

INDIVIDUAL SUSPECTS

1 A number of questions arise in relation to how a case was made against Messrs.

- Hanvey
- Lunt
- Forbes
- Bridgett
- Allen
- Robinson
- Hobson
- Woods

2 The material questions seem to be these - was an adequate search strategy adopted, and if not why not? Secondly, were potential witnesses properly identified, interviewed and made available, and if not why not? Thirdly, was forensic evidence sought and deployed adequately, and if not why not? Fourthly, was a recommendation for prosecution properly formulated, and if not, why not?

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

In considering this module and all other modules we ask the Inquiry to bear in mind the following: By the time the Robert Hamill Inquiry was established, the case had become a cause celebre. The perpetrators are still at large. There has been a failed police investigation and a failed inquest and an Inquiry under the Inquiries Act 2005 has been established. There are simply no incentives after all this time for those with any guilty knowledge to remember truthfully what happened, or to incriminate themselves or others. For those reasons, we hope that the Inquiry will put more weight on people's actions rather than their words, and will put more weight on statements made in 1997 rather than those made today, unless there is good cause for thinking that there is a genuine wish to put the record straight.

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

In relation to these questions, the question of potential witnesses being properly identified, interviewed and made available, has been dealt with. It is clear that everything was done by the RUC that could be done. In relation to the third question, we have already dealt with the issue of forensic evidence,

which subject to any debate about the Hanvey search on the 10/5/97, was thorough and professional.

Submissions by Gus Campbell Solicitors (Marc Hobson)

Of course the question, was a recommendation for prosecution properly formulated, would have to include a consideration of whether the decision to prosecute and maintain such a prosecution against any one particular individual for murder was properly formulated. It should not just consider whether the initial decisions to prosecute followed by the decisions to withdraw such prosecutions was properly formulated, see Section 18.

Submissions by P J McGrory Solicitors (Family of Robert Hamill)

Allister Hanvey

The evidence against Allister Hanvey:-

1. Tracey Clarke made a statement on 10th May 1997 (1) in which she implicated Allister Hanvey, Dean Forbes, Stacey Bridgett, Mark Hobson and Rory Robinson in the assault on Robert Hamill. She attended a DPP consultation on 17th October 1997 (2) and said she wouldn't give evidence against Allister because she loved him and it would be hard to give evidence against the others because she knew them all. She subsequently denied the truth of the statement. Detective Superintendent Robert Cooke who attended the consultation gave evidence on 15th September 2009. He said that he believed Tracey Clarke had a real fear of retribution by Loyalist paramilitaries. "She would have indicated that she was unwilling to give evidence for other reasons, but at the back of it, when she may have been saying she was unwilling to give evidence because of her boyfriend, my impression was that she was fearful of what might happen and that was reinforced by the parents". (3) The Panel has to take a view as to whether Tracey Clarke fabricated the story in her statement or told the truth. It is however our submission that the Inquiry should attach full weight to the statement for the following reasons:-

a. It gave a contemporaneous account of events and all of those implicated by her were at the scene.

b. The statement contained allegations which were shown to have a factual basis for example:-

(i) She alleged that Robert Atkinson had telephoned Allister Hanvey and told him to get rid of the clothes he was wearing. There was evidence in the form of copy billing from BT in relation to the phone calls from the Atkinson house. (4)The case of Robert Atkinson will be addressed in more detail elsewhere in our submissions but, if the Panel conclude that he did advise Mr Hanvey on escaping detection, this is supportive evidence that Allister Hanvey was guilty of wrongdoing

(ii) She said that she saw Michelle Jameson helping one of the injured parties who was lying near Eastwoods. Michelle Jameson made a police statement (5) in which she said she went over to a man who was lying near Eastwoods and she knelt down and listened to his breathing.

c. At no time did Tracey Clarke deny the truth of her statement until she was interviewed for the Robert Hamill Inquiry. She then cherry-picked uncontroversial parts of the statement which she said were true or which might be true and those parts where she had made allegations about Hanvey and the others which, she claimed, were not true.

d. In her Inquiry statement, (6) Tracey Clarke suggested that Andrea McKee was a willing participant in the fabrication of the statement of 10th May 1997. This is an unlikely scenario. Michael Irwin said in evidence on 9th September 2009 (7) that when he met Andrea McKee on 8th May 1997 at the cemetery she appeared very frightened and that she seemed to be telling the truth. Andrea McKee gave evidence to the Inquiry on 11th February 2009 and she said that she did not take any part in Tracey Clarke's police interview. (8) In his evidence on 29th April 2009, Detective Constable John McAteer, who recorded Tracey Clarke's statement, discounted as "a lot of nonsense", any suggestion that either police or Andrea McKee put words into Ms Clarke's mouth. (9) Detective Chief Inspector P39, who was also present, told the Inquiry on 1st May 2009 that it was her impression that Tracey Clarke was telling the truth and that she wasn't under any sort of pressure from Andrea McKee. (10)

e. Tracey Clarke also claimed in her Inquiry statement (11) that the police officer told her to say the names of those involved and she gave Allister Hanvey's name because she wanted to hurt him and she was being vindictive. She said that police were shouting at her and saying things to her and banging the table saying that she wasn't going to get out. She agreed in evidence on 1st September 2009 that despite that, she gave a statement, a lot of which was true. (12)

f. Tracey Clarke's step-father James Murray made a police statement on 16th November 2000 (13) in which he related things which he claimed Tracey had told him about the assault. Mr Murray attended the Inquiry on 29th January 2009. He said that he couldn't remember making his statement at page 17338. He was asked by the Chairman if he was being truthful at the time when he made it and he said he would have been. (14) In the statement he recounted that on the morning of 27th April 1997 he heard about the incident on the radio. Prior to the radio news, Tracey told him about the big fight. She said she stayed to watch because it was great crack. She was sitting on the chair at the kitchen with her back to the back door - that was always her seat. She said they all came back from the Coach and there was a fight. She said a lot ran up to the fight and Allister Hanvey was there. He wasn't sure if Tracey was there when the news came on. He remembered sometime on that day Tracey said she didn't want to go out with Allister anymore because of what he'd done. He thought that was because of the injuries Hamill had. Tracey was saying that Allister was an animal if he'd done that to Hamill. Mr Murray also said that Tracey told him, after she met Allister for lunch, that Allister felt

quite proud of what he'd done and he said "sure he was only a fenian bastard" and that was the type of attitude he had. It is submitted that this statement has a ring of truth about it. Tracey Clarke said in her statement of 10th May 1997 "I can't remember what was said but it was something like, 'Fight Fight'. We all ran down to see what was happening" She also said "Allister said he jumped on his head and kicked his head. I told him that is how he got the fractured skull and he said he doesn't have a fractured skull anymore". (15)

g. No matter how vindictive, it is highly unlikely that a teenager would implicate her boyfriend in a murder simply to hurt him. Even if she was capable of such a thing, it would not explain why she would implicate others, who were unconnected with her, in the same crime. We believe the explanation is that she was indeed telling police the truth. The Panel should also bear in mind that Tracy Clarke and Hanvey reconciled and that she bore him two children. We submit that such a union could never have occurred had she in fact invented an untruthful story that he was a murderer, even if she did later decline to give evidence. Hanvey however could forgive the initial telling of what she saw because he knew it to be true and because she withdrew it.

h. The Inquiry is aware of the great lengths to which this witness, who is the estranged wife of Allister Hanvey and the mother of his children, went to avoid giving evidence.

2. Timothy Jameson made a statement on 9th May 1997 (16) in which he implicated Allister Hanvey and others in the assault on Robert Hamill. He attended a DPP consultation on 21st October 1997 (17) claiming that he could not remember what he saw. He said that he could not distinguish in his mind between what he saw and what people had said had happened. He then stated that he could not remember anything about the fight and that he was drunk. He stated that when he had made his statement, he was simply agreeing with what the police said to him and he put in his statement what they told him. In evidence on 12th February 2009 Timothy Jameson said that the Detective Constable who had recorded his statement "was being very intimidating, very forceful". (18) We would draw the following points to the attention of the Panel:-

a. Timothy Jameson's statement came about because Reserve Constables McCaw and G supplied information to Detective Inspector Irwin to the effect that Timothy had admitted that he had 'put the boot in'. (19) Despite this, Mr Jameson was treated as a witness rather than as a suspect. This is a matter that will be revisited when considering the conduct of the RUC in the handling of this witness. It is relevant in the context of this discussion however to support the contention that Timothy Jameson was present and in the thick of the events that led to Robert Hamill's death. He therefore knew exactly who had attacked Robert Hamill.

b. It is too much of a coincidence that Timothy Jameson identifies many of those also identified by Tracy Clarke. It is inconceivable that two young people who are not, at that time known to each other should invent evidence for different reasons and name pretty much the same people. (Jameson also names "Fonzy" Allen as being involved). The similarities in their

contemporaneous accounts are powerful indications that each was telling the truth at that time. .

c. Edward Honeyford, the detective who recorded the statement on 9th May 1997 and was also present at the consultation on 21st October 1997, denied putting words into Timothy Jameson's mouth. In his Inquiry statement (20) he said "it was obvious to me that Timothy was making this up to avoid having to give evidence. That was a very common tactic in Northern Ireland. I do not believe anyone else in the room took it seriously either. In fact, I saw Mr Davison rolled his eyes as Timothy Jameson said that". In evidence on 29th January 2009, Mr Honeyford said "That was common. That was par for the course in those days. A witness would retract, and that was their means of retracting". (21)

d. It is worthy of note that Timothy Jameson's father, Bobby Jameson arranged an appointment for him with a solicitor on 21s May 1997, some twelve days after making his statement. Mr Jameson senior's Inquiry interview transcript was referred to by Counsel to the Inquiry on 22nd September 2009. (22) When asked why he had taken Timothy to see the solicitor, he replied "Yes, well, I probably was concerned that, as you've said, there were things that didn't -- wouldn't have been fair to Timothy's language in the statement and I was concerned that there was things said that may have been interpreted by the police not what actually Timothy said".

e. We would refer the panel to a fax dated 20th December 2006 from McBurney & Co Solicitors to the Robert Hamill Inquiry (23) which states:-

f. "It is my recollection that Mr Jameson indicated on 21st May 1997 that substantive averments made to RUC Officers were based upon rumour and supposition as opposed to personal knowledge. He stated that on the night in question he was inebriated and could not actually recall details of the incident. I advised him to fully explain and clarify the position to the prosecuting authorities as soon as possible. His message, through his father, to our Mr (blank) (on 22nd October 1997) was merely noted and to my recollection I had no further dealings with Mr Jameson in the matter"

g. There is no mention by the solicitor of any allegation that words had been put into Timothy's mouth by police. Further, the appointment was in May yet Timothy waited until the consultation in October to retract the statement despite the solicitor's advice to explain and clarify the position to the prosecuting authorities as soon as possible.

h. The message from Mr Jameson to the solicitor on 22nd October 1997, the day following the consultation at which he was present, is contained in a telephone memo (24)and reads:-

i. "Last Thursday his son had to attend High Court to be interviewed by DPP. Was interviewed by Mr Kerr, QC. He indicated he had drink taken the night in question and could not actually remember anything afterwards Was talk about it he heard comments of others and reported it in his statement but

could not actually remember details of the incident. They were not pleased but feels we must now just wait to see what happens”.

j. Again there is no mention of an allegation that the words in the statement were from a policeman and not from Timothy.

k. When Mr Gordon Kerr, QC was questioned by Mr McGrory QC on 16th September 2009, (25) paragraph 16 of his Inquiry statement (26) was put to him. Mr Kerr had stated in relation to Bobby Jameson’s attendance at the consultation:-

l. I recall that he sat with a very long face and looked exceedingly uncomfortable and miserable throughout.....At the end of the consultation he said that his son would not be giving evidence”. (27)

m. Mr Kerr QC recalled in evidence Mr Jameson senior’s discomfort. He also recalled, significantly we submit, that “Mr Jameson senior was definite in his views about what his son would be doing vis a vis the case..” Mr Kerr did not recall any protest from Mr Jameson Snr in relation to the way in which his son had been treated.

n. Bobby Jameson was summoned to appear at the Inquiry but did not respond. We submit that the evidence concerning the role played by Bobby Jameson in the withdrawal of his son’s evidence is significant. Firstly, Mr Jameson Snr, decided that legal advice was necessary in the context of his son not testifying. His son only informed Mr Mc Burney that he had made up these allegations based on rumour and supposition. Mr McBurney properly advised the Jamesons that, if such was so, then they should immediately report this to the prosecuting authorities. This was not done and we submit that young Jameson (and his father) knew very well that what his son had said may well have been supported by other evidence and that a withdrawal on this basis may have raised more problems than it solved for them. In fact they waited until the consultation on October 22nd by which time Tracy Clarke had by now indicated her refusal to testify and a half hearted allegation against the police was made. If this was in any way genuine surely it would have been raised when seeking legal advice and would have been pursued by an understandably angry parent who was clearly not behind the door in intervening? The likely explanation is that Mr Jameson Snr understood, far better than his young son, the consequences of becoming a prosecution witness in any murder case let alone this one. If young Timothy Jameson had given evidence against those who murdered Mr Hamill his life would never have been the same again and his father well knew it. He would have become at least a social pariah and at worst a target for Loyalist paramilitaries and may never have been able to return to Portadown again.

o. If Reserve Constable G is to be believed then Timothy Jameson had admitted to him to having some degree of involvement in the incident on 27th April 1997. This being the case, it is likely that he named the others he knew to be involved but leaving out his own part, such as it may have been.. It is also very possible that his admission to Reserve Constable G was no more

than an act of bravado and not a true admission of wrongdoing on his part. In any event, he then discussed the matter with his father who quickly formed the view that some way out would have to be found. This would explain why Timothy's father took him to see a solicitor for advice and at least created a record of his alleged concerns about the validity of his statement should he be called upon to testify in Court.

p. We respectfully submit that significant weight should be given to Timothy Jameson's statement because the information outlined above would point to his statement being true albeit with the omission of any reference to involvement by him.

3. Allister Hanvey told police in his statement of 7th May 1997 (28) that he was wearing his "black CAT zipped up jacket". When interviewed by police on 10th May 1997 (29) he said that the jacket which he had claimed to be wearing was "the only jacket I have" and described it as a black Caterpillar jacket with puffed up sleeves. It was put to him that a policeman said he was wearing a dark coloured baseball type jacket with greyish sleeves. He said that he didn't possess such a jacket and had never owned a jacket with grey sleeves and that the policeman was wrong. Allister's uncle Thomas Hanvey made a statement on 11th May 1997. (30) He claimed that Allister was wearing a navy or black quilted jacket on the relevant night. Kenneth Hanvey told police on 12th May 1997 (31) that his son Allister was wearing a black bomber jacket "CAT". However:-

a. Reserve Constable Paul Warnock said in his statement of 27th April 1997 (32) that he noticed Allister Hanvey in the crowd and he was wearing "jeans with a dark coloured baseball type jacket with greyish coloured sleeves..." We submit that his description is in fact closer to the silver baseball jacket described below that it is to the black CAT jacket Hanvey claimed to be wearing that night.

b. As stated above, James Murray made a police statement on 16th November 2000. (33) He related things which he claimed Tracey had told him about the assault including Allister having got rid of the clothes and burnt them. He said that Tracey had bought Allister a silver jacket from Paranoid for Christmas 1996 and he never saw it after the incident. Mr Murray described the jacket as "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." Mr Murray couldn't help the Inquiry from his recollection about the jacket and, as stated above he said that he couldn't remember making his statement. (34) He was asked by the Chairman if he was being truthful at the time when he made it and he said he would have been. (35) Mr Underwood QC showed Mr Murray an Action record print (36) where it was recorded that police had shown him a diagram of a jacket on 11th February 2001. It was recorded "which he thought the jacket was similar. He thought the one Allister was wearing was shorter"

c. Jonathan Wright made a statement on 11th May 1997 (37) in which he said "Allister was wearing light blue jeans, track suit top, grey colour, with a

zip up the front of it. The top had orange stripes on both arms which went down to the elbows”. In evidence to the Inquiry on 11th March 2009, (38) Mr Wright confirmed that this was a true account.

d. Julian Lyons, the owner of ‘Paranoid’ gave evidence on 30th January 2009. He had a recollection of selling a jacket to Tracy Clarke for Alastair Hanvey but only a blue Danielle Poole jacket not a silver Skanx one. He was asked by Mr Underwood QC why he was so reluctant to accept to Constable H in 2001 that he could well have sold a silver Skanx bomber jacket to Tracy Clarke when he did in fact deal with that company. Mr Lyons claimed that he was not going to engage in the confirmation of possibilities when he had no recollection of ever stocking such a jacket. However, the Inquiry statement of Steven Hughes, the owner of Skanx (39) was put to Mr Lyons by Mr McGrory QC. (40)Mr Hughes referred to his police statement of 24th January 2001 in which he described a particular jacket as “a matt silver jacket with a zipped front. It had orange two-inch braiding down the full length of each sleeve...”. Mr Hughes stated “I have been told other witnesses have described a jacket someone was wearing on the night Robert Hamill was attacked as a bright silver waist-length anorak style jacket with silver sleeves and orange stripes down the sleeves and a black waistband. That does sound similar to the one that I designed and sold to Paranoid in Portadown. The jacket was part of the Autumn/Winter 1996 collection.....” Faced with evidence from the owner of Skanx that he had indeed designed a jacket of this description and had supplied one to Paranoid, Mr Lyons eventually said “If he is saying he sold me that jacket, I agree that it is possible, but I have no recollection of either buying or selling that jacket”.

e. Just why Mr Lyons was so reluctant to accept that he had in fact purchased such a jacket from the designer is a mystery to us but stock the jacket he undoubtedly did. It is beyond coincidence, we submit, that Jonathan Wright should describe Alastair Hanvey as wearing a grey jacket with orange stripes on the arms for it not to have been this jacket. That the jacket disappeared is of further significance in the context of the allegation the Hanvey had been warned to destroy the clothing he was wearing that night. It is our respectful submission that Allister Hanvey was clearly lying about what he was wearing and that Thomas and Kenneth Hanvey also told lies in order to cover for him. This again would strengthen the evidence that he was guilty of wrongdoing.

