

PART 9: WERE THE INITIAL POLICE ACTIONS PERFORMED EFFECTIVELY?

- 1 This Part covers a number of issues:
 - 1.1 Who was the senior officer at each relevant stage?
 - 1.2 Secondly, to what degree did debriefing fail to elicit information from officers at the scene, and why?
 - 1.3 Initial scene management.
 - 1.4 Fast-Track Forensics.
 - 1.5 Collection of CCTV evidence.

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

See sections 4, 5, 6, 9, 10, 11, 15, 18 and 21 below.

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

See the composite submission below

Submissions by the Police Service of Northern Ireland

See sections below.

THE FIRST ISSUE: THE SENIOR OFFICERS

- 2 The materials are as follows.
 - 2.1 27/4/97 Insp Alan McCrum's notebook entry stated that he arrived at the scene after two males had been taken away by ambulance. He made enquiries with Craigavon Area Hospital and called out DC Donald Keys 9960.
 - 2.2 27/4/97 DC Donald Keys contacted DCI P39 as the senior detective on call 11102.
 - 2.3 27/4/97 0715 DCI P39 was called to duty and is briefed by DC Donald Keys 11102.
 - 2.4 09.00 DC Donald Keys attended an office briefing with DS Dereck Bradley and DI Michael Irwin. He briefed DS Dereck Bradley on the assault 11102.

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

See the composite submission below

Submissions by the Police Service of Northern Ireland

See sections 4-6 below.

3 Several witnesses go to this issue:

Robert Atkinson

Oral Evidence

3.1 The person in charge on ground was the senior Con (Neill) until supervisory Sgt/Insp arrives (p.73).

Desmond Jackson

Oral Evidence

3.2 Depending on the case, the observer in 70 would be the normal person to respond and deal with incident but depends on gravity of incident. The senior officer would be given role of allocating resources, deciding who would deal with it and possibly directing it, e.g. GBH or serious assault “Con not deal with it and somebody else deal with it” (p.49).

3.3 The Insp would have been in charge at the scene as once he authorised obtaining full riot gear he would have been taking control from observer in back-up (p.53) He would have been in control of situation until such time he debriefed detective and handed over to him (p.68). The Insp was in charge until arrival of P39 as a DC cannot tell a uniformed Insp what to do but a DC can provide expertise and offer advice (p.69).

Donald Keys

Oral Evidence

3.4 He knew it would have been a difficult investigation due to nature of incident. He expected two or three detectives to be called out immediately, which is why DC McDowell was called out by him and P39. He assumed that if the Insp/Sgt. had had the appropriate information at the time, they would have called out two or three detectives (p.109).

3.5 At 03.00, after restoring order, they knew two men, one unconscious, were taken by ambulance arising out of public order. He would have expected detectives to be called out straight away. It was not normal for them to

contact a DCI. They should have contacted the DC, who would make decision (p.110). He said it was reasonable for there to be a 40/45 minute delay from 04.00 when Insp McCrum returned and the seriousness became apparent (p.134). It was not Insp McCrum's decision to recall the Land Rover crew but he did agree with DC Keys's decision to recall them (p.135).

Karen Kennedy

Oral Evidence

- 3.6 Complaints and Discipline Investigation could never determine who was regarded as IO for the original assault. Based on normal police procedure it would be the observer in 70 (lead response vehicle) (p.9). It came with the task as observer in 70. It was the main response vehicle as it had the designated call sign. The presence at the scene of a uniformed Sgt. or Insp did not change the observer from being IO. The observer would be expected to know that they would be IO. Potentially one would expect that IO to (de)brief senior officers arriving (p.10) but in the Hamill situation it was practically difficult. The first investigative task is to ascertain if crime was committed, who the injured person was, and if there were any suspects or evidence, i.e. the usual investigative process. It was difficult in riot of Hamill situation (p.11). It was not necessary for the 70 observer to open a scene log (p.11); another officer could be appointed. If a scene has quietened down then if the crime is most appropriate for CID then they would be tasked and come and take over and be briefed by the IO (p.12). If a senior officer tasked the IO elsewhere then they had no power to stay. She would expect a supervisor to know the observer was the IO (p.13). When CID arrived, responsibility passed to that detective and it depended if observer was still required at that stage. It was a judgement call (p.14). Power of recall of officers on the scene rested with their supervisors, not detectives (p.15).

Alan McCrum

Statement

- 3.7 Para. 20: He was told about seriousness of the injuries at about 04.00.
- 3.8 Para. 21: He called DC Keys on hearing of seriousness. He suggested DC Keys went to the scene to co-ordinate early stages of investigation in consultation with Insp McCrum and to establish where scene was.
- 3.9 Para. 23: He then directed Cons Cooke and Orr to go to Craigavon Area Hospital to get injured men's clothing.
- 3.10 Para. 26: Once DC Keys arrived, he regarded it as a CID led investigation. His role from that point on was to assist DC Keys and ensure he had resources.

- 3.11 Para. 28: His responsibility was to ensure all officers had made contemporaneous notes and provided evidence as soon as possible to CID team. He terminated duty at 08.15 but briefed DCI **P39** before he left. She had become SIO at this stage.
- 3.12 Para. 29: He had taken all reasonable steps to ensure CID had everything they needed. It was for them to follow-up various lines of enquiry that Insp McCrum had opened.

Colville Stewart

Statement

- 3.13 Para. 16: He identified basic policing issues that had not been performed on 27/4/97.

Dereck Bradley

Statement

- 3.14 Para. 5 “Arrived at station Monday [28/4] morning. DCI P39 instructed me to read statements that had been made by uniformed officers and brief myself on what happened”.

Oral Evidence

- 3.15 DI Irwin was his superior and “he started the investigation on Tuesday [29/5] morning really” (p.96).

Oral evidence

- 3.16 **P39** Was in charge of investigation from the moment she was called in until it became a murder investigation as she was the Chief Insp in the division (p.5).
- 3.17 From Monday 28th DI Irwin would have been the officer in charge of the subdivision and **P39** would have had an overall view of the investigations (p.6).

Colin Murray

1st Report

- 3.18 Para 6.2: Insp McCrum’s statement is so vague and lacking in detail as to render it worthless

- 3.19 Para 6.24: Insp McCrum supervised the assault in a superficial manner. He took no active steps to ensure directions were complied with.
- 3.20 Para 6.28: Even after DC Keys had been called out Insp McCrum still had responsibility for the investigation.
- 3.21 Para 6.39: Insp McCrum, as senior officer, failed to take control.
- 3.22 Para 6.40: McCrum acted with almost indifference to what took place in town centre.
- 3.23 Para 6.43: Insp McCrum, in failing to deal with consequences of disorder, caused investigative opportunities to be lost.
- 3.24 Para 8.9: DC Keys was called out into a difficult situation and he did all he could possibly do. It was not his responsibility to secure crime scene. When he called out DCI **P39**, it became her responsibility to direct the enquiry.
- 3.25 Para 9.4: DCI **P39** should have taken the following actions:
- Managed the crime scene once it had been sealed off.
 - Met Con Ardis to discuss forensic strategy.
 - Commenced a policy file in relation to the assault.
 - Debriefed all officers who had attended scene.
 - Called out additional staff to progress investigation.
 - Ensured victims' clothes was seized.
 - Considered seizure of paramedics' clothes.
 - Determined CCTV strategy.
 - Determined a suspect strategy.
 - Determined press strategy.
 - Retained responsibility for supervision and investigation for assault.
- 3.26 Para 9.5: DCI P39 failed to investigate or direct investigation in any meaningful way. There is no evidence of meaningful leadership and the investigation was allowed to drift.
- 3.27 Para 9.6: P39 had a lack of investigative experience. If this lack of action was due to inexperience she should not have been left to manage investigation.
- 3.28 Para 10.23: Whilst officers could be justified in not securing scene initially, once it became known Robert Hamill had become seriously assaulted, the failure of Insp McCrum to protect the scene was inexcusable. Insp McCrum should have directed staff and DC Keys should have had the benefit of a full briefing upon his arrival.
- 3.29 Para 10.24: Upon arrival of P39, she should have taken responsibility for the scene.
- 3.30 Para 11.2: He expected following actions to be taken:

- Scene preservation
 - Debriefing of officers
 - Recovery of victims' clothing
 - CCTV capture
 - Briefing of DC Keys, including a visit to scene.
 - CID officer of appropriate authority should have been called out. Minimum call out should have been DI.
 - DCI P39 should have been called out immediately upon realisation Mr Hamill had a serious head injury.
- 3.31 Para 11.3: Fast track actions were inadequate. As a result of the debriefing failures, the GBH investigation was fundamentally flawed.
- 3.32 Para 11.5: Failure to identify fast track actions was a serious failing on the part of Insp McCrum and then DCI **P39**.
- 3.33 Para 24.1: DI Irwin was driving force behind the murder investigation with DCS McBurney providing direction.
- 3.34 Para 25.45: He did not believe omissions on the part of Insp McCrum, Sgt **P89** and DCI **P39** were intentional, but were negligent.

Oral Evidence

- 3.35 75406 shows that Mr Murray no longer believed DCS McBurney was criminally negligent in relation to the Atkinson allegation (p.38). The police being concerned with Tracey Clarke's safety went to the confrontation of Atkinson with Clarke's statement and the threats she may have come under (p.39). Mr Murray made the point of the service providers not assisting with evidential phone records. He acknowledged that he did not know the RUC could not get that information but it only slightly changed his conclusions (p.40). The records should have been put to Res Con Atkinson at the interview (p.41). It may be that an officer takes a statement that they do not believe but that officer should challenge (p.41) that and tell the proper authorities they believe the statement is false. Mr Murray believed Mr Irwin was reluctant to take the statement and did report back to McBurney (p.42).
- 3.36 Mr Murray has had no experience of policing a terrorist situation. He thought it is a relevant comment but does not agree with it. Per 1.8.1 74636 (p.43), Mr Murray agreed that he does not think that his lack of experience with terrorism made any difference to him fulfilling his terms of reference (p.44). Per 2.5.1 74654 Mr Murray did not look at Drumcree. He accepted that it was an incredibly difficult policing situation (p.45). Mr Murray fully accepted 2.5.8 74656. Per 3.6.5 74672 (p.46) Mr Murray did not consider supergrass trials in his original report as he understood the supergrass system had collapsed. Mr Murray accepted that the paramilitary influence would affect witness cooperation per 3.6.8. He did not believe the police had any chance of getting witnesses to help prosecute the murder (p.48).

- 3.37 Mr Murray considered himself a policing expert (p.48). The Inquiry is the only time he had held himself out as a policing expert. His experience came from Kent police but he had worked with other forces when needed (p.49).
- 3.38 Mr Murray believed the calming of the situation and the dispersal of the crowd was conducted with diligence and professionally. Mr Murray considered himself a public disorder expert. He briefly was riot trained and was deployed, but did not command a unit in riot conditions. He had never had to take, or be trained in, strategic decisions surrounding the aftermath of a public order situation (p.50). His qualifications for criticising the police were from his basic training and experience (p.51). He felt confident and able to discuss the actions of the Land Rover crew. He had experience of Northern Ireland policing as he spent a considerable amount of time in Northern Ireland during an investigation for Kent police (p.52).
- 3.39 The contextualisation that Ken Armstrong's report provided was relevant to the Inquiry's terms of reference (p.53). Mr Murray did not know of all the problems and tensions the RUC faced during the troubles. Those tensions did not necessarily need to be taken into consideration as many taskings undertaken were common throughout the UK (p.54). The fact the incident happened in Northern Ireland caused problems for witness cooperation but nothing else was specific to Northern Ireland. He was not asked to comment on anything that was specific to Northern Ireland, e.g. community policing (p.55). He has found no evidence of sectarianism amongst police officers. He would have commented on that if he found it (p.56).
- 3.40 Mr Murray agreed that any investigation would have areas of which an observer could be critical (p.58).
- 3.41 There is a golden opportunity at the very early stages of an investigation for information to be gathered from relevant officers which could lead to fast-track actions (p.50). If they fail to be undertaken it is very difficult to recover (p.52).
- 3.42 Mr Murray did not doubt **P39**'s genuineness in her policing. He did not have many paper resources to work on to see what she did and what her thought processes were (p.74). DC Keys was in charge of the crime scene but the DCI remains accountable and fully responsible for any acts or omissions (p.75). Mr Murray thought DC Keys did everything he could. If **P39** was conducting daily briefings then she was doing good police work (p.76). Mr Irwin was managing the GBH investigation and **P39** was supervising (p.77). His criticism is that the longer the arrests were delayed the more they needed to rely on witnesses, and forensic evidence was lost (p.80). Mr Murray accepts that the decision to seek Catholic witnesses was a judgement call. It was a good strategy to change when the witnesses were not forthcoming (p.81). Mr Murray criticised **P39** for not keeping a policy book (p.83). Keeping a journal is not the same as keeping a policy book as they have different purposes (p.84). Mr Murray thinks it is fair that she did not keep a policy file for GBH investigations as a number of forces in the UK did not. There was no force policy that she must (p.85).

- 3.43 Mr Murray heard the evidence of Chief Superintendent McCrum and Mr Irwin (p.24). Per para 7.2 44028, there was a problem specific to Northern Ireland, not general to the UK that Mr Murray had no experience of (p.27).
- 3.44 Mr McCrum was wrong to go about his other duties as there was no evidence of intrusive supervision to determine exactly what had gone on. That comes from the evidence he had heard and read (p.29). He acknowledged that Mr McCrum said that he instructed a Con to draw up a list of those recognised. Mr Murray has been an area commander coming on duty to reflect on occurrences that took place overnight. The scale of this disturbance, relative to those in the previous eight month period was significant and formal questioning of officers would have given a greater indication of the scale of the incident (p.30). The scale of the incident called for more activity than occurred (p.31). Mr Murray did not expect anybody to act with perfection. There was nothing to justify his leaving Portadown then (p.32).

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

We agree with Colin Murray's identification of the major failings of the police investigation, and with the lists of actions that he considers should have been taken by the relevant senior officers. We do not believe that the situation in Northern Ireland was so unique as to excuse those failings, which is not to say that we do not recognise that there were special circumstances pertaining in Northern Ireland at the time, such as the poor relationship between the RUC and the Catholic community, which probably accounted for those failings. Despite the fact that terrorism was still an issue in 1997, and that some of the suspects had paramilitary connections, none of the police accounts give the slightest hint that they considered that they were dealing with anything other than the usual Saturday night public disorder to which Portadown was regrettably accustomed. Colin Murray's lack of knowledge of Northern Ireland and of terrorism is not, therefore, relevant to his assessment of the police investigation, which was virtually non-existent.

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

We deal with these points at a later stage

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

See the composite submission below

Submissions by the Police Service of Northern Ireland

See sections 4-6 below.

Comment

- 4 Although the Kennedy investigation team believed that Con A was in charge from her arrival, that view has not received support from others. The Panel may wish to consider whether Miss Kennedy and Mr Jackson's policing experience is such as to give greater weight to their views.

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

No doubt Miss Kennedy and Mr Jackson were describing what they believed ought to have happened, but it bore no resemblance to what actually took place. As the Inquiry Team acknowledges at paragraph 5 below, for all practical purposes Inspector McCrum was in charge.

Constable A arrived on the scene at 1:47 am. Inspector McCrum arrived shortly after 1:50 am (Inquiry timeline). It may be that for three or four minutes Constable A was technically in charge, in which case she does not appear to have considered herself to be so. She made no assessment of the situation, but waded straight into dealing with the disorder, temporarily detaining Wayne Lunt. She made no attempt to command any other officers or direct their actions in any way, nor did she call for further backup. When Inspector McCrum arrived, he became the officer in charge. Although he called in CID in the form of DC Keys, we do not accept the Inspector's contention that command ceded from him to the Detective Constable (3.10). He remained the ranking officer until DCI P39 took charge, which happened either when she was telephoned by DC Keys at 5:30 am or when she came on duty at 7:15 am (Inquiry timeline).

Inspector McCrum's decision to call out such a junior CID officer is questionable in itself, as was his assumption that DC Keys should be responsible for what was in fact a major incident enquiry. His failure to brief DC Keys adequately (3.28) robbed DC Keys of any opportunity to take proper charge of the situation.

If Constable A was in charge, albeit briefly, then consideration should be given to warning her of potential criticism/adverse inferences in relation to her failure to actually take charge.

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

Having regard to her training record and the reality of the situation when senior officers were present, by no stretch of the imagination could Con A be criticised for not adopting the role of the Officer in Charge

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

See the composite submission below

Submissions by the Police Service of Northern Ireland

It is accepted that DCS Kennedy described the observer in the lead response vehicle as the IO. This would have been Con. A. The PSNI accepts that this view is technically correct. However, in the particular circumstances of this incident the label of "IO" was never formally applied to Con. A. It certainly isn't suggested that the role ought to have had any specific practical effect in the circumstances of this incident. A number of more senior officers arrived at the scene including Inspector McCrum and P89, and within several hours the matter moved forward under the leadership of CID. In practical terms the PSNI would have expected those officers to provide the supervisory lead and to assume operational responsibility. .

- 5 It is plain that Insp McCrum had overall responsibility while the disorder was still in progress. He plainly acted very resolutely with the disorder. He says that he gave orders which would have ensured debriefing and collection of information and materials from the hospital. He says that he also ordered Con Cooke to draw up a list of names. His journals and notebooks support his evidence. He acknowledged that a failure to follow such orders was a very serious matter. Yet they were not followed at all, and he took no steps to check that they had been. He went to another station when there appears to have been no urgent reason for him to do so. The Panel may need to consider whether, having dealt with the disorder, Mr McCrum then dealt in such a perfunctory way with the consequential fast track actions that none of the other officers regarded themselves as under any real obligation to do more.

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

Please see our comments on Inspector McCrum's role at paragraph 12 of module 7.

In addition, his failure to take action against those he says disobeyed his orders either suggests that he never gave those orders (in which case the veracity of his journals and notebooks must be called into question), or that he was grossly negligent. It was DC Keys who decided that the Land Rover crew be re-called to duty (3.5), rather than Inspector McCrum. Certainly, his lack of leadership did nothing to inspire more junior officers to take the initiative.

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

See the composite submission below

Submissions by the Police Service of Northern Ireland

An officer of the rank of Inspector is employed in the police service to provide a supervisory overview and to give leadership to the officers under his command. On the 27 April 1997 there is no doubt that Inspector McCrum

held a difficult and demanding post. Inspector McCrum deserves praise for much of his work that night.

In particular he brought leadership, organisation and discipline to a small number of police officers who were faced with an extremely volatile situation. He managed to ensure that a situation which was threatening to blow out of control was brought to an end without further serious injuries or damage to property. He should be commended for his resolute and skilful application to his duty.

However, the role of Inspector is one in which high standards of performance are expected. The PSNI has already made it clear through the report published following DCS Kenndy's investigation that Inspector McCrum must take responsibility for certain of the police failings on that night (10168).

It is understood that Inspector McCrum is sensitive to those criticisms and objects to the admonishment which he received. However, the PSNI maintains that the community in Northern Ireland is entitled to expect the highest standards of policing. Inspector McCrum failed to satisfy those high standards because he failed to bring adequate supervision to bear on the officers whom he commanded, he failed to ensure proper scene management and failed to ensure a debrief in connection with the assaults on Mr. Hamill and D.

The PSNI accept that there is much that can be said in mitigation for these failings. There were many important tasks which the Inspector carried out appropriately. He did not initially appreciate the seriousness of the injuries. He had duties to perform outside Portadown. Officers to whom he delegated tasks (according to his journals) did not follow his orders. He may have assumed that having quelled the violence in Portadown the major part of his policing role had been fulfilled

However, the PSNI take the view that these are merely explanations for the failings but they do not excuse the failings themselves. Upon mature consideration and in retrospect Inspector McCrum ought to realise that this was a situation in which he should have taken a more proactive leadership role. He ought to understand that there were steps (such as debriefing) which could have been implemented which would have afforded police investigations into the crimes a better foundation. Certainly, it is submitted that the PSNI accept that there are lessons to be learned from how this incident was handled, and procedures are now in place which give practical effect to those lessons.

It is noted that the Inquiry has been asked to consider whether Inspector McCrum dealt with the fast track actions in such a perfunctory way that officers under his command felt no real obligation to do more.

Inspector McCrum claims to have directed a number of actions. These are recorded in his journal. It is noted that some of these are the subject of

dispute. For example Con. Cooke has denied that he was tasked with the responsibility of going to the hospital to obtain the clothes of the victims. He has also denied that he was asked to draw up a list of persons identified at the scene, although he did claim when he was interviewed by DCS Kennedy that by providing a statement "he went one better than drawing up a list."

The Inquiry may feel the need to resolve the factual dispute which may exist between Inspector McCrum and individual officers. From a PSNI perspective it is expected that officers would promptly comply with the orders of their senior officers, or failing this, to explain to their superior why an order cannot be complied with.

In the context of the investigation of serious crime the PSNI would also expect its senior officers to supervise and manage those to whom orders are issued in order to ensure that the jobs are done and the results forthcoming. It was the absence of proper supervision that explains in part why the PSNI felt it appropriate to admonish Inspector McCrum.

Submissions by Russell, Jones & Walker Solicitors (Alan McCrum)

It is submitted that Mr Murray is wrong in his evidence in saying that there "... was no evidence of intrusive supervision" to determine what had gone on.

Inspector McCrum was on the ground that night. He was an Inspector very experienced in Northern Ireland policing and there is no criticism at all as to how quickly he brought the situation under control by the rapid deployment of officers, despite the disorder being spontaneous. Neither is there any criticism of how Inspector McCrum prevented a continuance of the disorder.

Colin Murray bases the need for: "... intrusive supervision" on the fact that some officers referred to a "... riot" situation. This was in Colin Murray's first report. However, he took no account of Inspector McCrum's evidence that he did in fact ask officers on the ground; one of which Constable Cooke said in evidence that he just gave the Inspector: "... the basic facts" and, having done this, he got a general sense that this, at this stage, was like any other Saturday night in Portadown centre. Despite this, Colin Murray argues that Inspector McCrum should have made more enquiries and not left the scene due to the scale of the disorder.

It is submitted that, despite his protestations, Colin Murray is asking for a counsel of perfection here and that he is overly critical of what was a judgement call at the time. Inspector McCrum's evidence was that disorder was common and that there were numerous flash points around Portadown town centre. Flash points included not only the Woodhouse Street area but also Corcrair, Charles Street, Obin Street and the car park at the Magowan Buildings. The sight of ambulances in Portadown town centre on a Saturday night was not unusual. Inspector McCrum's evidence on this point was supported by various experienced officers including the duty officer on the night, Chief Inspector Henry McMullan who said persons being taken to

hospital after incidents of unrest in Portadown "... was a regular occurrence."

Inspector McCrum had other duties to attend to. He had successfully calmed everything down in Portadown town centre and he had sent Sergeant P89 to the Craigavon Area Hospital to check on injuries. Sergeant P89 gave evidence that the level of disorder that night was not at an unusual level. He said that as he was driving to Craigavon Area Hospital, he himself had no idea of the level of injury. The idea that Inspector McCrum had to justify leaving Portadown following the disturbance seems absurd. He was merely attending to his other duties.

It is submitted that what happened at 1.50am on Saturday 27 April 1997 when Inspector McCrum was informed of the disorder by communications, is that Inspector McCrum:

1. Quickly mobilised staff.
2. Quelled the disorder successfully.
3. Got a sense from speaking to his officers that this was not out of the ordinary for a Saturday night in Portadown in the run up to Drumcree Sunday.
4. Went about his normal duties.

Inspector McCrum gave evidence that incidents in Portadown town centre were nightly around this time. Constable A, who was on mobile patrol and at the scene throughout most of the disturbance including dealing with Wayne Lunt etc, gave evidence in response to the question: "... So, when did you realise that this was a serious assault?". Answered: "I couldn't obviously honestly say, possibly the next night."

Inspector McCrum was on the ground at the scene. He was with his officers moving the Loyalists up the town. He was doing this for approximately an hour so that he must have been continuously talking to the officers and it is inconceivable that he did not carry out "... intrusive supervision." For example, Inspector McCrum says that he talked to Constable Cooke and Constable Neill and that he would normally have told officers to make a contemporaneous note as a matter of routine. He was fairly confident he did do it. It is submitted that Inspector McCrum's actions were reasonable.

P89 was an experienced Sergeant. He had briefed the Land Rover crew going out on duty and he, by implication, would have been well capable of debriefing them. He too gave evidence, having been with Inspector McCrum for 45 minutes at the scene, that back at the station before the 4.00am phone call to Craigavon Area Hospital he had "... absolutely no idea of the seriousness of the injuries sustained by Robert". Colin Murray is not at all critical of Inspector McCrum leaving P89 in charge from shortly after 3am to 4am.

- 6 Sergeant P89 had charge of the station after Mr McCrum left to visit another one. The Panel had the advantage of seeing him give evidence. It may wish to consider whether the sergeant was more at home on the streets dealing with disorder than in the station dealing with fast track investigative actions, and also whether Mr McCrum should have reached a conclusion on that issue rather than to have expected him to display initiative about investigative matters. The debriefing failures are dealt with in detail below.

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

Leaving P89 in charge was another example of Inspector McCrum's failure to take hold of the investigation. We doubt whether he actively considered whether P89 was appropriately trained or had the necessary skills to be left in charge.

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

We agree

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

See the composite submission below

Submissions by the Police Service of Northern Ireland

Between approximately 0215 hours when Inspector McCrum left Portadown, and 0400 hours when he returned, it is correct to say that Sergeant P89 was the senior officer on duty in the town.

It is clear that he did not participate in advancing the necessary fast track actions. However, it is also fair to say that he did not receive any direction or leadership from Inspector McCrum in this respect. As the senior officer it would be expected that Inspector McCrum should take the initiative in matters of such importance.

As a leadership team it would appear that neither officer recognised the importance of speaking to the officers in any detail about their experiences at the scene, and nor did they discuss putting arrangements in place for a debriefing and nor did they require officers to compile a full and detailed notebook entry before standing down. These were issues which one or other of these senior offices ought to have raised with each other and the officers under their command.

