVE BEEN BETTER DEPLOYED?

Comment

5. No additional materials or evidence appear to be relevant to this. The Land Rover was in a position where it could have been used to prevent the violence breaking out and the back-up officers were available to reach the scene quickly. Although there is an important question about whether the Land Rover should have been moved from LR2 or LR3 across to the top of Thomas Street, that will be considered in the context of the response to Mr Mallon's warning.

Submissions by the Police Service of Northern Ireland

The question of whether the available resources could have been better deployed is problematic. Clearly, the appropriate deployment of any resource depends upon the circumstances. Moreover, it is always likely that suggestions as to how resources could have been better deployed will emerge with the benefit of hindsight. Accordingly, this question is best examined by considering what the land rover crew knew or ought to have known at the time, including their knowledge of this location as a flashpoint augmented by Mr. Mallon's warning, and by eschewing consideration of that which we now know.

A number of general observations are appropriate at this point before we consider the circumstances applicable at the time of Mr. Mallon's warning and shortly thereafter. The Inquiry has heard evidence that the land rover crew's approach to their duties would have or ought to have been governed by the following tactics:

- To patrol the whole area within the barriers in their vehicle
- To remain vigilant for signs of trouble
- To remain in their vehicle for patrolling purposes rather than to patrol on foot
- To get out of the vehicle to intervene if a disturbance erupts or a fight breaks out
- To summon assistance if the need arises

It is submitted that there is nothing at all wrong with using the available resources in this way, and that such tactics afforded a reasonable prospect of delivering effective policing on the ground, assuming those resources were not overwhelmed by superior numbers of people intent on violence.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

We are not sure that violence could have been prevented and think that the evidence tends to show an initial attack on David Woods, near the bottom of Thomas Street which led to a physical reaction against Robert Hamill and D, over

in a short time and that police could not have intervened. This does not mean that the Land Rover crew should not have been more vigilant. If the contention put by Counsel for Mr Hamill's family in cross examination - that the attack took place while Stacey Bridgett and Dean Forbes were talking to the Land Rover crew - is correct, this reinforces the view that the fatal injuries were sustained early on. We submit that the Land Rover officers are wrong about the stage at which either Robert Hamill or D was on the ground.