4. Sergeant P89 said that “There was one particular individual who was very hostile. He was very reluctant to move back and had to be physically forced by myself by pushing him back. It was clear to me that this individual was close to assaulting me. I can recall Reserve Constable Atkinson say words to the effect do you know who he is watch him that fellow is an expert or black belt in martial arts. He mentioned the fellows name as Hanvey.....” (41) P89 gave evidence on 24th March 2009. He said that he saw Robert Atkinson talking to Hanvey and saw him try to calm Hanvey down or get him to leave. P89 got the impression that Hanvey was intoxicated. (42)

5. Reserve Constable Murphy saw Allister Hanvey amongst a crowd either at the junction of Thomas Street/High Street/Market Street or in West Street when the loyalist crowd had been pushed back. (43)

6. Reserve Constable Warnock said that Allister Hanvey was a prominent figure at the front of the crowd. He remembered asking another police officer what his name was and was told that it was Allister Hanvey. He didn't remember definitely who the police officer was but believed it may have been Reserve Constable Atkinson. Warnock knew that Hanvey was in the Tae Kwon Do Club and remembered his photograph being in the local paper. (44)

7. Reserve Constable Atkinson said that he might have spoken to Hanvey and asked him to move back but he denied asking him to assist him in moving the crowd back. (45) Allister Hanvey said that a policeman approached him and asked him to help move some of the people back towards the church. He said that he didn't know the policeman's name but gave a description of him (mid 40s, 5'10", stocky build, gingerish, greyish hair, moustache) and said he knew him from seeing him in the town. (46) This description fitted Atkinson. Hanvey knew Atkinson but did not identify him by name. It is submitted that this was a deliberate attempt to use his association with Reserve Constable Atkinson to his advantage, knowing full well that he would not contradict him.

8. Father Dooley stated that he received a call from a male person who he assumed to be a police officer because of his knowledge of the events of 27th April 1997. The caller said amongst other things that a "person called 'Handy' was involved in this karate club and it was he who felled Robert Hamill." (47) Father Dooley's Inquiry statement is at page 80242. He states at paragraph 5 "I wrote down what the person said on two small bits of green paper and then I sat down the next morning and wrote it out in longhandI changed two small bits of it afterwards. I was given two names one I thought was Handy, when I picked it up on the phone and I discovered afterwards from watching the news that it was Hanvey...."

9. Trevor Leatham who was a prison officer gave evidence to the Inquiry on 30th January 2009. He said that it was correct that he had bumped into Allister Hanvey when he was on remand and he asked him if he had done what was alleged and Hanvey said that he did not know because he couldn't remember what he did that night. (48) He also said that he had heard rumours that "there was Es involved, drug taking involved and maybe he might have been high on the night this happened" . (49) Mr Leatham confirmed that he had had a discussion with Robert Atkinson within about one week of the incident happening. (50) In his Inquiry statement (51) Trevor Leatham said at paragraph 8 that Atkinson told him "When they got to the scene of the fighting he saw Allister Hanvey standing back watching the fight. Robert told me that Allister was either drunk or high on drugs so he told him to "fuck off home out of the road". Allister apparently stood and argued with Robert for a while". Robert Atkinson said in evidence that he had read Mr Leatham's statement and he didn't recall the conversation. He said that Trevor had a drink problem. (52)

The Panel must decide whether or not Mr Leatham was being truthful but it is to be wondered what he would stand to gain from lying about such a matter. It is also worthy of note that Hanvey has a conviction for drugs. (53)

10. Allister Hanvey told police that he went back to his Uncle Thomas Hanvey's house. (54) Thomas Hanvey supported this. (55) Allister's father Kenneth Hanvey said that he said that he went to Thomas's home at approx 9.30 am. – 9.45 am and brought Allister home. (56) In evidence on 12th February 2009, Kenneth Hanvey said that he couldn't recall what happened on the morning of 27th April 1997. (57) There is evidence which would indicate that this is not true:-

a. Allister Hanvey's ATM machine card was used to withdraw £10 out of the Ulster Bank on High Street, Portadown at 8.46 am on 27th April 1997. (58) There was no indication that the card had been lost or stolen. The ATM was close to where witnesses Christopher Henderson and Jason McClure claimed that they were with Allister Hanvey. (59) They claimed that they had all been at a party at Tracey McAlpine's house and left around 5.00 or 6.00 am with Mr Hanvey and went to Z Cabs to get a taxi home. In evidence on 19th February 2009. (60) Christopher Henderson said it must have been around 5 o'clock when they left - "I have some recollection of it being light, potentially being light. So I would say, you know, it was very early morning". It is interesting to note that the First Trust Bank account from which the withdrawal was made was opened on 13th October 1994 and closed on 6th May 1997. No person other than Mr Hanvey was permitted to withdraw funds from the account which was in his sole name. Mr Underwood, QC asked Allister Hanvey on 13th March 2009 how his card was used to take £10 out of this account at 8.46 am on 27th April 1997 and he replied "I have no explanation for that whatsoever". (61) The Chairman asked Mr Hanvey if he had lost his cash card or lent it to anyone and he replied "I can't remember". (62) Mr Hanvey told Mr Underwood, QC that he had no recollect of closing the account on 6th May when asked why he had done this. Mr Underwood, QC asked him if he had closed the account in the hope of covering his tracks about being there and taking the £10 out, to which he replied "no". (63) It is submitted that it was no coincidence that an account which was opened for two and a half years should be closed around the time Tracey Clarke said "I spoke to Allister Hanvey on the Tuesday and I told him about what I had seen and that I had told the Police everything and that he was in deep trouble.." (64)

b. While there is an unexplained gap of some hours between the time that Henderson and McClure say they left the party with Hanvey and the use of the ATM machine their evidence is nonetheless contradictory of the evidence of Hanvey that he went to his uncles from the town and remained there until his father collected him at around 9.30 am the following morning.

c. Others placed Allister Hanvey at Tracey McAlpine's house:-

- i. Kelly Lavery (65)
- ii. Pauline Newell (66)
- iii. Tracey Clarke (67)

- iv. Iain Carville (68)
- v. Steven Bloomer (69)

d. This again is substantial evidence that Allister Hanvey was lying.

11. We submit that Mr Hanvey's evidence is a tissue of lies. He told Mr McGrory, QC that he never confronted the fact that Tracey Clarke had made a statement implicating him in a murder (70) and he told the Chairman that he never talked about it even before he made things up with Ms Clarke. (71) It is unconceivable that this was the case. Mr Hanvey claimed on 12th March 2009 that his memory of events was "Not very good at all" (72) He referred the Inquiry to his original statement and said that he had "no recollection" (73) He told Mr Underwood QC, "I can't remember being in custody 12 years ago. I was in custody 12 years ago" (74) It is unrealistic to suggest that someone who had spent almost six months on remand on a murder charge would not remember being in custody.

12. It is our respectful submission that there is overwhelming evidence that Allister Hanvey played a principal role in the assault on Robert Hamill.

Allister Hanvey (references)

- 1 Page 262
- 2 Page 17591
- 3 September 15th page 14 lines 6 - 12
- 4 Page 9350
- 5 Page 592
- 6 paragraph 24 page 80188
- 7 September 9th page 73 line 10 - page 74 line 8
- 8 February 11th page 56 lines 20 - 21
- 9 April 29th page 100 lines 8 - 16
- 10 May 1st page 34 lines 2 - 7
- 11 paragraph 26 page 80188
- 12 September 1st page 35 lines 3 - 5
- 13 January 29th page 148 line 2
- 15 Page 262
- 16 Page 15883
- 17 Page 17591
- 18 February 12th page 68 lines 18 - 19
- 19 Statement of G page 15878
- 20 paragraph 16 Page 80476
- 21 January 29th page 26 lines 13 - 15
- 22 September 22nd pages 74 - 76
- 23 Page 72988
- 24 Page 72851
- 25 September 16th page 94 - 95
- 26 Page 81413
- 27 September 15th page 95 lines 5 - 6
- 28 Page 559
- 29 Pages 6607 - 6610
- 30 Page 9193

31 Page 9902
32 Page 712
33 Page 17338
34 Page 17338
35 January 29th page 148 line 2
36 Page 5116
37 Page 9137
38 March 11th page 86
39 Page 81408
40 January 30th page 76
41 Page 11084
42 March 24th page 13 lines 19 - 22
43 Page 34807
44 Page 172258
45 Page 61271
46 Page 559
47 Page 2541
48 January 30th page 21
49 January 30th page 23
50 January 30th page 23 lines 10 - 12
51 Page 80643
52 May 11th page 77 lines 23 - 25
53 March 13th page 95; details held by NI Criminal Records Office page
71122
54 Page 559
55 Page 9193
56 Page 9902
57 February 12th page 5 line 11
58 Page 17323
59 Page 17308
60 February 19th page 40 lines 4, 5 & 6
61 March 13th page 13 line 18
62 March 13th page 14 line 6
63 March 13th page 16 line 2
64 Statement of 10th May 1997 page 264
65 Page 7090; February 17th pages 75 - 76
66 Page 9129; February 17th page 15 line 22 - page 16 line 1
67 Page 70900
68 Page 9184
69 Page 585
70 March 13th page 77 lines 1 - 6
71 March 13th page 77 lines 7 - 8
72 March 12th page 203 lines 3 - 4
73 March 12th page 204 lines 1 - 15
74 March 12th page 223 lines 22 - 23

Wayne Lunt

1. Wayne Lunt was arrested in relation to the murder of Robert Hamill but the DPP subsequently withdrew the charge. (1)

2. Constable A gave evidence at the Inquiry on 18th March 2009. She was the observer in a back-up vehicle driven by Constable Orr. In her statement of 27th April 1997 (2) she said that at 1.55 am, whilst Constable Orr was driving past Thornton's Confectionery Shop, she saw Wayne Lunt running towards a crowd at the junction of Thomas Street. He was of slim build, approximately 5'9" in height, wearing white trainers, white jeans, a white peaked cap and had a red, white and blue scarf wrapped round his face. She noticed that he was carrying a bottle upside down. Constable Orr stopped the car alongside Mr Lunt and Constable A got out of the vehicle. Lunt ran towards Church Street. At this time, Constable A saw two males lying in the vicinity of Market Street at the junction of Thomas Street and she saw forty to fifty persons involved in a confrontation with each other and other police personnel. She returned to the crowd to assist in the disturbance and she turned and saw Lunt behind her. As he turned to run she told hold of his arm. At this time he began kicking out with his feet, striking her once on the left shin and once on the left ankle. She placed Lunt in the land rover at 1.57 am to ascertain his name and address. This was done as Lunt was continually trying to pull away from her and some members of the crowd were also trying to pull him back into the crowd. Lunt left the land rover at approximately 2.05 am to be spoken to at a later date.

3. Constable A made a statement on 24th June 1997. (3) She stated that Mr Lunt left the police land rover at 0205 hours. At this time she was approached by a male who started to shout at her "What the fuck did you let him go for, he was one of the ones that did it."

4. In evidence Constable A said "When I noticed Lunt running and the bottle down by his side. I noticed that he was running towards a crowd in the town centre and I just assumed that he was going to this crowd and he was going to be throwing that bottle" (4) She was clear that he was holding the bottle upside down. Mr Underwood, QC asked Constable A "Right, so you were happy enough to release him?" She replied "It wasn't that I was happy enough to release him, no, but if I wanted to detain him any longer, I was going to have to take him to a police station which was going to take me and it was going to take at least two other constables off the ground because the way he was fighting. The way in which I first detained him, the crowd were trying to pull him off me. It was going to take at least three people off the ground and we couldn't afford it". (5)

5. Wayne Lunt gave evidence to the Inquiry on 24th February 2009. He said that he was walking down towards the centre of the town and he thought the police car came up from behind him. He was about halfway between the church and the junction to Thomas Street. He confirmed that he was just walking and he had a bottle in his hand. He said the bottle wouldn't have been empty because there would have been stuff in it. That's the reason he would have had it in his hand. Mr Lunt was shown photographs (6) which were taken the morning after the incident of a couple of bottles lying in a triangle of vegetation. Mr Underwood, QC told Lunt that one of those bottles was picked up afterwards and it had his fingerprints on it. He was asked if he could recall what happened to the bottle he was carrying and he said 'no'. It was put to him

that the reason Constable A gave for picking him up was that she thought he was going towards the fight with a bottle, holding it in a way that could have been used as a weapon. He was asked if he would accept that. He replied “No, I wasn’t holding it that way.” Mr Underwood, QC put it to him that the woman police officer took the view that he was using the scarf perhaps to hide his identity. He said that wasn’t true. (7)

6. A message log dated 10th May 1997 records a call to Crimestoppers - “The following persons were involved in the murder of the young lad that died in hospital in Portadown. Two brothers Phillip and Wayne Lunt from Mark Hobson.....Andrew Osbourne.....plus one other who is living in England but comes home at week-ends toHis name is either Berkley or Birkenhead or ‘Bev’ or something.” (8)

7. Colin Prunty gave evidence to the Inquiry on 21st January 2009. He was referred by Mr Underwood, QC to his police statement (9) where he had talked about one of the fellows in the group that was kicking Robert Hamill. He said “He was wearing a Rangers scarf and he was took away and put in the back of the land rover. He, like everybody else in the group, was kicking Robert, he was definitely kicking him but I can’t say where.” Mr Prunty confirmed that a woman police constable let the man out of the Land Rover and he went over to the police woman, who was in the back of the Land Rover and said, “What are you letting him go for? Make sure you get his name.” He was asked “Could you have gone further than that and said, “What are you letting him go for? He is one of those that did it”?” He replied ‘yes’. (10)Mr Prunty said that while the man was in the back of the Land Rover ‘he was just smirking’. Mr Underwood, QC drew his attention to his Inquiry statement where he said “He was inside the Land Rover being aggressive, making fun of what had happened and saying, ‘Fenian bastards’”. He told the Inquiry that he remembered him saying ‘Fenian bastards’. (11)In a statement of 3rd November 1997 (12)Prunty identified Dean Forbes from video footage as the person who had been put into the back of the land rover. Mr Underwood, QC referred to this and took Mr Prunty to his Inquiry statement (13)where he said “As a result of this identification, “which is seeing the video,” on 3 November 1997 I went again to the DPP’s office in Belfast and was shown 2 photographs of suspects at Portadown Police Station. I picked out 1 person whom I recognised and who was the person I had seen on the video. I could not be totally certain that this was the person I had seen in the back of the Land Rover on the night of the incident, but I thought that it was him. It was at this point that I made my second statement to the police”. Mr Prunty confirmed that at that point by 3rd November, he was confused. (14)In the judgment in the case of R v Hobson, McCollum LJ said “It would also appear that Mr Prunty’s observation, if correct, would have provided a prima facie case of serious involvement in the attack on Mr Hamill against the man arrested at the scene and taken to the Land Rover. It may be understandable that Constable A did not personally follow up the remarks made to her by Mr Prunty, but it seems very strange that she did not regard him as a potential witness and that the facts were not placed before the officers investigating the case. Indeed on the basis of Mr Prunty’s police statement there appears to have been sufficient material available on the papers in the case to merit serious investigation of

that man's involvement and it should have been easy to relate Mr Prunty's observation of the man to the arrest of him by Constable A". (15)

8. Mr Underwood, QC put the evidence of Colin Prunty to Mr Lunt. (16) Lunt confirmed that he went in the Land Rover with a Rangers scarf and he didn't see anybody else in the Land Rover. He was asked if he was smirking when he was getting out of the Land Rover. He said "No. I had just been arrested". He confirmed that he wasn't being aggressive or saying things like 'Fenian bastards'. He didn't remember anybody having a swing at him.

9. Wayne Lunt confirmed to the Inquiry that before he went into town on 27th April, he was with some friends at Michelle Jamieson's house and he had had quite a lot to drink that night. He said that he was quite drunk. Mr Underwood, QC asked him what was going on when he got to the summer seats at the church. He said there were a lot of people down in the centre of the town. Mr Underwood, QC referred him to his police interview of 10th May 1997 where he had said "Aye. We were sitting there like for about -- say it was about, I don't know, about five, ten minutes we were sitting there, and the crowd started coming back." (17) He told the Inquiry that he couldn't remember who all were there. It was put to him that some people said that while they were up by the church and the summer seats area, they saw a fight or at least something breaking out down by the junction and people ran down towards it. Mr Lunt confirmed that he had no recollection of that.