P89 did, however, have other duties to perform. He visited Craigavon Area Hospital to ascertain the condition of Mr. Hamill and D, but was unable to obtain any useful information from the nurse in the Accident and Emergency Department. Thereafter, he returned to the town and was committed to

dealing with a drink driving incident which had occurred. He would have properly assumed that upon his return it was Inspector McCrum's responsibility to issue directions about the steps to be taken.

THE SECOND ISSUE: THE FAILINGS IN THE DEBRIEFING

- 7 The materials overlap significantly with those now available to demonstrate what officers saw. In order to judge the adequacy of debriefings the Panel has the advantage of materials which only came into existence in 2000 and later:
 - 7.1 The Police Manual on Public Order set out the standard to be applied for the debriefing (10804).
 - 7.2 Con Alan Neill saw Allister Hanvey wearing a tracksuit top. He did not make a statement about that until 19 June 2001 (17247).
 - 7.3 At 03.45 The Land Rover crew stood down. Con Alan Neill, Res Con Denise Cornett and Res Con P40 went off duty.
 - 7.4 At 04.00 approx Insp Alan McCrum was advised that Robert Hamill's injuries were life-threatening (10361 at 10370).
 - 7.5 At 05.00 DC Donald Keys went to Portadown police station following a call from Insp Alan McCrum. He was briefed by Insp Alan McCrum and returned to the scene (11102).
 - 7.6 Between 05.48 - 05.53 the Land Rover crew was recalled by Con Simon Godley (2494).
 - 7.7 Insp Alan McCrum's notebook entry stated that he instructed Con Gordon Cooke to draw up a list of persons identified and requested the Land Rover crew to return to make statements (9960).
 - 7.8 Con John Adams made a statement. He identified Rory Robinson as coming back into town. He stated he was helped by a man of about 40 with a stout build control the people in Woodhouse Street trying to get at rival persons in the town centre (9223).
 - 7.9 Res Con James Murphy made a statement in which the only person he identified is Wayne Lunt. He said Wayne Lunt had a red, white and blue scarf. He did not mention Hanvey (9231).
 - 7.10 Insp Alan McCrum made his first statement regarding the events of 27 April 1997. He was alerted to disorder in the town centre by Con Simon Godley and went there with Sergeant **P89**. On arrival he saw a crowd of 30 to 40 youths congregating in the town centre. The youths were being spoken to by police. There was another group of three or four youths congregated in the vicinity of the Woodhouse Street/ Market Street junction. He directed the police to move the larger crowd into West Street. He says resources were

then deployed to West Street and Woodhouse Street to keep the two opposing groups apart and the town centre remained quiet for the rest of the night. Hanvey was not mentioned. (9217).

- 7.11 Sergeant **P89** made a second statement regarding the incident, including the statement that he visited the two injured men at Craigavon Area Hospital after leaving the scene at 02.45. There was no mention of Allister Hanvey (9213).
- 7.12 Res Cons Paul Warnock gave a statement to DC Donald Keys before terminating duty and did not discuss the contents of the statement [about seeing Hanvey] with Res Con Robert Atkinson (11145).
- 7.13 Insp Alan McCrum was interviewed by DCI **K**. He was confident that no names were given to him by Res Con Robert Atkinson from the incident. None of the officers who attended the scene supplied any names to him before he went off duty at 08.15. The officers came in at different times and it had not been possible to have a collective debrief. He instructed Con Cooke to draw up a list of names of persons who had been positively identified at the scene (11140).
- 7.14 Con Gordon Cooke was interviewed by DCI **K**. He recalled coming back about 04.00 on 27 April 2997 and having a discussion with Insp Alan McCrum, Sgt **P89** and some of the section about what had happened. He did not recall being asked to provide a list of names. He discussed with DC Donald Keys the circumstances he witnessed and pointed out the area where the assaults happened (11132).
- 7.15 DCI **P39** was called to duty and was briefed by DC Donald Keys (11102).
- 7.16 Insp Alan McCrum's version of the debriefing is at 11140.
- 7.17 At about 08.00 Res Con Robert Atkinson went off duty (varying accounts) (9840 and 21244 at 21246).
- 7.18 At 13.30 on 28/4/97 DS Derek Bradley saw the Land Rover crew (17572).
- 7.19 At 14.30 on 28/4/97 DS Derek Bradley debriefed Res Con Robert Atkinson on his statement. Res Con Robert Atkinson told DS Dereck Bradley that Victoria Clayton was seen wiping blood off Stacey Bridgett (17572 and 20288).
- 7.20 On 28/4/97 DS Lawther debriefed Con Alan Neill (9673). He took four pages of notes. [see 8542 – 8619 for the cross-examination of Con Alan Neill which states that he had a session with DS Lawther immediately after the incident].
- 7.21 Con **A** recorded in message form 33 the details of the men who had approached her at junction of Woodhouse Street and Church Street. (7789).

- 7.22 When Res Con Robert Atkinson was re-interviewed by DI Michael Irwin and DCS Maynard McBurney under caution in relation to the complaint of neglect of duty and allegations regarding Allister Hanvey he said that they all sort of drafted a statement to get the ball rolling and he expected a CID officer to sit down with him and go through it (9541).
- 7.23 DS Dereck Bradley was interviewed by DCI **K** in relation to the debrief. (53086 at 53090 and 22677).
- 7.24 DS Dereck Bradley was interviewed again by DCI **K** in relation to the debrief. (53086 at 53089).
- 7.25 DC John McDowell was interviewed by DCI **K** in relation to collecting witness names from the statements on 27 April 1997. He said that DCI **P39** and DC Donald Keys were there at 07.15 . (4157).
- 7.26 A further interview was conducted with Con Alan Neill at his request. Con Neill confirmed that Res Con Atkinson came on the phone when he received the second call from Con Simon Godly on 27 April 1997 to go to the station to make his statement. Res Con Atkinson told Con Alan Neill that he had put a copy of his (Res Con Atkinson's) statement in Con Alan Neill's pigeonhole. Res Con Atkinson wanted to speak to Con Alan Neill later in the day. Con Alan Neill remembers Res Con Robert Atkinson saying that he had seen people around one of the injured parties but he could not or did not identify them. Con Alan Neill was not fully awake so he could not recall which it was (11124).
- 7.27 Res Con P40 was interviewed by DCI **K**. He said that he went off duty at 04.00 and received a call from Insp Alan McCrum recalling him to work to make a statement. He arrived at 06.30 and spoke to Insp Alan McCrum. He was then directed to CID office to make a statement. DC Donald Keys spoke to him and handed witness statement forms to him. He made the statement while sitting in the CID office. Res Con **P40** said that Res Con Robert Atkinson went to another corner of the office to make his statement. He did not discuss anything with Res Con Robert Atkinson or Res Con Denise Cornett in this regard. There was no collective debriefing and he did not recall Res Con Robert Atkinson naming any person at scene. Res Con Robert Atkinson left the station first and left before Con Alan Neill arrived. Res Con **P40** did not see anyone with a silver jacket on the night (11114).
- 7.28 According to Insp McCrum the JD81 personnel had been allowed to terminate duty because there was no evidence that this was a serious assault. He spoke to all of them at the scene with a quick, "can you tell me quickly what happened here?" He said he rang the hospital and was made aware at about 04.00 that this had the potential to be quite a serious assault. He immediately caused DC Keys to be called out. He briefed him comprehensively. He says that when CID came in, they were taking over the investigation and were best placed to debrief (10475).

- 7.29 Res Con Silcock said there was no formal debrief. Officers were gathered together to be interviewed by CID. They were made aware that the incident was more serious than it first appeared (10478).
- 7.30 Res Con James Murphy was interviewed by CI Desmond Jackson. He said that the first time he was asked to make a statement was at 15:45 but he was not formally debriefed (10488).
- 7.31 Res Con Warnock was interviewed. He recalled making a statement but stated that there was no debriefing (10497).
- 7.32 Con Alan Neill was interviewed by Supt. Karen Kennedy. He said he was not formally debriefed. He just went through what had happened and was asked to make a statement. When he returned to make his statement, there was a big dry board up which had different descriptions. It had names like Rory Robinson. Others were identified just by clothing. It was present while he was making his statement. He remembered standing with Con Cooke looking at the board. Before completing this statement, Con Alan Neill says that Res Con Robert Atkinson spoke to him and told him that a copy of his statement was in his pigeon hole but Con Alan Neill did not look at it. Con Alan Neill says there should have been a proper debriefing and he thinks if there was, a lot more things could be put in the statement (10423).
- 7.33 It was put to Con Gordon Cooke that Insp McCrum had instructed him to consult with the others and draw up a list of names. Con Gordon Cooke said that he wrote a full statement identifying people he had seen and giving their descriptions. He said he did not think it appropriate to consult with others. He did not receive a formal debriefing. He simply spoke to DC Donald Keys explaining roughly where the injured man had been and handed him the statement (10506).
- 7.34 Con A was interviewed by Supt. Karen Kennedy. She said she was never debriefed. She simply wrote the statement as requested by CID and handed it in at 08:30 that morning. Con A thought she added the fact that the man shouted at her for letting Wayne Lunt go only after CID asked her about it probably at time of second statement in June. She had not put the details in her notebook at the time because it was a very busy and traumatic night. Con A did not think that the assault on her was worth investigating as it was just a few kicks (10443)
- 7.35 Supt Karen Kennedy issued her report. She believed members stood down should have been debriefed by supervisor and detailed to provide statements prior to terminating duty (10154-5).
- 7.36 An admonishment was administered to Insp Alan McCrum regarding lack of supervision, poor scene management and failure to brief and debrief officers (64116).
- 7.37 On 17/7/01 DC Donald Keys was interviewed by Supt Karen Kennedy. He said that there was no formal debrief of the officers but an informationmal

debrief took place in the CID office. He told all the officers what to put in their statements 10175.

- 7.38 David Wood, PONI, wrote to DCC, endorsing the recommendations of DCS Karen Kennedy in respect of informationmal disciplinary action against Insp Alan McCrum (44841).
- 7.39 A CID note was made of a conversation with Res Con Denise Cornett in which she said that the man in his thirties with the blue shirt and dark trousers was not the same man who was mouthing at the police. (9681).

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

See the composite submission below

Submissions by the Police Service of Northern Ireland

See sections 9-11 below.

- 8 Witnesses dealt with the issue:

Con A

Statement Notes

- 8.1 Para. 36: She completed her notebook and statement at the end of her duty. She remembered that Con Cooke was in briefing room as well but did not remember if they discussed events.
- 8.2 Para. 37: She did not speak to **P89**, DC Keys or Insp McCrum. There normally was a debrief to see if all jobs allocated were done, but that did not happen.

Oral Evidence

- 8.3 She went back to station after that and made notes (very little, if any notebooking done at scene (p.121)). She was not assisted (p.103). She did not talk to other officers when making notes and was not debriefed. She had been debriefed before then sent to make statement. She did not know if debriefing was a benefit (p.104). Officers were sometimes debriefed on public order incident in Mobile Support Unit. Mobile Support Unit debriefings were used for providing information about areas the officers did not know (p.146) or what time an order was given for firing to be allowed. Debriefings took place as a section or unit. Details of what had been seen were not discussed, that was passed on by statement and notebook (p.148).
- 8.4 “Did not know how serious Robert Hamill’s injuries were” (81687). There was no discussion at scene about the seriousness of the injuries and Sgt/Insp did not make inquiries (p.110). Con **A** made a statement as everyone else was. The Sgt/Insp were not at the station then (p.110). Did not know the

incident was serious until after she made her statement (p.111) (48734). She was told by a Detective Sergeant that there was information a man had approached a policewoman and then she remembered (p.111). The Hamill murder was Con A's first public order situation when not in Mobile Support Unit. She was surprised there was no debriefing after the Hamill incident when it became known that Mr Hamill's injuries were serious (p.149). Con A would have expected there to be a collection of statements by CID and exchange of information between Con and detective (p.151).

John Adams 80001

Statement Notes

- 8.5 Para. 17: He probably discussed the incident with Insp McCrum when driving. He did not remember being given any instruction.
- 8.6 Para 18: He thought he filled in his notebook and completed his statement in the CID office before he went off duty that morning. There were other officers present but he did not remember whom. He was instructed to make a statement before he left for the day. He did not speak to the Land Rover crew, as they had already left. He was not asked to make a list of persons he recognised.
- 8.7 Para 19: He was aware that someone from the station had attended hospital to check on the injured parties' condition. He did not remember the outcome but remembered the general feeling that neither were in a life threatening condition. He had no further contact with the investigations.

Oral Evidence

- 8.8 No-one asked him what happened at the scene. He felt a debriefing should be a review of what has happened or needs to be done or anything learnt from an incident. There was no standard way of debriefing (p.170). He never had debriefings after public order incidents, only passed on information to the Sergeant or next section if needs be. Debriefings were expected after planned operations (p.171).
- 8.9 Two Detective Sergeants, Lawther and Bradley, whose names are on his statement (11051) were not with him when he made his statement (p.173). No-one read over his statement when it was made or asked him questions. He did not remember if there was anyone else in the room when he made his statement (p.174). Statements were handwritten, then passed to CID. They typed them up and the officer signed the typed version, hence the signature in "received" section (p.175).

Paul Warnock

Statement

- 8.10 Para. 35: He made his statement in the briefing room.
- 8.11 Para. 36: Cons A and Orr were present at the time of making the statement. There was no discussion before or after. No one else saw his statement before handing it to DC Keys.
- 8.12 Para. 37: (11148) shows he saw the Land Rover crew at the station at 08.00. He thought two thirds of the Land Rover crew were back and he spoke to them in passing. He heard that one injured party was seriously injured but was not aware of their exact condition.

Oral Evidence

- 8.13 Officers were not sat down and asked about what they saw or did after an incident. The practice was to write a statement (p.55). That was the debrief. There was a possibility that there would be follow-up questions afterwards but he did not remember if that happened (p.56). He did not remember the case being discussed amongst officers in the police station (p.70).
- 8.14 He saw Res Con Atkinson at the police station but did not talk about the incident (p.63).

Dean Silcock

Statement

- 8.15 Para. 19: When called into CID, DS Alder, DC Keys, DCI **P39**, Con A, Res Con Warnock and PC Adams were there. He thought he was told that the injuries were serious. He shared a table to make statements but did not remember discussing the incident with anyone at the table.
- 8.16 Para 20: He was not asked to attend an identification parade or other form of identification.

Oral Evidence

- 8.17 “Once finished statement [27/4/97] handed it to DS Lawther” (81165). He thought he handed it to DS Lawther but DS Lawther said he was not in the station until 28/4 (p.51). He did not remember being pressed on his statement by detectives (p.65). He did not discuss the incident with anyone (p.51). “Went back to station and filled in notebook. Not asked to make statement (9220) until 8am when called into CID just before he went home” (81163) (p.60). He made a notebook entry of his own volition. It contained the Stacey information. He did not pass information about “Stacey” to senior officers (p.61). Notebooks were not routinely inspected. He did not remember a debrief. He had been on a few public order incidents but nothing as serious as Hamill (p.62). There had been debriefs for other incidents (p.75) but never public order incidents. Debriefings have increased recently. Debriefs were done by telling the Sergeant or Inspector what happened (p.76). This

happened before the statement was made (p.77). Some people compared notebook entries with other officers (p.82).

- 8.18 He did not pull anyone off kicking Robert Hamill. He did not see anyone involved, and did not fail to report seeing anyone involved (p.52).

Gordon Cooke

Statement

- 8.19 Para. 26: When Con. Cooke arrived back at the police station his was the only patrol car back. He saw Comms staff, Con. Adams, Sergeant **P89** and Insp McCrum. He did not think anyone else was back.

Oral Evidence

- 8.20 He stayed at scene until 03.15. He was back at the station at 03.30 (p.28). After 03.30 “Spoke to Insp McCrum in comms room with others present and he said duty CID officer had been contacted as it was obvious a fairly serious assault had occurred” (81681). He was told it was serious as the Inspector had been in contact with the hospital (p13). The Inspector regarded it as CID’s duty to get information from officers but he ensured that by stopping officers leaving duty and telling them to talk to CID. That was standard procedure. If there was to be a debriefing, it would be done by CID (p.14). Insp McCrum did not wait with officers until CID arrived (p.23).
- 8.21 “Shortly after I returned to the police station, DC Keys arrived, although it was possible he was there when I spoke to Insp McCrum. It must have been between 03.30 and 04.00 and he asked me to prepare statement including recollections of scene and identification and description of anyone he recognised” (81681) (p.14). Normally a detective would just ask for a statement and not ask officers questions. He did not pool his recollections with other officers but cannot speak for others. It was not a common practice (p.15). He put everything he knew in his statement so there was nothing to offer from an individual debriefing (p.17). Insp McCrum says he told Con. Cooke, in consultation with other officers at the scene, to draw up list of those positively identified (10371). Con. Cooke not asked “in those terms” (p.21). Con. Cooke did not remember if he wrote up his statement or notebook first (p.29). He made one, then copied it out into the other (p.33). Insp. **K** says “Cooke states he went to the medical room where he sat alone, collected his thoughts and prepared his written statement” (11133). Con. Cooke did not remember if he spent time thinking about the incident between leaving the scene and making his statement (p.32). There was no such thing as a structured debriefing (p.68). There would be a collection of evidence in statements/notebooks/exhibits after large pre-planned operation. Officers were never put together to pool information. He would have had concerns if that did happen (p.69). He was not asked for a list of people identified (p.70). He would have done it if asked, as it would have been an order (p.71).

David Orr

Statement

- 8.22 Para 21: He did not know the Land Rover crew were at the station. He did not remember anyone discussing the incident.
- 8.23 Para 22: On 22/1/01 Con Orr was asked about Res Con Atkinson at scene. Con Orr was also asked if he knew Hanvey, Jason McClure, Chris Henderson or Tracey Clarke. He said he may have recognised their faces but did not know them.

Oral Evidence

- 8.24 When Con Orr returned to the police station a CID officer requested completion of notebooks and statements. That was the entire debriefing (p.16). His notebook shows that he was at road traffic accident at 02.55 so he left the scene prior to that (p.22). Sgt **P89** arrived at one point. He was dealing with a road traffic accident for about 3 hours, which included a breath test at hospital. He thought it was at 06.00 at Craigavon Area Hospital (p.24). Con **A** was with him all night. He normally made his notebook entry before the start of his next duty. It was not normal to need a statement after a shift (p.25). The incident in Portadown centre was not the worst riot situation he had encountered. He had had grenades thrown at him previously. He did not know what a debriefing was. He had never been seen by CID/Insp/Sgt individually and asked what happened (p.26). He considered a debrief to be asking officers to make a statement immediately after an incident (p.27). Officers talked loudly in the reconnaissance room so that they could be heard, which meant that people could easily overhear things.

James Murphy

Statement

- 8.25 Para. 22: He was not given instructions when he returned to the scene. He did not believe he would have completed his notebook or statement at that time. Standard procedure was to complete notebooks as soon as practically possible. He may have written his notebook at home or when he returned to duty. When he returned on duty at 15.45 on 27/4/97 he did not have any debriefing but the Sgt or officer in charge would have told him to go to CID and write up a statement. He wrote his statement in the CID office and handed it to DS Bradley. He did not discuss his statement in detail with anyone. He did not see other officers who had been at the scene that night. At that time they would very, very rarely have been debriefed.

Oral Evidence

- 8.26 This came from statement in January 2001 which came about as a result of direct questions asked by CID (p.87). No-one asked him to identify people at

the scene who might be witnesses. If he had been asked he would have named Hanvey but he did not believe he could describe what he was wearing (p.88). Direct questions were as result of Hanvey's relationship with Res Con Atkinson. Nobody at any stage took him through a roll call of other names (p.89). It was very rare to have a formal debrief except for major operations (p.95). The incident on 26/04/97 was deemed a serious incident irrespective of the injuries suffered (p.96). No questions were asked about anything not in statement. No-one compared them and then asked follow-up questions (p.96).

- 8.27 "Terminated duty at 03.45. Returned to duty at 15.45 later that day". Nobody contacted him to say that it was a serious incident or to ask for a notebook entry or statement (p.90).

P89

Statement

- 8.28 Para 40: It was not unusual to wait a day before finishing his notebook as he was often too busy/tired to do it. He thought there may be a lack of order in the notebook because he forgot about the incident and remembered when doing forms for the road traffic accident.
- 8.29 Para 33: He spoke to Insp McCrum before he finished duty around the time of dealing with Res Con Atkinson's baton report and after dealing with the road traffic accident.
- 8.30 Para 34: He recalled at some point when he was dealing with the road traffic accident that information came in from the hospital re injuries. As a result CID became involved and recalled to duty the Land Rover crew. He vaguely recalled Land Rovers in the town centre up to the termination of his duty but did not organise them to be there.
- 8.31 Para 42: He spoke to Con Cooke. He assumed it was about the incident and how witnesses were saying police did not respond as they should.

Oral Evidence

- 8.32 If **P89** had known it was a serious injury he would have expected the scene to be cordoned off. He would think that identities would come to light in the debrief (p.37). He thought the debrief would include whether officers recognised anybody and descriptions. It would be the Sergeant or Inspector's duty to start those procedures before CID was called in (p.38). He was first aware the CID was called after 04.15 (p.93).
- 8.33 It did not occur to him at the time to get all officers with a detective to work out who had been identified, as he was busy. He had a recollection of it happening anyway between 04.15 and 06.00. He did not make a statement until 7/5/97 as had not got round to it. Detectives only asked for a statement

on 7/5/97 (p.15) (9213) but it did not describe the seriousness of incident (p.16). No-one told him about how serious the injuries were. No-one mentioned he may have seen murderers or asked him to describe Hanvey's clothes (p.17). He accepted (9213) was bereft of detail considering he knew on 7/5/97 that it was a serious assault (p.50). He denied it was neglectful as the Sergeant (p.51) came to him on 15/5/97 to say (9213) was sparse. As a result he produced the statement at 9215. He did not know if knew on 15/5/97 that people had been charged with murder (p.51). He assumed that if he was on duty that he would have heard this mentioned (p.52). He accepted local feeling meant he would have to be aware that people had been charged with murder (p.53). He did not try to find out who had been charged (p.53). He did not provide any information as he "didn't know anything". He assumed he told everything he knew in (9213) and (9215) (p.54).

- 8.34 Normal practice after ending duty was to write up incidents in the occurrence book: "Signing off duty". He would not see a group, he would only see individuals if something in the occurrence book showed an outstanding issue. He would not inspect or sign notebooks of his officers (p.23).
- 8.35 His notebook (11088) showed "went to centre at 02.00 with Insp for public order. Assisted police dispersing crowd. Crowd separated and centre quiet at 03.00 (p.39). Later mobile patrol supervision", which was another duty (p.40). He put the details of a drunk driver in his notebook before the Robert Hamill incident as it was noted at the same time as the process (p.41) and then went back to the drunk driver after Robert Hamill entry (p.42). He started to fill out his notebook before he left duty in the morning. He made a note of the drunk driving. Then he went home and continued his notebook when came back in to the station in the evening. He was making a record he forgot he had made the previous morning (p.46). He made the Robert Hamill note in the evening when back on duty. He still did not know the seriousness of the incident (p.47). It contained no detail of crowd, observations etc. He did not know if he consulted his notebook when completing his statement (9213). He did not always consult his notebook (p.49).
- 8.36 Practice was to make a notebook entry as soon as possible after an incident (p.19), but this was not always observed. Depending on the seriousness of offence, on occasions officers would be debriefed individually. He understood that there was a debriefing that night but he was not present at it (p.20). He remembered coming into the Comms room and seeing an Inspector, a Detective and the Land Rover crew conducting a debriefing (p.22). Cons Cooke and Orr may have been there. He did does not remember (p.95). It would be expected that he would be at the debriefing, but does now know why this did not happen. He was involved in the debrief to some extent as he was filling in forms e.g. baton report (p.22). He did not remember there being an order for the Land Rover crew to return or **P39** to arrive (p.96). He did not know who requested CID, who gathered people in the Comms room or who organised the Land Rover crew to be brought in (p.97).
- 8.37 If **P89** had been debriefed he would have involved identifying the rioter. The debriefer would call the officers together and ask for identifications of

persons involved. **P89** had been debriefed for serious public order incidents before. (p.62). He would not feel responsible for debriefing the section just because he had briefed them. There would not have been a debrief for an unexpected event in those days (p.63). In riots **P89** had experienced, if it was not known that someone had been significantly injured, there was no debriefing (p.108) and the scene would not be taped off. This was the same Province-wide (p.109). **P89** remembered one debriefing in his entire career when police tried to find out who had fired a baton round (p.110). There were occasions where vehicles in late eighties/early nineties were fitted with cameras and video recording equipment, and the videos would be checked as part of the debrief (p.110). If it became known there was serious injury, the scene was then preserved and taped off (p.111). If **P89** had been debriefed he did not know if he would have mentioned “martial arts man”. He would have said Res Con Atkinson could identify someone (p.113). He felt that not debriefing and taping off the scene meant things could be missed (p.115).

- 8.38 Deputy Sub Divisional Commander McMullen (80942) said “Uniform officers were debriefed by Sergeant/Insp or both. Debriefing could be anything from the need for written statements to filling in forms. It could include leaving information. It would have been normal practice where batons were drawn to submit reports before going off duty”. **P89** agreed with all of that (p.87). Baton reports were not necessarily part of debriefing (p.89).

P40

Statement

- 8.39 Para. 22: He told DS Bradley about a man taunting Nationalists on the afternoon of 27/4/97. That was not included in his statement but DS Bradley made a note of it in 9688.
- 8.40 Para. 28: He was not debriefed prior to going off duty or asked to make a list of possible offenders. He did not make a notebook entry before going home at 03.45.
- 8.41 Para. 29: He was recalled to duty at 05.49. When he returned to the police station he was instructed by Insp McCrum to go to the CID office and make a statement about the public disorder. In CID he saw DC Keys.
- 8.42 Para. 30: He made his statement and notebook entry on his own and did not discuss events with Res Cons Atkinson and Cornett who were there. He believed Con Neill arrived when P40 had finished his statement. He went home and upon returning later that day was seen by DS Bradley who took additional notes.
- 8.43 Para 31: **P40** identified people at the scene but he did not name them. He thought this was due to being tired and not having time to debrief. He could not now remember those persons.