10. Mr Lunt was referred by Mr Underwood, QC to Michelle Jamieson's statement of 9th May 1997 (18) in which she said "There were loads of people running about and there was shouting and screaming. I heard things like, 'Come on then', 'Come ahead', being shouted. I realised there was a fight going on between Protestants and Catholics. I stayed at the roundabout thing for a couple of minutes and during that time I could hear bottles smashing. I walked on down towards the crowd. I walked down the centre of the street and then crossed over to the right-hand side of the street. As I was doing so, I heard a woman screaming. She had her hair in a bob. It was brown. She was wearing a black jacket, I think. She was down on her knees over a man who was lying on the street face downwards. He was lying near to Eastwoods shop. She was screaming for help and an ambulance." Mr Underwood, QC said "So here is Michelle Jamieson, who you start off with, seeing that, walking down or going down into the town to get a closer look and seeing it very close by. Again, any recollection of that?" Lunt said 'no'. He said "It's hard to remember anything from 12 years ago". Mr Underwood, QC brought Lunt's attention to his interview of 10th May 1997 (19) in which he had told police that he walked down from the summer seats or the church to see what was going on and he saw police lined up. Lunt's response to this was "I can remember a bit of shouting and that, so I did walk down. I can remember seeing a couple of police. That's about it. It's very vague." (20)

11. Mr Ferguson, QC questioned Mr Lunt about his having been picked up at Drumcree and asked him what he was doing when he was picked up. He said "Probably getting involved.....I really can't remember what I was doing at the time." He agreed that the problem at Drumcree was that the

Protestant community, or a number thereof, were prevented from marching on Drumcree and Mr Ferguson, QC asked him if he was hostile to the RUC because of what they were preventing him doing at Drumcree. His answer was "I could have well been. I can't remember". He was asked "You didn't resent the fact that the RUC had prevented you from exercising what you would have regarded as your right to march in that area?" He said "At the time probably. Again, I can't remember." He agreed that probably at the time that would have been his frame of mind and he was asked if that frame of mind then continued up until the night of the incident He said 'No'. (21)

12. Mr McGrory QC questioned Mr Lunt. He asked him if he accepted that the bottle with his fingerprint on it must have been the bottle he was carrying. Lunt said "Well, if my fingerprints was on the bottle, obviously, yes". Mr McGrory, QC put to him "Unless, of course, you lifted another bottle." He said 'no'. He agreed that he ran away from Constable A because he was afraid of being arrested. Mr McGrory, QC put to Lunt "You didn't tell this Inquiry, either at interview or today that, in fact, you were convicted of an offence arising out of an incident at Drumcree, did you?" He said "No, it wasn't brought up. I didn't need to delve into my past". Mr McGrory, QC referred Lunt to his criminal record which showed two entries, one conviction arising out of an incident on 10th July 1995 and a conviction on 10th April 1996 for riotous behaviour. Mr McGrory, QC asked him if he remembered that. He said "Well, I can't remember, no." Mr McGrory, QC suggested to Lunt that the reason he ran away from Constable A was not that he had some vague notion that he had been in trouble before but he knew very well that he had a previous conviction for riotous behaviour. Lunt denied this. (22)

13. It was also suggested to Lunt that Constable A did not run after him and arrest him because he had previously been in trouble - that wouldn't be a good enough reason for a police constable to after him. Lunt said "Basically, I did not run away because of my previous convictions. They didn't even occur to me at that time." It was put to him "But that's the reason you have given this Inquiry, that you thought that because you had been in trouble at Drumcree, you needed to get offside. Isn't that correct?" He replied "No, I didn't want to be arrested at the time, at that night." Mr McGrory, QC asked him "But if you weren't doing anything wrong, why would she arrest you?.....What I am suggesting to you is she came running towards you because you were running into the crowd with a bottle turned upside down....in a threatening manner." Mr Lunt denied this. (23) Mr McGrory, QC referred Mr Lunt to a record of his arrest on 6th March 1997. (24) It said "Circumstances of arrest".....singing songs - shouting about Bobby Sands - singing sectarian songs". It was pointed out to Lunt that six or seven weeks before the incident in April 1997, he was arrested for singing sectarian songs. Mr McGrory, QC suggested to Lunt that he was engaging in similar behaviour and that's why Constable A came after him. Lunt denied this. Mr McGrory, QC referred him to his conviction for disorderly behaviour on 24th October 1997 and showed him a record of his bail conditions when he was released on bail on 6th March 1997. He asked him if he remembered being released on bail only six weeks before the night of 27th April. Lunt said he had no memory at all. He was asked if he knew what being released on bail meant and

he said “If you are released on bail, obviously if you are seen doing any trouble, you can be arrested”. Mr McGrory, QC asked him if he was seriously suggesting that when Constable A leapt out of the car and approached him, that he didn’t have that very much in his mind. Lunt said it didn’t even occur to him. (25)

14. Wayne Lunt was further asked by Mr McGrory, QC if it would have occurred to him that one way of avoiding re-arrest was to make sure nobody could recognise him. Lunt said ‘no’. It was put to him that a baseball cap and scarf around the bottom of his face would prevent anybody from recognising him. He said he always wore his scarf like that. (26) It was put to Lunt that Mr Prunty had been very consistent in terms of what he said about the man wearing the Rangers scarf - Mr Prunty had said from the very beginning that a man wearing the Rangers scarf was in the crowd that we kicking at Robert Hamill. Lunt said “That’s not true”. He was asked if he was suggesting that Mr Prunty saw nobody wearing a Rangers scarf and he said “No, he could have seen me wearing the Rangers scarf, but I wasn’t in the crowd and I certainly wasn’t kicking Robert Hamill”. He accepted that the difficulty was that “we have no description of anybody else wearing a Rangers scarf...in any form, let alone one raised up above their jacket”. (27)

15. Simon McNally gave evidence to the Inquiry on 20th February 2009. He made a statement on 21st May 1997 (28) in which he said he was with Gareth Cust, Kyle Woods and Andrew Hill listening to music in the shed at the back of his house. He had gone to get something to eat and walked on into the town. Andrew Hill got separated from him at about the footbridge and he, Gareth Cust and Kyle Woods walked along West Street into Mandeville Street and got on to Church Street. Then he walked down to the church. He said “I could see a crowd of people in the town walking up towards the church. They were somewhere near the Alliance & Leicester branch where a police Land Rover was. I could see people near the Land Rover and the Land Rover doors were open. We knew we shouldn’t have been there, so we walked into West Street heading back in the direction of home”. He then walked into his mum and walked up home.

16. Mr Underwood, QC referred Simon McNally to Kyle Woods’ statement. (29) He had said that he was with Simon McNally, Andrew Hill and Gareth Cust and they left Simon’s house about 1.20 to go to the Chinese. Andrew Hill got separated. He said “There was some commotion in the centre of town, so Gareth Cust, Simon and I walked down towards the church. We walked down West Street, then up the wee lane at the back of the church, and then turned left and walked down towards the centre of the town, but stopped when we reached the front of the church. We didn’t go any further than that. I saw a crowd of people in the centre of the town. There was a police Land Rover at the Alliance & Leicester and a crowd coming up towards it from the bottom of the town. There were people standing at the Land Rover talking to the policemen. There was a boy. He was fat and he was shouting “Tiocfaidh ar la”. I don’t really remember what happened next, but I do recall seeing two people lying on the ground at about Eastwoods and the crowd punching and kicking at them. I also heard glass breaking but I didn’t see anyone throwing

any bottles. I saw police trying to push the crowd back. The atmosphere was very intense and I didn't want to be there." He then said they started to walk out of town and met Simon's mother. Mr Underwood, QC asked Simon McNally to tell the Inquiry what he saw and he said "I just seen a crowd of people standing about and I seen the police Land Rover at the left-hand side of the town and that was it". Mr Underwood, QC put to him "It is inconceivable that your friend, who was with you, could have seen all this and you not see it?" (30)

17. Gareth Cust's statement (31) was put to Mr McNally by Mr Underwood, QC. He had said "At about 1.00 am we went down to the Chinese at Jervis Street. We got something to eat and stayed about it for a while. While we were there we heard sirens. The sound was coming from the town centre. We walked down past McGowan Buildings to see what was happening. I saw a police Land Rover or police car with its lights flashing and an ambulance." Mr McNally said "I don't remember hearing sirens. At this point, I don't remember hearing them at all."

18. Mr Underwood, QC referred Simon McNally to Wayne Lunt's police interview. (32) Lunt had said "I forgot to mention one other person that I met when I was on my way down, a wee fella called Simon McNally". He was asked by police if this was whenever he was walking down the street towards the crowd. He said "No, whenever I went down into the town centre." Lunt went on to say "and he was also with me when I was arrested". Mr Underwood, QC asked McNally "Is this why you are not telling us the truth; that you were right in the middle of it with Wayne Lunt when he was picked up?" He replied "No. I would have been arrested too, probably, if I was with him." Mr Underwood drew Mr McNally's attention to his Inquiry Statement (33) where he said "I have also been asked about various people who are connected with this and I can say that at the time I knew Wayne Lunt, Dean Forbes, Stacey Bridgett, Marc Hobson, Allister Hanvey and Timothy Jameson. However, I am positive that I did not see any of them in the town centre that night."

19. Wayne Lunt said in his police interview "And then I walked up and I met Simon McNally's mum and I walked up with her." (34) In her Inquiry statement, Mrs McNally said "It is said that Wayne Lunt saw me that night in the town centre near the police Land Rover at Woodhouse Street. This is not true. I did not go down towards Woodhouse Street that night and although I know of Wayne Lunt, I would never have spoken to him. I did not see him at all that night." (35)

20. Mr McKenna questioned Mr McNally and drew his attention to his statement (36) where he said that he came into the house before 1.00 am on Sunday morning to ask his mother for permission to go to the Chinese restaurant. Mr McKenna told him that his mother had said in her statement (37) that it was at approximately 12.30 am when he came into the house. McNally had said that he went into town, stood at the church, saw a crowd of people and came back home but his mother said that just after 1.00 am she decided to go and look for him and she saw him outside Intersport, shouted

“Are you ready?” and he went home. Kyle Woods had said in his statement (38) that they went to the Chinese at 1.20 and McKenna pointed out to McNally that this put him in or around the town centre around 1.30/1.45. Mr McNally said he couldn’t remember times. He just knew it was between 1.00 and 2.00. Mr McKenna then put it to Mr McNally that they didn’t go to the Chinese restaurant at all. McNally said “No we didn’t”. He agreed that they went straight on into the town centre but denied that he heard sirens or anything. Mr McKenna then put to him “We know from the evidence of the ambulance personnel that, in fact, the ambulance didn’t leave the hospital until 1.50 in the morning. So it was well after 1 o’clock before you headed into Portadown, wasn’t it Mr McNally?” He said he wasn’t too sure. Between 1.00 and 2.00, that’s all he remembered.

21. Mr McKenna referred Mr McNally to Wayne Lunt’s statement (39) where he said “When I was leaving, after I’d left the Land Rover.....Simon McNally’s mum walked up the road with me to the Chinese.” McNally said he didn’t recall that. He denied that his mother was in town after Lunt was released. Mr McKenna said “You were asked during your interview, and, in fact, it is in your statement, whether you knew certain of the personalities involved on the night who were subsequently arrested. You agreed that you knew them: Wayne Lunt, Dean Forbes, Stacey Bridgett, Marc Hobson, Allister Hanvey, all identified as being there, people that you knew.” Mr McKenna put to him “You, in fact, saw them there on that night, didn’t you?” He said he didn’t. He denied seeing what they did. (40)

22. Lisa Hobson gave evidence to the Inquiry on 20th February 2009. Mr Underwood, QC referred her to her questionnaire (41) in which she said she saw scuffling with crowds and police. She also said she saw a person lying outside Eastwoods clothes shop “Girlfriend or someone with him. This was around 2.00 am”. Mr Underwood, QC asked her who she was with when she saw scuffling, police and somebody on the ground. She said “There was me, Joanne Bradley, Heidi Reaney, Michelle Jamieson, Wayne Lunt and Andrew Hill”. (42) She said she met Joanne Bradley at the start of the night and then they must have met the rest of them at Michelle’s house. It was put to her that some documents suggested that Andrew Hill came there with some other friends and met one of her crowd somewhere around the town. She said that she couldn’t remember. Mr Underwood referred her to a police document (43) which stated “She is very vague about what happened at that time but states they got separated. She did recall seeing Lunt being put in the police Land Rover and claimed he had not been involved in the fight, but could not say he was in her view between the start of the fight and Lunt being placed in the Land Rover.” Asked if she could recall this now, she said “I didn’t see him being put in the Land Rover. I seen him being let out of it.” (44)

23. Mr McKenna referred Ms Hobson to her Inquiry statement (45) where she said she was with Wayne Lunt andall five of them went into the town centre together. She said “Wayne Lunt was arrested for hurling abuse at the police”. Mr McKenna asked her if that was right and she said “He must have told me that’s what he was arrested for.” Mr McKenna said “But he was arrested for little more than hurling abuse, wasn’t he”. She said “I don’t

know”. (46)Mr McKenna put to Ms Hobson that she had described in her evidence that there was a crowd throwing bottles at police and he suggested to her that she was there from the beginning of the disturbance, because she was in town from some time shortly after 1 o’clock, if her timings were correct. She said she didn’t recall what time she reached town at. Mr McKenna further suggested that she saw Wayne Lunt enthusiastically engaged in throwing bottles at police. She said “No, I didn’t see him”. Mr McKenna then referred her to Constable Cooke’s statement. (47)He saw various people amongst the crowd. He described a male person wearing a grey Umbro sweatshirt, fawn trousers and black and white trainers and a female with long, dark, curly hair. Ms Hobson said “I did have long, black, curly hair.” Constable Cooke said he later spoke to these persons at 5.50 in the morning and she identified herself to him. (48)

24. Andrew Hill gave evidence to the Inquiry on 29th April 2009. He said that he walked into town with Simon McNally, Kyle Woods, Gareth Cust and Lisa Hobson. When he got there, there was scuffling at the top of Woodhouse Street. He was just at St Mark’s Church when he saw that and was still with the people that he came into town with. He was probably about 100 metres away from the scuffling. He confirmed that it was sectarian shouting on both sides that he heard. He didn’t recognise anybody. He didn’t see anybody kicking anybody or kicking at anybody. He confirmed that the scuffling was still going on when he left and he didn’t get involved. (49)

25. Mr Underwood, QC referred Mr Hill to Reserve Constable Warnock’s statement of 27th April 1997 (50)in which he said “On arrival in the town centre at about 0150 hours and in the area of Thomas/Market, I observed police and a large crowd numbering approximately 30 - 40 persons having a confrontation.....I then returned to the town centre where the crowd on my arrival was still disorderly. Police then started to push the crowd back towards Church Place and into West Street. Whilst doing so, I noticed the following persons in the crowd and what they were wearing: namely, Allister Hanvey, who was wearing jeans with a dark-coloured baseball type jacket with greyish coloured sleeves and also a person known to me as Andrew Hill....who was wearing jeans, blue in colour, and a navy bomber type jacket”. Mr Hill said he was wearing blue jeans and a denim jacket. He was asked if he was there when people were being pushed up the street and he said ‘no’. He was asked if he was in the crowd described by this officer and he replied “No, definitely not.”

26. Mr Underwood, QC then referred Mr Hill to Constable Neill’s statement (51)where he said “I again assisted at the line, trying to move the crowd back up towards West Street. Robinson was still in the front line and squared up to me on a couple of occasions when asked to move back, drawing his arms behind him. I also saw Andrew Hill ofin this crowd wearing a soft denim-type jacket and jeans. He appeared to be injured. The situation calmed down somewhat after this.” Mr Underwood, QC asked Hill if this was true and he said “No, definitely not.....He must have been mistaken, because I definitely didn’t receive any injuries that night.”

27. Mr Underwood further referred Mr Hill to Constable Cooke's statement (52) where he said "Persons in the crowd were shouting and jeering towards police and the injured persons and members of the crowd were constantly trying to push past police to try and get towards the injured persons...I also recognised the following persons among the crowd, Timothy Jameson and Andrew Hill. Andrew Hill was wearing a navy jacket and blue denims." Mr Hill said "That definitely wasn't me. I wasn't that far down".

28. Mr Underwood, QC referred Mr Hill to Sarah McCartney's questionnaire. (53) When asked if there was anything she would like to add, she said "Heard on Sunday from [somebody] that there had been a fight between Protestants and Catholics. Heard from Angela Buckley...that Andrew Hill...had jumped on the head of one of the fellas". Mr Hill was asked if he gave anybody any reason for saying that to police and he said "No. I actually wasn't aware of this until a few weeks ago".

29. Simon McNally's statement and Kyle Woods' statement were put to Mr Hill. McNally had said that Andrew Hill got separated from him, Gareth and Kyle and "At about Intersport I met my mum who had come into town to look for us. I looked back and saw Andrew Hill coming up towards us from the church direction." Mr Underwood, QC asked him "What do you say about that; that one of the people you say you were with, doesn't say you were with them?" He said "You would need to ask him that, like". Mr Woods had said that Andrew Hill went over to talk to a boy and a girl at the red footbridge. Mr Underwood asked him if that was Wayne Lunt and Lisa Hobson. He said he didn't recall who that was. Mr Woods said "Andrew Hill had met with us as we walked out of the town again and he walked with us too." It was put to him "So the other person you say you were with says you were separated. What do you say about that?" He said "Again, you would need to ask him". (54)

30. Mr Adair, QC asked Mr Hill if he knew Wayne Lunt. He said "Yes". Asked what Lunt was doing, Hill said "Well, walked into West Street with him, from West Street into town. He was in our company." Mr Adair, QC asked him what Lunt was doing at the time the scuffling was going on and he said "We left at that stage, and walked back up West Street. So we left him and Lisa in the town." He said that during the few minutes he was there Lunt was 'just standing about'. Mr Adair, QC asked "So Wayne Lunt wasn't down amongst this hostile crowd either. Is that your evidence?" Hill replied "Whenever I was present, no, he wasn't". He confirmed that he hadn't seen Lunt being chased by a police officer or being put in the back of a Land Rover. (55)

31. Mr McGrory, QC put it to Mr Hill that he was lying for one of two reasons or for both of these reasons. "The first one is that you saw exactly what went on, because you were down there?" Hill said "No, definitely not." Mr McGrory, QC said "You are someone who is in a position to identify those who attacked and murdered Robert Hamill?" Hill said "No". (56) Mr McGrory, QC said that the second reason he might be lying, apart from who else he could identify as being involved was that he may well have been involved in it himself. Hill said that was definitely not correct. (57)

32. It is a matter for the Panel to decide whether or not Wayne Lunt was telling the truth when he claimed that he did nothing wrong. However, we respectfully submit that his evidence is a web of lies and there is support for the belief that he was deeply involved in the incident which resulted in Robert Hamill's death. We base our submission on what can be gleaned from the above evidence for example:-

a. Mr Lunt told the Inquiry that he was walking down towards the centre of town and he thought the police car came up from behind him. (See 5 above) Constable A said that whilst Constable Orr was driving, she saw Wayne Lunt running towards a crowd. (See 2 above).

b. Mr Lunt told the Inquiry that he wasn't in the crowd. (See 13 above). Constable A said that she placed Lunt in the land rover at 1.57 am to ascertain his name and address. This was done as Lunt was continually trying to pull away from her and some members of the crowd were also trying to pull him back into the crowd. (See 2 above)

c. Mr Lunt was not forthcoming about his criminal convictions in relation to Drumcree or the fact that he was on bail at the time of incident. We submit that this was a deliberate effort on his part to conceal this information from the Inquiry. The fact that he was on bail at the time explains why he might have been hiding his identity with the scarf and baseball cap. (See 12 and 13 above).

d. Colin Prunty's evidence about the involvement in the attack by the man with the Ranger's scarf has been consistent from the outset. It also lends weight to the probability that Lunt was involved in the attack before Constable A arrived on the scene and was returning with a bottle when she saw him. The confusion surrounding Prunty's subsequent identification of Dean Forbes as the man with the Ranger's scarf has distracted from the consistency of the evidence that the only identified as wearing a Ranger; scarf was seen by him kick Hamill and also identified as the man in the back of the Land Rover. (See 14 above).

e. It is submitted that Simon McNally must have seen more than he admitted to as his friend Gareth Cust who was with him saw quite a lot. McNally knew Wayne Lunt, Dean Forbes, Stacey Bridgett, Marc Hobson, Allister Hanvey and Timothy Jameson who were all at the scene and yet he denies seeing any one of them. (See 16, 17 & 18 above).

f. Lunt told the police that after getting out of the Land Rover, he walked up and met Simon McNally's mum and walked up with her. Mrs McNally said she would never have spoken to Lunt and she denied seeing him that night. (See 19 above).

g. It is submitted that Lisa Hobson also saw more than she said she saw and lied in order to protect Wayne Lunt. (See 22 & 23 above).

h. Andrew Hill was identified in the crowd by three policemen, one of whom said he appeared to be injured. Hill denied that it was him they saw. (See 25, 26 & 27 above). Simon McNally and Kyle Woods said that Hill got separated from them. He said he was with them. (See 24 & 29 above). Hill was with Wayne Lunt and Lisa Hobson at some stage. (See 22 & 30 above). We submit that Hill lied either to protect Wayne Lunt or others involved in the attack on Robert Hamill or he himself was also involved in the attack.

Wayne Lunt (References)

- 1 Pages 18349 - 18351
- 2 Statement of A page 9235
- 3 Page 9238 - 9239
- 4 March 18th page 94 line 25 - page 95 line 3
- 5 March 18th page 100 lines 1 - 11
- 6 Page 235 & 236
- 7 February 27th page 12 line 17
- 8 Page 943
- 9 Page 9103
- 10 January 21st page 121 line 20 - page 122 line 12
- 11 January 21st page 123 lines 4 - 15
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Dean Forbes

1. Dean Forbes and his friend Stacey Bridgett had been at the Coach Inn, Banbridge and they returned on the bus which arrived in Portadown at approximately 1.40 am on 27th April 1997. Accounts vary in respect of some details. However, there is agreement between the land rover crew and Messrs Forbes and Bridgett that they were engaged in conversation at the mouth of Woodhouse Street when Constable Neill's door was suddenly opened by a man who pulled him out. The man was saying "You sat there and watched that happening". (1) Mr Forbes was later arrested and charged with the murder of Robert Hamill but the DPP subsequently directed 'no prosecution'. (2) He was interviewed by police on 6th May 1997 (3) and 10th May 1997 (4) and he gave evidence to the Inquiry on 10th March 2009. (5) He denied any wrongdoing in relation to the assault on Robert Hamill but our respectful submission is that he was involved. This submission is based on a body of evidence which contradicts his version of events.

The evidence against Dean Forbes:-

2. Tracey Clarke stated on 10th May 1997 that Dean Forbes was one of the people who were kicking and jumping on the person on the ground. (6) She attended a DPP consultation on 17th October 1997 (7) and said she wouldn't give evidence in Court. Tracey Clarke's statement was put to Dean Forbes who said that he couldn't honestly say why she had named him. (8) In dealing with the case of Allister Hanvey, we set out in detail the reasons for our submission that the Inquiry should give full weight to Tracey Clarke's statement of 10th May 1997 and our submission in that regard remains the same in respect of Dean Forbes.

3. Timothy Jameson made a statement to police on 9th May 1997 (9) in which he also implicated Dean Forbes in the fighting that night. He attended a DPP consultation on 21st October 1997 (10) claiming that he could not

remember what he saw. He said that he could not distinguish in his mind between what he saw and what people had said had happened. He then stated that he could not remember anything about the fight and that he was drunk. He stated that when he had made his statement, he was simply agreeing with what the police said to him and he put in his statement what they told him. In evidence on 12th February 2009 Timothy Jameson said that the Detective Constable who had recorded his statement “was being very intimidating, very forceful”. (11) He had said in his statement that he saw Dean Forbes punch a fellow in the face. Mr Forbes said that Timothy Jameson’s allegation against him wasn’t true and he didn’t know why he would make something like that up. (12) It is our submission that the Inquiry should give significant weight to the statement of 9th May 1997 for the same reasons outlined by us in the case of Allister Hanvey.

4.

a. Constable A gave evidence at the Inquiry on 18th March 2009. She was the observer in a back-up vehicle driven by Constable Orr. In her statement of 27th April 1997 (13) she said that at 1.55 am, whilst Constable Orr was driving past Thornton’s Confectionery Shop, she saw Wayne Lunt running towards a crowd at the junction of Thomas Street. Constable Orr stopped the car alongside Mr Lunt and Constable A got out of the vehicle. Wayne Lunt ran towards Church Street. At this time, Constable A saw two males lying in the vicinity of Market Street at the junction of Thomas Street and she saw forty to fifty persons involved in a confrontation with each other and other police personnel. She returned to the crowd to assist in the disturbance and she turned and saw Lunt behind her. As he turned to run she told hold of his arm. She placed Lunt in the land rover at 1.57 am and he left the land rover at approximately 2.05 am. At this time she returned to the other police members who were trying to clear the road. She saw Stacey Bridgett and Dean Forbes in the crowd. Dean Forbes was wearing a light coloured check shirt over cream coloured trousers.

b. Dean Forbes was asked by Mr Underwood, QC about his account in his police interview (14) of seeing Wayne Lunt being put into the Land Rover and coming out again. His version was that at that stage he was just standing in front of the War Memorial and then, when the rest of the crowd was getting pushed back, Constable A “just comes over to me and she says, ‘Come on, out of the town...’”. He told Mr Underwood QC that he had seen the policewoman catch Lunt and put him in the Land Rover and he was in there for a couple of minutes. At that stage the other police officers were trying to push everybody back up the town.

c. Constable A was referred by Mr Underwood QC to her disciplinary interview (15) in which she had said that if she had wanted to detain Lunt any longer, she was going to have to take him to a police station which was going to take her and at least two other constables off the ground because of the way he was fighting. She said “The way in which I first detained him, the crowd were trying to pull him off me. It was going to take at least three people off the ground and we couldn’t afford it.....The crowd were still there. They were still trying to get at the two bodies lying on the ground”. She told Mr

Underwood QC that it was more than affray - it was a riot situation. (16) She said "It was a very scary situation to be in....the fact that we were very close to being overrun by a crowd or rioters". (17) In response to a question from Mr Greene, Constable A's evidence was that the police were all in a line trying to push the crowd up the street. The crowd at that stage was being aggressive. She was asked "And whilst perhaps not individually doing anything that would have merited an arrest, they were a hostile and aggressive crowd as a unit, is that right?" She agreed that it was and it was at that stage she was able to recognise Dean Forbes and Stacey Bridgett. (18)

d. Constable A's assertion that he was in the crowd was put to Forbes and he was asked if he was part of the crowd. He replied "I had been standing talking to her probably for three or four minutes and the officers were still trying to force people back" . (19)Mr Underwood, QC then drew Mr Forbes' attention to his police interview (20) where he had said "...whenever A, the police officer, came up to me and she says -- she turned round and she said to me, 'Oh wouldn't you know, you would be involved in this', she says. Here's me --'involved in what?' And I just says, 'I am not that bloody stupid to get involved in things like this here whenever you all know me'." Asked by Mr Underwood, QC why Constable A would accuse him of being involved, he said "I don't know why she thinks I would be involved, but I always got on well with her any time I bumped into her. So I don't know why she would say....." (21) Asked what state she was in when she said it, he replied "She just seemed to be smiling". (22)Constable A had said in her Inquiry statement (23) that Stacey Bridgett had blood coming from his nose and "Like Bridgett, Forbes was pushing forward". Constable A said that Bridgett was part of the crowd which was a couple of feet from the bodies lying on the road. Dean Forbes was beside Stacey Bridgett. She told the Inquiry that she was clear about what she said of Bridgett and Forbes in her statement, namely, "I have known them so long that I knew their manner was aggressive. Mr Underwood, QC put to her that their evidence had been "Nothing to do with me. I wasn't there. I was watching it from a safe distance. I was a calm spectator who was not involved". Constable A disagreed. (24)

e. Constable A paints a picture of pandemonium, a riot, a scary situation in the middle of which she sees an aggressive looking Dean Forbes and his friend Stacey Bridgett. Dean Forbes would have us believe that he was just an innocent bystander. Then, when he is "overtaken by the crowd being pushed back," (25) lo and behold, the frightened Constable A has time to talk to him for three or four minutes, smile at him and say "Oh wouldn't you know, you would be involved in this". It is submitted that Mr Forbes' evidence in this regard is ludicrous.

5

a. Denise Cornett who was the front seat passenger in the Land Rover, stated that when Constable Neill's door was pulled open, "the two boys who I had been talking to told me not to get out and they ran off. I could hear a noise and jumped out of the vehicle". (26) This is at odds with Dean Forbes' account namely that he and Stacey Bridgett "were standing at the passenger side door on the inner part of the door, just talking away to the two police officers in the

front...we had stood maybe for about five minutes and the next minute the driver side door swung open and a man shouted, "Are you going to let these 'uns get away with this?'"....." (27) Asked what he could see after the doors opened, Mr Forbes said that was when he could see people actually fighting in the middle of the street. "The door was only slightly open, but you could see, you know, a fight going on.....The policewoman got out of the Land Rover and told me and Stacey to get on up the town. So that is when we backed off from the Land Rover" (28) Mr Forbes told the Inquiry that by the time he got round to the back of the Land Rover, there were bottles being 'chucked'. "It was just more or less people fighting and more or less getting tore into each other, as I would say it". It was put to him that Mr Bridgett got a bloody nose and had said that it happened around the back of the Land Rover. He said that he didn't see that happen. (29) "The policewoman had said to back off, to head on up the town and I started to walk back towards the Abbey National." This does not correspond with Denise Cornett's assertion that the two boys ran off.

b. Dean Forbes couldn't say what happened to Mr Bridgett because he thought that just once the policewoman said to get offside, he just headed on. In his interview on 6th May 1997 (30) Dean told police that he wasn't with Stacey when he got a smack in the nose. He said that the next day he saw Stacey over in the park and Stacey said "look at my nose....I got hit at the back of the Land Rover or something...." However, he then said "The only time I saw him was way later on that night...whenever I was heading home.....by the time you know the police pushed everybody right up you know to Mandeville Street it would have been just shortly after that that at the bridge, about fifteen minutes after that.." Asked if he noticed anything wrong with Stacey at that stage or if anything was discussed, he replied "Aye his, his nose just. But there was no he, he was just by himself standing....he says did you see me getting hit and I goes no. And then some young girl you know said that he got hit but then she didn't say nothing more about it." (31) He told police in his interview of 10th May 1997 (32) that he and Stacey went round the back of the land rover and he didn't know where Stacey went from then. He was asked "When did you see him later on" and he replied "Just up at the Chinese where the Bridge is.....well you could say just whenever they got the crowd pushed right up the town to Mandeville Street, it would have been about three or shortly after three or so.....I noticed that his nose was sore...but I had already knew that.....a girl had already said you know coming up the town, you know that she was over at him or something giving him a hanky or something". He then told police that when he met Stacey again up near the bridge, he and Stacey walked down the road towards their estate and they called at Tracey McAlpine's door but there was nobody in. (33) On the one hand Dean Forbes is telling police that he didn't see Bridgett until the next day and on the other hand he is saying that he met up with him later that night. Mr McGrory, QC put it to Mr Forbes that Mr Bridgett had told the Inquiry that he didn't see him again that night after he left the Land Rover. Mr Forbes said that he wasn't aware of that and he didn't know why Bridgett would say that. (34)

c. Stacey Bridgett was interviewed by police on 6th May 1997. He told police that he was just at the back of the land rover and he walked up to Woodhouse Street to try and get our of the road and then he was assaulted - he got his nose 'busted'. Again, this does not correspond with Denise Cornett's evidence that the two boys ran off. He had seen a few punches being thrown and 'kicks and what have you' but didn't see anyone being put down. He just saw "boys were standing, they were digging, that was it." Mr Bridgett said that he didn't see Dean after that.... "He must have blew the town or something. I don't know." He said that he didn't know if Dean was there when he got hit on the nose. Stacey told police that, after being hit, he went to go up towards the Church. He stood and let the blood drip out of his nose. "Then I tried to say to a policeman, you know it was all confusing, so I went up towards up the town and stood at St Marks Church and then the police came and they moved everybody on. A young girl wiped my nose and I went home." (35) When interviewed by police on 10th May 1997, Stacey Bridgett said that he was in the middle of the road between the traffic island and Dorothy Perkins, letting his nose bleed. He went round and saw P40 and, addressing P40 by his first name, said 'look at my nose'. Mr Bridgett said that P40 told him to 'get off side' He said he was at a safe distance from the altercation - the fighting was going on all around Eastwoods. (36)He said that he went away up past St Mark's Church and waited to see if Dean was coming up as well because the police were moving everybody on, everything was calm and he walked on with everybody after it was all over. He couldn't see Dean Forbes. He was asked if he met up again with Dean that night but said that he didn't remember, he didn't think so. He went straight home. (37) Mr Bridgett's evidence to the Inquiry was that he "sort of lost track of Dean after we had been taking to the police. I don't know where he went". (38)

d. The accounts of Mr Forbes and Mr Bridgett differ and are at variance with Constable A's assertion that both boys were beside each other in the crowd. It is submitted that they both lied in an effort to distance themselves from the assault.

e. Dean Forbes said that he ended up "probably in the middle of the road level with the Abbey National, Dorothy Perkins" (39)(Very close to the Church) and, incidentally around the same area where Stacey Bridgett said he stood letting his nose bleed. Mr Forbes was asked by police if he had seen Stacey about Dorothy Perkins at all and he said he hadn't. He was then asked "If Stacey had've been there would you have seen him?" He said "Aye probably, unless he was standing in the middle of the, the big crowd that you couldn't really you know describe anybody that was standing in that crowd very well at all". (40)

f. Mr Underwood, QC referred Mr Forbes to his police interview of 10th May 1997 (41) where he had said that when they got to the back of the Land Rover, they noticed that there was a big row going on and there were already two fellows lying on the ground and that he did what the policewoman had told him to do and backed off. (42)Mr Forbes had continued in the interview to tell that shortly after, when he moved further back, he could see the fellow on the ground getting kicked. He said "Well I saw another fellow running in and

kicking him from the crowd, but I couldn't see where he was getting kicked". The other fellow was just lying there and a girl was holding him. Mr Forbes was referred to his police interview of 6th May 1997 (43) where he said "well when he was lying on the ground, there was a boy with black hair, real dark hair, with a black bomber jacket on and he just ran in with the boot and wallop right into the back of him". He then said "That is what I mean, I saw a couple of boys. There was a boy in green, green top, he ran in. He had short hair. And then the guy in the black jacket run in with the long black hair, and that's all I could see from the back." Mr Forbes said that he couldn't identify either boy.

g. It is submitted that Dean Forbes, knowing that there was strong evidence placing him at the scene of the incident, couldn't deny being there. Rather, he portrayed himself as an innocent onlooker. It is also submitted, as discussed below, that he carefully concocted more than one alibi for himself.

5.

a. Ann Bowles gave evidence to the Inquiry on 24th February 2009. (44)The record of an interview which she had with police on 10th May 1997 (45) was put to her. She had told police that she, her sister and another girl purchased food from Boss Hoggs and sat on the step of the Ulster Bank to eat it and wait for the arrival of the bus from Banbridge. After the bus arrived, they walked up the High Street towards the Church. They walked past the Land Rover and when they reached Abbey National Building Society, she saw Dean Forbes standing on a control traffic reservation and she asked him what was going on. He said "There's a fight going on". It was recorded that the three girls then left the scene and walked home. The record of a further interview on 7th June 1997 was put to her. (46) It said "She stated that as they were at the Northern Bank in High Street on 27.04.97, they saw a crowd of about 50 persons in the middle of the road at the junction of Thomas Street/Market Street and that there was a lot of shouting. They then walked on up past the police Land Rover to the Abbey National Building Society and it was then that they saw Dean Forbes standing in the traffic reservation in the centre of Market Street....." Mr Underwood, QC put to Miss Bowles Mr Forbes' account to police of this meeting. (47)After describing seeing two fellows lying on the ground and one of them being kicked, police had asked him where exactly he was at that time. He replied "At that time, I was standing just where the flowerpots were, just in the middle of the road at the neck where they split that junction on that traffic island thing" He said that he didn't get involved in any fighting at all and, asked what he did during the fight, he said "While that was all going on, I was standing talking to the girls...Anne and Lynn Bowles....." Mr Underwood, QC asked Miss Bowles what she was able to see and she said "I didn't see a punch that night. I just saw a massive mob of people." (48) She said that she wasn't even speaking to Dean that long. She basically asked him what was going on and all he could tell her was a fight had broken out at the bottom of Thomas Street. She said that she didn't see anybody on the ground.

b. Mr Adair, QC questioned Ann Bowles. (49)He reminded her that when she spoke to police on 10th May 1997, she made no mention of seeing anybody, let alone any crowd in the street, apart from Dean Forbes. He

pointed out that she had seen the mob on the street and she agreed. He asked why she had declined to make a statement and her answer was that she just felt she had nothing basically to tell the police and she wanted nothing to do with it. Mr Adair suggested to Ms Bowles that she was “symptomatic of the problem the police had in trying to investigate this crime.....saw nothing, heard nothing”. She said that was wrong, she had told him what she saw.

c. Ann Bowles’ sister, Alison also gave evidence on 24th February 2009. The police record of their interview of her sister on 7th June 1997 was put to as was the note that she had been interviewed on the same date and had given the same details as Ann. (50)Alison told Mr Underwood, QC that she didn’t speak to Dean Forbes, it was just between her sister and him. She couldn’t remember how far she was away from him. When asked if she and her sister had stopped for very long, she replied “No, it would have just been to ask what was going on over there, more or less to find out what was going on, but we didn’t hang about”. Asked if she had no interest in it or fascination in what might have been behind her, she said “No, no involvement. Didn’t want to know anything, you know”. (51)Mr Forbes account to police was then put to Alison. Mr Underwood, QC pointed out to her that police had suspected Dean Forbes of being involved in killing Robert Hamill, and his alibi was her - “He wasn’t there killing anybody; he was standing there chatting to you and able to see it all”. She was then asked “Now, can you give him that alibi or not?” She replied “No, because I wasn’t standing talking to him. From my memory, I cannot remember if I was standing talking to Dean Forbes. I can’t even say of a conversation I had with him and Lynn Bowles wasn’t even there that night”. (52)Dean Forbes had named the girls he was talking to as Lynn and Anne Bowles in his police interview on 6th May 1997. (53)In his interview on 10th May 1997 he said “then at the flower beds at the top of the town I was in the company of the Bowles sisters” and he named them as Anne and Lynn and he said there was another girl “I think that was the third sister”. (54)

d. Alison Bowles agreed with Mr McGrory, QC that she was in or about the same place as Mr Forbes in front of the church. However, when he put to her that she would have had pretty much the same view of what the crowd were doing, she said “No -- Dean Forbes obviously had seen something that I didn’t see. I am not going to say something that I didn’t see.....Yes, I would have been standing where Dean Forbes was that night, but I didn’t see what Dean Forbes seen” (55)

e. Mr Underwood, QC drew Mr Forbes’ attention to his police interview where he was asked about his meeting with the Bowles sisters. (56)He had said “Yeah, because they came over to me and they says, you know, ‘were you in the middle of that’ and I goes, ‘No, I was over there’ and they pulled me back another bit and then this woman was standing pointing and shouting.....she was wearing a white t-shirt” Mr Forbes told Mr Underwood, QC that he was right up by the church. He could see the woman who was shouting from where he was standing. She was in the middle of the crowd. Mr Underwood, QC asked Mr Forbes if he could say why the girls pulled him back and he aid “No, they were just talking, so they were”.

f. There was no mention by the Bowles sisters of them asking Dean if he was in the middle of that or of them pulling him back. What would they have been pulling him back from? It is submitted that the evidence outlined above points to the Bowles sisters having seen more than they admitted to. It also reveals that the Bowles sisters' encounter with Forbes was no more than a fleeting one, if it occurred at all. We submit that Forbes has either significantly exaggerated his encounter with the Bowles sisters in an attempt to deflect his participation in the affray. That he is capable of constructing an alibi after the event is clearly demonstrated in the context of his contact with Linda Boyle discussed below.