Oral Evidence

- 8.44 81151 shows “he made statement and notebook on own and did not discuss events with Res Cons Atkinson or Cornett. Believes Con Neill arrived after he finished making his own statement. Went home and on return to station was seen by a DS who took additional notes. There were other people present at the scene who he saw besides Stacey Bridgett. He did not write down the names as he was tired and did not having time to debrief with colleagues. Does not know these persons now” (p.23). **P40** knew these persons’ faces but not their names. No-one asked him if he recognised any others at the scene (p.24).
- 8.45 After the incident the four officers went back to the Land Rover and returned to the police station. There was no conversation about the incident that he can recall. Cons Cornett and Neill did not tell him that they had gone over to Robert Hamill (p.28). **P40** stated that the Officers did not put a story together (p.29).
- 8.46 **P40** did not remember what time he made his statement or ended duty on 27/4/97. He remembered being recalled to the police station as he got a phone call (p.52). Insp McCrum made that call, and P40 was told to go to Comms room when he got back to station. He was taken up by a CID officer (p.53). There were three of the Land Rover crew in the Comms room. A detective handed them pen and paper and then left. There was no debriefing (p.54). **P40** was just told to make a statement. He did not know about the seriousness of the incident or that Robert Hamill had been seriously injured (p.57). Per 11116, when **P40** went into the Comms room to make his statement, he saw a member of the Land Rover crew. A second member of the Land Rover crew arrived shortly after him, and Con Neill arrived much later (p.60). The three officers were put in different corners and did not talk about the contents of their statements. **P40** completed his notebook at about the same time as making his statement (p.62). He did not know which of the two he wrote first, but they are exactly the same (p.63).
- 8.47 He had never had a proper debrief. He knew what a debrief was from watching “The Bill” (p.55).
- 8.48 The description in Para. 22 of 81149 “black hair, moustache and goatee beard” was lifted from his notebook. He was the only person **P40** described because he stuck out due to his actions (p.126). DS Bradley gave him a suggestion about what others had said about this man, which triggered a memory and **P40** then remembered that he had said “hope he fucking dies” (p.126). This was not included in his statement or notebook (p.127). **P40** thought the man may have been committing a criminal offence but it did not occur to **P40** to arrest him (p.128).
- 8.49 **P40** could not answer why he omitted to mention names he knew and yet he did include a detailed description of someone he noticed (p.133). “Troublemakers” named in statement were people who had a few drinks and

hung out (p.137). If there were other people that **P40** could have named, he would have (p.140).

George Lawther

Statement

8.50 Para. 11: “I am unable to explain why I recorded notes from three officers in the Land Rover but not Atkinson”.

Oral Evidence

8.51 Per 81760, Para. 10; It would have been standard procedure for Detective Sergeant to have been instructed to debrief officers following serious incident and to have recorded notes. He could not recall who instructed him to debrief on this occasion. If he was the debriefing officer he would have made handwritten note which would later have been typed into HOLMES and endorsed by the officer comparing statements. This would probably explain why DS Bradley has certified typed notes of [LR 4] (p.147).

8.52 He went through statements of the Land Rover officers except Atkinson. He could not explain why he did not do that with Atkinson (p.148). He could not explain why other officers at scene were not seen. It would be standard to talk to them to get more detail. He did not know if that process should have been undergone with all the officers at the scene. He did the thorough job with the three Land Rover officers as he was specifically instructed to (p.149).

8.53 DS Lawther was off duty that particular weekend. On Monday 28th April, he was detailed to investigate a separate robbery (p.150). He was not detailed as a team member but was tasked to deal with certain aspects. He did not think it odd that a non-team member did a detailed debriefing (p.151). He had to be instructed to conduct the debriefing. He was fairly sure it was the DI who instructed him (p.152). He could not recall what he was looking for (p.153).

8.54 He had no memory of taking the statement of Gary Kidd (9645). The statement was signed by him as being recorded or received (p.153).

P5

Oral Evidence

8.55 **P5** believed **P89** would have been capable of conducting his own debriefing without the assistance of a detective. The debrief may not have been sufficient as it turned out to be a murder investigation (p.77). **P5** believed that the average police Sergeant would have included the Hanvey confrontation (p.78).

Derek Bradley

Statement

- 8.56 Paras. 9 and 10: DS Bradley told Res Con Atkinson he was bound to be able to identify more persons who were possibly involved and in response Res Con Atkinson gave him the names of Victoria Clayton and Rat Gray.

Oral Evidence

- 8.57 Para. 5 (81509) He arrived at the police station Monday [28/4] morning. DCI **P39** instructed him to read statements that had been made by uniformed officers and brief himself on what happened (p.39). Statements that had been made were in a lever arch folder and those were the ones **P39** referred to DS Bradley. Until DS Bradley opened the folder, he was not aware who the Sergeant or Inspector were and whether they had made statements or not. He would not have done something about the absence of their statements on that morning (p.41). It would have been done when MIRIAM was set up, as an action would be raised. On 28/5 DI Irwin came back from Banbridge. He and DI Irwin sat down and started raising action sheets that morning. He thought DI Irwin raised actions sheets, not him. He would expect a file with the usual MIRIAM notes in. He would have expected an absence of statements to have been picked up by a MIRIAM action (p.42). MIRIAM worked by names being put in and then cross-referencing them against statements received (p.43). It was only a partial MIRIAM so not all positions under a MIRIAM were required (p.77).
- 8.58 Para. 5 (81509) In particular, she asked him to go through statements of the Land Rover crew. He read them with a view to seeing if they could give any further information (p.39). **P39** asked DS Bradley to focus on all statements. The intention was to read statements and hope that officers could provide additional names when DS Bradley spoke to them later on (p.45). DS Bradley did not go through statements with officers not in the Land Rover as he was not asked to. He was specifically asked by **P39** to talk to the Land Rover crew (p.46). He was sure the same thing was done with other officers by someone else as he expects that to have been done as a matter of course (p.47).
- 8.59 Para. 8 (81509) He waited for all four officers of the Land Rover crew in DI Irwin's office. DCI **P39** was not present during this meeting. He did not remember anything he specifically needed to address apart from Res Con Atkinson. Res Con Atkinson said something about his statement not being complete so he told him to go away and finish it. He provided his statement some time later that day. He thought the part-finished statement was on file as a few lines were added (p.49).
- 8.60 He thought Res Con Atkinson should have known more people than were in his statement. Per Para. 32 (81391) "Under instruction, by way of a phone call, I returned to Portadown station and was asked to provide a statement...I believe this request was made by DC Keys or DS Bradley". DS Bradley did

not call Res Con Atkinson back in (p.86). DS Bradley remembered talking to Res Con Atkinson in the CID office with three other officers (p.86). He addressed officers what his role was then sent Res Con Atkinson out to complete his statement (p.87). When he spoke to Res Con Atkinson about the statement, the other three had gone (p.88). Page 9213 does not name anyone but Bradley says Sgt **P89** was not a local man and the incident was over when he arrived at the scene (p.92). An action sheet would have been raised about **P89** and could have been given to any detective to have him interviewed before 7/5/97 when (9213) was taken (p.96).

- 8.61 Per (17572) “[It] was mentioned these officers actions were under investigation, but it was necessary to establish if they could identify any of those involved in Hamill assault”. It was clear that there was a question mark over the actions on 28/4/97 as a result of **P39** speaking to him (p.48).

Robert Atkinson (81385)

Statement Notes

- 8.62 Para. 31: There was no debriefing at station.
- 8.63 Para. 32: Res Con Atkinson was later asked to provide a statement.
- 8.64 Para. 34: DS Bradley asked him and a number of other officers whether they could give any further information with a view to identifying persons involved in the disorder. He did not tell DS Bradley about Hanvey because he did not see him involved in an assault, and anyway he had pointed him out to Sgt **P89**.

Oral Evidence

- 8.65 There was no discussion between the Land Rover crew on way back to police station. He was not sure if anyone asked him to make a notebook entry at that stage. He could not recall if he made the statement then notebook entry (p.78).
- 8.66 Other police asked him if he could identify someone and what he was wearing (p.83).
- 8.67 He went home and was recalled to make a statement by DC Keys (Does not remember Keys saying that someone was seriously hurt p.117.) He did not talk to anyone before he wrote his statement. He wrote it from start to finish (p.79). No-one else from the Land Rover was in when he arrived as he lived closest. He told Con Godly he was leaving when he finished the statement. He did not think DC Keys was in the station when he left (p.119). He had had a debriefing, going into a room and being asked what happened, many times in the part. He expected to have debriefing if the Sgt/Insp were still in station (p.120). He remembered speaking to Con Neill on the phone. He told him he had left his statement in the CID pigeonhole and Con Neill should

leave his there (p.121). He was in a room on his own making his statement (p.122).

8.68 He did not remember having to complete his statement before talking to DS Bradley as he had written his statement and put it in the CID pigeonhole. He did not name Hanvey in his statement as on a previous occasion he and others had given a statement naming what people alongside him were doing and the judge had thrown out the statements for being too alike. Therefore Res Con Atkinson only puts in statements what was directly in front of him (p.80). Res Con Atkinson named Rat Gray and Victoria Clayton later as the names only came back to him later on. No-one sat him down and asked what he saw that night. DS Bradley asked them to tell him if they had anything they remembered but did not ask who they saw or did not see (p.81). Res Con Atkinson did not tell DS Bradley about Hanvey as had told his supervising Sergeant (p.82). The incident was not more serious than usual, just more people involved. There were several assaults/GBHs occurring every month (p.82). Per (17573) Res Con Atkinson did not remember DS Bradley asking him to complete his statement and that he should be able to identify more people as he was a local (p.108). He did not accept that DS Bradley did not believe he had named all the people he could (p.109). He told DS Bradley about the additional names in the next couple of days (p.110).

8.69 Res Con Atkinson thought it was Res Con Warnock who was asking officers if they had seen someone dressed in the clothes Marc [REDACTED] was wearing. Res Con Atkinson felt that Res Con Warnock was trying to put a name to a face (p.85). There were no identification parades and when Res Con Atkinson gave evidence at the Marc Hobson trial, he had never seen him before (p.85).

Donald Keys

Statement

8.70 Para. 23/24/26: DC Keys tried to gather together as many officers as he could to gather information.

Oral Evidence

8.71 Per para. 24 (80600) It was not normal practice to look at notebook entries from those officers on duty as the priority was to obtain witness statements. He decided he would not personally take the officers' statements because of personal experience. In some cases lawyers have alleged detectives have taken statements from officers and worded them to suit particular situation (p.95). Responsibility for debriefing in 1997 was with the duty Sergeant or Insp. DC Keys had never sat down and debriefed an officer on a formal basis or recorded his statement from him. He would on occasions have spoken to officers to establish what evidence they may give. It was commonplace for detectives to leave uniformed officers to their own statements (p.96). DC

Keys had not known a detective go through a statement with officer who had written their own statement. If there was a glaring omission, that would be raised (p.97). Debriefing would assist in safeguarding if an officer missing out an important fact (p.98). Processes now are vastly different. They used a model called ABE (achieving best evidence). It was a recognised model throughout the UK (p.99).

- 8.72 DC Keys told all the officers available, not just Land Rover crew, that morning to make a statement, except Con Neill who arrived later than the others (p.101). All officers were told to put in names or other identifying features of anyone at scene (p.102). If DC Keys had arrived before the four members of the Land Rover crew had gone home he would have prevented them leaving until they had made statements. That is now different as there are guidelines for “critical” incidents as to timing of interviews (p.110).
- 8.73 DC Keys believed he did not get Res Con Atkinson’s statement “by close of play”. A CID pigeonhole did exist but Res Con Atkinson knew DC Keys was looking for statements and he would expect the statement to be given to the investigator. DC Keys spoke to him in CID office so he was able to give the statement if he had finished it that day (p.105). Per (10218) - from recollection, majority of statements were made that day before police terminated duty. I have some doubt in my mind regarding Res Con Atkinson’s statement (p.126) - The date on Res Con Atkinson’s statement is 27/4/97. Per (10225) - Not sure I had statement about Res Con Atkinson - (p.127). Per (11116) - P40 states when he got into office he saw Cons Cornett and Keys - It is right that Res Con Atkinson arrived shortly afterwards and DC Keys handed out witness statement forms (p.129). It is not right that Res Con Atkinson made his statement. DC Keys recalled Res Con Atkinson started his statement on 27/4/97, hence the date, but it was not finished on that day. Per Res Con Atkinson’s notebook - debriefing him at 04.15 - DC Keys was in bed then (p.130). DC Keys left that night at 21.00, and at this point not all the statements were in. DC Keys did not recall Con Neill arriving. There was a gap when DC keys was not in the police station (p.131). DC Keys had absolutely no knowledge of Con Neill’s phone call with Res Con Atkinson (p.132). If Res Con Atkinson had given him his statement, DC Keys would have signed section marked “returning/receiving officer” (p.136).
- 8.74 He did not know why Insp McCrum and **P89** did not make statements. He stated he got statements from those officers that were available to him (p.137). DC Keys spoke to Insp McCrum on 27/28 April 1992. Insp McCrum told him he had been at the scene as he had deployed a Mobile Support Unit. Inspectors and Sergeants do know the responsibility of giving statements but sometimes do not have the opportunity (p.138).

P39

Statement

- 8.75 Para. 7: She told the Land Rover crew that detailed statements were required and they could confer.
- 8.76 Para. 10: **P39** got DC McDowell in and DC McDowell commenced eliciting information from statements as to who was there.

Oral Evidence

- 8.77 Para. 7 (81568) When she returned to CID general office, uniformed officers arrived into the office. They were the four officers on duty in the Land Rover. She briefed them, telling them detailed statements were required, that statements should be written in the sequence of events and they could confer but should they do so, they must record it in their notebooks (p.12). When **P39** saw the Land Rover officers she had arrived at the police station and gone to the scene for short time. The walk to scene was 2/3 minutes (p.164). She did not know what time they arrived at the station but all four were sitting in consecutive seats in the office when she arrived back at the station (p.165). They should also note what they conferred about (p.134). She said she asked for all officers at the scene to be brought in but briefed the officers in the office, so only saw the Land Rover crew. She wanted them to make statements and did not want to have any influence on the evidence they could give, hence the request to make statements in the sequence of events. At the Monday morning conference she asked the Detective Sergeant to go back to officers with statements to ascertain if any other evidence could be gleaned. She could not explain why that was not done with the back-up officers (p.14). Para. 10 (81569) She asked DC Keys to call in DC McDowell. He commenced eliciting information from the statements as to what happened and who was there. She believed DC McDowell was bright but he did not have the same experience as DC Keys (p.22). DC McDowell started recording on separate paper names mentioned in statements and details about them. She forgot whether DS Bradley went through the statements of those in the Land Rover and elicited more information from them but not other officers. Cannot explain why Insp McCrum and P89 made very short statements in which they said nothing of value but nobody interviewed them (p.23). She stated that if she had overlooked something DI Irwin would remind her or vice versa. She knew it was very important that those statements were reviewed and she asked for it to be done on Monday morning (28/4/97) (p.24). Per (10809) Number 12.8 - As soon as circumstances permit, all members involved in operation should return to base and undergo thorough debrief - When **P39** commenced duty she had to ask officers to return. So debriefing would have taken place long before she commenced duty (p.80). There was never a written record of debriefings (p.81). **P39** would have expected Res Con Atkinson to include him warning another officer about Hanvey (p.136). She could not remember if Res Con Atkinson's statement (9683) was lacking in detail. On reading it she would expect more in statement insofar as person was agitated and grabbed him by the jacket. She would expect a description. She understands he was aware of a number of people in the crowd (p.138).

- 8.78 Para. 11 (81590) She commenced reading the statements. The DCs and she discussed incident and statements. It was becoming complicated in that most people in town could be suspects (p.24). P39 read statements of all the officers at the scene. If a Res Con gave a statement not identifying many people that would have been one of reasons P39 would have asked the DS to go back over statements (p.25). She read Res Con Silcock's statement on the Sunday evening (p.76). She read whatever statements were available to her. The statements were in manuscript (p.77).

Alan Neill

Statement

- 8.79 Para. 43: They were not debriefed or given instructions by a supervisory officer before going off duty at 03.45
- 8.80 Para. 45: It was not best statement he had made. Officers did not have opportunity of discussing, and things did not come out as they were not properly debriefed.

Oral Evidence

- 8.81 The four officers in the Land Rover possibly discussed incident on the way back to the station but he did not remember anything in particular. He thought the incident was serious as the ambulance had taken two away. He was not conscious he would be blamed at the time (p.25). They had to consider having guns pulled off them (p.26). From the crew of the Land Rover's point of view they had not done anything wrong (p.50). Per (8547) - He knew at that stage that there was some suggestion police had sat and watched this happen - He first realised there was criticism as he was told there were critical statements about them on Sunday afternoon (p.53). He was aware there was possibility of criticism when making his statement as people had complained on the spot (p.55).
- 8.82 When they went back to the station, the Mobile Support Unit was still there and the Inspector and Sergeant were still up at the barriers (p.29). When reporting a crime, officers did the paperwork. There was no debriefing for normal duties. He went back to the station at 08.00 and was told to make a statement. There was no debriefing (p.30). He did not remember speaking to DS Bradley but recalled talking to DI Irwin on Monday or Tuesday with other Land Rover crew and Res Con Murphy (p.31). He had only ever had one proper debriefing and it helped the crew recall details from the incident (p.32).
- 8.83 When he was recalled to make a statement, Res Con Atkinson had left but others were still there (p.54).
- 8.84 Per (17247) he has a clear recall that Res Con Atkinson called him regarding putting statements in the pigeonhole. He thought Res Con Atkinson was

talking about a copy of his statement as the original would be with CID. He did not see Res Con Atkinson have a conversation with Hanvey (p83).

- 8.85 For debriefing he would have been told to make a statement straightaway for CID (p.129). He thought it took him a couple of hours to make his statement (p.130). He was not aware of what DS Bradley did with the statements but spoke with DS Lawther on Thursday after it was done (p.131). He was spoken to by DI Irwin on Monday or Tuesday (p.134). Sitting and talking before giving statements was not regular practice (p.140).

John McDowell

Oral Evidence

- 8.86 Para. 10 (80897) Did not remember what happened in the early stages of the GBH investigation. The nNext logical step would be to find out who was present at time of assault, what they saw and to get them to commit to a statement. He was not the one who made requests for statements. Later on that day statements came in from uniformed officers who had been at the incident. He did not remember the names of any of them. He read the statements to get a picture of events and for evidential purposes. He would assume **P39** also read the statements (p.76). He did not know for sure that **P39** read the statements (p.96). He did not know which officers' statements he read (p.93). DC McDowell read five or six statements (p.95). When reading statements he would have been hoping for information that would help. He could not help about whether any thoughts about what information was needed were raised on reading statements (p.96). He remembered trying to gather information about those present, descriptions and evidence pointing at people involved in assault. He did not know DS Bradley talked to the Land Rover crew within 24 hours of making statement (p.99).
- 8.87 DC McDowell would expect officers to have drafted their own statements in this incident. If it was practical then an experienced detective would go through those statements with the maker. At the time it was not practical to do so as the officers were not available (p.77). He could not say that none of the officers were available. He was assuming they were not available as he has no strong recollection of which officers were on duty and which were not. He was not worried that the Inquiry would attack officers for this not being done. He would not expect Reserve Constables who had voluntarily given statements to be the subject of an interview with detectives in a GBH as it was not normal practice (p.78). Usually detectives would have read statements and if they thought there was a good reason to speak to an officer who had made the statement, all steps would be taken to do that (p.79). He assumed that the officers had put into statements every piece of identifying evidence they had. He carried on assuming this after it became a murder investigation (p.80).

Karen Kennedy

Statement

- 8.88 Para. 32: A period of overtime was built into the end of any tour of duty to allow for debriefing.

Oral Evidence

- 8.89 There was fifteen minutes built into the end of a turn of duty for debriefing. Officers were paid for that. The depth of debrief would depend on the seriousness of an incident (p.16). If a debrief took longer than fifteen minutes, Supt Kennedy would expect officers to be paid for it (p.17).
- 8.90 In the Hamill situation Supt Kennedy would have expected officers to have made notebook entries before they went off duty (p.18).
- 8.91 Supt Kennedy would have expected uniformed supervisors to carry out an initial debrief. As a result, officers would be asked to make duty statements to CID. It is possible that further evidence comes to light that requires re-interview of officers (p.20). She would have expected the fact that one of officers thought Hamill had been stabbed to come out in the supervisor debriefing (p.20). She believed a debrief was feasible on the night in question. Statements should have been made and officers debriefed before they terminated duty. It would take as long as it takes (p.37). She believed that if proper debriefing had taken place serious investigative steps could have been taken (p.41).
- 8.92 It would generally have been regarded as wrong to pool together a list of suspects at the scene (p.19).
- 8.93 She was not aware of officers except the Land Rover crew being asked follow-up questions (p.23). To the best of Supt Kennedy's knowledge questionnaires were not used for officers (p.24).

Desmond Jackson

Statement

- 8.94 Para. 30: During time in Internal Investigations Branch, he had not come across other complaints of failing to debrief (p.47).

Oral Evidence

- 8.95 Debriefing could take place at the scene but that would be a summary of what had happened, who saw what etc. The full debrief would occur in a room with officers where directions were given on how to further the matter and questions were asked (p.49). The debrief would be to start the evidential trail to allow CID to further the investigation (p.56). He would expect a

uniformed officer to undertake the debrief. At the initial stages he would expect officers to write a comprehensive notebook entry or to have written their own statement. At a further stage it would be common for a CID officer to be appointed to go through evidence and ask further questions (p.57).

- 8.96 This was an incident that called for the signing out of full riot gear. That was an indication of a very volatile situation. Someone had to give that direction so he would expect a senior officer to ask questions that required them to think 'why was full riot gear required?' (p.50). Where people were taken away by ambulance he would expect a senior officer to gather officers and ask questions about the seriousness of the incident. To gather all officers would be desirable for this but to gather only some would be realistic (p.52).
- 8.97 If there was a necessity to collect the best evidence in terms of statements he would expect instructions to be given for officers to make statements (p.55).

Henry McMullen

Statement

- 8.98 Para 15: Uniform officers going off duty would have been debriefed by a uniformed Sergeant or Inspector. Debriefing could have been anything from writing forms to gathering information.

Oral Evidence

- 8.99 Uniformed officers were debriefed by a Sergeant or Inspector. There would be a debriefing even if nothing had happened. Debriefing could mean either to sit down and go through things or saying words in a doorway and the Sergeant put that in notebook to follow-up later (p.44). Sometimes forms were filled in the next day if officers had been on long shift. However, it would be established what he had to do; what he did do and what he still had to do (p.45).
- 8.100 Notebook entries were made as one went along (p.45) and one would make a note as soon as practicable after an incident (p.46). It would be the duty of officers going home and the Sergeant to ensure there was a debriefing of a kind (p.47). If an officer was too tired after a major incident they should have made a to-do list for the next day (p.48). If officers recognised someone, there was no set procedure. If an Inspector or Sergeant was in the station, it depended on what was the command/control computer log showed (p.49). An Inspector or Sergeant should not have to tell officers to make a note of what they saw at a scene. Officers should have been making a note. A Sergeant or Inspector would know officers would have to make full statements eventually (p.50).
- 8.101 Notebooks were used to recall evidence if being cross-examined or something similar. Sergeants' and Inspectors' responsibilities in similar situation to the Hamill fall-out was to preserve evidence and ensure

everything was in order as far as possible for detectives to carry out an investigation (p.51). Police obviously knew that this was a serious offence (p.54). Statements would have been taken by an experienced officer. If they were left to make their own statements, an experienced officer would have gone through it with them afterwards and fully understood what was in it.

- 8.102 Good practice would require experienced officers to go through it with a fine-toothed comb to understand fully what officer was saying. He was unequivocal that is what would happen. (p.55). Debriefing was not an investigation but for management purposes (p.65). It was not the responsibility of the Sergeant or Inspector to sit down and get material from officers when they arrived at the station. They were there to ensure evidence is preserved (p.67). The Sergeant or Inspector were not there to hold an officer's hand. Officers knew there are procedures. He expected Sergeants or Inspectors would get evidence to help catch suspects when an incident was in progress (p.68). If a Sergeant or Inspector was not informed by officers without asking they should then ask officers (p.69).
- 8.103 There was no force directive as to whether an officer should fill in his notebook before going home and setting the detail required. There were instructions about keeping notebooks but no instructions on recording a narrative. Training would involve training about completing a notebook (p.84). Statements should not be made after long shift as the maker needs to be alert and bright or details can be missed. It could take two or three hours to make statement. It was not absolutely essential to rely on a notebook but was a good idea (p.88). Reserve Constables would not be going into court (p.89) It was a good idea for officers to confer (p.90) as officers together made a better picture than individuals contradicting each other.
- 8.104 All officers were expected to get to know the community and people who were likely to commit crimes. In Portadown fights happened every weekend (p.63). It was important to get information from officers about descriptions and identities of those involved as soon as possible (p.64). He would expect this information to be transferred over the radio so that a recording could be seen. If this was not done it was responsibility of the Sergeant or Inspector to get this information (p.70). Police officers should be excused from not immediately chasing those who committed assault as they were preventing further assaults (p.69).
- 8.105 There were questions about pay as debriefings could require officer to be in the station for half an hour to an hour after duty was finished. This brought up overtime pay questions but people were paid (p.80). There was pressure to reduce overtime.

Michael Irwin

Statement

- 8.106 (81439): On the morning of 28/4/97 **P39** had directed a further debrief of the four members of the Land Rover crew. It was a further attempt to identify other statements and clear up issues she had identified from statements.
- 8.107 (81440) and (81441): There were some major difficulties to overcome to make people accountable for the crime.
- 8.108 There was a difficulty in interpreting what happened at the scene from the statements.
- 8.109 There was little police evidence to identify those involved

William McCreesh

Statement

- 8.110 Para. 13: He would have ensured when advised of the incident that no one went off duty until statements and every detail was recorded.
- 8.111 Para. 14: As a matter of practice he would have expected all officers going off duty to have been debriefed and where they had been involved in a public order incident to have made notebook entries and statements.