6

a. Linda Boyle's statement (57) was put to Dean Forbes by Mr McGrory, QC. (58) She had said that Dean asked her to go into school and ask Jill Ritchie if she'd seen Dean and to tell her what clothing Dean had been wearing on the night of the incident. Dean Forbes denied this. Jill Ritchie's statement (59) was also put to him by Mr McGrory, QC. She had recounted that Linda Boyle did approach her and "she was alone when she approached me and she appeared visibly upset". Linda asked Jill if she had seen Dean up the town. Jill said she hadn't. Linda asked her if she knew what he was wearing and she went on to say that he was wearing a cream Ralph Lauren shirt with black jeans. Mr Forbes denied that he had asked Linda to do this and said that he didn't know why she would make that up. (60) We would submit that one reason for doing this would be to ensure that police would be told, if asked, that he was wearing black jeans. We know that Denise Cornett had described Forbes as "wearing a light cream shirt, dark trouser and had brown short hair". (61) She said of Forbes and Bridgett that she did not know these boys. (62) However, Constable A, who did know Forbes and Bridgett, well enough for Mr Forbes to refer to her by her first name, (63) said that he was wearing a light coloured check shirt over cream coloured trousers. (64) Mr McGrory, QC pointed out to Mr Forbes that he had told the police that he was wearing black jeans on the night. (65) He suggested to Mr Forbes that he had been wearing a different pair of jeans and had gone to quite extreme lengths to hide that fact. Mr Forbes denied this.

b. In his police interview of 6th May 1997 (66) Dean Forbes was asked what he was wearing on the night of the incident. He said "What I gave youse at my house a, like a beige colour Ralph Lauren shirt and the dark Sonetti trousers". When asked if he was certain, he said "Yeah. That's what I said in the house....." When asked if there was no doubt in his mind that that's what he was wearing, he said "That's, that's what I was definitely wearing. I'd say there was a couple of girls could probably if you asked what I was wearing". He named Pauline Newell as one of those who could verify that. (67) Mr Forbes was shown items of clothing which were taken from his house that morning and was asked to identify them and whether or not he was wearing them on the Saturday night/Sunday morning. He was shown a pair of black Sonetti cords and he said they were his and he was wearing those on the night in question. (68) He also identified a cream coloured Ralph Lauren shirt as the one he had been wearing. A number of other items were shown to him

including a pair of cream Niko jeans. He said they were his dad's. He said he couldn't wear them because they were too short in the leg. (69)P36 made a statement on 6th May 1997. (70) He searched Dean Forbes' home on 6th May 1997 and he states:-

c. "A 0726 hrs I seized a pair of black Sonneti jeans from a sports bag in the downstairs hallway.....Also from sports bag in downstairs hallway I seized a cream coloured Ralph Lauren shirt....."

d. He then searched bedroom 1 upstairs where he seized a number of shirts from a weight bench and two shirts from the wardrobe. He seized a pair of cream jeans from bedroom 2. Constable Carroll who was present at the search seized a shirt from a clothes line in the back garden. (Exhibit SPC1) (71) Dean Forbes identified this as his father's shirt. (72)

e. Mr McGrory, QC suggested to Mr Forbes that he directed the police to the trousers. Mr Forbes said "No, they opened my wardrobe and asked me to take out my clothes of what I was wearing that night. So I handed them to them." (73) This, when looked at in conjunction with Linda Boyle's evidence, supports the argument that Mr Forbes may well have tried to conceal the identity of the actual jeans he was wearing on the night in question and, it is submitted that the only reason he could have had for doing so was the fear of what forensic testing would reveal.

f. It would appear that only the black jeans and cream coloured shirt were submitted for forensic examination. (74)

g. We note that it is recorded on a Forensic Science Post Requirements Form dated 24th October 1997 (75):-

The following items are not in property register:-

Blue Check Shirt (Forbes) "No record of the whereabouts of this item. Last handed to DC Keys during interview. Forbes claimed it belonged to his father. Was this confirmed at the time?"

Entries were made in relation to five other shirts. These entries said that there was no record of their whereabouts, they were last handled by DC Keys during interview of Forbes and the items needed to be located and assessed for examination". The entry in relation to a Ralph Lauren Blue & White check shirt includes that Forbes stated he was not wearing on the night and asking if this was confirmed.

Pair of cream Nico jeans (Forbes) "No record of the whereabouts of this item. Last handled by DC Keys during interview of Forbes when he stated that item belongs to his father". Was this confirmed at the time?"

In view of the fact that a police woman identified Forbes as wearing cream jeans on the night and that the police had evidence that he attempted to direct a witness to say that he was wearing black trousers, the police should have made

sure the jeans were forensically tested. It should also have been verified that they were his father's size and not his size. There is no evidence to show that this was done.

8

a. As stated above at number 5 b, Dean Forbes told police on 10th May 1997 that after meeting Stacey Bridgett at the Bridge they walked towards their estate and called at Tracey McAlpine's door but there was nobody in. He said that this was around 3.20/30 am. He then said that he went to his own house and Stacey went home. He proceed to say that he left his own house again after watching a Sky TV programme then waiting for an and he went back over to Tracey McAlpine's house. Only Tracey was there so he went home again. At page 34 of his Inquiry interview transcript Dean Forbes said that he didn't go into Tracey McAlpine's that evening. At page 39 he said that when he went to the door, Tracey said that there was nobody there and he just headed home again. He couldn't hear anybody in the house and if there was a party going on in the house, he didn't know about it. Mr Underwood, QC asked Dean Forbes if he went in and spent any time in the house and he said 'no'. (76)

b. There is evidence from Tracey Clarke, (77) Kelly Lavery , (78) Tracey McAlpine, (79) Pauline Newell, (80) Stephen Sinnamon, (81) Iain Carville, (82) Christopher Henderson (83) and Andrew Allen (84) which puts Dean Forbes inside Tracey McAlpine's house. Mr Underwood, QC asked him if those who said he was there were wrong. He replied that he was there every other Saturday night so "unless they got their Saturday nights mixed up or something".

9. It is a matter for the Panel to decide whether or not Mr Forbes is to be believed. It is however our respectful submission that the preponderance of the evidence is against him and therefore his account of events is a total fabrication. It is our submission that he and Bridgett joined the affray immediately after their conversation with the land rover crew. The statement from Tracey Clarke would suggest that Forbes joined in the attack of Robert Hamill as he lay defenceless on the ground. This is not in any way inconsistent with the evidence of Timothy Jameson that he was also part of the general affray.

Dean Forbes (references)

- 1 May 19th page 11 line 17
- 2 Direction page 10620
- 3 Pages 6928 - 7025
- 4 Pages 7026 - 7127
- 5 March 10th starting at page 28
- 6 Statement of Tracey Clarke page 262
- 7 Page 17591
- 8 March 10th page 53 line 25
- 9 Statement of Timothy Jameson page 15883
- 10 Page 17591

- 11 February 12th page 68 lines 18 - 19
- 12 March 10th page 55 line 11
- 13 Statement of A page 9235
- 14 Page 6949
- 15 Page 10454
- 16 March 18th page 101 line 5
- 17 March 18th page 112 lines 20 - 21
- 18 March 18th page 138 line 8 - page 139 line 3
- 19 March 10th page 60 lines 8 - 10
- 20 Page 7084
- 21 March 10th page 61 line 12
- 22 March 10th page 61 line 15
- 23 Paragraphs 23 and 24 page 81690
- 24 March 18th pages 107 and 108
- 25 March 10th page 60 lines 11 - 13
- 26 Paragraph 12 page 80210
- 27 March 10th pages 34 - 36
- 28 March 10th pages 36 - 38
- 29 March 10th page 40 lines 16 - 19
- 30 Pages 6965 and 6966
- 31 Pages 7006 - 7007
- 32 Pages 7071 and 7072
- 33 Page 7074
- 34 March 10th page 84 lines 18 - 22
- 35 Pages 7140 - 7142
- 36 Pages 7241 - 7243
- 37 Pages 7245 - 7246
- 38 February 27th page 82 lines 19 - 20
- 39 March 10th pages 42 and 43
- 40 Page 7005
- 41 Page 7064
- 42 March 10th page 43 et seq
- 43 Page 6974
- 44 February 24th page 61
- 45 Page 7776
- 46 Page 7777
- 47 February 24th page 66 et seq
- 48 February 24th page 69
- 49 February 24th page 20 et seq
- 50 February 24th page 81 et seq
- 51 February 24th pages 86 - 87
- 52 February 24th pages 90 - 91
- 53 Page 6983
- 54 Page 7031
- 55 February 24th page 93
- 56 March 10th page 50 et seq
- 57 Statement of Linda Boyle dated 10th September 1997 page 59234
- 58 March 10th page 91
- 59 Page 9615
- 60 March 10th page 92 line 21

61 Notebook entry page 9678
62 Statement of Denise Cornett para 9 page 80209
63 Page 6947
64 Page 9236
65 March 10th page 95 line 17
66 Page 6936
67 Page 6937
68 Page 7016 et seq
69 Page 7020
70 Page 767
71 Page 766
72 Page 7018
73 March 10th pages 89 - 90
74 Page 38833
75 Page 26472
76 March 10th page 64
77 Page 70902
78 February 17th page 72 line 15
79 Page 9617
80 Page 9129
81 Page 3419
82 Page 9185
83 Page 2275
84 Page 7353

Stacey Bridgett

1. Stacey Bridgett, who was described by Reserve Constable P40 as ‘a local troublemaker’ (1) and his friend Dean Forbes had been at the Coach Inn, Banbridge and they returned on the bus which arrived in Portadown at approximately 1.40 am on 27th April 1997. Bridgett was carrying a ‘green glass bottle of cider’. (2) Accounts vary in respect of some details. However, there is agreement between the land rover crew and Messrs Bridgett and Forbes that they were engaged in conversation at the mouth of Woodhouse Street when Constable Neill’s door was suddenly opened by a man who pulled him out. The man was saying “You sat there and watched that happening”. (3) Mr Bridgett was later arrested and charged with the murder of Robert Hamill but the DPP subsequently withdrew the charge. (4) He was interviewed by police on 6th May 1997 (5) and on 10th May 1997 (6) and he gave evidence to the Inquiry on 27th February 2009. (7) He denied any wrongdoing in relation to the assault on Robert Hamill but our respectful submission is that he was involved. This submission is based on a body of evidence which contradicts his version of events.

The evidence against Stacey Bridgett

2. Tracey Clarke stated on 10th May 1997 that Stacey Bridgett was one of the people who were kicking and jumping on the person on the ground. (8) She attended a DPP consultation on 17th October 1997 (9) and said she wouldn’t give evidence in Court. Tracey Clarke’s statement was put to Stacey

Bridgett who said “That statement is untrue”. (10) In dealing with the case of Allister Hanvey, we set out in detail the reasons for our submission that the Inquiry should give full weight to Tracey Clarke’s statement of 10th May 1997 and our submission in that regard remains the same in respect of Stacey Bridgett.

3. Jonathan Wright made a statement on 11th May 1997 (11) in which he said that he didn’t see any fighting. He made another statement on 15th May 1997. (12) He told police that when he and Marc Hobson got to the front of the Church, they walked a few yards further down the street. He saw a fight further down the town in the middle of the street between Thomas Street and Woodhouse Street. Marc left Jonathan and ran down into the crowd fighting in the middle of the road. Jonathan stood at the edge of the flower beds facing the Abbey National. He saw Marc being pushed about by the crowd and saw him lift his hand and reach out for somebody but didn’t see him hit anybody. The fighting lasted about five to ten minutes. He said he saw Rory Robinson in the middle of the crowd running around like a headless chicken. He saw Stacey Bridgett trading punches with one person. They were fighting a wee bit to the left of the main fight more towards the Alliance & Leicester Building Society. He said he saw a boy lying on the street at the mouth of Thomas Street. The police got the crowd under control and the crowd started leaving. This statement was put to Stacey Bridgett by Mr Underwood, QC. Mr Bridgett’s response was “No, I wasn’t trading punches, no. He has maybe seen me getting a dig in the nose, but I wasn’t trading punches, unless I put my hands like this to stop getting hit. But I wasn’t trading punches. That’s not true.” (13) Arguably to say someone is ‘trading punches’ is quite different from saying they ‘were being punched’.

4. Mr Wright attended a DPP consultation with Mr Gordon Kerr, QC on 17th October 1997. Mr Davison’s note of the consultation stated that Mr Wright had a good memory of events and was able to relate the incidents more or less in accordance with his statement. However, it said that “while in his statement he refers to his friend Marc as being involved in fighting during consultation he described him as pulling people out of the fight”. It is noted that Mr Wright did not indicate any unwillingness to give evidence. (14) Jonathan Wright made a further statement on 13th March 1998 (15) in which he said that his statement of 11th May 1997 was correct and the second one wasn’t. He said “At the time I made it up as I was afraid and I now know that it is known by others in Portadown what I said in the second statement and because of that fact I am not prepared to give evidence in Court regarding the second statement”. We respectfully submit that the Inquiry should give full weight to Jonathan Wright’s statement of 15th May 1997. Our reasons for this submission are more fully discussed by us in relation to the case of Marc Hobson.

5. Constable A gave evidence at the Inquiry on 18th March 2009. She was the observer in a back-up vehicle driven by Constable Orr. In her statement of 27th April 1997 (16) she said that at 1.55 am, whilst Constable Orr was driving past Thornton’s Confectionery Shop, she saw Wayne Lunt running towards a crowd at the junction of Thomas Street. Constable Orr

stopped the car alongside Mr Lunt and Constable A got out of the vehicle. Wayne Lunt ran towards Church Street. At this time, Constable A saw two males lying in the vicinity of Market Street at the junction of Thomas Street and she saw forty to fifty persons involved in a confrontation with each other and other police personnel. She returned to the crowd to assist in the disturbance and she turned and saw Lunt behind her. As he turned to run she told hold of his arm. She placed Lunt in the land rover at 1.57 am and he left the land rover at approximately 2.05 am. At this time she returned to the other police members who were trying to clear the road. She saw Stacey Bridgett and Dean Forbes in the crowd. Bridgett was wearing a cream shirt with a fine brown stripe over white jeans. He had blood coming from his nose.

6. At his police interview on 6th May 1997, Stacey Bridgett was asked if he, at any stage, saw anybody being put into the back of the Land Rover. He said that he didn't but he heard from old gossip around the town that somebody was put in. He heard that "some young fellow got lifted or something, then the police let him go or something like that there. A Protestant fellow" (17) He said that he had asked a couple of boys about who had got lifted - "I asked Dean, I asked my brother". Bridgett was asked what Dean had said about it and he replied "He didn't know". (18) Stacey couldn't remember if Dean made any remarks about seeing somebody in the Land Rover or being put in or getting out of the Land Rover. He said "Not that I can remember". (19) It is submitted that this was a lie because:-

a. Constable A said (20) that she saw Dean Forbes and Stacey Bridgett beside each other in the crowd, and

b. They were mates, and it was very unusual to see them apart, and

c. They were always involved in something unlawful together. She knew Forbes from the same places as she knew Bridgett because when you saw one, you saw the other, and

d. She didn't know how to describe their demeanour exactly, but had known them so long that she knew their manner was aggressive

e. Dean Forbes told the Inquiry that he had seen the policewoman catch somebody and put him in the Land Rover and he was in there for a couple of minutes. At that stage the other police officers were trying to push everybody back up the town.

f. Stacey Bridgett was asked in his interview for the Inquiry if he knew Wayne Lunt and he said "I knew him from years ago. He used to live in our estate years ago but I didn't know him.....knew of him, yeah, to see him" (21)

g. If Forbes was beside Bridgett and he saw Lunt being caught and put into the Land Rover then surely Bridgett must have seen this too. Even if he hadn't seen it and, as he told police, asked Forbes about it, why would Forbes not have told his friend what he had seen?

h. It is submitted that Mr Bridgett lied because he wanted to distance himself from the incident. The injured parties were still on the ground when Constable A put Lunt into the Land Rover. Bridgett said in his Inquiry statement “I do not remember seeing anyone lying on the ground when I saw the fighting. I did not get involved in the fighting, neither did I kick or punch anyone in the ground.” (22) Constable A stated that Stacey Bridgett was part of the crowd which was a couple of feet from the bodies lying on the road. (23)

7. Constable Gordon Cooke’s statement of 27th April 1997 (24) was put to Mr Bridgett by Mr Underwood, QC. (25) Mr Cooke said “At 1.47 am on this date, I heard police....call for urgent assistance at Portadown town centre. I made my way to the scene, arriving about three to four minutes later. In Market Street, I saw two persons lying in the left-hand carriageway near the junction with Thomas Street and a crowd of approximately 30 to 40 people about ten feet in front of them with several police officers in between them trying to hold the crowd back.....Two females and a male were close to the injured persons. They were quite hysterical and were shouting and screaming towards the crowd and were shouting for an ambulance to be called.....Persons in the crowd were shouting and jeering toward the police and the injured persons and the members of the crowd were constantly trying to push past police to try and get towards the injured persons.....Other police also arrived at the scene around this time. I approached the crowd along with other police and started to move them back towards West Street. I recognised the following persons at the front of the crowd: Stacey Bridget. His nose was bleeding.” Mr Bridgett told the Inquiry that he wasn’t at the front of the crowd He said he was there and his nose was bleeding but he wasn’t at the front of the crowd. (26)