Oral Evidence

- 8.112 Insp McCrum rang him to inform him there had been a public order incident in Portadown (p.4).
- 8.113 The duty Inspector was active but his workload depended on what was happening in the other areas (p.17).
- 8.114 He would have expected the senior officer at the scene to get at least a preliminary brief of what had happened before they went to other duties (p.5). Supt McCreesh believed there should generally have been some type of debriefing to at least establish the basic facts. He would have expected that as two people were in hospital, at the very least it should have had a "preliminary thing", however as officers were involved in a traumatic situation, maybe it would not have been a bad thing to let them go home (p.6) and then put them through a comprehensive interview at a very early stage. This would be a plausible strategy (p.7) and a reasonable one but there would still have needed to be some preliminary debriefing to create a starting point (p.8). The level of debrief depends on the seriousness of the incident (p.22).
- 8.115 On Supt McCreesh's preliminary debriefing by Insp McCrum he was told that CID were at the scene (p.9). He was also told that police were either at, or were on their way to, the hospital (p.11). He did not remember what time the phone call was made or how long it lasted (p.15). Insp McCreesh was told the man in the hospital was serious but at no point was he told it was

life-threatening (p.19). He would have expected Insp McCrum to tell him that if he knew. Supt McCreesh did not believe that Insp McCrum knew Mr Hamill's condition at that time (p.26). It would have stuck in Mr McCreesh's mind that there was a life-threatening injury to a victim of a sectarian assault (p.27).

- 8.116 After the Land Rover crew had gone off duty, it was the right thing to do to call them back in to make statements (p.21).
- 8.117 If the duty Inspector was in the station then Supt McCreesh would have expected him to do the initial debrief. It was immaterial the rank of the person who did the debrief as long as it was done (p.18). If it was Sergeant **P89** who was to do the debriefing then there is a question as to the liaison between Sgt **P89** and Insp McCrum (p.19).
- 8.118 There was a period of fifteen minutes between shifts for brief and debrief (p.19).
- 8.119 Insp McCreesh was in charge of the budget for South region. Budgetary constraints would not, and should not, have been an issue for this incident (p.23). Insp McCreesh disputed what Chief Insp McMullen was saying about overtime as it had never been an issue when investigating serious crime. An officer would be paid if he was involved in an active inquiry beyond his shift hours (p.24). There was an onus on the police to satisfy not only law and order, but the community (p.25).

Alan McCrum

Statement

- 8.120 Para. 19: The Land Rover crew were due to conclude duty so it was for Sgt **P89** to debrief them.
- 8.121 Para. 22: He spoke to Con Cooke, who had best local knowledge and asked him to consult with other officers who had been at the scene. He wanted them to draw up a list of persons identified at scene. He recalled that Con Cooke started to do that in Comms room. He had no doubt that he would give DC Keys the list.
- 8.122 Para. 24: He directed all officers who had attended the scene to make formal statements. He could not remember if that direction was given before or after DC Keys' arrival but he emphasised these statements were to be completed before officers terminated duty. The Land Rover crew had already terminated so he ordered them to return. He also briefed CS McCreesh, CI McMullen and Supt XXX about the incident.
- 8.123 Para. 27: As the morning progressed he was aware from talking to other officers that individuals had been identified but he did not know if they were suspects or witnesses.

- 8.124 Para. 30: His statement was completed a week later as he was on night duty then had the weekend off and did not return to work until following week. He had not recognised any individuals at the scene and did not have any other observations or information to offer. As he had briefed CID he did not believe there was any rush for his statement.
- 8.125 It was his practice to get officers to complete their notebooks. He could not say he said that to every officer before he left (p.28). He could not recall saying it on that night. He would have been surprised and disappointed if no officer he asked had completed their notebook (p.29).
- 8.126 His expectation of **P89**'s debrief was that **P89** would speak to officers at the end of duty and reaffirm the need to complete the appropriate paperwork (p.29). Part of the Sergeant's role was to see that notebooks are completed (p.30).
- 8.127 **P89** was erring on the side of caution at the hospital as people had been very abusive to him and he felt it more appropriate to withdraw rather than challenge them (p.31).
- 8.128 After Insp McCrum spoke to the hospital **P89** was out of commission while he dealt with a drunk driver (p.32).
- 8.129 He knew that Con Cooke denied being ordered to go to the hospital. He made the journal entry a few hours after the request. He wanted the clothes to help the investigation. Calling the officers back was to ensure nothing was lost in the early stages of the investigation (p.35) The RUC was not hierarchical and following orders was down to individuals. It appeared now that the failings were serious due to the circumstances they ended up with (p.37) Insp McCrum said it took time to secure the scene and for the officers to be brought back in. He was taking actions to move the investigation forward (p.38).
- 8.130 The officers in the Land Rover were let go at 03.00 as he did not know then that it was a very serious matter. There was also a consideration to the length of time officers had been on duty (p.46).
- 8.131 The officers displayed a lot of courage and professionalism to bring the situation to a close. The focus on the feedback was why the incident had occurred. He did seek to understand the extent of the injury (p.48) but the answers did not help (p.49). He asked a question to the effect "how badly were they hurt" (p.50).
- 8.132 He did not try and contact **P89** as he assumed that if anyone was seriously injured **P89** would contact him (p.51).
- 8.133 Insp McCrum accepted the admonishment but not the facts supporting them. He felt he was being ordered, as he disputed the admonishment (p.52) and felt that by not accepting it he would be open to further discipline (p.53). He felt he did his best in the circumstances with the information he had (p.54).

- 8.134 Insp McCrum did not admonish his junior officers (p58).
- 8.135 Insp McCrum's actual journal, of which (9960) is a copy, shows he was informed by Con Godly at 01.50 (p.59). Page 12366 is the second page of the journal (p.60). His journal was filled in at 08.00 Sunday morning (p.61). Page 9960 contains an error. DC Keys did not instruct Con Cooke. The full stop is absent (p.70).
- 8.136 There was an issue with overtime as the Constables could not work on without authorisation from the sergeant or Insp (p.65).
- 8.137 It was not unusual for Constables to make a statement when they next restarted duty (p.65).
- 8.138 They needed two cars to go to the hospital to avoid cross-contamination (p.68).

Denise Cornett

Statement

- 8.139 Para. 22: She left scene at 03.30 and terminated duty at 03.45. She completed her notebook then went home. Normally she received a briefing before they went home but she could not remember being given a briefing or any instructions before they went home.
- 8.140 Para. 23: When recalled she got back to station about 06.00-06.30. She went to the CID office and other officers were there. They were told to make statements. She does not remember if they discussed what happened.
- 8.141 Para. 24: In her statement she gave some detailed descriptions of those at the scene.

Colville Stewart

Statement

- 8.142 Para. 13: On 18/1/01 he met with Chief Constable and briefed him on areas of concern Stewart had - amongst others lack of debriefing.

Colin Murray

1st Report

- 8.143 Para. 4.13: It was his belief had the officers in initial attendance been properly debriefed then significant evidence may have been forthcoming.

- 8.144 Para. 4.38: The statements of the Land Rover crew were inadequate. They lacked detail and there was a conspicuous lack of names of parties in the attack or in the locality.
- 8.145 Para. 4.39: The statements of officers in attendance did not reflect a riot. The statements talk of skirmishes and that upon arrival of assistance the crowd was dispersed.
- 8.146 Para. 5.4 The General Order in place at the time, para 1.5, read ...extent of attainment of police objectives should be subject of thorough debriefing.
- 8.147 Para. 5.6: Even without General Order guidance, any unusual police activity should be the subject of a debriefing.
- 8.148 Para. 6.17: He questioned why Insp McCrum failed to debrief officers informally at the scene, considering the scale of disorder, even though he did not know the seriousness of the assault.
- 8.149 Para. 6.18: He did not agree that after Insp McCrum had called out DC Keys responsibility for debriefing passed to CID.
- 8.150 Para. 7.22: The statement and notebook of Con A failed to include the detail of a member of the public who gave information about Wayne Lunt. That was a serious neglect of duty.
- 8.151 Para. 7.23: It was possible if officers had been properly debriefed that this information would have become apparent. If Con A had not mentioned it, other officers may have been able to provide details about Wayne Lunt.
- 8.152 Para. 12.37: The quality of evidence provided by some of the officers was poor. He would have expected to see positive or negative identifications in the statements.
- 8.153 Para. 25.11: Failure to debrief officers was a serious failing on part of Insp McCrum and Sgt P89.
- 8.154 Para. 25.46: Failure of Con A to bring to the attention of the investigation team her dealings with Wayne Lunt was negligent.

Oral Evidence

- 8.155 Para. 6.10 (74410) Mr Murray said the most senior officer in the station should have debriefed the Land Rover crew, if they should have been debriefed. As it was a Saturday night punch-up, and the severity was not known, then Mr Murray does not suggest a debrief was required (p.34). The debriefing discussed is the one that occurred at 04.00. Whilst the detective was in the process of being called out, it was the job of those in uniform to continue to get as much information as possible (p.35) and put fast-track actions in place. Until the CID officer was fully debriefed it was still the responsibility of the senior uniform officer (p.36). Mr Murray did not believe

it was acceptable for an officer to say he directed something if he did not ensure it was done (p.42). Insp McCrum should have checked the order had been followed before he went off duty. Mr Murray believed that DC Keys was not given a thorough debriefing (p.43). He was almost left to get on with it. To assist the detective means that Mr McCrum should be providing what the detective realistically wants (p.44). DC Keys did not have the benefit of the scene being handed over to him in the manner Mr Murray felt he should (p.47).

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

See the composite submission below

Submissions by the Police Service of Northern Ireland

See sections 9-11 below.

Submissions by Russell, Jones & Walker Solicitors (Alan McCrum)

Inspector McCrum gave evidence that, once CID were called in, the Duty Inspector would then support CID. He said that was the system in Northern Ireland at the time. There is some evidence (74414) in the “Blakey Report” in 2002 (HM Inspectorate) that in Northern Ireland at the time “... Uniformed Duty Inspectors taking limited responsibility at scenes and being content to leave CID in charge.” It is submitted that the handover between uniformed Inspectors and CID may have been a little different in Northern Ireland compared to England at the time, where Colin Murray works.

There is no dispute that Inspector McCrum got back from Banbridge Police Station to Portadown Police Station at approximately 4am in the morning. He had signed the occurrence book at 3.10am in Banbridge and Banbridge was 10.9 miles from Portadown. It is vital to note that Inspector McCrum has contemporaneous notes stretching over 2 pages in his police journal (12365 and 12366) regarding his actions that early morning. This journal is hard evidence, incapable of fabrication, setting out a number of very important actions that Inspector McCrum took. The recorded actions alone are as follows:

1. Contacted DC Keys CID.
2. Instructed Constable Cooke in consultation with other section officers who had been at the scene to draw up a list of those persons who had been potentially identified at the scene.
3. Directed Constables Cooke and Orr to go in their mobiles to Craigavon Area Hospital and obtain the clothes of the two injured parties.
4. Requested duty personnel to return to the station to make statements for CID.

5. Briefed Chief Inspector McMullen.
6. Briefed Chief Superintendent McCreesh.
7. Briefed Superintendent Bailey.
8. Terminated duty at 8.15am hours.

Inspector McCrum had his original journal in the witness box with him and it was proffered to the Robert Hamill Inquiry in proof of the fact that the entries therein followed upon entries made the day previous to the incident and the day after the incident. The entries in the journal are in Inspector McCrum's hand writing and, it is submitted, there is almost no possibility that the entries could be fabricated. This is important because, for example, Constables Cooke and Orr claim that they were not told to go to the hospital to pick up the clothing of the injured parties.

It is clear, therefore, that what Inspector McCrum did, at the very least, from 4am to 8.15am on the crucial morning was:

1. Spoke to P89 to update himself.
2. Rang Craigavon Area Hospital and spoke to the doctor on duty to ascertain the level of injuries suffered by Mr Hamill.
3. Made the decision that the injuries were more serious than at first thought and that now this was a serious matter.
4. Phoned the Duty CID man, DC Donald Keys. There is evidence that this was at 4.40 – 4.45am.
5. Selected PC Cooke, who had local knowledge, to draw up a list of persons identified at the scene with other Section Officers. PC Cooke chose not to consult other officers but himself drew up his own statement in the communications room which included lifting those at the scene.
6. Sent PC Cooke in his mobile and PC Orr in his mobile to get the two separate injured party's clothes at Craigavon Area Hospital separately in case of cross contamination.
7. Told all officers to make statements before terminating duty.
8. Ordered the Land Rover crew to return to make statements immediately, which was very unusual.
9. Briefed Chief Inspector McMullen by phone.
10. Briefed Chief Superintendent McCreesh by phone.
11. Briefed Superintendent Bailey by phone.

12. Briefed DC Keys fully upon his arrival at the station.
13. Briefed DCI P39 fully upon her arrival at the station.
14. Authorised a press release.
15. Followed up on PC Neill, a Land Rover crew member who had gone back to sleep when contacted.

The above did not happen in isolation. One must go from one to the other and in between other things were being done also. For example, Constable John Adams has a note book entry that at 4.30am he was already back on mobile patrol in Obins Street (at the end of Woodhouse Street) following up an incident assisting CID. All the above actions were, however, all undertaken in a 4 hour and 15 minute period in the middle of the night. It is submitted that this was good policing on the part of Inspector McCrum. Before going off duty, Inspector McCrum had debriefed all his senior officers and CID. The only other matter was scene preservation. DC Keys was alive to this right away. It is submitted, in relation to scene preservation, that paragraph 18 of the Robert Hamill Inquiry submissions is correct and that there was really very little else that Inspector McCrum could have done as regards scene preservation. It should be noted that the experienced CID officer, DC Keys, said of Inspector McCrum's help, that Inspector McCrum "... assisted him in every way he should have" and that he was "...a helpful duty inspector". (P135.) It is submitted that in all the circumstances the above actions by Inspector McCrum left him very little time to do very much else in the time he had, it is submitted that criticism that Inspector McCrum ought to have followed up and ensured that his orders had been carried out is unfair. Inspector McCrum debriefed 3 superior officers on the phone and then, at the hand over stage after his duty terminated, he fully briefed his immediate superior, P39.

The general criticism about the lack of debriefing which has been levelled at more officers than just Inspector McCrum is, it is submitted, unfair. A large number of the officers working on the evening were cross examined about the debriefing and it is clear that in 1997 there was no set or formal procedure of pattern for debriefing. A debriefing could take many forms but it seems that the main procedure followed, at the time, was to ask officers to make a note book entry and then to provide a statement, either at the end of their duties or when coming back on duty on their following shift. There are numerous examples of the contradictions involving debriefing in the evidence:

1. Constable Dean Silcock, who was out on mobile patrol, said that there was nothing he could have said in a debriefing which was not in his statement (P77). He also said that debriefing was rare.

2. Constable A said that debriefing was rare and that after 4am in the morning, when Mr Hamill's injuries were known to be serious, (P127) he would have expected CID to hold a debriefing (P150).
3. Constable John Adams said that debriefings were not regular or formal (P171), not after a public order incident such as this.
4. Constable David Orr said that when he returned to the station the CID man told him to complete his notebook and make a statement. He was 30 years in the police and said that debriefing meant being asked to do a statement (P27).
5. Reserve Constable Paul Warnock agreed with Constable Orr about debriefings (P56). He would have expected someone to read it (his statement) shortly after he had finished making it.
6. Reserve Constable James Murphy said that "... formal debriefing was very, very rare." He also said that "... there was no such thing as a regular debrief held at that time" (P95). He said that he would have expected his statement to be scrutinised once handed over and compared and contrasted.
7. Constable Gordon Cooke. He was 27 years in the police. He was on mobile patrol that night and gave evidence that (P13) after contacting the hospital Inspector McCrum "... he made it clear that my crew had to remain until the CID officer arrived because we would be required to speak to him and probably make statements to him before we finished duty that morning ... I think the Inspector was making sure, as far as he could, that all that could be done was being done." Constable Gordon Cooke said it was common practice that the senior officer would ensure to make sure that the people on the ground were available for the CID for debriefing (P14). Constable Cooke remembers Inspector McCrum asking him to do a statement. He said that there "... was no such thing as a structured debriefing" at that time (P68) unless it was a pre-planned operation.

Comment

- 9 It is clear that debriefing was not a process that was set in stone. What was to be expected was dependent on the known gravity of the matter, the time available and other demands on the officers. The panel may first wish to decide, therefore, whether Mr McCrum and Sergeant **P89** took adequate steps at the scene to get a picture of how serious the assaults had been. At least two officers thought that Mr Hamill had been stabbed, so it seems likely that, had those officers been asked for their opinion the senior officers would immediately have appreciated that the matter was serious.

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

Robert Hamill and D left St Patrick's Hall at around 1:20 am. By 1:58 an ambulance arrived to take them to hospital (Inquiry timeline). It should have been immediately apparent that Robert Hamill, who was unconscious and had breathing difficulties, was seriously hurt. That in itself should have sparked a major incident enquiry by the police. When P89 went to the hospital at 2:45 am specifically to check on the two men's condition, he failed to ascertain the very information he had been sent to discover, and merely reported to Inspector McCrum that he had been abused by members of Robert Hamill's family (evidence of Inspector McCrum, transcript, 11.9.2009). Furthermore, he does not appear to recorded his visit to the hospital in his notebook or in his original police statement. It was not until approximately 4:30 am that Inspector McCrum telephoned the hospital himself and was told that Robert Hamill's condition was life-threatening (ibid). Despite the fact that by now he was crystal clear as to the severity of the situation, it was 7:25 am before the scene was taped off and 9:55 am before a Scene of Crimes Officer arrived (Inquiry timeline), having been requested at 8:00 am (16.10).

When Inspector McCrum was told that Robert Hamill's life was in danger, it did not occur to him to recall the Land Rover crew, who had been stood down at 3:45 am - that was DC Key's idea (3.5). Even when the crew came back on duty, they made inadequate statements, lacking in detail (8.144). No-one seems to have scrutinised their statements or asked them to be more specific.

No RUC officer, whether P89, Inspector McCrum, or DCI P39, seems to have seen fit to gather all the officers who attended the incident in one place and pool their information. We concur with Colin Murray's conclusion that significant evidence was lost by the failure to hold a proper debriefing (8.143, 8.153).

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

Despite what the Manual on Public Order says, it is quite apparent from the evidence from senior officers down to Reserve Constables that the understanding of, circumstances of, and nature of any debriefing was unclear and varied from officer to officer. For example, Constable Adams had never had a debriefing after a public order incident p171. Con Warnock stated that the practice was to write a statement, and that was the debriefing p55. Con Cooke stated that there was no such thing as a structured debriefing p68 and there would be a collection of evidence after a large pre-planned operation-officers were never put together to pool information. Con Orr stated that he did not know what a debriefing was. He further stated that he considered a debriefing to be asking officers to make a statement immediately after an incident (p27) Con Murphy stated that at that time they would have very, very rarely have been debriefed. P89 remembered one debriefing in his entire

police career when police tried to find out who had fired a baton round. (p110)

It is not clear what the nature of the debriefing that should have been carried out is. The object of any debriefing must be to obtain details of suspects and witnesses as soon as possible.

A collective debrief in this case at any stage would have been undesirable, because of the dangers inherent in sitting the officers down together and getting them to pool together their recollections. Any defence lawyer at a subsequent trial would have attacked the reliability of the evidence of these officers who had been debriefed in such a manner.

We submit that what was required in this case as a debriefing was for the officers, who were present at the scene, to make witness statements setting all relevant facts which would include the names of persons seen committing any crime, and those identified as fighting with the police, together with any descriptions of persons seen, and witnesses to events. This is in fact what happened after DC Keys was tasked to the scene and started the CID investigation-see DC Keys 10183.

It is also clear that the detectives went through each statement, as did P39, in order to pursue potential witnesses and suspects.

As regards P89, in a perfect world and with the benefit of hindsight, perhaps he should have made some enquires as to the seriousness of the injuries, but it should be remembered that he had just been involved in a traumatic violent incident, there was a more senior officer on the ground ie Insp McCrum, and that he immediately became involved in other duties.

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

The Tip –Off

The issue of whether or not there was a tip-off depends entirely upon the assessment of the panel in relation to the evidence of Tracey Clarke and the evidence of Andrea McKee.

The Panel has had the benefit of direct evidence from both Tracey Clarke and Andrea McKee as well as individuals who had dealings with Andrea McKee and knew her well. Further, the evidence of a number of lawyers, highly skilled in assessing potential witnesses regarding credibility, truth and untruth.

Profiles to aid the Panel in assessing the strength of the witnesses' evidence.

Profile Andrea McKee

We would ask the panel to revisit in its entirety the evidence of Andrea McKee, Tracey Clarke, Jim Murray, Christine Smith BL and Gerald Simpson QC.

It is clear from Tracey Clarke's evidence that Andrea McKee "liked to put her oar in and talk about everything, and you know, she was a chatterbox", "she liked to know what was going on and she was like the centre but she got information from lots of different people so that she was in the middle of it all." "Andrea McKee brought me to the police station because she was like a miss-know-it-all. She liked to be in the middle of the conversations and she liked to be in the middle of what I was saying to her, what I had heard and what she heard at the gym so she brought me because she had a story to tell as well." "I know what happened that night and I know what Andrea was like. She was the gossip. She was excited about information. She was the one who brought me to the police station. She was the one who met the police in a cemetery at a dark time. I was there was went along with things." (Day 54) She describes Andrea McKee as vindictive.

Jim Murray whose evidence is to be found on Day 11, was a candid witness. He too gives insight into the nature of Andrea McKee. "Andrea McKee I wouldn't put any trust in her." He was not a witness who endeavoured to present himself in any good light. He made it quite clear that Andrea McKee's attitude to him was that "I was just like nobody" and "she's a person who would turn". The Panel are urged to revisit the evidence on Day 11 of Jim Murray in its entirety and cross-refer to the sections below referring to Andrea McKee's relationship with Jim Murray.

Summary of Andrea McKee's relationships with:

(a) Tracey Clarke

See outline of profile of Andrea McKee above and Tracey Clarke below. In summary, old influential, sister-type relationship of a vulnerable mixed up 17 year old girl from a dysfunctional family who was in close geographical proximity and under the influence of Andrea McKee. She was also the niece of Michael McKee who had an affection for her. Contact was, if not daily, very, very frequent. Tracey Clarke was greatly under the influence of Andrea McKee.

(b) Tracey Clarke's mother

Close geographical proximity, very regular contact, evidence of extensive gossiping. Tracey Clarke's mother was ill and vulnerable. Evidence of very frequent contact involving idle gossip which turned into malicious and excessive gossiping regarding the evening of 26th/27th April and thereafter.

(c) Jim Murray

See reference to Jim Murray in Andrea McKee's profile above. He did not trust Andrea McKee. He saw Tracey greatly under her influence. He thought Andrea McKee did not like him and she made a point of not keeping him in the "link". His alcohol problem was so severe, and the nature and personalities involved, lends great credence to the view that the contents of

Tracey's mother's and Jim Murray's statements emanated largely from Andrea McKee. We would urge the Inquiry to revisit Day 11, the evidence of Jim Murray, to be considered in its entirety.

(d) Michael McKee

She was married to Michael McKee. The marriage was volatile and unhappy, Michael McKee had a drink problem, which everyone except Andrea McKee accepts. She is the only person who denies his drinking was a problem. Indeed he was very frank about his grave alcohol problems which was illustrated in his interview notes. He left Andrea McKee on a number of occasions and finally did not return. The evidence is that she was bitter and wished destroy his name in Portadown. See also the letter from Andrea McKee to Michael McKee at 23893 where she writes "I have let you off scott free with all the shit you put me through, well that stops right here.... If you think I am bullshitting take your chances!!"

(e) Tae Kwon Doe Club

Andrea was a central figure, the wife of the man who was running it. Constantly present and engaging in tittle-tattle gossip at the club.

(f) The Atkinsons

They had much contact and dealings, largely emanating from the Tae Kwon Doe Club. The Atkinson's daughter was a skilled member from the age of 4 to 14 years. The Atkinson's were totally supportive of her and the club which she participated in. They became friends and Andrea and Michael McKee were very frequent visitors to the Atkinson's home, regularly giving the Atkinson's daughter a lift home from the club. Whilst Mr Atkinson was residing in Mahon Road army barracks and the Atkinson family were intimidated and their daughter afraid, it is common case that Michael and Andrea McKee would very regularly, during that period, have stayed all night in the home, sitting up all night with Eleanor McKee and her daughter. There is evidence that on occasion they had stayed over, sleeping in the daughter's bedroom after heavy drinking. Further the home of the Atkinsons was in close proximity to the gym.

(g) Glynnis Finnegan

She had been a friend of Andrea McKee's. She kept in contact with Andrea McKee by telephone about once a week. Paragraph 17 of Glynnis Finnegan's Inquiry Statement (81600) illustrates what Andrea's thinking was to her friend and only confidante left in Portadown, that "After Andrea left our telephone conversations mainly involved complaining about Michael and xxxxx. Andrea was very interested to know if I had seen Michael. I know it is very important but the issue with Robert Hamill and the Atkinsons was not a big topic of conversation."

Factual Issues arising out of Andrea McKee's statements

Andrea Mc Kee gives an outline as to why the Panel should accept she was at home on the night of 26/27th April. The fabrication in relation to the persons staying at Andrea McKee's is a matter dealt with below but herein it is submitted that the real evidence does not go to illustrate that there is any foundation nor any corroboration whatsoever regarding that there were persons staying at Andrea McKee's home on the night of 26/27th April.

(1) Who stayed, if anyone, in Andrea McKee's house on the night 26th/27th April 1997?

The Panel must consider whether any credibility whatsoever can be attributed to the contention that Rodeny Smyth and Joy Kitchen had stayed at the home that night. We submit that there is no credibility that can be afforded to this contention on the part of Andrea McKee. When one looks at her initial outline of who was staying, namely xxxx and Mrs xxxx, she gave great detail as to what occurred that evening. She stated that she watched a Prince Naseem fight, broadcast on Sky, in their company. It has been established that she was not a Sky subscriber at that time, she did not have a Sky subscription card as she had alleged and that the Prince Naseem fight was not televised that evening. She gives detail that xxxxx and Ms xxxx got a taxi home – this is not confirmed notwithstanding extensive investigations, nor is her contention that she recalls xxx and Ms xxxx arriving by taxi. Nor is her alleged recall of making a telephone call to a taxi firm on their behalf been confirmed. Neither xxxx nor Ms xxx confirm being at her home on the night in question. The evidence before the Inquiry is that xxxxxx and Ms xxxx had not met each other at the relevant date and thus could not have been in each other's company as a couple at the home of the McKees. The evidence is they did not meet each other until July 1997.

The Panel will be aware that it was only on being shown a taxi-record referring to "Smith" does Mrs McKee then abandon the construct relating to xxx and Ms xxxx and gives evidence that Rodney Smyth and Joy Kitchen were present in her home. Again she alleges they came and went by taxi; the taxi records do not substantiate this. Such taxi record as is before the Inquiry on this point does not, we suggest, confirm or corroborate that taxi taking passengers from the McKee's home, namely Rodney Smyth and Joy Kitchen. It is contended that the police produced a telephone bill, which showed a telephone call from the McKee's house to the call-a-cab office at 01.30 27th April 1997. Requests have been made on behalf of Robert and Eleanor Atkinson to verify its existence and its provenance. We have been informed that this document has never been supplied to the tribunal and the Inquiry has not seen it, nor has its whereabouts been accounted for despite, no doubt best efforts.

The taxi-record, of which a clear copy has been seen, shows merely a "Smith" being taken to town from a location of "xxxxxx", not as has been contended a "Smyth" to Thomas Street. The driver Annesley says "I have no recollection of picking up from that address..." (80025). The unredacted record does not indicate that on the night of the 26/27th anyone was actually picked up and taken to Thomas Street from the McKee's home.

The Panel is referred to the transcripts of Rodney Smyth and Joy Kitchen which make it clear that they have no memory of the events suggested by Andrea McKee. Neither xxxxx nor xxxxxxxx confirms being at the McKee's house on that evening.

(2) Paying legal expenses

There is no evidence whatsoever that any monies were paid by way of legal expenses by Robert Atkinson to Sean Hagan or any lawyer, on behalf of Andrea McKee. There is evidence before the Inquiry that due to the difficult times in Portadown it was not an unusual practice for statements to be taken in premises other than police stations.

Andrea McKee's dealing with the criminal justice system

They commence with the discussion with Constable McCaw in the Tae Kwon Doe club. The route it took thereafter arose out of the gossip-generated conversation. The overwhelming evidence, notwithstanding her denial of same, is that she was reluctant to go to the police station with Constable McCaw and accordingly she went to meet police officers at a secret location late at night, with Constable McCaw who was not there in his capacity as a police man. This is the hallmark of the drama queen who wants to be at the centre of the action.

The following day she picks up Tracey Clarke at night and sits through Tracey Clarke's interview, late into the night in the police station. It is a matter for the panel as to whether or not they accept Tracey Clarke's evidence that Andrea McKee participated in the interview; in view of Andrea McKee's approach to matters it is highly unlikely that she sat in silence.

The next step that she takes is giving an interview on 29th October 1997 at the office of Sean Hagan solicitors. There is evidence for the Inquiry that the interview took place there due to a reluctance of persons to attend the police station for interviews. She gave that interview in the presence of Detective Inspector Irwin, notwithstanding that he had been present in the motor vehicle at Seagoe and that he would also have been aware of the contents of Tracey Clarke's statement. That the interview was further attention seeking behaviour on her part, telling the gossip and representing it as truth if it made her "a player", was not ruled out as an acceptable option for her.

Andrea McKee felt it necessary to make 6 different statements to police, which we refer to the Inquiry. (09200,14956, 20297, 14909, 81486, 19988) The contents of those parts of those statements which she alleged to the Inquiry were true were shown to be lies throughout the course of the Inquiry. Her capacity to brazenly lie as she illustrated to the prosecuting counsel, Mr Simpson QC and Ms Smith BL, she also so illustrated to the Inquiry.

It should be noted that Andrea McKee had no dealings with the police from 29th October 1997 until 20 June 2000 when police attended her home in Wrexham. She did not go to them. Whatever her past was, it was not troubling her to the extent that she felt it appropriate to seek to put it right.

The timing of their arrival coincided with a period of very great animosity which Andrea McKee was feeling towards Michael McKee. There is clearly evidence, with the blackmail letter that she wrote him (23893), that she would fight him, that she would do anything. The police arriving, treating her as a witness originally, gave rise to a golden opportunity for her again to be a real “player” in relation to a project she was engaged upon, namely the downfall of Michael McKee who had the subject of phone calls between Andrea McKee and her confidante Glynnis Finnegan.

Police arranged for a solicitor with expertise in Queen’s evidence to act on behalf of Andrea McKee. That solicitor arranged for the police to forward a letter (73017) to facilitate the sentencing on a plea of guilty. The Panel are referred to the evidence of Catherine Jagger, Day 14, Page 28, line 7 - “It was arranged through the police and she was asked if she then wanted me to represent her” “So the police asked her if she wanted to be represented by you.” “Yes” “she didn’t come to you?” “No”. “Does that happen often?” “Not realistically” Line 21 - “So you would have been aware would you that when she was being directed to you by the police this was not a run of the mill this was exceptional?” Line 25 “In what way do you mean exceptional?” “ Yes it was not the normal route. There was an exception to the normal route.”

This clearly illustrates that the police having gone to her, then set up the circumstances that gave rise to the guilty plea in an exceptional and unusual way. Page 29, Line 14 “You were brought into discussion with the police before your client had even known of you or had requested you?” Line 17 – “briefly, yes.” The learned Chair puts (see page 31 line 16) “was there any discussion between you and the police about how they might put her case of what they might say in favour to mitigate her offence?” Line 19 “those discussions related along the lines of the letter that I wrote to them and then the letter that would be then put before the Judge.”

Further at Page 31 – line 22 – “So what you were trying to do was to get the police to speak well of your client with a view to a suspended sentence?” Line 25 – “with a view to a more lenient sentence?” “Yes.” The Panel is referred to the letter at 73017.

In the absence of any explanation given to the contrary it is a reasonable presumption to make that Mrs McKee, initially instructed her legal team that she would be denying the charge of perverting the course of justice. In this regard we refer to the defence statement. She was not willing to plead guilty at the first available opportunity but tried to avoid a conviction, something which again illustrates that she was participating in a scenario which had been presented to her, as opposed to having a genuine desire to reveal what she considered to be the truth of the matter. This would accord with the view formed by Prosecuting counsel, Ms Smith BL that Andrea McKee looked at things through a “what’s in it for Andrea McKee” attitude.

Regarding any suggestion that there was the real risk of a custodial sentence, this must be considered against the fact the police were “speaking up for her”

(73017). She was the mother of a young child, embarking on a new career, settled in another jurisdiction, away from any circumstances in time, geography or personalities that gave rise to the alleged misdemeanour. The Panel may take the view that a custodial sentence was never a realistic possibility.

On the other hand Ms McKee achieved her end of vengeance on Michael McKee, who had abandoned her, was living with another woman and also revenge on those who had lost respect for her when she left the Tae Kwon Doe club with student's monies, e.g. the Atkinsons.

Andrea McKee's dealings with the personnel involved in the Prosecution of Robbie and Eleanor Atkinson.

We refer to the cross-examination of Andrea McKee in relation to her attendance for a PI on the 22nd of December. In particular we refer to the cross-examination carried out by Mr Emerson QC regarding her attendance at the GP and Pendine out of hours surgery. Mrs McKee had indicated to Constable Murphy the gravity of the illness with which her child was suffering. Prosecuting counsel Ms Smith BL is informed by Constable Murphy and Ms Smith BL informed the Resident Magistrate that the witness was unable to attend because the child had had mumps, swelling of the scrotum, high temperature and a fear of fitting. The matter was adjourned for medical verification of this evidence. The very extensive enquiries which the Panel are fully apprised of and which were pursued at great length at hearing, illustrate that Andrea McKee told lies, regarding her unavailability to attend on the 22nd December.

We refer to evidence of Christine Smith BL, an experienced prosecutor, that she was under a duty to tell the defence about the view that she had that Andrea McKee was lying. Ms Smith's evidence is very telling, particularly when she was pressed by the Chairman at page 100 of her transcript - "what other terms were there?", she responded "its one of those wee pieces of evidence that somebody says or something that somebody says that makes you stop in your tracks and think." and "So it wasn't just the question of her being safe, but what could Andrea get out of it for Andrea was the impression I was being given." Ms Smith BL was totally satisfied that she was not a credible witness.

Likewise Mr Simpson QC considered her to be a brazen liar - "she was brazen about it. She was cute... It was quite an important lie and she stuck to it brazenly." (Page 40) The thrust of this witness's evidence was that "she was an easy liar, I thought, someone who just resorted to a lie very quickly." The Chairman's remarks at page (Page 50) are very telling and are illustrative of the sojourn of Andrea McKee throughout this process - "The trouble is one lie begets another?" Mr Simpson's answer is also telling "What a tangled web we weave, when first we practice to deceive." Mr Simpson QC strongly confirmed that he thought she was lying in his consultation. The Panel can be assured that in reaching his conclusion, Mr Simpson QC had addressed his mind to what weight he attached to Andrea

McKee's plea of guilty when reaching his decision. The learned Chairman raised this and it is clear that in reaching his ultimate decision regarding Andrea McKee he factored that plea of guilty into the balance and his conclusion did not change.

The Panel will be mindful that the issue of the credibility that should be afforded by Andrea McKee was pursued right through to the Attorney General considering the issue. The Inquiry is referred to the advices of David Perry QC (Exhibited to Mr Kitson's evidence) on three occasions (Pages 160-203, 205-279 and 231-241). David Perry QC was asked to revisit his first advices at the request of the Inquiry Counsel Mr Underwood QC. The searching questions were focused and put by counsel for the Inquiry and fully and expertly handled by David Perry QC. We refer to David Perry QC's advices at page 221 of the exhibit):

"The Atkinson Conspiracy.

4.16 "The fifth point made by counsel to the Inquiry is that the decision not to proceed against Atkinson and others was questionable and calls for explanation..."

4.18 "In conclusion I do not agree that the matter raised by counsel for the Inquiry gives rise to any concern."

It is clear from his advices that David Perry QC assessed the strength, quality and credibility of the available evidence when reaching that view. There is evidence before the Panel that Mr Perry has extensive experience of prosecutorial practice and has advised the Government on many high profile cases in the past. The Inquiry is referred to page 361 of exhibit "RAK11" – the memo from Mr McGinty to the Attorney General. It is clear that the Attorney General met with David Perry QC and it was clear that the Attorney required assurance that the prosecutorial system had been robust and fair and that appropriate decisions had been taken and he also queried "whether there was room for doubt about withdrawing the RUC officer's prosecution." (Paragraph 10) "Perry didn't think so. Senior Counsel, having seen the witness had formed the professional judgement that she was unreliable."

Profile of Tracey Clarke

The evidence is clear and not disputed that Tracey Clarke was a 17 year old vulnerable girl. She was in a volatile difficult relationship with Alistair Hanvey. She came from a dysfunctional family with an ill mother who she describes as being abusive and vindictive towards her. She had an alcoholic stepfather. Her emotional mindset was chaotic in relation to the volatility of the relationship which she had with Allister Hanvey. She had a close relationship like younger sister, older sister with Andrea McKee. It is clear that she was dependent on Andrea McKee for a number of things such as the open house which she enjoyed at Andrea & Michael McKee's home and the close proximity thereto. They facilitated her boyfriend staying over at that house. There was a lot of dealings between Tracey Clarke and Andrea McKee and indeed Andrea McKee and Tracey Clarke's mother. Andrea McKee tells the Inquiry a little of what life was like for Tracey. "You know

she had a difficult life with her Mum. I used to do washing and stuff and give her money from time to time to help her out”. Tracey Clarke describes herself being a mess. She used the terminology such as “I was just being a little bitch wanting to get him into trouble” (referring to Allister Hanvey). She says of herself regarding telling her mother about the fight “I was on the town that night and I had probably said I had seen it but hadn’t. Just wanted to you know bump myself up. I don’t know why I just did”. She says of herself “because I was very vindictive and a bitch”. She says “At that time of my life I was under a lot of stress with my Mum taking ill. I used drugs as well which is never – I have never told anybody. I was at a bad stage in my life and I just did it. I have no reason for it. I have to live with that everyday in what I have said”. The evidence is that she suffered mental illness.

We would urge the Panel to revisit the presentation of this witness, in regards to her oral evidence, her body language and her demeanour.

In total, thus, it is respectfully that the vulnerability of this damaged young individual knew no bounds and that when one considers the person of Mrs McKee, the only possible conclusion is a young girl under the total influence of Andrea McKee. A young girl caught up in circumstances where the person who was using her gave her a “role that there was something to be excited about”. And indeed what is very telling is that Tracey Clarke indicates that the relationship with her mother was a bit better when they were all sitting round gossiping about the night of the 26th and 27th.

Further the evidence of Tracey Clarke illustrates that she was a young girl looking for a mental escape. That she wanted to bury the wrong doing of her lies which she did.

I refer the Inquiry to the question “did a bit of you try to get on with your life and bury your wrong doing about making up this statement?” The answer to that was “Yes.”

It is submitted that the above profiles assist the Panel in their deliberations regarding:

1. The influence of Andrea McKee on Tracey Clarke
2. The use made by Andrea McKee of Tracey Clarke
3. A reasons for Andrea McKee using Tracey Clarke
4. The vulnerability of Tracey Clarke to Andrea McKee
5. Tracey Clarke’s reasons for her conduct in not stating that the contents of her statement were untrue at an earlier stage.

The Panel’s attention is also drawn to

(a) That when not under the influence of Andrea McKee on the 8th May 1997 she answered questions cooperatively and fully in relation to the questionnaire. She did not make any allegations that were made the following day in detail, in Andrea McKee’s presence

(b) The issue which arose during the Inquiry regarding an extract from medical evidence wherein it was stated “when she was admitted tot the admitting SHO that she saw he boyfriend kicking Robert Hamill. (Document 75323). The Panel is referred to her transcript on day 54 where she readily

agreed to consent to the release of her notes to allow this matter to be further explored. Mr. Underwood QC later outlined to the Inquiry that the steps which had been taken established that Tracey Clarke was correct in the evidence she had given the Inquiry that the note of 75323 was indeed wrong.

Profile of Robert Atkinson

During the course of his entire long service as a policeman, at no time was it suggested that he was anything other than a diligent, courageous police officer who did his job conscientiously without fear or favour with no sectarian orientation whatsoever. The Inquiry heard much evidence that he and his wife suffered greatly by reason of sectarian attacks, including attacks on his home over years. The animosity from which he suffered was from both Loyalist and Nationalist factions. Further the evidence was that he was helpful in the community and did much for the young people in his assisting with the recreation club of the Tae Kwon Do club. The profile of his personal life is that of a man with a stable marriage with two children, him and his wife having known each other for some 40 years. The evidence is that he did not compromise the sacrifices that were expected of him in the course of his duties which is well illustrated by his residing in Mahon Road army barracks for a considerable period around the time of the Drumcree difficulties. There is no evidence that he was unpopular with colleagues until this unfounded allegation was made. Insight as to how Reserve Constable Atkinson was not a man to shirk from his policing duties is given in the evidence of Donald Blevins on day 27:

“Dinsmore: And when one looks at pages 61 and 62 of the interview -- and I too don't intend to pursue the language, but am I correct in understanding that the reason this police officer was so disliked was because he was particularly diligent in going about his duties and that he was well-known for arresting wrongdoers without fear or favour or hesitation, like when you said he would arrest his ma? Isn't that indicative of a policeman who was determined to do his duty right and properly without fear, if it was appropriate to do so?

A. Yes.”

The wealth of evidence shows clearly that Reserve Constable Atkinson did his duty of law enforcement devoid of any sectarian influence.

The Inquiry also have the benefit of Reserve Constable Atkinson's full cooperation at all times, as did the police service, the DPP, the ICPC and judicial proceedings wherein he gave evidence at the trial of Marc Hobson.

The Inquiry have had the benefit of seeing and hearing this man.

To determine that a man of this standing and this dedication, in his community, had done what was alleged, is a matter of the most utmost gravity, personally and professionally devastating. It is incumbent on the Inquiry when seeking an evaluation of the truth on this issue, that they must be satisfied of a very high level of cogent evidence.

Profile of Eleanor Atkinson

The Inquiry have evidence that Eleanor Atkinson was a family woman, worked conscientiously, contributed to the community and was totally supportive of the personal sacrifices that she had to make and the suffering she went through by reason of her husband's occupation. She was resilient in the face of sectarian violence and wished to remain part of the community within which she had forged relationships. At all times she has cooperated with the Inquiry and the investigating police. The Inquiry has had the opportunity to hear and see her.

Profile of Michael McKee

The Inquiry did not hear from Michael McKee. The Inquiry does not have a statement from Michael McKee. The evidence, which has not been disputed, is that he is a man who has serious personal and professional problems, a serious alcohol addiction and personality problems. He was considered unreliable and untrustworthy in relation to financial matters and was fickle apropos personal relationships. He moved from jurisdiction to jurisdiction. The profile of this man is of a person who was not functioning adequately or dealing with the normal rigours of life. His pleading to a conspiracy charge must be considered in the context of the influence of Andrea McKee, his dysfunctional lifestyle and a tendency to take a line of least resistance. This was a man who had no fight left in him. There is evidence from Robert Atkinson regarding the reason he met with Michael McKee. He states he had concerns of a suicide risk and Michael's heavy drinking. Further, in relation to a call made to the Atkinson's home from a public phone box by Michael McKee, Eleanor Atkinson readily accepts that she received that call but Michael McKee was drunk and she refused to talk to him.

Other Issues

There are five other issues to consider when deciding on the alleged tip-off:

Where there any telephone calls?

Who made those telephone calls?

What was the content of those calls?

Was there a conspiracy entered into about the making of those telephone calls?

The Jacket, the subject matter of the alleged tip-off.

The phone calls

(1) It is accepted that a phone call was made at 08.37 on the morning of 27th April from the home of Robert and Eleanor Atkinson to the home of Kenneth and Elizabeth Hanvey.

(2) Kenneth Hanvey statement (22104) is in evidence before the Inquiry and it states he received the call.

(3) Whilst there is a debate as to the whereabouts of Allister Hanvey on the morning of the 27th April 1997, his evidence is that he got no message from Robert Atkinson.

- (4) The only evidence about the words spoken in the call is that of Kenneth Hanvey and Eleanor Atkinson's evidence that Michael McKee asked if he could call to ask about Tracey Clarke.
- (5) Andrea McKee has no direct evidence of what the contents of the phone call were.
- (6) Andrea McKee has no evidence of being present when Robert Atkinson made any admission to the effect of the call as alleged.
- (7) Andrea McKee has no evidence, hearsay or otherwise, that Robert Atkinson made any admission to making the phone call to anyone, including Michael McKee.
- (8) There is no evidence from Michael McKee that ever any admission was made by Robert Atkinson to him.
- (9) The only evidence before the Inquiry from Michael McKee is his interview. In that interview there is no evidence that Robert Atkinson had ever stated he had made the alleged call.
- (10) There is no evidence, notwithstanding that the allegation was "the talk of the town" that Robert Atkinson was making daily calls to Allister Hanvey as alleged.
- (11) It is accepted that a second phone call was made on 2nd May between the Atkinson and Hanvey households. That call was made by Eleanor Atkinson and is referred to below.

Accordingly the only relevant evidence before the panel is hearsay evidence from Andrea McKee, attributing Tracey Clarke as her source. A full evaluation of the evidence of the personalities involved and what occurred can only lead to the conclusion that the evidence before the Inquiry of Tracey Clarke is the truthful outline.

The evidence from a number of witnesses before the Inquiry is that there is a reasonable explanation for the phone calls between the Atkinson and Hanvey households, which, in the absence of any other proof to the contrary, should be accepted. Those reasonable explanations are that Michael and Andrea McKee stayed at the Atkinson home that night, something which was not unprecedented. Michael McKee had an affection for his niece and on hearing of the trouble in town from Eleanor on the night involving the Coach Bus was concerned for Tracey Clarke to such an extent that he rang the Hanvey household to enquire after her safety, knowing her to be in a relationship with Hanvey at times. It is not disputed that Robert Atkinson returned to work in the early hours of 27th April 1997 and having spent much of the night on duty, went straight to bed when he returned home. The only evidence is that he spoke to his wife in their bedroom and made a fleeting remark of about trouble in town.

The undisputed evidence regarding the participation of the Atkinson's daughter in the Tae Kwon Doe club gives foundation to the call in May in which Eleanor Atkinson sought kit for her daughter from the Hanveys.

The Jacket

The police believe that Allister Hanvey was wearing a silver grey jacket possibly with orange flashes on the sleeves. See the questionnaire's questions 17 & 18 copies enclosed. Only Martin Hull who was involved in the fracas was wearing a grey jacket in so far as can be ascertained from the papers. See paragraph 4 of his inquiry statement.

Sergeant P89 saw Allister Hanvey but cannot remember his clothing and does not confirm or give evidence in respect of it. Jonathan Wright gives the first description of what Hanvey is wearing. At the scene Mark Hobson was also wearing a grey sweatshirt.

What Allister Hanvey was wearing especially the "top worn" at the time of incident is important for a number of reasons. The first police officer who saw Allister Hanvey and knew him says he wore a dark coloured baseball type jacket with greyish coloured sleeves see page 00713 (copy enclosed).

Jonathan Wright described Allister Hanvey as wearing a tracksuit top, grey colour, with a zip up the front. It had orange stripes on both arms which went down to the elbow. No one at the party either knows him to have a silver jacket or sees Allister Hanvey wearing one. This is featured in the questionnaire's question 16 & 17. Again copies enclosed.

Allister Hanvey himself says he was wearing a black padded jacket. It follows that there is confusion as to the nature, design, colour or colours and description of the top worn by Allister Hanvey at the scene. Eyewitness evidence is conflicting.

It is difficult to see that any of the descriptions covers a silver jacket with "Skanx" written on it and with orange braiding two inches wide down the full length of the sleeves. No eyewitness describes a silver jacket with orange braiding running down the full length of the sleeves. The matter is complicated and further muddled by the statements of Tracey Clarke's mother and Jim Murray (copies enclosed). Tracey Clarke's mother says "Tracey was saying imagine telling him to burn that good silver coat. It cost Tracey £175 out of Paranoid in the High Street Mall".

An inconvenient truth is the coat that was bought by Tracey Clark from Paranoid in December 1996 was a blue $\frac{3}{4}$ length padded Daniel Poole coat with a silver cross on it. This incontrovertible fact arises from the evidence of Julian Lyons who not only describes selling the coat but he actually recalls selling the coat to Tracey and that it was a blue Daniel Poole Puffa Jacket with a silver cross it was not grey or silver save for the cross and had no orange stripes on it. Inconveniently not only does he remember selling it he remembers repairing it and inconveniently again he refused to bow to police pressure to say that he sold her a silver jacket. If only one coat was bought at that time by Tracey and she had little extra money that coat was a blue Daniel Poole Puffa.

There is no evidence that Tracey bought a second coat. She was paying for the first coat by instalments and she had no extra for another expensive coat

from Paranoid. They have no records of selling her another coat or of accepting part payment for that other coat over the relevant payment.

It cannot therefore be true that she would say as her mother has said “imagine telling him to burn that good silver coat.” At most she could have said imagine telling him to burn that good blue coat.

It follows that she did not say these things. It also follows that this information did not come from her. It also follows that this information was placed into the minds of Mrs Clarke and Mr Murray by someone other than Tracey because that someone did not know the truth.

The evidence from Julian Lyons and his staff is of Tracey Clarke laying the Daniel Poole coat aside and paying for it weekly up to the Christmas period. Anyone who reiterates the story of the silver jacket is perpetrating an untruth and shows that their evidence is tainted by inaccuracy or untruths. Jim Murray (Tracey Clarke’s step-dad) states as follows:

“Tracey had bought him a silver jacket from Paranoid for the Christmas that’s 1996 and I never saw it after that Hamill incident. The jacket was silver like anorak material without the lining in it. I remember the jacket had an orange stripe on the sleeves. The jacket only came to his waist and it looked too small for him. I don’t remember if Tracey said the jacket was burned but I do remember her saying that the clothes were burnt. I remember Tracey buying Allister a dear jacket because she said she was paying it off every week in Paranoid. I don’t remember Tracey buying any other items of clothing out of any other shops for Allister”.

The error here is obvious it was never a silver jacket and any description of a silver jacket being bought from Paranoid is clearly untrue.

Interestingly he says I remember Andrea McKee that Tracey told police that she had told Hanvey to burn his clothes. One wonders if Andrea didn’t plant the whole thing into their heads.

We refer to the following.

1. Statement of Paul Warnock (police officer) page 713.
2. Jonathan Wright page 00566.
3. Questionnaire page 70950 and 70951.
4. Statement of Ian Carville page 5 paragraph 19.
5. Statement of Michael John Porter page 09292 are. Search finds black padded jacket.
6. Statement of Stephen Christopher Hughes page 17354 producer of Skanx jacket.
7. Statement of Allister Hanvey 00561.
8. Statement of Julian Lyons pages 1, 2 paragraphs 3,4,5,7 and 8.
9. Holmes action print page 05113.
10. Statement of Charles Donald Andrews page 2 paragraph 8.
11. Questionnaire page 57019 questions 18 & 19.
12. Statement of xxxxx Clark page 14897.

13. Holmes document 05116.
14. Holmes document 15717.
15. Statement of James Murray pages 17339, 17340 & 17341.

In conclusion the only coat that Tracey Clark bought Allister Hanvey at Christmas 1996 and paid for by instalment was a blue Daniel Poole Puffa Jacket. She never bought him a silver Skanx jacket. Anyone who says that she did is stating an untruth and her parents by adopting the silver jacket in their evidence have shown that their evidence is tainted and unreliable with regards to the clothing issue. The same can be said of anyone else who latches on to that statement of Tracey Clark's that she was annoyed with him burning a silver jacket because of what it had cost her. She never bought a silver jacket all evidence in respect of silver jackets attributed to her is untrue.