8. Denise Cornett who was the front seat passenger in the Land Rover, stated, that when Constable Neill’s door was pulled open, “the two boys who I had been talking to told me not to get out and they ran off. I could hear a noise and jumped out of the vehicle” (27) This differs from the accounts of Bridgett and Forbes:-

a. Stacey Bridgett told the Inquiry “Whenever we were talking to the Land Rover, a guy came over and either opened the Land Rover door or else it was slightly ajar and he pulled it open and he grabbed the policeman and said something about, “yous sat and watched. Yous didn’t do nothing”, or something like that. He was throwing a wobbler, basically...We didn’t hear anything that was going on. I didn’t hear it and the police definitely didn’t hear it, because they were talking to me. We were having an amicable conversation.....” (28) Mr Underwood, QC referred Mr Bridgett to his police interview of 6th May 1997. (29) Mr Bridgett told police “He [the man who grabbed the policeman] just went round the back of the Land Rover and away and then I just went round the back of the Land Rover, you know, to go up the street and I couldn’t see him”. Bridgett told the Inquiry “At that point, I sort of proceeded to the back of the Land Rover and then I could see just the whole scuffle sort of going on” (30) He proceeded to relate that he got punched at the back of the Land Rover. Some small, stocky guy came over and just punched

him on the bridge of the nose - “whenever I got to the back of the Land Rover, there just seemed to be people everywhere. I am not too sure where he came from. I assume it was from the Thomas Street side”. Asked where the man went, Bridgett replied “I don’t know after that, because I run.....I run up the street.” He was asked where he ran to and said “All I know, it was further upI think I said in my statement it was Dorothy Perkins or somewhere. I am not too sure what route I to get up there. All I know is I went over the central reservation”. (31) Mr Bridgett also said that he didn’t know what happened to Dean Forbes - “I sort of lost track of Dean after we have been talking to the police. I don’t know where he went”. (32)

b. In his police interview of 6th May 1997, Mr Bridgett said “I went round the back of the Land Rover you to go up the town to get out of the road because I seen the scuffle breaking out and he punched me on the nose. (33) He said “we just sort of walked round the back of the Land Rover. I was just at the back of the Land Rover and looked and seen it (the scuffle), but I walked up to Woodhouse Street to try and get out of the road and then I was assaulted. I got my nose busted.” (34) He had seen a few punches being thrown and ‘kicks and what have you’ but didn’t see anyone being put down. He just saw “boys were standing, they were digging, that was it.” Mr Bridgett said that he didn’t see Dean after that.... “He must have blew the town or something. I don’t know.” He said that he didn’t know if Dean was there when he got hit on the nose. Stacey told police that, after being hit, he went to go up towards the Church. He stood and let the blood drip out of his nose. “Then I tried to say to a policeman, you know it was all confusing, so I went up towards up the town and stood at St Marks Church and then the police came and they moved everybody on. A young girl wiped my nose and I went home.” (35) When interviewed by police on 10th May 1997, Stacey Bridgett said that he was in the middle of the road between the traffic island and Dorothy Perkins, letting his nose bleed. He went round and saw P40 and, addressing P40 by his first name, said ‘look at my nose’. Mr Bridgett said that P40 told him to ‘get off side’ He said he was at a safe distance from the altercation - the fighting was going on all around Eastwoods. (36) He said that he went away up past St Mark’s Church and waited to see if Dean was coming up as well because the police were moving everybody on, everything was calm and he walked on with everybody after it was all over. He couldn’t see Dean Forbes. He was asked if he met up again with Dean that night but said that he didn’t remember, he didn’t think so. He went straight home. (37) P40 was asked in his interview for the Inquiry if he had seen Stacey Bridgett at all with any blood on his face and he said ‘no’. (38)

c. Dean Forbes told the Inquiry that he and Stacey Bridgett “were standing at the passenger side door on the inner part of the door, just talking away to the two police officers in the front....we had stood maybe for about five minutes and the next minute the driver side door swung open and a man shouted, “Are you going to let these ‘uns get away with this?’.....” (39) Asked what he could see after the doors opened, Mr Forbes said that was when he could see people actually fighting in the middle of the street. “The door was only slightly open, but you could see, you know, a fight going on.....The policewoman got out of the Land Rover and told me and Stacey to get on up

the town. So that is when we backed off from the Land Rover” (40) Mr Forbes told the Inquiry that by the time he got round to the back of the Land Rover, there were bottles being ‘chucked’. “It was just more or less people fighting and more or less getting tore into each other, as I would say it”. It was put to him that Mr Bridgett got a bloody nose and had said that it happened around the back of the Land Rover. He said that he didn’t see that happen. (41) “The policewoman had said to back off, to head on up the town and I started to walk back towards the Abbey National.” He couldn’t say what happened to Mr Bridgett because he thought that just once the policewoman said to get offside, he just headed on.

d. The accounts of Stacey Bridgett and Dean Forbes are contrary to Constable A’s statement (42) “Like Bridgett, Forbes was pushing forward”. Constable A said that Bridgett was part of the crowd which was a couple of feet from the bodies lying on the road. Dean Forbes was beside Stacey Bridgett. She told the Inquiry that she was clear about what she said of Bridgett and Forbes in her statement, namely, “I have known them so long that I knew their manner was aggressive. Mr Underwood, QC put to her that their evidence had been “Nothing to do with me. I wasn’t there. I was watching it from a safe distance. I was a calm spectator who was not involved”. Constable A disagreed. (43)

9. A small spot of Stacey Bridgett’s blood was found on Robert Hamill’s jeans. (44) Lawrence Marshall, Forensic Scientist said in his statement of 12th March 2008 “The fact that the blood stain on the jeans was a spot as opposed to an elongated shape which suggested to me that a drop of blood had been projected through the air as oppose to direct contact between two surfaces, which would have resulted in a smear. It is possible that the blood was dropped onto the jeans while Robert Hamill was lying on the ground but I remain unable to give any further opinion on the mechanism for staining....” (45)

10. Mr Marshall gave evidence to the Inquiry on 13th May 2009. He was asked about a file note made by Mr Davison of the DPP (46) which recorded a telephone conversation on 17th November 1997. Mr Davison recorded that Mr Marshall had informed him that “A small spot of blood (identified as Bridgett’s blood) was found on Hamill’s trouser let 1 or 2 inches above the bottom of the hem. It was a round spot no bigger than a one pence coin.The fact that he blood was not in an elongated shape means that there is nothing to indicate what direction the blood came from....Mr Marshall was reluctant to offer any interpretation as to how the blood got there but said it was consistent with Hamill lying on the ground and a drop of Bridgett’s blood falling as he stood over Hamill.” (47) Mr Marshall told the Inquiry when asked if he could offer an opinion on how the blood might have got there, “No. There is insufficient blood on the bottom of the jeans and it is from several different sources. There is insufficient, really, to form an opinion”. (48) Mr Underwood, QC put to Mr Marshall, “So if, for example you had Mr Bridgett saying he was never any closer than ten feet....would you have been able to reach a conclusion that that was false?” Mr Marshall said, “Given these jeans, yes, I would say that was false.” (49)

11. Mr Marshall, when questioned by Mr Emerson, QC said "I am only aware of his nose bleeding today". Mr Emerson, QC said, "You said in answer to Mr Underwood that it is possible to exclude altogether the proposition that a blood spot could travel ten feet. Is that right?". Mr Marshall said "In most normal circumstances, yes." Asked if there were some circumstances in which that might happen he said "Yes, but I would imagine them to be more deliberate attempts to.....Spitting. If you have a cut in your hand and you do that in a very vigorous fashion, you may project blood further.....I don't think this stain...looked like a sneeze, no. It was too -- sneezed blood tends to be much finer spots, and this was a one-penny-sized spot of blood." Mr Emerson, QC put to him "In the course of presumably people moving backwards and forwards, jostling and of the sort that seems to have been taking place on this occasion, that type of jolt is presumably capable of projecting, presumably, blood from a bleeding nose? Mr Marshall said "I would have thought so, but I can't imagine blood from a nosebleed being projected a terribly long distance" Mr Marshall was asked "So you would stick, would you, by the hypothesis that, other than in some very exceptional circumstance, it couldn't be as much as ten feet?" He replied "Yes. As I said exceptional circumstances" (50) We therefore submit that despite the skilful efforts of Mr Emerson, QC, Mr Marshall's evidence remains that the formation of the blood spot on Robert Hamill's trousers strongly suggests Mr Bridgett was a good deal closer to Robert Hamill than ten feet. Mr Marshall's evidence about Mr Bridgett's blood being found on Robert Hamill's trouser leg was put to Bridgett by Mr Underwood, QC who asked him if he could explain this. He replied "I can't, no". (51) He accepted that he had a nosebleed and he accepted that there were people on the ground, but said he didn't see anyone on the ground at that time. Mr Underwood, QC put to him the proposition that Tracey Clarke and Jonathan Wright were telling the truth when they told police that he was involved in the fighting and that either he was standing over and kicking Mr Hamill while he was on the ground or was so close to him during the fighting that his blood dripped on him. Mr Bridgett said that their statements were untrue. Asked again if he had no explanation to offer about how his blood could otherwise have got there, Bridgett said "No. It's really -- it is a question for a forensic scientist. I can't explain it." (52)

12. It was put by police to Bridgett in his interview on 6th May 1997 that he was part of the crowd- "you cross over from the side, the relatively quiet side for the want of a better description, that is the side the police Land Rover is on, to the far side of the street, over to the Dorothy Perkins side. While you are in that area there you are actually seen jumping up and down saying 'I jumped on his head, I jumped on his head'". Bridgett responded "I am thinking about it but whoever said it is a liar." He said he didn't jump on anybody's head; he didn't kick anybody or punch anybody. It was put to him that one of the women who was attending one of the injured people had pointed him out and said 'That's the boy there that I seen jumping on his head'. Bridgett said "She must have some eyes on her. She could not have seen me because I was away on up the street. (53)

13. Mr McGrory, QC questioned Mr Bridgett about Reserve Constable Silcock's statement (54) where he said "A large crowd of youths were in the

vicinity of these men. They were aggressive both verbally and physically.....on several occasions, I pushed youths away from the injured men as they appeared to try and kick the men.....one of the rowdy youths was pointed out to me by a woman wearing a white top, who alleged that this youth had jumped on the head of one of the injured men. This youth was wearing a grey charcoal top. He also had blood coming from his nose. A member of this crowd called to this person calling him Stacey. He responded to this name”. (55) Mr Bridgett denied that this was him. In his interview for the Inquiry, Mr Bridgett said that he didn’t know anyone else in Portadown called Stacey at the time. (56) Arguably, the name ‘Stacey’ was not a common name and the possibility of it being called out to someone else present at the scene is remote to say the least.

14. Mr McGrory, QC also put to Mr Bridgett, Reserve Constable Silcock’s Inquiry interview where he had said of Bridgett “His eyes were -- I have never seen (inaudible) such a look of excitement in his face”. (57) Mr Bridgett’s response was that Dean Silcock also said he was wearing a grey charcoal top. It was put to him that “we know of nobody else who had blood coming from their nose”. He maintained that it wasn’t him. And he said that Mr Silcock was mistaken. Constable A stated that Stacey Bridgett was part of the crowd which was a couple of feet from the bodies lying on the road. (58) She said in her Inquiry interview “Well, I knew that he’d been involved in something. Stacey Bridgett normally is involved in something. He had blood coming from his nose. He had been in a fight at some stage.” (59) The evidence of Reserve Constable Silcock would lend weight to Constable A’s statement that Forbes’ and Bridgett’s manner was aggressive. (60)

15. Mr Bridgett’s police interview of 10th May 1997 (61) was put to him by Mr Underwood, QC. Police had asked him about a sore foot that he had at the time and wanted to know how he received the injury. He said that he injured it when he was in work a couple of weeks previously. He said it would have been probably after the night of the incident, he didn’t know. Mr Underwood, QC asked him if he was sure that he didn’t hurt it by kicking someone, to which Bridgett replied “I am 100% positive”. (62) He had told police that he injured his foot when gutting out a house in Carleton Street. He said that a brick fell on his foot. When asked if there was anyone with him who saw it happen or did he tell anybody that it had happened, he said ‘no’. He just got a couple of painkillers for it. He didn’t tell his parents or any family members and he didn’t require any medical attention for it. He said “My Ma knows that I had a sore foot”. Asked if he had a limp as a result of it, he said “No it wasn’t a limp, it was just a wee bit sore on it. I just took a couple of painkillers”. He was asked where he got the painkillers and said “I went to the Vickey shop up the road and got painkillers. Just old Anadin Extra”. This was maybe a couple of days after it happened, he couldn’t remember. (63) He was asked if he mentioned to the foreman that he had hurt his foot or if he got it put in any industrial accident book. He said that it was no big deal. (64) It is submitted that it would be too much of a coincidence that Stacey Bridgett just happened to sustain an injury to his foot soon after the incident. It is submitted that it is suspicious to say the least that Bridgett

alleges that he was alone when the injury happened, he told no-one, he didn't report it at work and he didn't need medical attention.

16. It is a matter for the Panel to decide if he was being truthful in his account of his movements on 27th April 1997. It is our respectful submission that the evidence against him is so substantial that his account is simply not credible. We further submit as stated by us in relation to Dean Forbes, that he and Forbes joined the affray immediately after their conversation with the land rover crew. The statement from Tracey Clarke would suggest that Bridgett joined in the attack of Robert Hamill as he lay defenceless on the ground. This is not inconsistent with Jonathan Wright's evidence that he saw Bridgett trading punches with someone.

Stacey Bridgett (references)

- 1 Paragraph 14 page 81148
- 2 Statement of Denise Cornett, 27th April 1997 page 61357
- 3 May 19th page 11 line 17
- 4 Page 18350 - 18351
- 5 Pages 7128 - 7219
- 6 Pages 7220 - 7229
- 7 February 27th starting at page 55
- 8 Page 262
- 9 Page 17591
- 10 February 27th page 82 line 17
- 11 Page 564
- 12 Page 568
- 13 February 27h page 90 lines 11 - 14
- 14 Note of consultation page 17591
- 15 Page 581
- 16 Statement of A page 9235
- 17 Page 7185
- 18 Page 7185
- 19 Page 7186
- 20 Paragraph 24 page 80376
- 21 Inquiry interview transcript of Stacey Bridgett page 40
- 22 Paragraph 20 page 80117
- 23 Paragraph 23 page 80376
- 24 Page 9225
- 25 February 27th page 87 line 10
- 26 February 27th page 88 lines 20 - 22
- 27 Paragraph 12 page 80210
- 28 February 27th pages 66 - 67
- 29 Page 7180
- 30 February 27th page 70 lines 8 - 9
- 31 February 27th pages 72 - 73
- 32 February 27th page 82 lines 19 - 20
- 33 Page 7138
- 34 Page 7140
- 35 Pages 7140 - 7142

36 Pages 7241 - 7243
37 Pages 7245 - 7246
38 Interview transcript pages 84 - 85
39 March 10th pages 34 - 36
40 March 10th pages 36 - 38
41 March 10th page 40 lines 16 - 19
42 Paragraph 24 page 81690
43 March 18th pages 107 and 108
44 Report of Lawrence Marshall, Forensic Scientist, 24.20.97 pages 17798 - 17807; paragraph 16 page 80765
45 Paragraph 17 page 80765
46 Page 18040
47 May 13th page 12 lines 13 - page 13 line 5
48 May 13th page 14 lines 17 - 19
49 May 13th page 15 lines 20 - 25
50 May 13th pages 43 - 45
51 February 27th page 85 line 11
52 February 27th page 86
53 Pages 7199 - 7200
54 Page 700
55 February 27th page 96 line 10 - page 97 line 9
56 Interview transcript of Stacey Bridgett page 35
57 February 27th page 97 line 19 - page 98 line 13
58 Paragraph 23 page 81690
59 Inquiry Interview page 80
60 Paragraph 24 page 81691
61 Page 7260
62 February 27th pages 90 line 13 - page 91 line 13
63 Pages 7262 - 7264
64 Page 7272

Marc Hobson

1. Marc Hobson was acquitted of the murder of Robert Hamill but was convicted of affray in relation to the incident.

2. Mr Underwood, QC referred Mr Hobson to his statement of 9th May 1997. (1) He had been at Dean Johnston's flat with Allister Hanvey and Jonathan Wright. They went from the flat to a Chinese in West Street. They left the Chinese and started walking down the town. They got as far as Call-a-Cab and a drunk man stopped them and asked for 'a fag'. Allister walked on towards the town. Jonathan gave the fellow a cigarette and the Marc and Jonathan walked on towards the town centre. Hobson said "We got to just in front of the big church in the town centre and the police were moving people up the street towards us. I sat on the wee wall just in front of the church with Jonathan and I could see a body lying on the street in the middle of town." Mr Underwood, QC said "So you didn't go into the crowd?" He replied "No, I didn't." He was asked "You didn't part yourself from Mr Wright?" He

answered that he didn't. (2) Mr Hobson denies any wrongdoing but we submit that the evidence against him points to the contrary.

3. We would draw the Panel's attention to the attitude displayed by Mr Hobson at the Inquiry. Mr Adair, QC said "I have some questions for you, Mr Hobson. You don't find this amusing this, I presume today?" He replied No, seeing I got done years for something I didn't commit, no". Mr Adair, QC said, "You have been sitting grinning during parts of your evidence. Have you found something amusing?" He said "Maybe it is just what I do when I'm nervous". It was put to him "You have been sitting yawning in parts of your evidence. Are you tired?" He said "Yes, maybe I am." Mr Adair, QC asked "Or are you just treating this whole thing with contempt?" to which Hobson replied "No. Considering I got time for something I didn't do". (3)

4. Tracey Clarke stated on 10th May 1997 that 'Muck' (Hobson's nickname) was one of the people who were kicking and jumping on the person on the ground. (Hobson confirmed to Mr Underwood, QC that he was also called Muck back in 1997) (4) Tracey Clarke attended a DPP consultation on 17th October 1997 (5) and said she wouldn't give evidence in Court. Tracey Clarke's statement was put to Hobson by Mr Underwood, QC who asked him if he could give any reason why Tracey Clarke would have it in for him or any other friends of Allister Hanvey. Hobson said "The only thing I can think of is that they were having an on/off relationship and she wanted to get back at him, get back amongst his friends to hurt him". (6) He was then asked if his friendship with Allister Hanvey was close enough that if anybody wanted to hurt him, they might use him. He replied 'no'. (7) In dealing with the case of Allister Hanvey, we set out in detail the reasons for our submission that the Inquiry should give full weight to Tracey Clarke's statement of 10th May 1997 and our submission in that regard remains the same in respect of Marc Hobson.