The plea of guilty on the part of Andrea and Michael McKee

The Panel are referred to the profiles herein and the dynamics of the relationships set out above. The circumstances when Michael McKee pleaded guilty are that of a pathetic broken individual, going along with whatever is presented to him. The plea of guilty on the part of Andrea McKee served a purpose for her, at no real cost. She was an opportunist and when faced with a hungry police investigation, police who were anxious to secure an outcome in the face of extensive criticism, she accepted the orchestrated process via Catherine Jagger and the court process and welcomed the support she received for doing so. She also explored potential advantages that she could obtain such as a house move. In any event her plea was not one of her own volition but was a golden opportunity presented to her to ruin Michael McKee in Portadown and get vengeance upon him.

Tracey Clarke's evidence to the Inquiry can and should be believed. The Inquiry got the insight as to why this girl did what she did, and further, have the explanation as to why, when she had opportunities to say she had lied, that she did not do so because she wanted to block it out, to bury the whole thing and get on with her life. Her presentation, we respectfully suggest, was unambiguously authentic in this regard.

It falls to the panel whether they accept what Andrea McKee says or whether they accept Tracey Clarke. It is submitted on behalf of Mr and Mrs Atkinson that the gravity of what is being alleged, in all of the circumstances that have been set out above, is such that there is not cogent evidence which could possibly lead to a conclusion that the truth of the matter is that either Robert Atkinson or Eleanor Atkinson made any tip-off calls.

Should the panel, we submit quite properly, conclude that they cannot be so satisfied that Eleanor or Robert Atkinson made a tip-off call, the Panel may consider it incumbent upon them to consider whether, if a call which had no "tip-off" component, i.e. an entirely "innocent" call was made by either party. The Panel may want to consider whether that would amount, in itself to conduct which would obstruct the police investigation and fall within the terms of reference of the Inquiry.

It is submitted that it does not do so as it would be inappropriate to take the view that an innocent phone call per se amounts to an act or omission which obstructs with an investigation intentionally or negligently. Such a finding would be based only on the unsubstantiated gossip which flowed freely within a community. It is that unsubstantiated gossip which was given inappropriate weight that led to any obstruction of the investigation. We respectfully submit that the terms of reference do not include an unsubstantiated “tip-off” phone call. Further a conspiracy to regarding an innocent phone call and the content of same, which is denied could be not tantamount to a wrongful act.

Recommendations

Regarding the remit of the making of recommendations, it is respectfully submitted that there is no basis for all or any of the suggested criticisms or adverse inference against Robert and Eleanor Atkinson collectively or individually.

Submissions by the Police Service of Northern Ireland

The PSNI accept that there was a failure at the scene on the part of the senior officers to establish the gravity of the injuries.

This is not to suggest that a precise diagnosis could have been made from information available at the scene, or that anything other than a general feel for the situation would have been forthcoming. Nor is it to suggest that there was any disinterest in establishing what the injuries were. In fact the reverse is true because Sergeant P89 very quickly made his way to Craigavon Hospital where he sought to clarify the nature of the injuries with a nurse but was unable to do so.

However, if one of the triggers for a full debrief (and for securing the scene) involves consideration of the gravity of an incident it becomes imperative to promptly seek out any reliable information from whatever source which might inform the debate.

It is accepted that a number of straightforward steps could have been taken to establish from officers at the scene just how bad the injuries were likely to be. In particular all of the officers could have been brought together in one place. The Sergeant or the Inspector could have established whether any officer had provided first aid or made any observations. They could have asked whether there were any physical manifestations of injuries.

It is accepted that none of these steps were taken and so the senior officers were left unsure about how serious the situation was. P89's unsuccessful visit to the hospital meant that no information was forthcoming until 0400 hours when Inspector McCrum made contact with the hospital by which stage many of the officers including the land rover crew had been stood down.

It is submitted, however, that the failure to have an immediate debrief was remedied to a significant degree by the prompt recall of those officers who made up the land rover crew and by requiring them to compile statements. It was those officers rather than the back-up officers who were likely to have most to say about the commencement of the violence.

Submissions by Russell, Jones & Walker Solicitors (Alan McCrum)

Regarding Inspector McCrum, see paragraph 8.155 above

- 10 The panel will need to decide whether the subsequent debriefing was coherent or systematic. Only three of the Land Rover crew appear to have been the subject to any serious attempt to get information from them about suspects or other witnesses. Even that failed. It is obvious that Res Con Atkinson chose deliberately not to tell detectives that he had seen Hanvey. His current explanation, which in part is that he had not seen him do anything wrong, is apparently inconsistent with what he told Sergeant P89. In any event it also would have applied to Rat Gray and Victoria Clayton, whom he did name. Had he done so, and had the other officers then been asked whether they had seen Mr Hanvey, the information available to detectives may have been radically different. Likewise, there was simply no concerted attempt by detectives to obtain from the back-up officers details of anyone who may then have been able to assist with enquiries or be arrested. In addition, Sergeant P89 and Insp McCrum failed to subject themselves voluntarily to any debriefing exercise or to attempt to give a useful account of what they had seen.

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

The debriefing was self-evidently anything but coherent or systematic. Furthermore, two officers deliberately withheld information that was of vital significance to the investigation. Reserve Constable Atkinson did not mention Allister Hanvey's presence, and Constable A did not record her detention and release of Wayne Lunt, a man who was already on bail for offences including assault. All of the criticisms mentioned in paragraph 10 above are valid, but we believe the Inquiry additionally need to ask themselves, if they conclude that these two officers deliberately withheld Hanvey and Lunt's names, whether they were protecting them, and, if so, why.

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

A combination of P39 and the CID ensured all the police officers, whether from the Landrover Crew or the back up vehicles, made statements setting out what they had seen. As DC Keys says at 10185,

"I did not record any of these statements I would like to point out why I didn't . I was conscious of the fact that each police officer was experienced and capable of making their own statements . In addition I wanted to avoid

any future allegation which may have suggested that I assisted the witnesses with what to say"

As DC Keys said in his evidence,

"Q . Was a list of persons/suspects positively identified at the scene drawn up or completed prior to those officers who had attended the scene terminating duty ?

A . I am not aware of one . I didn't prepare one . The best thing from my viewpoint was the actual witness statements".

While it appears that some of the officers in this case were taken through their statements by CID, the Chairman in particular with his experience in criminal cases will be aware that this is rarity. We submit that in the vast majority of criminal investigations, the CID rely on the witness statements provided by experienced police officers, and this applies equally to the back up officers in this case. Unless it is apparent from the contents of the statement that there is, for example, a glaring omission, inaccuracy or contradiction, CID are entitled to expect that the statements contain all the information. In this particular case, an example is DS Bradley's concern that Atkinson must have known more people than he named in his statement.

We have already commented on the lack of detail by P89 in his original statement.

Submissions by Gus Campbell Solicitors (Marc Hobson)

Con Neill states (Pg 52 Day 51 19th May 2009) that he was aware of potential criticism of his landrover crew due to the allegations made at the scene to the effect that they sat in the landrover and let the assault happen. It's denied that any member of the landrover crew either spoke of or had the opportunity to speak of this allegation despite being together on their return from the scene as expressed by Con Atkinson though Con Neill accepts that they possibly did talk of this incident . Their proximity of being in the one room writing their statements as stated by P39 (Day 43 1st may 2009) and Con Atkinson's statement was in Con Neill's pigeon hole (Pg 79 Day 51 19th May 2009) and that there was a dry board with suspects descriptions before them in the debriefing room (statement @ doc 10432) and that P.39 expressly asked them that if they were to confer to note that and what they conferred about, yet with all these opportunities no one police officer spoke with his colleagues regarding this incident yet Con. Neill and Atkinson both omitted to mention A,Hanvey at the scene, whom they later accept was in error especially when Con.Atkinson warned P89 to watch out for Hanvey as a potential violent threat and therefore at the very least potentially guilty of affray. There was therefore no detailed accurate account of potential suspects from the incident as first instance which has allowed for the fabrication of evidence regarding potential suspects or the removing or suspects actual involvement whose purpose facilitated the account of the police that they were on the ground before any fatal attack occurred.

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

See the composite submission above

Submissions by the Police Service of Northern Ireland

It is clear that once the incident became a CID matter the importance of a debrief was recognised. DS Bradley was instructed by P39 to read all of the statements of police who attended the scene (p.39). Emphasis was properly given to the statements of the four officers who made up the land rover crew, who were at the scene for the longest period of time and who were best placed to give information about those who were physically close to the victims when they sustained their injuries.

This had the positive consequence of extracting further names of witnesses which were not in the original statements composed by the officers. However, no system of debriefing is perfect. The success of the exercise will depend in no small measure upon the individual being debriefed, and their ability to recollect specific facts and sequences of events. The success of the exercise will also largely depend upon the co-operation of that individual.

It is submitted that the Inquiry is entitled to conclude that rather than co-operate with the debriefing exercise which was conducted by DS Bradley, Res. Con. Atkinson sought to undermine it.

Res. Con. Atkinson was certainly aware of the requirement to give up the names of anyone who was at the scene who might assist police with their inquiries. He was not told that police were only interested in the names of those he suspected had broken the law. If that was the test there would have been no obligation to name Gray or Clayton, two names which were not in the statement at the outset. That he named these two individuals and did not name Hanvey adds further weight to the conclusion that he had set out to protect Hanvey from ever coming to police attention.

It is accepted that a thorough de-brief would have brought in the officers who arrived as back-up. However, it is clear that the thinking was that the premium information would come from the four members of the land rover crew. None of the officers who formed part of the back-up would have been in a position to give information regarding the identities of those who attacked the victims. The information that they could give was limited to naming possible witnesses.

As an indicator that debriefing could have been more thoroughly and systematically carried out the failure to speak to the back-up crews establishes the point. However, it is submitted that nothing of particular significance was lost to the investigation by this omission.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

Our only comment in relation to this is that if Res Constable Atkinson saw Alister Hanvey do "anything wrong" that relates only to the latter's behaviour as recorded by P89.

Submissions by Russell, Jones & Walker Solicitors (Alan McCrum)

Regarding Inspector McCrum, see paragraph 8.155 above.

- 11 It is not easy to identify the individuals who should have ensured that debriefing was properly conducted and who failed in their duty. However, as set out above, Insp McCrum appears to have borne a responsibility to ensure that the uniformed officers at least made notes before going off duty. Of the detectives, DCI P39 bore overall responsibility. DC Donald Keys and DS Derek Bradley had some operational responsibility. Each officer who had information to give but who did not record it may also be blamed for that failure.

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

All of the above is fair comment. It seems to us that DCI P39, as the most senior officer involved, bore overall responsibility for the conduct of investigation, which of necessity included the debriefing. However, Inspector McCrum spectacularly failed to take any kind of control over the uniformed officers, and none of the officers concerned took any personal responsibility for their actions/inaction.

It is difficult to escape the conclusion that, despite the knowledge that Robert Hamill might die of his injuries, no-one within the RUC took the investigation seriously.

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

As regards P39's overall responsibility and her actions from being called in early that morning, we remind the Panel of the evidence from Mr Murray at p75

- "13 Q. You see, what P39 told us -- and I am going to just
14 briefly ask you about some of this, because I am not
15 going to go through the entirety of her evidence as
16 I promised to at the start. What she said was she had
17 daily briefings during the day -- this is not just one
18 briefing, but daily briefings, sometimes morning,
19 sometimes evening, sometimes both, with Mr Irwin and
20 others. That's good police work?
21 A. It is, yes.
22 Q. That's showing supervision?
23 A. Yes, it is.

24 Q. At those briefings she would be discussing the way
25 forward with her detectives. That's good police work?

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1 A. If that's what she was doing, it is good police work.

2 Q. That's what she said she was doing.

3 A. That's good police work.

4 Q. She said -- and again, I want your comment about this,

5 because there is an implication of criticism in this --

6 that Mr Irwin was managing the grievous bodily harm and

7 she was supervising. Is that appropriate?

8 A. That's entirely appropriate.

9 Q. She said that when she was called in that morning, she

10 immediately went in. That's what she should have done?

11 A. That's right.

12 Q. She treated it as a serious incident. That's what she

13 should have done?

14 A. Yes.

15 Q. She went to the scene with Mr Keys.

16 A. Yes, she did.

17 Q. That's what she should have done?

18 A. Definitely.

19 Q. She was involved with Scenes of Crime Officers and

20 photographers. That's what she should have done?

21 A. Yes.

22 Q. She gets briefed by both Inspector McCrum and

23 Detective Constable Keys into the circumstances as to

24 what they know so far. That's again, as a supervisor,

25 what she should have done?

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1 A. Yes.

2 Q. She calls the hospital to talk to the consultant about

3 the condition of the people who had been injured.

4 That's what she should have done?

5 A. Yes, indeed.

6 Q. She directs that those police officers from the

7 Land Rover should return to the police station

8 immediately to make statements setting out what they

9 know and who they saw. That's good police work?

10 A. I wasn't sure it was her that did that. I thought that

11 was somebody else. But that is good police work, to

12 recall officers to duty.

13 Q. I think there were two people. Possibly Mr Keys, on

14 reflection, also said that he had -- he was the person.

15 But let's put it this way: she was aware, she was

16 supervising a situation -- let us put it neutrally --

17 where Keys had organised the bringing back of the four

18 people from the Land Rover. That's good police work?

19 A. Correct. Good police work.

20 Q. When the police arrive -- that's the police officers
21 from the Land Rover -- she briefs them, saying that she
22 wants detailed statements. That's good supervision?
23 A. It is.
24 Q. And also the following day. And the impression we got
25 from this, Mr Murray, is that she was not entirely happy

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1 about some of the contents of the statements she
2 received.
3 Do you remember hearing her evidence about that?
4 A. I do indeed.
5 Q. She directs I think it was Detective Sergeant Bradley to
6 go back to them --
7 A. And question them.
8 Q. -- and get further information.
9 A. Yes, she did.
10 Q. That's good supervision?
11 A. It is good supervision.
12 Q. She reads the statements herself. That's good
13 supervision?
14 A. It is."

P39 herself went on to say in her evidence at p12,

"When I returned to the CID general office, the
20 uniformed police officers arrived into the office. They
21 were the four who were on duty in the Land Rover in the
22 town centre. I briefed them, telling them that detailed
23 statements were required, that the statements be written
24 in a sequence of events and that they could confer with
25 each other, but, should they do so, they must record

12

1 that in their notebooks."
2 Firstly, I want to ask, was consideration given to
3 getting the other officers who had been at the scene in
4 to give statements?
5 A. Yes, I asked for all the officers at the scene to be
6 brought in for -- I just want to -- I want to recap.
7 Q. Please do.
8 A. Well, I had been told that the officers who had been on
9 duty that night were going home. So obviously I asked
10 for those officers to return immediately so that I could
11 get statements --
12 Q. Yes. But --
13 A. -- but initially --
14 Q. Go on.
15 A. These were the officers that -- these were the officers

16 who were on duty at that time.
17 Q. Quite, and it may just be that you haven't been asked
18 about this before, so it doesn't appear in your
19 statement, but we know there were back-up officers and
20 we also now know that those back-up officers duly gave
21 witness statements on 27 April, early in the morning.
22 Did you also brief those to give statements or did
23 you just brief the four in the Land Rover to give
24 statements?
25 A. I briefed the officers who were in the office to give

13

1 the statements.
2 THE CHAIRMAN: So that would be the Land Rover crew?
3 A. Yes.
4 MR UNDERWOOD: We know that one of those was a constable,
5 and three of them were reservists. We have heard some
6 evidence to the effect that it would have been unusual
7 to allow reservists to make their own statements.
8 What's your view on that as a proposition?
9 A. Well, I wanted them to make statements and I didn't want
10 to have any influence on the evidence that they could
11 give, and that's why I asked them to make their
12 statements in sequence of events.
13 And on the Monday morning, at the conference,
14 I asked the detective sergeant to go back to the
15 officers with the statements, to ascertain if, in fact,
16 any other evidence could be gleaned from them.
17 Q. We know that Detective Sergeant Bradley, in fact, did
18 that, we think on 28 April --
19 A. Yes.
20 Q. -- but it was only done with the four officers who were
21 in the Land Rover. Can you explain why that exercise
22 wasn't conducted with the back-up officers?
23 A. No, I can't.
24 Q. Can you recall whether you instructed anyone to do that
25 exercise with the back-up officers?

14

1 A. No, I would be referring to the police officers, and
2 I can't explain that, no.
3 Q. No, I'm asking you whether you can recall whether you
4 did it.
5 A. No, I can't recall".

In relation to the statements of all police officers P39, like any other CID officer would have been entitled to rely on experienced police officers making statements, but she actually went further, unlike the vast majority of

investigations, and asked DS Bradley to go back to the Landrover Crew and see if any further evidence could be gleaned from their statements.

We note that she cannot recall if the same direction was given in relation to the back up officers. We note that these officers were not further spoken to about the contents of their statements, so it seems probable that no such direction was given. This, we submit is perfectly understandable and reasonable, having regard to the fact that the Landrover Crew would have been seen as the critical witnesses and, as stated above, she was entitled to assume, having given her direction, that the statements were complete.

It is our submission that P39, especially having regard to her limited investigative experience, pursued this investigation from the outset with professionalism and diligence.

P39 would have been entitled, especially having regard to her direction that detailed and sequential statements be made by all officers, to rely simply on those statements to pursue the investigation. In fact she directed that the Landrover Crew be spoken to again by DS Bradley to see if any further information could be gleaned. P39 cannot recall if she directed CID to further interview the back up police officers. It seems probable that no such direction was given to do the same with the back up crews, as they were not spoken to. It was perfectly reasonable and understandable that the focus of her attention was the Landrover Crew.

It is our submission, especially having regard to her limited investigative experience, that she pursued this investigation from the outset with professionalism and diligence.

In his first report Mr Murray at page 30, section 8 to 8.9 dealt with the initial actions carried out by DC Keys on being called out on duty. He regarded DC Keys as an experienced detective who acted in the best interests of the investigation,

In relation to the operational responsibility of DC Keys, we remind the Panel of the oral evidence of Mr Murray at p76,

"A. I do acknowledge the role DC Keys played, because, in
4 fact, I think the RUC were critical of that officer
5 whereas, in fact, I wasn't. I felt he did a very good
6 job at the scene.
7 Q. While we are touching upon it, in case I forget to come
8 back to Mr Keys, it is absolutely clear from your report
9 that your view is that Detective Constable Keys did
10 everything he possibly could to further this
11 investigation in difficult circumstances.
12 A. Yes, indeed".

DC Keys own evidence on this issue at p94 was,

"Q. Thank you. Can we have a look at a document that I hope
5 is your witness statement so we can identify what it is?
6 It should start on the screen at page 80595. It runs
7 through fifteen pages. Perhaps you could just keep your
8 eyes on the screen while we scroll through the fifteen
9 of them, please.

10 A. Yes.

11 Q. Is that your witness statement?

12 A. That is, yes.

13 Q. Are the contents true?

14 A. They are.

15 Q. Thank you. I want to ask you some questions about some
16 of the paragraphs, if I may, starting with paragraph 24.

17 We find it on page 80600. In that paragraph you

18 say -- this is in relation to the early part of the

19 investigation early on the morning of 27th April 1997:

20 "It was not normal practice to look at notebook

21 entries from those officers on duty as my priority was

22 to obtain evidence in the form of witness statements.

23 I decided that I would not personally take the officers'

24 statements. The reason that I chose not to do this was

25 based on my experience of giving evidence in

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1 Northern Ireland. In some cases the legal profession

2 has alleged that detectives have taken statements from

3 officers and worded them to suit the particular

4 situation."

5 Now, I want to get the picture, if I can, about

6 normal practice and what happened here when you have

7 a group of uniformed officers who may have seen suspects

8 and who may be able to identify witnesses who are called

9 in to make statements.

10 First thing: does somebody debrief them?

11 A. Does somebody debrief them?

12 Q. Sorry. In 1997, would somebody have debriefed them?

13 A. That responsibility, in my recollection, is that the

14 duty sergeant or the duty inspector may well have

15 conducted that process with them.

16 Q. Right.

17 A. Personally speaking, I have never sat down and debriefed

18 an officer on a formal basis or recorded his statement

19 from him. I would have on occasions, yes, spoken to

20 officers to establish what evidence they may give.

21 Q. Fine. You talk there, as you did in your statement,

22 about your personal approach.

23 Was it commonplace for detectives to leave uniformed

24 officers to their own statements?

25 A. Yes.

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1 Q. You mentioned that the duty sergeant may debrief or may
2 have debriefed in 1997.

3 What would have been the nature and extent of
4 a debriefing after the sort of incident we are talking
5 about here, normally?

6 A. In my experience, it varied. We all have different
7 abilities in how we go about our job. I suppose that's
8 reflected in the quality of information that you get.
9 That could be maybe perhaps notes left for you or, on
10 occasions, many occasions, statements.

11 Q. Okay. We have heard from another officer that where
12 a constable was left to his own devices to make his
13 statement, then it would be expected that an experienced
14 detective would go through the statement with that
15 officer afterwards to tease out whether there is any
16 more information to be gleaned.

17 What do you say about that?

18 A. Not my experience to have sat down with them on
19 a one-to-one and have gone through the statement.
20 I would have taken their statement and gone through
21 the statement, and if that statement had some glaring
22 omission in it or some feature or aspect in it that was
23 to me obvious that it should have been included, then
24 that matter could have been raised with the particular
25 officer afterwards.

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1 Q. If, for example, an officer had seen somebody who could
2 be a very useful witness and they simply don't mention
3 that in their statement, so there is no glaring
4 omission, there is nothing that would be done about
5 that. Was that the position in 1997?

6 A. Sorry. Can I ask you to repeat that, please?

7 Q. Of course. Take this situation. A uniformed officer is
8 present at the scene of a crime. He sees someone there
9 he can identify who may be a very useful witness --

10 A. Yes.

11 Q. -- but in his statement he makes no mention of that
12 person. On a reading of it by a detective such as you
13 were then, you could not tell that he has missed
14 something important out.

15 That would be it, would it?

16 A. Yes, on the basis of what you have described to me, yes.

17 Q. In that situation then, is the only safeguard, apart
18 from the officer's ability and genuineness, the degree
19 of any debriefing that he might have received from his
20 duty sergeant?

21 A. It would assist and would certainly help to eliminate
22 that possibility, but I doubt if you could ever put your

23 hand on your heart and say that it would eliminate it
24 completely.
25 Q. The only safeguard against the officer missing it out

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1 was the possibility that the sergeant would debrief. Is
2 that fair?

3 A. Yes, I would agree with that.

4 THE CHAIRMAN: To do that, he has to think, "There is
5 something missing here"?

6 A. Yes, he would have to have some reason to do that.

7 MR UNDERWOOD: Is that still the position?

8 A. I have retired two years now. I can give you the
9 position up until the date of my retirement in
10 June 2007.

11 The processes are vastly different now, in terms
12 of -- and I speak here in relation to witnesses
13 generally. We use a model called ABE, which is
14 Achieving Best Evidence. That is a recognised model
15 I believe throughout the United Kingdom. Within that
16 there are certain criteria set down, i.e. if a witness is
17 deemed to be vulnerable or significant and they are
18 vulnerable by age or perhaps intimidated, then their
19 evidence is often taken by way of videos.

20 Q. If I can just take you back to my example, imagine the
21 day before you retired you were faced with a position
22 where uniformed officers had been present at the scene
23 of a crime, that they were not debriefed by the duty
24 sergeant and they made statements which may or may not
25 have included everything they saw on the night.

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1 Were there any other safeguards in place as at that
2 date that might have encouraged them to give more
3 detail?

4 A. Speaking from my own perspective -- and that's all I can
5 give you, my own experience over 31 years of policing --

6 Q. Please.

7 A. -- and that is, as I did in this particular instance,
8 say to officers, "I want you to make your own
9 statement". These officers are more than capable.

10 Every officer receives basic training, and, as part
11 of that basic training, the officer would have received
12 training in how to make a statement of evidence.

13 What I would have done as practice, and what I have
14 seen other officers do, is say to the person, "I want
15 you to make your statement out and include in that
16 statement the sequence of events. Include everything in
17 its natural running order. Where you can describe
18 people, give comprehensive descriptions, both physically

19 and of their clothing. If you can name anybody, include
20 the name and the role and the part that they played in
21 it".

22 Q. So that's what you would have done in 1997 in any event,
23 is it?

24 A. That's what I did do in 1997.

25 Q. Right. Again, you are fairly telling us you can only

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1 give us your own personal experience.

2 In your own personal experience, did the situation
3 change by the time you retired or was that still the way
4 in which people were told to make their statements?

5 A. My role had changed. I was promoted a few years after
6 that and I moved into major investigation teams and
7 Crime Operations Department --

8 Q. Right.

9 A. -- and I wouldn't have had the same contact with
10 investigating officers.

11 Q. Fair enough. I will stop asking that question then.

12 To go back to 1997, though, you tell us that -- to
13 be fair, this is something that emerges further on in
14 your witness statement anyway -- you told these four
15 officers from the Land Rover the sort of thing you have
16 just been telling us about what they should put in their
17 statement.

18 That was true of all four of the Land Rover
19 officers, was it?

20 A. Not just the Land Rover crew. That was true of all the
21 uniformed officers that were available to me that
22 morning.

23 Q. And --

24 A. With the exception, sorry, if I can interrupt you, of
25 perhaps Constable Neill, who was maybe some time later

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1 in that particular morning.

2 Q. He had further to travel, didn't he, so he arrived a bit
3 after the others?

4 A. I now know that, in fact, he was delayed for quite
5 a bit.

6 Q. Just to be clear about your evidence on what it was they
7 were told they needed to put in the statement, they were
8 told, were they, then, to put in names or any other
9 identifying features of anybody they saw at the scene?

10 A. Absolutely.

11 Q. Witnesses or suspects?

12 A. Absolutely.

13 Q. Thank you."

The Panel saw and heard DC Keys. It is our submission that DC Keys was an honest, dedicated, professional detective who did everything possible to further this investigation.

As far as DS Bradley's operational responsibility is concerned, he was tasked to read all the statements of the officers, which he did. He was also tasked by P39 to go through the statements of the Landrover Crew with them to see if more information could be gleaned, which he did. We have already referred to the fact that they were understandably the focus of attention was on the Landrover Crew.

We would remind the Panel that having read the statement of Reserve Con Atkinson, DS Bradley was not happy with the contents. As he stated in his Inquiry statement,

"9. The statement of Reserve Constable Atkinson dated 27 April 1997 has been produced and shown to me containing page numbers 692 to 694. I note that in my statement dated 13 November 2001 at page 17572 I recorded that I pointed out to Reserve Constable Atkinson that he had only identified two persons at the scene, Rory Robinson and Wayne Lunt. My statement goes on to say that Reserve Constable Atkinson had served in Portadown for many years and lived locally and that he was bound to be able to identify more persons who were possibly involved. I cannot recall how Reserve Constable Atkinson reacted when I said that to him but, in reply, Reserve Constable Atkinson gave me two further pieces of information. "

This demonstrates an enthusiasm and professionalism on the part of DS Bradley to obtain all information in pursuit of the attackers of Robert Hamill. Again, it is our submission he acted professionally and diligently.

Submissions by Gus Campbell Solicitors (Marc Hobson)

Con. Neill is only detailed to be subject for any adverse comment or criticism in relation for failing to report having seen Hanvey at the scene , though he clearly failed to make an adequate statement. Con Neill states his statement (10423) paragraph 45 'not his best statement as things did not properly come out' but with his experience they should have – is this not a potential criticism or adverse comment as clearly officers had the opportunity to discuss things. At the very least with his experience he should have been aware of the great difference of stating that a suspect had either kicked at or kicked a suspect about the head or shoulders and the implications that would have had . It is astounding that this was not expressly detailed as he was aware at that stage as to the allegation that his crew had sat in the landrover and did nothing and that this evidence was crucial to their defence of any neglect allegation that when a potentially lethal / terminal blow was being struck he and his crew were most definitely outside the landrover on the street and he specifically saw the fatal blow being struck . Further to that the absence of a detailed mention of A.Hanvey is inexplicable in the circumstances as when Neill says that he was out on the street there were numerous persons involved in fighting and viewing Hanvey in like

circumstances as Atkinson who then warns p89 is most definitely worthy of note as potentially involved in the attack or at least the crowd trouble. This absence of detail surely merits at the very least some adverse criticism or comment as being the most experienced member of the landrover crew.

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

See the composite submission above

Submissions by the Police Service of Northern Ireland

It is accepted that all of those named had a role to play in ensuring that debriefing was properly conducted.

Submissions by Russell, Jones & Walker Solicitors (Alan McCrum)

Regarding Inspector McCrum, see paragraph 8.155 above.

THE THIRD ISSUE: INITIAL SCENE MANAGEMENT

- 12 The materials demonstrate the training and expertise of the detectives who had conduct of the initial stages, and of other calls on their time:
 - 12.1 DC Keys's training record (44963).
 - 12.2 DCI P39's training record is (72535).
 - 12.3 Insp Alan McCrum was interviewed by Supt Karen Kennedy. He stated that there were no blood stains or anything to indicate a scene, there was nothing to indicate that this was any different from what had taken place on previous weekends (10376).

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

The Panel will remember the evidence of P39 when she stated that DC Keys was one of the most experienced Detective Constables. With this being her first major investigation, the Panel may feel that she was entitled to rely on that experience.

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

See the composite submission above

Submissions by the Police Service of Northern Ireland

See sections 14-15 below.

- 13 Witnesses added to the information:

P39

Oral Evidence

- 13.1 She was a Detective Chief Inspector in April 1997. She clarified that MSX in 72535 is “fax machine” training. “Coms Rels Induction” is Community Relations (p.2). She has never completed a course on HOLMES or MIRIAM. She has taken a one day “Crime Strategy Seminar” but that does not include HOLMES (p.3). She retired in March 1998 (p.62). There were two other incidents that were equally as serious on the same night as Robert Hamill was attacked (p.145). Within the RUC there was not an intelligence cell, but there was a regional intelligence office (p.147).

Henry McMullen

Oral Evidence

- 13.2 He was the weekend duty officer (p.39) His role was to ensure there were adequate resources for the investigating officers by checking that they were happy with their resources. In the Hamill investigation there was no shortage of resources (p.40). He had no role in the investigation (p.41). It was in his power to enable more Constables, for events such as house to house enquiries. The DCS and he would make the case up the chain of command but in this case that did not happen (p.43). He arrived at 08.30 on 27 April. The person in charge at the time was the duty Inspector. It was a serious incident as he was called out at 08.30 and he normally arrived at 11.00 on Sundays (p.62). He was technically on duty overnight and could be called out for specific reasons, e.g. to get Mobile Support Units from headquarters (p.62).
- 13.3 There were the resources to call out a scene of crime officer within an hour. He has experience of SOCOs arriving four or five hours after they were called, as they were at other scenes (p.71) but there would be a record of who was on duty and why there was such a delay (p.72).

Ronald McCreesh

Oral Evidence

- 13.4 Supt McCreesh believed he may have had dealings with the investigation beyond Monday 28 April 1997 as ACC Hall may have been at Regional Headquarters. He was fairly certain he had discussions with senior CID officers as to the nature and type of investigation on the Sunday and the Monday. He also discussed putting extra resources into the Portadown area (p.9). Insp McCreesh dealt with resources and at no stage was he asked for additional resources (p.10).

Michael Irwin

Statement

- 13.5 (81418): Moved to CID Portadown on 6 January 1997. DCI **P39** was his line manager and was responsible for 'J' Division CID. DCS McBurney had overall responsibility for South Region CID.
- 13.6 (81419): HOLMES, in RUC, was a substantially under-resourced unit. It did not have the resources to enable a strict adherence to RUC policy.
- 13.7 (81450): The availability of resources was a constant issue. He knew DCI **P39** sought additional CID and Regional Crime Squad personnel to support the investigation, however there were no officers immediately available. Uniform personnel were also fully employed within the Sub-Division.
- 13.8 (81452): On 10 May he briefed uniform and accompanying CID personnel regarding six arrests and four searches. There were issues regarding limited uniform personnel being available for the arrests and searches. As a result, there were the minimum number of officers available to allow all arrests and searches to be conducted.

William McCreesh

Statement

- 13.9 Para. 6: He was deputy ACC in 1996.
- 13.10 Para. 15: He knew DCI **P39** was called out and she would have had responsibility for the investigation. Any press release would have come from the investigating officer and not through him.
- 13.11 Para. 20: Part of his area of responsibility was Mobile Support Units. If there were any dispute over the allocation of resources, then it would be brought to his attention. He was unaware of Mobile Support Unit officers being deployed on arrests on 10 May 1997.
- 13.12 Para. 21: ACC Hall would have assumed responsibility for liaison on 28 April 1997.

Ken Armstrong

1st Report

- 13.13 Page 47, Para. 1.8.7: CID was so overworked that they did not have time for training and had to use inadequate resources. Many CID officers lacked awareness of what was required at the beginning of an investigation.

Oral Evidence

- 13.14 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).

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

See the composite submission above

Submissions by the Police Service of Northern Ireland

See sections 14-15 below.

Comment

- 14 This issue is raised at this stage so that when the concrete examples of forensic strategy and the approach to the CCTV footage are considered, the resources available can be in mind.

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

See the composite submission above

Submissions by the Police Service of Northern Ireland

The PSNI do not accept that resource and training issues are relevant to the forensic strategy or to the approach to CCTV in this case.

- 15 It is plain that the RUC had a shortage of trained detectives who could take charge of a serious investigation and progress it in a coherent manner. No doubt the panel will have in mind, when considering any potential criticism of P39, that she had not received training in key areas. Further, although this Inquiry is concentrating on acts and omissions by detectives in relation to Robert Hamill's murder, the evidence shows that the detectives had other important cases to manage at the same time.

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

We accept that the RUC was under-resourced and under-trained. Responsibility for that state of affairs must lie ultimately with the Chief Constable at the time, Sir Ronnie Flanagan. However, there was much more wrong with policing in Northern Ireland in 1997 than a mere lack of resources, as the report of the Patten Commission showed, and as Professor McEvoy's report explains.

It seems incredible that P39 could have risen to the rank of DCI with so little training in basic detection skills. Nevertheless, many of those skills are

personal rather than a matter of training. One would expect a DCI to show leadership skills; to understand the need to acquire and preserve evidence; to be methodical; and to have the ability to prioritise competing demands for time and resources, to give just four examples of the skill-set required. DCI P39 does not appear to have exercised any of those skills in relation to this incident.

We cannot accept that the systematic failures in the police investigation into Robert Hamill's murder were solely attributable to lack of resources or training. There are only two conclusions that can be drawn from such an inadequate investigation: either the RUC was a hopelessly incompetent police force incapable of the detection of serious crime, or every single officer involved simply did not care what had happened to Robert Hamill and had no desire to find out the truth. If the Inquiry conclude that the latter is the case, then they will need to consider whether the failure of the officers concerned was a matter of individual responsibility or whether the failings were institutional. If, as we believe, the RUC as an institution failed Robert Hamill, then we invite the Inquiry to consider why that was, and whether sectarianism within the RUC accounted for its failure.

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

Having regard to the fact that P39 had received very little training, she managed and supervised the initial stage of the GBH investigation with professionalism and enthusiasm. She went a step further than the norm in a GBH investigation in setting up a mini Miriam system. It must be borne in mind that she was actively involved in two other equally serious incidents that occurred that weekend within the sub-division and other CID officers were involved in other day to day work. Despite this, as she herself stated at p11, on being called out she did not want to waste time and was conscious that evidence might be lost if she did not act quickly. The Panel may feel that she did all she could.

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

See the composite submission above

Submissions by the Police Service of Northern Ireland

The PSNI accept that it is relevant to consider an individual's training and experience, as well as the other demands on their professional time when assessing the performance of their duties and whether criticism is appropriate.

The PSNI refers to and relies upon the helpful report of Mr. Ken Armstrong which brings to the fore the demanding circumstances in which the RUC and its officers were expected to deliver a policing service in 1997.

THE FOURTH ISSUE: FAST-TRACK FORENSICS

- 16 The materials on this show the following:
- 16.1 02.45 Sergeant **P89** said the town centre was quiet. He travelled to Craigavon hospital to check on the injuries to Robert Hamill and **D** (724).
- 16.2 04.00 approx Insp Alan McCrum was advised that Robert Hamill's injuries were life-threatening (10361).
- 16.3 04.20 Road sweeper diverted from the scene (8950) (NB This time is put at between 05.00 and 05.30 by the street cleaner (10291) and by Con David Orr)
- 16.4 05.00 DC Donald Keys returned to Portadown police station following a call from Insp Alan McCrum. He was briefed by Insp Alan McCrum and returned to the scene (11102).
- 16.5 05.30 DC Donald Keys directed Con David Orr to instruct the street cleaner to avoid the junction (714).
- 16.6 07.25 Con David Orr and Con **A** taped off the scene (714).
- 16.7 Con **A** said that at 07.27 she and Con David Orr taped off the area where two males had been lying before the ambulance arrived (9235).
- 16.8 08.00 DC Donald Keys directed the SOCO to lift items from the scene (9250).
- 16.9 09.00 DC Donald Keys and DC John McDowell arrived at the Police Station (4156).
- 16.10 09.55 Scenes of Crime Officer (SOCO), Con Mark Ardis, arrived at the scene. He was requested at 08.00 (10993).
- 16.11 10.20 Photographs are taken of scene by [REDACTED], RUC photographer (9246).
- 16.12 10.20 DC Donald Keys attended Craigavon Area hospital and directed that photographs be taken of **D** (11102).
- 16.13 Road sweepers are instructed to clean the area of the scene (17015).
- 16.14 DC John McDowell received clothing from **D** (6555).
- 16.15 Robert Hamill's clothing was handed to [REDACTED] solicitor's office by Robert Hamill's fiancée (9589).
- 16.16 18/1/2001 DCS Colville Stewart presented his findings to the Chief Constable. He has identified [amongst other matters] inadequate crime scene

preservation and little consideration of forensics. It was these areas of concern that Supt [REDACTED] of Complaints and Discipline was appointed to investigate, which was inherited by Supt Kennedy in April 2001 (26879).

- 16.17 29/1/01 Chris Mahaffey was appointed on behalf of PONI to supervise. It was agreed that the investigation would focus on [amongst other topics: (a) Scene preservation d) Seizure of suspect's clothing (e) Gathering debris (g) Loss of forensic and ID evidence. The standards to be applied to scene preservation and debriefing were outlined in police orders and manuals (10768).
- 16.18 2/2/01 PONI provided terms of reference for the Complaints and Discipline investigation to look at the failure in scene preservation; arrest strategy; seizure of suspects clothing; evidence gathering at scene and debriefing of officers at scene (14670).
- 16.19 17/7/01 DC Donald Keys was interviewed by Supt Karen Kennedy. DC Donald Keys stated that when he arrived at the scene at about 05.45 on 27 April 2007, there were no tapes and he could not be satisfied that the scene was not contaminated. He told police not to let anyone through. There were two police there, although it was unclear at what stage they arrived and that he needed more information before securing the scene. He has definite recollection of telling DCI P39 that the scene was not secured and it was her responsibility. He called DC John McDowell and DCI P39 because he was faced with a difficult situation and wanted an SIO to take charge. The briefing given to the SOCO was a general one at the office, and a more specific one at the scene. He was told to lift all items at the scene (10175).
- 16.20 30/8/01 Insp Alan McCrum was interviewed by Supt Karen Kennedy. He said on his arrival at the scene there were very limited police resources and he requested that an MSU be diverted because he was concerned that the police might be overrun. The ratio was about six civilians to one police officer. He stated that there were no blood stains or anything to indicate a scene and there was nothing to indicate that this was any different from what had taken place on previous weekends. He told DC Donald Keys face to face to tape off, seal or preserve the scene, which was vital. It was inconceivable to secure every public order assault scene in Portadown on a Saturday night. (10361, 10376 and 10390).
- 16.21 20/9/01 Con David Orr was interviewed and he stated that he went with Con A to tape off the scene. He could not remember who told him to do it or if he was told to do it. To his knowledge there was no consultation at the time about taping off the scene once the crowd were under control. He could not say why no consideration was given to taping off the scene before 07.27 (10475).
- 16.22 20/9/01 Res Con Silcock was interviewed by Karen Kennedy and CI Desmond Jackson. He stated that the glass around Robert Hamill's head appeared to be a broken bottle. He had never received any training on preservation of the scene, securing scenes or exhibiting evidence (10478).

- 16.23 24/9/01 Res Con James Murphy was interviewed by CI Desmond Jackson. He states that he remembered there being many small pieces of glass like a bottle had been broken (10488).
- 16.24 Con Alan Neill was interviewed by Supt Karen Kennedy. He did not preserve the glass that he moved from around Robert Hamill's head because all they could do was preserve the life of the people there and look after themselves and it slipped his mind by the time he terminated duty. He did not know who told the hospital that Robert Hamill had been hit by a bottle. He described the behaviour of the persons in the town as affray. He said that he was not aware that the assault was life-threatening when he was stood down (10423).
- 16.25 20/11/01 Con A was interviewed by Supt Karen Kennedy. She said that the first time she was asked to seal the scene was just before 07.27 (10443).
- 16.26 3/1/02 Supt Kennedy issued her report. (10120). Her conclusions were: Area A: Scene preservation. Guidelines for scene preservation were set out but there were no guidelines for a minor assault that may end up as a murder investigation (10146-50). Area D: No consideration was given as to the seizure of suspects' clothing for the purpose of forensic examination. Without being able to establish decisions made which determined the course of the initial assault investigation this cannot be fully explored. One might conclude that if there was no arrest strategy – there was no strategy for obtaining forensic evidence (10153). Area E: No attempt was made to gather debris (broken bottles etc) at the scene. No attempt was made at the time and a possible criticism could be that had a complete debriefing taken place, the glass removed from around Mr Hamill's head may have been recovered (10153). Area G: Valuable forensic and identification evidence was therefore lost. It is impossible to be precise in stating whether valuable forensic evidence was lost and it is impossible to state the position regarding the loss of valuable identification evidence (10156-64).

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

See the composite submission above

Submissions by the Police Service of Northern Ireland

See section 18 below.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

It is submitted that one cannot assert definitively that forensic scientific or identification was in fact lost.

- 17 The written and oral evidence is to this effect:

P89

Statement

- 17.1 Para. 24: He does not remember if he discussed scene preservation with Insp McCrum before he left the scene.

Con A

Statement

- 17.2 Para. 29: Did not see Insp McCrum at the scene when she left. She did not remember if Sgt **P89** was there. No senior officer told her she could leave, nor were instructions given about scene preservation.
- 17.3 Para. 33: She did not remember who asked her to hold the scene and open a log. She went back to the scene with Con Orr. The scene was not taped off when she arrived and no one else was there. She did not remember seeing blood. There was broken glass and bottles at the Thomas St and Market St junction and all over the main street.
- 17.4 Para. 34: She did not remember who taped the area. The Crime Log shows the taped off area was from Woolwich Building Society to Dorothy Perkins and from Thornton's to Halifax to the Woodhouse St and Thomas St junction.
- 17.5 Para. 35: Whilst at scene she did not see DC Keys or DCI **P39**.

Oral Evidence

- 17.6 She was at a road traffic accident after the incident and then she held the scene log. She closed the log at 08.13 (p.103). She did not have scene preservation training. Sometimes police cars would have crime scene tape in them (p109).

John Adams

Statement

- 17.7 Para 16: Does not remember any instructions or directions being given about scene preservation before he left with Insp McCrum.

Dean Silcock

Statement

- 17.8 Para 15: There was lot of glass and debris on the ground but he did not remember there being any directions to tape off or preserve the scene.

Oral Evidence

- 17.9 “He did not think he was trained in scene preservation. He did not remember being spoken to about scene preservations” (81163). (72554) shows he had not been trained in scene preservation (p.50). He was served a form 17(3) by disciplinary team (10712). It alleged that he removed glass from near an injured person’s head; took no action to preserve the scene and neglected his duty (p.78). He did not believe he had a role to play in preserving the scene or any of the other allegations (p.79).

David Orr

Statement

- 17.10 Para. 2: He received initial training in scene preservation but he did not know if he had any refreshers.
- 17.11 Para. 17: He did not remember who gave him the instruction to tape off the scene. There were no other officers about. There was lots of debris on the ground.

Oral Evidence

- 17.12 In April 1997 he had not had any scene preservation training (p.2).
- 17.13 “the street cleaner was instructed to avoid the junction at 05.30. I assumed he was directed to do so” (81070) “I taped off the scene with Con A at 07.25” (81071) He did not tape off the scene earlier as he did not believe it was a serious incident as other assaults were not. He did not examine the scene for glass or blood and he was not trained to do so (p16).
- 17.14 An order to claim clothing belonging to the injured parties was never given to him by Insp McCrum. He was at the hospital on another matter (p.17) (10710) shows that the first allegation was the failure to secure the scene. Con Orr was not asked to do that. He was told to carry on his normal duty.

James Murphy

Statement

- 17.15 Para 7: There were many small particles of broken glass around Thomas St junction.

Paul Warnock

Statement

- 17.16 Para 29: He signed the riot gun in at 03.30. He was making sure the crowd dispersed in that time. Sgt **P89** gave him no instructions regarding the scene preservation or taping off the scene. He did not pick up any items before he left. He does not remember if any officers or vehicles were still at the scene.
- 17.17 Para 32: The CID officer he was covering did not ask for a walkthrough of the scene. He did not remember seeing any bottles or broken glass. He did not remember being asked to lift any items but if he saw something he would have lifted it on his own initiative
- 17.18 Para 33: He picked up a child's belt (11148). He did not think CID were aware of it as he did not remember telling them at the scene. He did not remember seeing the log keeper. At this stage the street cleaner had not been through the scene.

Oral Evidence

- 17.19 He has not had any scene preservation training (p.34).
- 17.20 "He went to cover CID at the scene at 07.15" (81248) He did not know if DCI **P39** was there (p.51).

Gordon Cooke

Statement

- 17.21 Para 33: He went back to the scene with DC Keys at about 06.30. The street looked like it normally did on a weekend morning. There was the usual dirt, debris, litter and glass. He walked DC Keys through it

Oral Evidence

- 17.22 He never trained in scene preservation (72546). "Initial evidence gathering" postdates the incident and involved using camcorder (p4).
- 17.23 "He understood that orders were given not to let anyone into the area where the injured parties were" (81680). He did not remember being told by that anyone. Normally the barriers open early and this time they were left closed. A police vehicle was left at the scene (He did not know who was in the vehicle (p.64). It was a police saloon car. The car was only thing in the town centre at that time p.66). He got the impression that this was done for a reason (p.12). Insp McCrum's journal says (10371) "told Con Cooke to go to Craigavon Area Hospital to get the clothes of injured parties". Con Cooke was not asked to do that (p.23). If he had neglected that then it would have been noticed and someone would have been tasked to fetch them (p.24).

John McDowell

Oral Evidence

17.24 He went to the scene with DC Keys at 10.00 27/4/97. He recalled the scene was cordoned off by then (p.100). He did not remember any statements being available before he went to the scene. He would have expected a SOCO to be at the scene, bearing in mind the state of the scene (p101). Per para. 6 (80896) he looked for evidence such as blood or an instrument used in the assault. He did not find anything. He went through the cordon to look around the scene. He stated that he was in a position that he was allowed to go in and have a look. He did not remember if the scene log keeper was on duty at that time (p.102). He stated that it is not obligatory to have contact or liaise with the SOCO before going into scene (p.103). He did not remember if the SOCO had been there or not, but the assumption was that they had. It did not occur to him to ask if SOCO had finished. If he had been there is a natural assumption that they would have spoken to him but they did not because SOCO was not there (p.104). They did not put suits on before they went to the scene because they did not have suits then. He states that it was not his responsibility to preserve the scene. He said that if a scene is to be preserved then it is a scene log officer or uniformed of a higher rank whose duty it is to make sure procedures are properly followed (p.106).

Mark Ardis

Statement Notes

- 17.25 Para. 3: SOCO office at Portadown was supervised by Portadown CID office. It was based in Mahon Road. When he retired the office had six SOCOs.
- 17.26 Para. 5: On 27/4 was called out at 08.00.
- 17.27 Para. 6: He was the duty SOCO for that weekend and the only officer on duty.
- 17.28 Para. 7: He completed a scene of crime incident form (13917) as part of his original notes and recorded that he attended the scene at 1000. He has no recollection of being briefed about where IPs had been on the street.
- 17.29 Para. 8: On (13917) he recorded Mr xxxxx as the photographer.
- 17.30 Para. 9: Once at the scene, he carried out an assessment and would have discussed it with the CID officer present as to what was required and what was required to be seized from scene. He cannot recall if anything was pointed out to him. He cannot recall if DC Keys stayed at the scene during the examination.

- 17.31 Para. 15: He collected broken glass from the road, the glass was in several pieces and he collected them together. MAA8 was glass from the Thomas Street side of Market Street; MAA9 was glass from the Woodhouse Street side of Market Street; MAA10 was beer a can from the same area.
- 17.32 Para. 16: Having completed the exam and seized the exhibits, he cannot recall whether he went back to Portadown or returned to the Mahon Road office.
- 17.33 Para 17: Apart from discussions with DC Keys regarding the exhibits, he cannot recall having any further discussion about any items at the original scene. On 8/5/97, he handed piece of wood MAA6and7 to DC Keys
- 17.34 Para 18: On 12/5/97, he took blood samples to FSANI lab for analysis (38842). On the form that he completed, he recorded DI Irwin as IO. He cannot remember if he had had a conversation with Irwin about the exhibits or the scene examination. He submitted blood stains as there were samples at the laboratory for comparison
- 17.35 Para 20: He assessed that MAA10 did not need specialist examination. MAA8, 9, 11 and12 were more suitable and so he forwarded them to the fingerprint bureau.
- 17.36 Para 21: Any fingerprint found on the exhibits was submitted to the bureau and would be notified to IO and to him.
- 17.37 Para 22: At the time he was not sure that the exhibits officer would have a record of all the items in the investigation or just a record of what had come into CID office. This changed and now everything goes via exhibits officer.
- 17.38 Para 23: He had no involvement in forensic strategy or liaison with the forensic scientist. The role of SOCO changed in 2001/2. The crime scene manager had responsibility through the SIO on major crime for liaison with forensic, investigators and other agencies involved.

Oral Evidence

- 17.39 He was the only SOCO for that area. He would be in office between 09.00 and 17.00. On-call at other times (p.7). The Hamill incident was his first call (p.8).
- 17.40 “The SOCO was called in to Portadown. He met DC Keys. He was briefed on the incident and told that there had been a serious assault and that he was required to go and see what was there”, as per (80028). He does not remember the substance of the briefing beyond that. “I believe that I accompanied him to scene...I completed a scene of crime incident form” (p.2).
- 17.41 It would take an hour and a half to get to the office, gather equipment and go on to Portadown. He was called whenever his notes say. He does not

remember if he had to wait for the photographer or met him at the scene. There is little that he can do without the items having been photographed in situ (p.8).

- 17.42 When he arrived at the scene the general area was taped off. He had a cursory look outside the tape to see if there was anything further (p.3).
- 17.43 He chalked the areas in 230 which contain bloodstains. He swabbed and seized as MAA1 and MAA2. He does not know what the big stain was. It was just a mark on the ground (p.3). It was obvious what was blood. He took it for granted that it was blood and that it would be tested later (p.4). He chalked the areas in 232 which also contain blood (p.4). He would mark with chalk when taking photos to denote where something was found, if it was not obvious (p.5).
- 17.44 236 shows two Buckfast bottles which have been picked up and fingerprinted (p.5).
- 17.45 There is no common timescale about taping off the scene. It depended on the circumstances, who was there etc. The contamination between 03.00 and 07.30 would depend on the weight of the traffic. The hope is that officers would be forensically aware but the general public could have deposited items after the incident. It depends (p.6). The ideal is to have the scene sealed off as soon as possible after the incident and to have SOCO attend as soon as possible (p.9).

Donald Keys

Statement

- 17.46 Para. 6: My aim was to gather what evidence I could [when he went to the scene].
- 17.47 Para. 15: Con Cooke briefed me.
- 17.48 Para. 16: I told officers not to let anyone through the scene.
- 17.49 Para. 30/2: He spoke to **D**'s wife and stressed the importance of getting his clothing but she did not bring it with her.
- 17.50 Para. 33: He told Con Ardis all the items at the scene were to be lifted, including debris and blood.
- 17.51 Para 34: He briefed the photographer.