5. Timothy Jameson made a statement to police on 9th May 1997 (8) in which he also implicated Marc Hobson in the fighting that night. He attended a DPP consultation on 21st October 1997 (9) claiming that he could not remember what he saw. He said that he could not distinguish in his mind between what he saw and what people had said had happened. He then stated that he could not remember anything about the fight and that he was drunk. He stated that when he had made his statement, he was simply agreeing with what the police said to him and he put in his statement what they told him. In evidence on 12th February 2009 Timothy Jameson said that the Detective Constable who had recorded his statement "was being very intimidating, very forceful". (10) He had said in his statement "When I got as far as Ronnie's Pub I could see a crowd of approximately fifteen to twenty persons fighting in the middle of the town. I walked towards the crowd. There was fellows punching each other and I observed a fellow with a Umbro sweater, grey colour and I think blue jeans, fighting with another fellow. This fellow I know to see, he lives in (blank) and is called Marc, he is also called 'Muck'. I know this fellow to see about town, Marc has very short brown hair, goatie beard and is overweight. I think he was wearing a black leather jacket. I was standing four to five feet from Marc. The street lights were on. Marc was

punching this fellow in the face with his fist, that's the fellow with the Umbro sweater on. This fellow was fighting back, but Marc was getting the better of him, Marc knocked this fellow to the ground, he was lying on the middle of the road, opposite the bakery on the corner 'Number Seven', on the side of the street the cars drive up the town. This fellow lay there for about one minute and got up again. I didn't see Marc hit him while he was on the ground. Marc then started fighting with another fellow. This was a man wearing a blue shirt and tie in his mid 30's with short hair, I think ginger colour. This man was trying to stop the fighting and I saw Marc grabbing this man and throwing him out of his way." Mr Underwood, QC put this statement to Marc Hobson who agreed that he was called 'Muck' in 1997, he had very short brown hair, a goatee beard, was overweight and was wearing a black leather jacket. However he denied punching a fellow in the face or fighting with anybody else. He also said he didn't see a man wearing a blue shirt and tie. When asked why Jameson would have said this, the response was "You would need to ask him that" and, when told that Jameson said he was forced to make the statement, he said "There is your answer then". (11) It is our submission that the Inquiry should give significant weight to the statement of 9th May 1997 for the same reasons outlined by us in the case of Allister Hanvey.

6. Jonathan Wright made a statement on 11th May 1997 (12) in which he said that he didn't see any fighting. He made another statement on 15th May 1997. (13) He told police that when he and Marc Hobson got to the front of the Church, they walked a few yards further down the centre of the street. He saw a fight further down the town in the middle of the street between Thomas Street and Woodhouse Street. He was about thirty yards from the fight. There were about 20 to 30 people in the middle of the street. He saw a person standing behind the crowd in the middle of the street. This man was wearing a blue shirt and striped tie; he was wearing dark trousers which appeared smart. This man was shouting towards the crowd of Protestants to come on. There was fighting going on in the crowd he was shouting at. Marc then left Jonathan and ran down into the crowd fighting in the middle of the road. Jonathan stood at the edge of the flower beds facing the Abbey National. He saw Marc being pushed about by the crowd and saw him lift his hand and reach out for somebody but didn't see him hit anybody. He said there was a lot of shouting "Fenian bastards," and fenian cunts. There were 2 or 3 from the Catholic crowd shouting too - they were trading insults, calling the Protestants, 'Orange bastards.' The fighting lasted about five to ten minutes. He said he saw Rory Robinson in the middle of the crowd running around like a headless chicken. He saw Stacey Bridgett trading punches with one person. They were fighting a wee bit to the left of the main fight more towards the Alliance & Leicester Building Society. He said he saw a boy lying on the street at the mouth of Thomas Street. He was lying on his chest and wasn't moving. He was wearing dark clothes. Jonathan saw a police Land Rover parked on the main street at the Halifax. There were about five to six policemen trying to break the fight up. He saw people trying to push police away from the main fracas. The mood of the crowd was violent towards the police. He heard bottles being smashed. The police got the crowd under control and the crowd started leaving. Marc came back out of the crowd and Jonathan told him to come on. They walked up the town centre to the Church then Jonathan parted from him and walked

home. This statement was put to Marc Hobson by Mr Underwood, QC. Mr Hobson's response was "It is lies, plain and simple lies." He told Mr Underwood that he didn't go into the crowd and didn't part himself from Mr Wright. (14)

7. Mr Wright attended a DPP consultation with Mr Gordon Kerr, QC on 17th October 1997. Mr Davison's note of the consultation stated that Mr Wright had a good memory of events and was able to relate the incidents more or less in accordance with his statement. However, it said that "while in his statement he refers to his friend Marc as being involved in fighting during consultation he described him as pulling people out of the fight". It is noted that Mr Wright did not indicate any unwillingness to give evidence. (15) Jonathan Wright made a further statement on 13th March 1998 (16) in which he said that his statement of 11th May 1997 was correct and the second one wasn't. He said "At the time I made it up as I was afraid and I now know that it is known by others in Portadown what I said in the second statement and because of that fact I am not prepared to give evidence in Court regarding the second statement". Mr Wright said in his Inquiry interview that "It was the police's words. That was made--it was made under pressure". (17) We respectfully submit that the Inquiry should give full weight to Jonathan Wright's statement of 15th May 1997. This submission is based on the following:-

a. Jonathan Wright was asked by Mr Underwood, QC about his statement of 15th May 1997. Mr Wright confirmed that the officer who took his first statement took this one. He said that he was put under pressure. Mr Underwood, QC asked Mr Wright how information, that he said wasn't true, got put into his statement. He said "Yes, the police officer basically -- he had told me that I wasn't telling the truth, that I had withheld information and that he thought I knew more than what I was telling.....Basically what happened was he was making suggestions to me about events that had happened that he knew that had happened that night. He basically said that he knew that Allister and Marc was at the scene and, basically, I hadn't told him the whole truth in my first statement" (18) Mr Wright said that he was very adamant that he had told him everything that he knew in the first statement but he just didn't accept that. (19) He went on to say that he signed the statement because he just wanted to get out of there. Mr Underwood QC asked him "When you said you felt you had to tell him something, do you mean you did actually tell him things that are in here or are you just saying that you signed it?" Mr Wright said "No. Well, I made things up. I just -- I just had to tell him something that would get me out of there, you know". He was asked if he accepted that some of the things that were put into this statement he did say, but he said them under pressure to get out. His answer was "Most definitely yes". (20)

b. Detective Constable Honeyford who recorded the statements of 11th and 15th May 1997 attended the Inquiry on 29th January 2009. Mr Underwood, QC referred him to his statement where he dealt with Jonathan Wright. (21) He said in his statement "I remember very little about Jonathan Wright and rely entirely on the record contained in the documents." (22) It

was put to Mr Honeyford “He says, and has said since, that you took him into an interview room in order to make this statement and made threats to him. In particular, he says he wanted a solicitor and you wouldn’t let him have one and you told him that unless he made a further statement, he wouldn’t be able to go on holiday. You threatened charging him.....He says you told him his father, who worked for the Church of Ireland, would be humiliated if he didn’t give you a statement”. Mr Honeyford said “That is totally wrong”. He also said “I don’t remember him saying he was going on holidays and I certainly wouldn’t have said that to a witness there is just absolutely no point in it.....That’s the first I have even known his father works for the Church of Ireland, is now. I can honestly say I never knew that”. It was further put to him “He says that you intimidated him to the point where he broke down and said “Yes, I’ll make a statement”, and then you brought some other policeman in....” Mr Honeyford said “No, there was no other policeman. Had there been any other policeman interviewing the witness with me, it would have been well documented and I certainly wouldn’t have said those things to him. I am disappointed that people have to say those things”. (23)

c. Mr Underwood, QC referred Mr Wright to the DPP consultation which he attended and said “What you are doing here in this consultation according to this note, is that you are making it better for Marc Hobson -- Marc was your friend, wasn’t he?” He replied “Oh, yes.” He was then asked if he didn’t see a fight, why didn’t he just say when he went to the consultation “Look, sorry, I was under such pressure on the second statement, I really can’t rely on that”. Mr Wright said “Because I was afraid that if I had told him that, that I had lied to the police, I would get into, you know trouble.....” (24)

d. It was put to Mr Wright by Mr Underwood, QC that it had taken some time for him to take the second statement back. He said “Well, as I said earlier, I knew that I had lied to the police, I had made a false statement up. I didn’t want to get into more trouble than what I thought I could be in. Well, I had called the police station as well and I had asked to speak tothat policeman yes....I left a few messages and had asked could he get back to me, that I needed to speak to him again, and that I wanted to retract this second statement.” (25)

e. Mr O’Hare asked Mr Wright “Can we take it that you were absolutely appalled by the conduct of this police officer on the night of this second Statement?” He replied that he was shocked and he was angry. He was upset. The statement wasn’t true. He agreed that he had been threatened and intimidated and had words put into his mouth by this police officer. Mr O’Hare asked him if he told his father, when he got home, what had happened in the police station. Mr Wright said that he didn’t because he was ashamed of what he had done. He was embarrassed. He didn’t want him to know what he had done. He had failed his friends. Mr Wright said that he just bottled it up. He just kept his head in the sand and he just didn’t want anybody to know about it”. Mr O’Hare asked him “No, isn’t the truth of the matter, Mr Wright, that you didn’t want it to get out, the word to get out on the street, that you had made a statement implicating Hobson, Bridgett and Robinson....Because you knew that if word did get out about that, it could cause you difficulties; isn’t

that right?" He replied 'no'. Mr Wright said that he told no one. (26) He further confirmed that, until he withdrew his statement in March 1998, he hadn't told anybody nor did he make any complaint to the police about the conduct of this police officer. When it was put to him that he had attempted to contact the very policeman who had threatened him about his girlfriend, his father, charging him with murder, he said 'yes' he had phoned the police station. (27)

f. Mr McGrory, QC questioned Mr Wright who confirmed that he had visited Mr Hobson in prison a few times. He also said that the case wasn't discussed. Mr McGrory QC put it to Mr Wright that at some point Marc Hobson became aware that he had made a statement. He said he that he didn't know. He wasn't approached by Marc or anybody. It was then put to him that Marc Hobson had told the Inquiry in an interview that he became aware that Wright had made a statement when he got his papers. Mr Wright said that he didn't know. When Mr McGrory, QC suggested to him that he was made aware by Hobson or members of his family that there was a statement in those papers that caused him a serious difficulty, Wright's response was "No, that is totally false. Nobody every approached me, nobody ever threatened me, nobody intimidated me. It was never discussed at any point". (28)

g. When asked by Mr McGrory, QC if he was absolutely certain that there was no contact between him and Hobson about this case in the months after 15th May, before his committal proceedings, which took place in April 1998, Wright said 'absolutely positive'. It was put to him "But you have said you visited him in prison. Would you have been in telephone contact with him?" He replied "Well, Marc would have telephoned me if there would have been maybe a mid-week visit on and maybe his parents were going down and he maybe had one or two free spaces for that day. Marc would have telephoned me to say did I want to go down...." Mr McGrory, QC asked him if Hobson was aware at any time that he was called for consultation with the Director of Public Prosecutions' office. He said he had no idea. (29) Mr McGrory, QC drew Mr Wright's attention to a record of telephone calls made from the prison to his home. (30) This document showed that there were a number of phone calls made from the prison to his home between 22nd June 1997 and 21st October 1997. Mr Wright didn't dispute that these calls were made to his home. There were a series of calls on 17th October 1997 which was the date of the consultation. One was at 18.8, one at 18.13, one at 18.22 and one at 18.35 - all short calls. Mr McGrory, QC suggested to Mr Wright that this was no coincidence and that in fact, probably Marc Hobson knew that he had the consultation and was very, very anxious to know what he had said. Mr Wright said that he had no idea whether Marc knew or not. Mr McGrory, QC asked Mr Wright "Of those who were imprisoned in the Maze at that time, would it really only have been Mr Hobson who was phoning you?" He replied that Stacey could have called - "If I would have been called, it would have been from Marc definitely and Stacey possibly". He agreed that of the two, the most frequent caller would have been Marc. The record also showed a call on Saturday 18th October 1997 at 11.29 in the morning. It lasted for 11 minutes. Mr Wright couldn't recollect this call. Mr McGrory, QC suggested to Mr Wright that it was a virtual certainty that on the morning of Saturday 18th

October he told whoever he was speaking to in the prison about the consultation the previous evening. He also suggested that he would have been anxious to let that person know, particularly if it had been Marc Hobson, if had told the DPP that he had been pulling people out of the crowd rather than doing anything wrong. Mr Wright maintained that he didn't recollect the call. (31) We submit that Mr Wright was not telling the truth about the extent of his contact with his the friend, Hobson.

h. Mr McGrory, QC referred Mr Wright to the matter of the committal proceedings and to a letter from Richard Monteith's office to the department of the Director of Public Prosecutions dated 18th March 1998. (32) This letter requested a number of witnesses, chief amongst who was Mr Wright, to give evidence at the Preliminary Enquiry on 20th April 1998. Mr Wright had no recollection of having been notified of this. It was pointed out to him that in order for Mr Monteith to write the letter, he needed to have had the papers by then. Mr McGrory, QC then put to Mr Wright that he didn't give evidence and he suggested to him that the reason for that was because by then his third and final statement had been made. It was also put to Mr Wright that Marc Hobson had already told the Inquiry that when he got his papers, he was horrified when he saw his statement of 15th May and that he spoke to him about it. Mr Wright was also told that Hobson had said that after all of this, the relationship between them more or less ceased. Asked if he would agree that the friendship that the two of them had up until these events ended, Mr Wright said "I don't recall if I seen him once he got out of prison, I don't remember". (33) In Hobson's Inquiry interview Mr Pinfield said "I want to be clear on something: you just said that Jonathan Wright gave a statement to the police which is false, he was put under pressure and the police told him that he wasn't going to be going on a holiday, which seems to me remarkably specific for something that happened nine years ago, that you would be able to say that the police told him that he wasn't going to be going on holiday. Now Jonathan Wright has been interviewed recently and he also said that the police put him under pressure and said he wouldn't be able to go on holiday. Do you spot a coincidence there? Hobson said "I don't even talk to Jonathan Wright anymore." (34) He also said that he had contact with Wright up until he got his papers. (35)

i. Mr McGrory, QC put it to Mr Wright that when Marc Hobson had been interviewed by the Inquiry, he told them (36) "...that that 15th May statement was a lie and that his understanding was that you were going on holidays.....and that the cops brought you in, that you had told the truth and then they put you under a lot of pressure.....and that you were young and naïve.....But the most significant part of that is that he told the Inquiry that he knew that you had been pressurised on 15th May because you were going on holidays". Mr Wright responded "Well, Marc would have known that I was going on holidays, yes." Mr McGrory, QC suggested to Mr Wright that there was no conceivable way Marc Hobson could have known that the reason he was saying that the statement was pressurised because he felt under pressure because of he holiday unless he had told him. Mr Wright maintained that there was "never any contact. I have told you this before. There was never once, at

any point, contact” (37) Once again we submit that Jonathan Wright was not telling the truth to the Inquiry.

j. We respectfully submit that the timing of the telephone calls on 17th and 18th October 1997 was not a coincidence. Neither was the timing of the withdrawal statement a coincidence. We believe that the evidence referred to above indicates that Jonathan Wright told the truth in his statement of 15th May 1997; that Marc Hobson knew about the consultation on 17th October 1997 and that once Hobson knew about the statement from his committal papers, pressure was brought to bear on Wright to withdraw the statement.

8. Andrew Allen was interviewed by police on 15th May 1997. He told police that he, David Woods and Rory Robinson had been hit for no reason by boys who came down Thomas Street. He was asked what happened then and said “He came at me, he started throwing punches at me, I backed out into the middle of the road....He was still coming at me, I turned and ran up Thomas Street”. He was asked if they were the only three there in that area at that moment out of the group that got off the bus and he said that was right - the other group was down the street. He then said “There was another boy standing there and he starts throwing punches at me.” Asked if this was in Thomas Street, he said “Yes”. Then asked, “Whereabouts in Thomas Street, how far did you run on?” He said “I never got up that far, it must have been, it was just across from the big window in Eastwoods, you know the end of it, you know Eastwoods clothing there”. He confirmed that he was still really in the mouth of Thomas Street and then “When he started throwing punches at me, all I could do was put my hands up and swing, the next thing.....And then I just, three or four boys just came running in and he was knocked to the ground.” He confirmed that these were boys from the big crowd that got off the bus with him and he said “Mark Hobson was one of them and I don’t know the rest.....yes they knocked him to the ground, this boy got up and ran down the street”. (38) Marc Hobson wasn’t at the Coach Inn but had said in his statement of 9th May 1997 (39) that he and Jonathan walked on towards the town centre and that they were going down the town to ‘meet the ones’ getting off the bus from the Coach. This evidence of Allen would accord with that of Timothy Jameson referred to at Number 5 above where he said “Marc was punching this fellow in the face with his fist, that’s the fellow with the Umbro sweater on. This fellow was fighting back, but Marc was getting the better of him, Marc knocked this fellow to the ground, he was lying on the middle of the road, opposite the bakery on the corner ‘Number Seven’, on the side of the street the cars drive up the town. This fellow lay there for about one minute and got up again.”