Oral Evidence

- 17.52 When he was first briefed at the scene, it was not taped off but there were one or two officers at the scene (p.102). He later revisited it with DCI **P39**

and the scene was taped off. He was accompanied to the scene by Con Cooke. He could only provide DC Keys with so much information. DC Keys did not remember where the start of the fight was (p.104).

P39

Oral Evidence

17.53 Per para. 3 (81567) “Over the weekend of 26 and 27 April 1997 she was CID on-call duty officer in J Division. At approx 06.50 on 27/4/97, DC Keys telephoned her and informed her that an incident had occurred in the town centre and as a result two people were in hospital.” She accepted it was a serious incident due to two men being hospitalised. She was not briefed in the telephone call. The call was to get her on duty and when she got to the station, she was briefed in more detail. She contacted the consultant and was given a very detailed briefing about Mr Hamill’s condition (p.10). She arrived at the station shortly after 07.00 (p.163). Per para. 4 (81568) “I spoke with DC Keys and also spoke to Insp McCrum” when she arrived at the station. It is impossible to remember what Insp McCrum said, but she was treating the incident as being very serious (p.10). Para 4 (81568) “[officers at scene] had to return immediately as their statements were required. They arrived at the CID office shortly afterwards”. This was required as she needed the evidence for the investigation. She did not want to waste time and was anxious that evidence might be lost if she did not act quickly (p.11). She believes the scene was sealed off. Tape covered the junction area of Market, Thomas and Woodhouse Sts. During the phone conversation with DC Keys her first question was if the scene was sealed (p.12). She probably expected the SOCO to be called before she got there, but as there were other incidents she would have expected them to be on duty (p.82). There were so many people in the scene that evening that it was of limited forensic value. In the end it was DCI P39 who asked for the SOCO (p.83).

Karen Kennedy

Oral Evidence

17.54 The scene would always be sealed and an examination would take place if it was obviously serious. When crimes were not initially deemed serious, it scene preservation was a judgement call (p.6). That no vehicles were allowed through the scene is not sufficient sealing. Proper scene preservation is sealing with tape, setting up log and very tightly controlling people who would enter the scene. With hindsight when two people are taken away in and ambulance it would be deemed to be sufficiently serious to trigger sealing (p.7) but she believes that at the time the officers did not realise the seriousness of the injuries. It would be a judgement call if a scene was to be sealed after a weekend punch-up (p.8).

17.55 Contended one of two supervisory officers had the responsibility to make the call that this was a serious incident and there needed to be preservation of the scene (p.39). To make that call they needed to get sufficient information (p.40).

Desmond Jackson

Oral Evidence

17.56 An IO would appreciate the advantage of seizing clothing quickly to get DNA evidence (p.56).

Michael Irwin

Statement

17.57 (81440) and (81441): There were some major difficulties to overcome to make people accountable for the crime:

- The scene was contaminated
- The injured parties clothes were not immediately obtained.

William McCreesh

Statement

17.58 Para. 13: He would not have discussed scene management because the RUC had great experience with crime scenes.

Oral Evidence

17.59 In an ideal world scene preservation would be done by the book. It is very difficult to do in a volatile situation. CID have the investigatory expertise. They assume responsibility when they arrive on the scene (p.8).

Alan McCrum

Statement

17.60 Para. 17: He did not manage the scene as he did not know the extent of what had taken place. He did not know the severity of the injury to Robert Hamill, so he did not see any requirement to manage the scene.

17.61 Para. 18: He was unclear about where the scene was. There was nothing to suggest that it was a serious assault. He had an opportunity to speak to all, or

virtually all, of the officers when pushing the crowd away. He spoke to Con Neill who said they had done their best to pull some of those back who were assaulting others.

Oral Evidence

- 17.62 Scene preservation was in the back of his mind at the time (p.26). There were so many fights, he could not preserve the scene of each one. No vehicles could get through the scene and the police were left there (p.27). By 03.00 Portadown would have been very, very quiet (p.28). The scene took time to be opened as he called the CID officer and then asked all officers to ensure that they had statements for DC Keys. He asked Con Cooke to draw up a list of names of those present (p.32). He then sent Con Cooke with DC Keys to ascertain where the scene was (p.33). Insp McCrum remembers asking Con Cooke to draw up the list and remembers him writing, but that may have been his statement (p.34).
- 17.63 Information about how serious an assault was would tip the balance for him to set up a crime scene (p.45). Each must be reviewed on its merits, hence asking Sgt **P89** to ascertain the severity of injury (p.46).
- 17.64 To close off a scene required three officers and they would probably have been required past 08.00 (p.45). He did not manage the scene prior to discovering Mr Hamill's injuries as he did not know he would need a scene (p.69).

Denise Cornett

Statement

- 17.65 Para. 3: She did not have training in preserving forensic evidence or scene preservation generally.
- 17.66 Para. 26: She did not see it as part of her duties to secure the scene.

Colville Stewart

Statement

- 17.67 Para 13: On 18/1/01 he met with the Chief Constable and briefed him on the areas of concern DCS Stewart had with, amongst others, initial management of the crime scene and preservation of evidence at the scene.

Colin Murray

1st Report

17.68 Para. 6.26: It was impractical to expect that all assault scenes are preserved. He would expect the RUC to preserve the scene once it was suspected or known that a victim had serious injuries.

17.69 Para. 17.20: RUC did recover broken glass, as it was on the exhibit list

Oral Evidence

17.70 The forensic strategy was good apart from how Wayne Lunt's fingerprints were dealt with (p.65).

Ken Armstrong

Oral Evidence

17.71 Mr Armstrong shares concerns about the scenes (p.172). There were times when the scene had not been cordoned off. That goes to people's training, experience and resources. He has faced the same difficulties as this investigation has (p.173). The police had changed and the police now provide the level of training, dedicated resources and the facilities to concentrate on this type of crime (p.174). The ability and resources to manage a scene now are far greater than they were in 1997 (p.175).

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

See the composite submission above

Submissions by the Police Service of Northern Ireland

See section 18 below.

Comment

18 There is plainly an issue about scene preservation and the recovery of debris. The investigation led by Karen Kennedy was concerned that the forensic strategy may have been flawed. However, now that the evidence is in, it is difficult to see how the strategy could be criticised. The crime scene was chaotic because it was the site of a riot. Once the rioters were disbanded police remained on the scene to protect it. Once the SOCO arrived he was asked to retrieve everything that could be of interest. There is no reason to believe that anything of forensic value was lost.

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

By Northern Ireland standards, what happened in Portadown town centre on 27th April 1997 was hardly a riot. Significantly, as pointed out by Colin

Murray, "The statements of the officers in attendance did not reflect a riot. The statements talk of skirmishes and that upon arrival of assistance the crowd was dispersed" (8.125). By 2:10 am the town was becoming quieter and by 2:45 am P89 reported that all was quiet (Inquiry timeline). There had been no need to deploy the plastic baton round gun, let alone live ammunition.

The first of the misleading press releases put out by the RUC in the aftermath of the incident spoke of "a clash between rival factions". While this was inaccurate in itself, it does not denote a riot. Most of the civilian witnesses described what took place as "a fight".

It may suit certain witnesses to talk up the severity of the situation in the centre of Portadown that night, years after the event, but the contemporary evidence does not sustain a finding that there was a riot.

The crime scene was not chaotic because there had been a riot. It was chaotic because it had been seriously contaminated during the five and a half hours before it was taped off. As a result, it is not possible to conclude that nothing of forensic value was lost at the scene.

It is certainly not the case that no early forensic opportunities were lost. Neither Robert Hamill's nor D's clothing was seized immediately. Their clothing was not obtained until 29th April 1997 (Inquiry timeline). None of the suspects, apart from Wayne Lunt, were detained on the night, and he was released without charge. None of the suspects was interviewed until 6th May 1997 (Inquiry timeline); they had plenty of time to dispose of any clothing or footwear which might have yielded forensic evidence.

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

We agree that it is difficult to see how the fast-track forensic strategy could be criticised.

Submissions by the Police Service of Northern Ireland

The PSNI accept that it is valid to highlight the failure to preserve the scene for forensic examination until 7.27am on the 27 April 1997.

General Order 12/94 CC (Scenes of Crime Preservation and Examination) was applicable to this situation. It is understood that it was appropriate to refrain from sealing the scene until it was established that the injuries suffered by Mr. Hamill were serious. Police simply do not have the resources to seal off every crime scene, and the practice was not to routinely seal off such scenes at that time (see Kennedy Report 10147). A decision as to whether to seal off a scene must in part be influenced by the nature and seriousness of the crime which has been committed. (see the Murray Report at 6.26)

In this case once it was established at approximately 4.00am that Mr. Hamill's injuries were life-threatening the senior officer on duty (Inspector McCrum) ought to have moved quickly to take the initiative to preserve the scene. He should not have awaited the arrival of CID for this purpose. The PSNI have already recorded its concern that Inspector McCrum was responsible for the poor scene management (10168).

In mitigation it can be said that a number of informal steps were taken before the scene was preserved which were either designed or would have had the effect of helping to preserve the integrity of that scene.

In particular the street cleaner was directed to avoid the area of the junction, and a land rover was left at the scene. It was also the case that the town centre was quiet at that time of the morning with little pedestrian traffic and no vehicular traffic because the security barriers were deployed. Nevertheless, it was unacceptable that the scene was not actually secured until 7.27am.

It is clear from the evidence provided by Mr. Armstrong that the problems experienced at this scene were not unique. He has highlighted his own experiences of the inadequacies of scenes management (p173 of his report). It may well be that the RUC faced training and resource issues in the field of scene preservation, and the risks posed by terrorism at scenes of crime may have been another factor in this malaise.

Mr. Armstrong has explained how the PSNI has now put in place the necessary training, resources and structures to professionalise the approach which the police service takes to scenes preservation.

It is submitted that once the scene was preserved the scenes of crime officer (Mr. Ardis) worked efficiently and comprehensively. The PSNI agree with the submission that it is very unlikely that anything of forensic value was lost or missed.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

Please see 16.

THE FIFTH ISSUE: THE CCTV

- 19 The materials show this:
 - 19.1 01.4? Allister Hanvey withdrew £10 from the First Trust ATM2 in Portadown (6047).
 - 19.2 29/4/97 DC Donald Keys was instructed by the SIO to identify all premises in the vicinity which have video cameras and list their details, then check and obtain all videos and submit for copying. The results are: 1) The Queen's bar

on Thomas Street has a camera which covers only the door; 2) The First Trust bank on Market Street has a camera which does not record; 3) The A and L bank on Market Street has two tapes which contained no night scenes and 4) The Northern bank on the High Street showed the area by the cash dispensers, front door and footpath. No copies were taken (13291 and 3286).

- 19.3 7/5/97 The Boss Hoggs video of CCTV footage was obtained but is said to have been of poor quality (3309).
- 19.4 17/7/01 DC Donald Keys was interviewed by Supt Karen Kennedy. The video at the Queen's bar only covered the door and the CCTV at First Trust bank was not recorded (10175).

Please insert any submissions or comments if you so wish

- 20 The witnesses said this, in writing and orally:

Monica O'Reilly

Statement

- 20.1 Para 7: Did not know if the tapes were returned. If they were, they would have been taped over. The police made no request to retain the tapes because, if they had, they would have been allowed to.

Oral Evidence

- 20.2 She worked at Alliance and Leicester. There was only one recorder there. There were four external cameras (222) (p.41). The cameras were the black boxes above the sign (p.42).
- 20.3 "Cameras operated for 24 hours a day. She thinks that there was a weekend setting. The tapes were changed on a daily basis, although there was not one person responsible for tape changing. There was a tape for each day of the week and the recordings were kept until the same day the following week. (p.42). No-one checked the tapes on 28 April as the incident was nothing to do with the branch. The police called in later on 28 April and asked to see the tapes. She handed the tapes over to the police (p.43). She thought there were two tapes, which would definitely have the footage on them (p.44).
- 20.4 She was surprised to hear that there were no night scenes, as that was the point of tapes. The recorder was set up to record from Friday evening to Monday morning (p.45).
- 20.5 Apart from loading the tapes, the staff had nothing to do with the cameras (p.45).
- 20.6 If was an incident involved the bank, someone from head office would come to look at the tapes (p.46) She had never looked at the tapes so could not say what the cameras showed (p.47) She never looked at the tapes from that

weekend so cannot say what they showed. She had never checked to see if the cameras were working (p.48).

20.7 Tapes were given back by police (p.49).

20.8 She did not know if was a system to show if a camera was not working (p.49). She did not think that there were monitors inside to show staff what was happening outside (p.50).

Julie Sherwood

Statement

20.9 Para. 21: The CCTV at Jameson's Bar was a monitor-based system showing who was at the door. She did not remember if it was a recording device. She did not remember if she looked at the monitor during the incident.

Beverley Irwin

Statement

20.10 Para 16: There was no CCTV at Jameson's Bar at the time. There was a camera on the main door and a monitor but it did not record. The camera would maybe cover outside the large shutter door.

Fiona Hamill

Statement

20.11 Para. 7: Spoke to DI Irwin and DS Bradley about CCTV.

20.12 Para. 9: She was not given any information about the investigation after the CCTV meeting. They were never given a family liaison or had anyone with them.

Oral Evidence

20.13 She met DI Irwin with Diane Hamill regarding the CCTV footage. He said that there was nothing on it of significance but admitted the Land Rover was on it (p.3). He did not say which video this was on (p.7) or discuss which video had been seized (p.10). At that stage the officer beside him swung his head round and looked at him (p.3). The conversation was not that the Land Rover was in lay-by and therefore the Land Rover being on it was insignificant (p.9) She thought the other officer was P65 (p.7).

20.14 The Hamills wanted to find out how the police investigation into the attackers was proceeding (p.4). The conversation was a few minutes long

(p.6). DI Irwin was fine to her but the other officer was dismissive towards her (p.7). The meeting was before Robert Hamill died and before the complaint was made (p.11).

Diane Hamill

20.15 She remembers a conversation with the police about the CCTV. That took place in the little interview room in Portadown station. There were three Hamill sisters present: her, Fiona and another. Two policemen (DI Irwin and DS Bradley p.29) came in after a while. They had gone to the meeting to find out the state of investigation. They were told there was nothing on CCTV, then Fiona asked about the Land Rover and the officer said it was on the video. The other officer's reaction was shock (p.15). She did not mention the other officer's reaction in her statement as she did not think it was relevant. They have discussed things as a family as the Inquiry has progressed and they have remembered things (p.28). She remembered the detail during the course of the hearings (p.32). It did not come to mind to add it to her statement as it is one of many things that could have been added (p.29). When they were having the discussion they knew the Land Rover was at position 3, as they had been told by **E** and **F** (p.33). First Trust Bank was not mentioned. They were referring to footage of the incident (p.34).

Dereck Bradley

Oral Evidence

20.16 He knew DC Keys was dispatched to get CCTV evidence (p.79). In a public order situation two people should view the CCTV (if there is something on the tape (p.81), but one would view it first hand p.123). He knew the procedure was implemented, but he did not know when, that when CCTV was viewed it was retained and a blank tape given back to the camera owner (p.80). He was surprised the CCTV was not retained as he would have retained it (p.81). He has no recollection of meeting the Hamill family at any stage other than at a preliminary enquiry stage in Craigavon Courthouse (p.82).

Donald Keys

Statement

20.17 Para. 44-46: He received two tapes from Alliance and Leicester. The tapes were black.

20.18 Para. 48: He approached Queen's Bar and First Trust bank but did not recover any tapes containing relevant footage.

- 20.19 Para. 49: DCI **P39** and DI Irwin agreed that the Alliance and Leicester tapes should be returned.

Oral Evidence

- 20.20 Per para. 46 (80605) “I viewed the tapes [from Alliance and Leicester] back at the station. I did not remember if anyone else was present when I viewed them. The tapes were black, total darkness. There were internal views, with nothing on them, and no external views”. DC Keys relied on the action note (9901) that said that there were “no night scenes on those tapes, there were no external cameras on that building. There were a number of internal cameras on it and those were the premises my hat was hanging on to give a proactive lead”. There were two tapes he took possession of and he viewed the other ones at the Northern Bank. There was no Land Rover on any of the tapes (p.106). He did not remember a specific conversation about the CCTV with DI Irwin (p.107). He thought that he would have kept the tapes if there was anything on them (p.108). He stated that there was nothing on the Alliance and Leicester tapes. There was no night-time scene shown on the tape. He stated that people are not as aware of their systems as they should be as often they do not produce what they are thought to produce (p.114). There was nothing on the First Trust tapes. He used a private area in the Northern Bank to view the tapes. It showed the relevant time (p.115). He did not remember if there was anyone shown on the path. He was satisfied that there was nothing of evidential value on the tape (p.117). It was not policy in 1997 to keep CCTV tapes (p.118). He was acutely aware that he had to conduct a CCTV trawl (p.12). The Queen’s Bar camera looked up Thomas St. It was of no use in terms of the scene (p.121).

P39

Oral Evidence

- 20.21 Left it with DC Keys to recover CCTV footage and to view it and to come back to her and/or DI Irwin in relation to what he had found. There was nothing of evidential value on the tapes (p.25). She cannot say what was shown. She believed the police would have got evidence from it “but apparently it was extremely limited as to the view and there was nothing on the tapes – she thinks there might have been one of them not working”. P39 cannot remember if the tapes showed the Land Rover (p.26). She got a verbal report from DC Keys on the Monday (p.84). She accepted the report as otherwise she would have had to do all work herself (p.85). She believed any evidence whatsoever would be relevant (p.87). She was looking for people on the tape and did not have the view that a blank tape could be of as much evidential value as a tape with something on (p.88). She had absolutely no doubt DC Keys did the job correctly as he was totally reliable (p.188).

Michael Irwin

Statement

- 20.22 (81440) and (81441): There were some major difficulties it overcome to make people accountable for the crime:
- 20.23 No CCTV from Queens Bar, which were only premises to cover the area.

Oral Evidence

- 20.24 The conversation with the Hamill sisters about CCTV took place on 30th October 1997 (p.42). DI Irwin believes in “See no evil, hear no evil” page 32 that Diane Hamill mentions DI Irwin had told her that the Land Rover was seen on the video on 30 October. On that date the Hamill sisters came in distressed and aggravated as charges had been withdrawn against a number of individuals. They had a conversation about the video evidence. He had spoken to her before about it and said there was no video evidence (p.43). He was trying to explain that the Land Rover had moved from First Trust Bank, which was the only place they could have seen it on CCTV and there was no video from First Trust. He has never seen the Land Rover on the CCTV (p.44). As a result of his meeting on 1 May with Diane Hamill, who was wanting to know why the police had not helped, DI Irwin went and checked with DC Keys and DCI P39 that there was no video evidence (p.45).

Submissions by the Police Service of Northern Ireland

See section 21 below.

Comment

- 21 There is a sharp conflict of evidence. On the one hand Miss O’Reilly and the Hamill sisters say that there was something of interest on tape. The police officers deny that. It is plainly a matter for the panel to decide which version is to be accepted.

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

In the absence of the CCTV tapes themselves, it is clearly for the Inquiry to resolve this conflict of evidence. The Committee on the Administration of Justice's April 1999 report, "See No Evil, Hear No Evil" records at page 29 that Diane Hamill told them that RUC officers told her on 30th October 1997 that there was video footage of the Land Rover but not the incident. Detective Inspector Irwin confirms that he had a conversation with the Hamill sisters on that date about the CCTV footage (20.24), although he denies saying that the Land Rover could be seen in the CCTV footage. However, we can think of no reason why Miss O'Reilly or the Hamill sisters would lie about the matter. We know from our own direct experience that

Diane Hamill, in particular, took a very keen interest in the police investigation into her brother's murder.

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

It is quite apparent from the evidence of Monica O'Reilly (of the Alliance and Leicester) that she never looked at any tapes to see what area or areas any camera covered. In particular, she never looked at the tapes that were handed over to the police, and indeed did not even know if cameras were working. Most importantly, whilst she said at p42 that she thinks the black boxes shown in photograph 00222 were security cameras, they were in fact lights, and on close examination of that photograph it is clear that the black boxes are lights, and no external cameras can be seen.

This is confirmed by the evidence of DC Keys who told the Panel that there were no external cameras on the building, and that having viewed the two tapes, there were internal views with nothing on them, and no external views (p106). We refer to the Action Record Print at 9901 dated the 29/4/97 which states that DC Keys, having viewed the tapes from the Alliance and Leicester, records "both viewed shows no night scenes".

Having regard to what we know about DC Keys, and having seen and heard him in the witness box, we rhetorically ask if anyone would seriously suggest that DC Keys saw something on these tapes and decided to conceal it. We also know that DC Keys reported on the CCTV footage to P39 on the Monday, and she had no doubt that DC Keys did his job correctly as he was totally reliable, and indeed it is apparent that he viewed all potentially relevant CCTV footage.

There is a sharp conflict of evidence concerning the conversation between DI Irwin and the Hamill sisters. It is our submission that this is probably a misunderstanding on the part of the Hamill family as to what they were being told.

It must also be remembered that in 1997, that there was no direction that tapes of non-evidential value be retained, nor was it DC Keys' policy.

Submissions by Russell, Jones & Walker Solicitors (Michael Irwin)

Ms O'Reilly was an employee of the Alliance and Leicester Building Society who said that she had never in her days looked at CCTV tape and seemed to think that down lighting lights outside the building were in fact cameras.

The only suggestion that any evidence was on CCTV comes from the Hamill sisters following an emotional meeting on 30 October 1997 with Michael Irwin and DS Bradley. DS Bradley had no recollection of the meeting. Michael Irwin and the Hamill sisters had a conversation about what was on video. Their recollections differ.

The only evidence about what was on CCTV tapes comes from DC Donald Keys. He was tasked by P39 to gather up any CCTV evidence on the morning of Monday 28 April 1997. It is submitted that DC Donald Keys' evidence was very credible indeed and that he came across as a hard working and honest Detective Constable. His evidence was that 2 tapes from the Alliance and Leicester were blank and that if there was anything on them, including anything showing police officers rather than members of the public, then he would have kept them. He was also firm that the recorders at the First Trust Bank did not record either and that the Northern Bank only showed the pavement at its ATM. He viewed this for a number of hours in the bank's facility and saw nothing of any evidential value. He also gave evidence that in 1997 it was not policy to retain the CCTV tapes. This aversion has never been challenged.

Document numbers 2221 and 13291 show that the availability of CCTV was checked also in Jameson's Bar and also the 2 local fast food outlets.

Submissions by the Police Service of Northern Ireland

There was no basis in fact for Miss O'Reilly's claim that the two tapes would definitely have relevant footage on them (p. 44). In circumstances where she had never viewed a recording from a tape at that branch, never mind the tape for the night in question, her evidence was of little value or weight. She may well have been surprised that the tapes contained no night scenes, but she had no grounds for contradicting that assertion.

The only evidence to support the contention that there was material of evidential value on the tapes is based upon an admission allegedly made by DI Irwin to Fiona Hamill and Diane Hamill in the presence of DS Bradley. DI Irwin has dismissed the accuracy of their recollection. Moreover, he never viewed the tapes. His knowledge of the contents of the tapes derived from conversations with DC Keys and P39. DS Bradley has no recollection of ever attending any such meeting.

The best evidence on this issue was given by DC Keys. He is the only person to have viewed the Alliance and Leicester tapes, or any of the tapes. He is the only one who could comment authoritatively on what they contained. The Inquiry had the opportunity to consider his oral evidence. It is submitted that he was a straightforward and honest witness. P39 described him as an officer who was competent and reliable (p. 188).

It is submitted that when DC Keys told the Inquiry that there was nothing of value on the tapes he is worthy of belief. Of course if there was footage of value on the tapes which was not made available to the investigations this would be a most serious matter. If the recollections of the Hamill sisters are accurate it would suggest that DC Keys, DI Irwin, P39 and DS Bradley have conspired to hide or destroy evidence and to deny its existence to this Inquiry. It is unclear why they would do this. There is no warrant for any

such allegation. It would be wholly inconsistent with the approach which they otherwise took in these investigations.

In 1997 the procedure was that when a CCTV tape was seized from a business it would be returned to that business if it did not contain material of value. That procedure has now changed.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

Agreed.

Potential criticisms and adverse inferences

Robert Atkinson

- Failed to make an adequate statement or otherwise give information for the purpose of the investigation
- Warned Allister Hanvey to destroy the clothing that he wore on 27 April 1997.
- Gave two false accounts to the RUC about the telephone calls to the Hanvey household
- Entered into a conspiracy with his wife and the McKees to cover the telephone call of 27 April 1997

Dereck Bradley

- Reviewed statements from only the Land Rover officers and not from other officers who were present at the scene

Gordon Cooke

- Failed to follow orders given by Insp McCrum to draw up a list of those identified at the scene of the attack and to attend the hospital to collect clothing

A

- Did not respond to the complaint made when she released Wayne Lunt
- Failed to include the details of persons who complained when she released Wayne Lunt
- Failed expeditiously to report her dealings with Wayne Lunt and those complainants

Michael Irwin

- Shared responsibility with Maynard McBurney and **P39** for the conduct of the investigation
- Failed to ensure that Stacey Bridgett was interviewed about his blood being found on Robert Hamill's jeans
- Failed to consider treating Timothy Jameson as a suspect
- Failed to ensure that a full and thorough briefing was delivered prior to the search of the Hanvey house on 10 May 1997
- Took a witness statement from Andrea McKee, which he knew to be untrue, and allowed it to be advanced as true

Donald Keys

- Failed to ensure that the crime scene was adequately secured
- Failed to ensure that RUC officers present at the attack were effectively debriefed
- Did not adequately gather evidence from CCTV records

P39

- Failed to carry out early arrests and searches of suspects
- Failed to start a policy book for the GBH investigation
- Omitted to determine a forensic strategy and suspect strategy

P89

- Negligently failed to ensure that there was adequate preservation of the crime scene
- Omitted to ensure that RUC officers present at the scene were adequately debriefed
- Failed to alert detectives to the confrontation between him and Allister Hanvey

Alan McCrum

- Negligently failed to ensure that there was adequate preservation of the crime scene
- Failed to ensure that RUC officers present at the scene were adequately debriefed
- Failed to follow up orders given in relation to debriefing and evidence collection

David Orr

- Failed to act on an order given by Insp McCrum to attend the hospital to collect clothing