9. Mr Underwood QC referred Mr Hobson to the statement of Constable Neill. (40) He had described the fighting and said “During this, a male, late 20s, round face with a goat beard and very short hair, wearing a leather-type soft casual waistcoat was near me and I saw him kick at the injured man I now know as Robert Hamill. The male with the goat beard was moved back as best as possible. Other police had arrived at this stage and were standing with Rory Robinson, 20s, short black hair, thin with pointy features. Both these persons were taunting injured people and those that were looking after them.” (41) Mr

Underwood, QC said “And you know later, of course, there was a confrontation in which this officer identified the person he is describing there - - the first person he is describing there as you?” Mr Hobson confirmed that his evidence was that this was a misidentification “without doubt”. Constable Neill gave evidence to the Inquiry on 19th May 2009. Mr Green asked him “Are you saying that it was something that you simply saw out of the corner of your eye or were you looking directly at Mr Hamill in order to be able to see this?” Constable Neill replied “I was looking directly at Mr Hobson. That’s how I was able to identify him.” (42) Constable Neill also stated on 27th April 1997 “The situation calmed down somewhat after this. I remember during this, a particular group of people I believe R/Constable Atkinson was involved and the male with the goat beard and the leather waistcoat was involved, he was involved in assaulting someone in the group. I tried to get this person off and I had to strike him with my baton. I believe I struck him on the leg. This had occurred during the main fracas but I am no sure exactly when in that.” (43) In his police interview of 10th May 1997, Mr Hobson was asked if he remembered being struck that night by a policeman’s baton. He said ‘no’. (44) Constable Neill submitted a baton report dated 28th April 1997 in which is recorded “Unknown male, stocky build, goat style beard, short dark hair, wearing leather waistcoat.....Unknown male struck on leg.” (45) Constable Neill also referred to this in his Inquiry Statement in which he said “My baton had been drawn earlier and I struck Hobson a blow to his thigh.” (46) McCollum LJ said in his judgment in R v Hobson “I am satisfied beyond a reasonable doubt, therefore, that Constable Neill has accurately identified the accused, Paul Rodney Mark Hobson as being the person standing over Mr Hamill and later involved in the struggle with Reserve Constable Atkinson”. (47) Campbell LJ in Hobson’s Court of Appeal judgment said “Having considered the identification evidence and the detailed criticism of it we have no doubt that the conviction based upon it is safe.” (48)

10. Constable Cooke’s statement of 27th April 1997 (49) was put to Hobson by Mr Underwood, QC. He had stated “I recognised the following persons at the front of the crowd: Stacey Bridgett from (blank). His nose was bleeding. [Somebody else] from (blank). He was wearing a multi coloured checked shirt. Rory Robinson of (blank), was wearing a yellow coloured shirt with a fine check through it and beige coloured trousers.” Mr Underwood QC said “And then he next name that has been blanked out is xxxxxx, and it gives an address: “...was wearing a black leather jacket and blue denim trousers. On several occasions while we were holding this crowd back and tried to move them towards West Street, I spoke to Robinson and xxxx and asked them to move up the street. Both refused to move and each of them tried to push past myself and other police on several occasions”. Mr Underwood, QC then referred to a later statement by Constable Cooke dated 26th May (50) where he said “In addition to the statement made by me on 27th April 1997, the person I named as xxxxx was in fact Marc Hobson. I have known both xxxx and Hobson for around three to four years as a result of my general police duties in the Portadown area. On this occasion, I made a genuine mistake and put the wrong surname to the face. I’m certain the face I saw in the crowd was Hobson.” Mr Underwood, QC asked Hobson if that officer was right, that he had known him for three or four years. The response was “How

am I supposed to know that? I didn't know him. So that was news to me.”
When asked if he had made a misidentification, Hobson said “Yes.”

11. Mr Hobson was referred by Mr Underwood, QC to P40's statement (51) where he said “I observed two males lying in the middle of the road adjacent to Thomas Street. There was a crowd at that side of the street. I made my way across the street to Thomas Street and assisted other police in moving the crowd back. I observed one of the males in the crowd. This male had very short black hair, a black moustache and a goatee-type beard. He was approx five nine tall and was of stocky build. He had a black leather jacket and was wearing blue jeans. This male had been very aggressive and had been taunting the Nationalists and had to be physically moved back several times”. Hobson denied that this was him. Mr Underwood, QC referred him to where P40 was asked more about this. (52) He said “Male, very aggressive”. He was asked “Doing what?” He replied “Taunting Nationalists, ‘Hope he fucking dies’” Asked “Where were the Nationalists? What was taunting?” P40 answered “‘Hope he fucking dies. ‘Pointing finger and saying, ‘Hope he fucking dies’” Mr Hobson denied that this was him. P40 gave evidence to the Inquiry on 26th March 2009. Mr Underwood, QC referred him to his statement (53) where he had described the male with the goatee-type beard and he put to him, “You were never asked, I think, to attend an identification parade or a confrontation or look at mug shots of this person. Is that right? P40 said ‘yes.’ He was then asked if he got a clear enough view of him that if he had, for example, a week or two later been asked to attend a confrontation or an ID parade, he would have been able to pick him out. P40 said ‘yes’. (54)

12. It is a matter for the Panel to reach a decision on whether or not Mr Hobson told the truth. It is however our respectful submission that the evidence outlined above shows that his account is sullied with lies from start to finish and that not only was he part of the general affray but he did indeed play an active role in the murder of Robert Hamill.

Marc Hobson (references)

- 1 Pages 562 - 563
- 2 March 12th page 125 lines 4 - 7
- 3 March 12th page 144 line 15 - page 145 line 2
- 4 Statement of Tracey Clarke page 262; March 12th page 131
- 5 Page 17591
- 6 March 12th page 132 line 13 - page 133 line 7
- 7 March 12th page 133 lines 11 - 13
- 8 Statement of Timothy Jameson - page 15883
- 9 Page 17591
- 10 February 12th page 68 lines 18 - 19
- 11 March 12th page 129 line 16 - page 131 line 23
- 12 Page 564
- 13 Page 568
- 14 March 12th page 124 line 8 - page 125 line 7
- 15 Note of consultation page 17591
- 16 Page 581

17 Page 31 Inquiry interview
18 March 11th page 87 line 20 - page 90 line 22
19 March 11th page 90 lines 12 - 14
20 March 11th page 91 lines 1 - 12
21 Paragraphs 25 & 26 page 80478
22 January 29th page 29 line 25 - page 30 line 8
23 January 29th page 38 line 2 - page 39 line 10
24 March 11th page 96 line 10 - page 87 line 24
25 March 11th page 99 lines 1 - 22
26 March 11th page 137 line 24 - page 141 line 25
27 March 11th page 144 lines 1 - 15
28 March 12th page 6 line 23 - page 8 line 12
29 March 12th page 8 line 13 - page 9 line 4
30 Page 21212
31 March 12th page 15 line 19 - page 21 line 17
32 Page 28226
33 March 12th page 27 line 20 - page 30 line 9
34 Pages 17 & 18 Inquiry Interview
35 Page 20 Inquiry Interview
36 Page 17 Inquiry Interview
37 March 12th page 39 line 10 - page 41 line 14
38 Pages 7315 - 7319
39 Pages 562 - 563
40 Page 9669
41 March 12th page 139 line 23 - page 140 line 13
42 May 19th page 105 line 25 - page 106 line 3
43 Page 9670
44 Page 51698
45 Pages 9931 - 9932
46 Paragraph 32 page 81036
47 Page 8742
48 Page 8759
49 Page 9226
50 Page 11063
51 Page 6350
52 Page 6352
53 Page 696
54 March 26th page 6 lines 5 - 25

Rory Robinson, Andrew Allen and David Woods

1. Rory Robinson, Andrew Allen and David Woods have been placed together at or near the scene by a number of witnesses. All three men give different versions of events. We believe the reason for this is that they are trying to conceal their own part in the incident and that this will become evident as this submission progresses. We have dealt already at some length with Robinson, Allen and Woods in these submissions with regard to the cause of the incident.

2. Rory Robinson was charged with the murder of Robert Hamill but the DPP subsequently directed 'no prosecution'. (1)Robinson was interviewed by police on 10th and 11th May 1997. (2)He attended the Inquiry on 11th March 2009 and the Panel will doubtless recall the disgraceful manner in which he responded to questions from Counsel for the various parties.

3. Andrew Allen and David Woods were arrested and questioned by police in relation to the murder of Robert Hamill. Neither was charged. (3)

4. Rory Robinson, Andrew Allen and David Woods have denied any wrongdoing but there is evidence which would point to the contrary.

5. Tracey Clarke stated on 10th May 1997 that Rory Robinson was one of the people who were kicking and jumping on the person on the ground. (4)She attended a DPP consultation on 17th October 1997 (5) and said she wouldn't give evidence in Court.Tracey Clarke's statement was put to Rory Robinson by Mr Underwood, QC who asked him if it was true. He said 'no' and he couldn't give any reason why she would have made up the allegation against him. (6)In dealing with the case of Allister Hanvey, we set out in detail the reasons for our submission that the Inquiry should give full weight to Tracey Clarke's statement of 10th May 1997 and our submission in that regard remains the same in respect of Rory Robinson.

6. Timothy Jameson made a statement on 9th May 1997 (7) in which he also implicated Rory Robinson in the fighting that night. He also implicated Andrew Allen in the murder. He attended a DPP consultation on 21st October 1997 (8) claiming that he could not remember what he saw. He said that he could not distinguish in his mind between what he saw and what people had said had happened. He then stated that he could not remember anything about the fight and that he was drunk. He stated that when he had made his statement, he was simply agreeing with what the police said to him and he put in his statement what they told him. In evidence on 12th February 2009 Timothy Jameson said that the Detective Constable who had recorded his statement "was being very intimidating, very forceful". (9)He said in his statement "I then noticed Rory Robinson fighting. I do not know who he was fighting with. I only looked over at him for a couple of seconds. Rory was hitting somebody with his fists. I couldn't see who he was fighting with. Rory was wearing cream coloured jeans." When Mr Underwood, QC put this statement to Robinson, his response was "I don't know the fellow" (10) In relation to Andrew Allen, Jameson said "I then saw another fellow kick the boy lying on the ground. This fellow has black hair and I know him to see about Portadown, he is called 'Fonzy'. He would be in his early 20's. I saw 'Fonzy' kick the fellow lying on the ground, with the black jacket in the face a couple of times". Mr Underwood, QC put Jameson's statement to Andrew Allen who said "He is saying that it is me but I definitely know I wasn't involved in anything like that" (11) It is our submission that the Inquiry should give significant weight to the statement of 9th May 1997 for the same reasons outlined by us in the case of Allister Hanvey.

7. Jonathan Wright made a statement on 11th May 1997 (12) in which he said that he didn't see any fighting. He made another statement on 15th May 1997. (13) He told police that when he and Marc Hobson got to the front of the Church, they walked a few yards further down the street. He saw a fight further down the town in the middle of the street between Thomas Street and Woodhouse Street. Marc left Jonathan and ran down into the crowd fighting in the middle of the road. Jonathan stood at the edge of the flower beds facing the Abbey National. He saw Marc being pushed about by the crowd and saw him lift his hand and reach out for somebody but didn't see him hit anybody. The fighting lasted about five to ten minutes. He said he saw Rory Robinson in the middle of the crowd running around like a headless chicken. He saw Stacey Bridgett trading punches with one person. They were fighting a wee bit to the left of the main fight more towards the Alliance & Leicester Building Society. He said he saw a boy lying on the street at the mouth of Thomas Street. The police got the crowd under control and the crowd started leaving. Mr Underwood, QC put the statement of 15th May 1997 to Robinson whose response was "I didn't know the fellow. I don't know why he's saying it" (14)

8. Mr Wright attended a DPP consultation with Mr Gordon Kerr, QC on 17th October 1997. Mr Davison's note of the consultation stated that Mr Wright had a good memory of events and was able to relate the incidents more or less in accordance with his statement. However, it said that "while in his statement he refers to his friend Marc as being involved in fighting during consultation he described him as pulling people out of the fight". It is noted that Mr Wright did not indicate any unwillingness to give evidence. (15) Jonathan Wright made a further statement on 13th March 1998 (16) in which he said that his statement of 11th May 1997 was correct and the second one wasn't. He said "At the time I made it up as I was afraid and I now know that it is known by others in Portadown what I said in the second statement and because of that fact I am not prepared to give evidence in Court regarding the second statement". We respectfully submit that the Inquiry should give full weight to Jonathan Wright's statement of 15th May 1997. Our reasons for this submission are more fully discussed by us in relation to the case of Marc Hobson.

9. Rory Robinson told Mr Underwood, QC that his memory was a complete blank. (17) He confirmed that as far as he knew his Inquiry statement (18) was accurate. In that statement, he said that he knew 'wee Davy Woods' from socialising. He didn't know Andrew 'Fonzie' Allen although it was possible he might have known him to speak to him in the town. He told police in his interview on 10th May 1997 (19) that he was wearing an orange checked shirt, a blue bomber jacket and cream pinstripe trousers on the night in question. (Timothy Jameson had described him as wearing cream coloured jeans). Referring to his police interview, Robinson stated that he was walking up the town after 1.30 am having got off the bus from the Coach Inn. He walked alone up the town on the left side of the street towards the Church at the junction of Market Street and West Street. He wasn't sure if anybody else was walking just behind him. As he was walking through the town centre he saw a police Land Rover parked in the main street. He had been told that some witnesses said he walked up the town with Andrew Allen and Davy Woods

but said that he did not walk from the bus stop with those two men. He didn't know if they were behind him as he walked up and to his knowledge he wasn't aware of them. We submit that Robinson was deliberately distancing himself from Allen and Woods in order to deflect suspicion from himself. He continued as far as the church without stopping. Mr Underwood, QC took him to his police interview (20) where he had stated that he got as far as the church and he heard shouting 'orange bastards' and things like that. He looked around and saw a big scuffle. He was also referred to a part of his interview where he had been asked why he stood about - this was a fight. He said he didn't go about his business because of 'nosiness or something' (21) He proceeded in the interview to deny making any verbal chants or any attempt to go against the police. He said he was nowhere near the police. When the police came up the town he asked them to walk him down the street because there were still people running about and after he had seen the rows he didn't fancy walking down on his own. He was asked if he was frightened and said "Yes, I was sort of yes." The police asked him why he spent thirty minutes at the church watching what was unfolding. He said "It was nowhere near me". (22) On the one hand he was telling police that he stood around out of nosiness and on the other hand he said he was frightened and in the next breath was saying that it was nowhere near him. During this interview, Mr Robinson displayed the same disrespectful behaviour as that witnessed by the Panel when he gave his evidence. For instance, he was asked why he didn't make his way home by going around the town. He said it was too far to walk. The police put it to him "So you were not that scared" and he said he was scared enough. His attitude to police led the interviewer to say "I take it that you are being sarcastic there". (23) The police also said "Now for the purpose of the record, the suspect is leaning back in his chair, with his arms folded over his head". (24) We submit that his apparent 'couldn't care less' attitude is indicative of his character. It is a matter for the Panel to decide whether or not Mr Robinson was being truthful but we believe that the answers he gave to police at interview were very far from the truth.

10. Reserve Constable Robert Atkinson gave evidence to the Inquiry on 11th May 2009. He said that people had moved back up towards the Church. They were still catcalling. He was asked if there was any point after that at which people tried to get at the men on the ground. He replied "There was indeed, yes....I got in front of number 3 [Robert Hamill] here and there was several attempts to sort of come through and get at him again. And I did in fact strike a guy then and put him back up the street". He confirmed that the person he struck was Mr Robinson. (25) Mr Underwood, QC asked Mr Atkinson if he hit Rory Robinson because he was trying get to Mr Hamill. He replied "Yes. I told him to go back, I think. I'm not sure of the exact wording, but I told him to move back and he wouldn't move back and he started to jostle and push forward as if to go past me. So he had his warning, so he got struck". In evidence, Rory Robinson denied being struck with a baton. (26)

11. Constable Alan Neill said, in his statement for the Inquiry "As we were pushing the crowd back I remember a male I know as Rory Robinson being in the crowd shouting abuse and trying to push past us, he was going along the line trying to push through. At one stage the crowd was right on top of Robert

Hamill and we pushed the crowd back slowly. Robinson confronted me face to face at one stage and appeared to be threatening me by pushing his chest out and pulling his arms back. His actions could have been enough for me to have arrested him but we didn't have enough resources at that stage". (27) Constable Neill made a statement on 27th April 1997. (28) He described seeing a male with a round face and goatee beard [Hobson] kick at Robert Hamill. He said "The male with the goat beard was moved back as best possible. Other police had arrived at this stage and were standing with Rory Robinson, 20s, short black hair, thin with point features. Both these persons were taunting injured people and those that were looking after them. Robinson was moving back and forward across the line trying to get through." In evidence, Constable Neill said that Robinson was in the front of the line." (29) When confronted with Constable Neill's evidence by Mr Underwood, QC, Robinson's response was "Not true, wasn't there" (30)

12. Constable Gordon Cooke made a statement on 27th April 1997. (31) He said "I recognised the following persons at the front of the crowd, Stacey Bridget from (blank). His nose was bleeding. P53 from (blank). He was wearing a multi coloured check shirt. Rory Robinson of (blank), was wearing a yellow coloured shirt with a fine check through it and beige coloured trousers".

13. Reserve Constable Dean Silcock made a statement on 27th April 1997. (32) Another youth was wearing a bright yellow/orange shirt with a black check. This youth had darkish hair. I now know this person to be Rory Robinson from (blank). Robinson was verbally abusive to myself and members of the public." Mr Underwood, QC put this statement to Robinson whose response was "I keep on saying I wasn't there". (33)

14. Constable Adams' statement of 27th April 1997 (34) was put to Mr Robinson by Mr Underwood, QC. The constable had stated "I then assisted to move these persons back up the town centre towards West Street. While doing so, I noted a person who I know to be Rory Robinson to be amongst this crowd, that he was attempting to get back down to the town centre again. I was aware that he lived at the other end of town, therefore, I allowed him to walk back towards the junction. I escorted him down past it and into the High Street." Robinson said "From my statement, that's true there". When Mr Underwood asked "So you were in the crowd and you had to be escorted back down, is that right?" He replied "From my statement I wasn't in the crowd, no". (35) In his Inquiry statement (36) Rory Robinson said "I am told that Constable Adams said that he escorted me away from the scene. I cannot remember this happening. Moreover, I cannot remember at what time I left the scene, or how I got home.

15. Donald Blevins gave evidence to the Inquiry on 12th March 2009. Mr Underwood, QC referred him to his statement (37) where he had said "Initially I would have been maybe a couple of yards away from the crowd....I joined the crowd of Protestants. I saw Rory Robinson and Mark Currie near the Protestant crowd." (38) Mr Blevins told the Inquiry that there were two crowds, one of Catholics and one of Protestants and the crowds were shouting

at each other. It is our submission that nothing Mr Robinson has said about his participation in these events can be believed.

16. Andrew Allen also had some difficulty with his memory when he attended the Inquiry on 10th March 2009. Mr Underwood, QC referred him to his police interview on 15th May 1997. (39) He had told police that he was with Rory Robinson and David Woods. He got off the bus. There was a big crowd. They must have gone to Boss Hoggs. All Andrew wanted to do was go home and he just walked on up the town. Then he got caught up in the fight. He said that he was behind Rory and David. They had stopped just at the corner of Thomas Street. He stopped there with them waiting on the crowd to catch up - just to see if there was a party or anything happening. He heard people shouting up Thomas Street but paid no attention. He saw three or four girls and three or four fellows walking down Thomas Street in a group. The girls were in front and they walked on past across the street in the direction of Woodhouse Street. "Well the boys, they just pulled up about level with us. I thought they were walking on past and they turned round and they hit David Woods who was standing in front of me". Nothing was said. There was another boy who went across the road and Rory Robinson - he was standing just at the edge of Eastwoods "And the two, he started throwing punches at him and them two started fighting and somebody came at me". He then turned and ran up Thomas Street. This would support Timothy Jameson's assertion that he noticed Rory Robinson fighting. Mr McGrory, QC put to Mr Allen "...according to your account, a man starts throwing punches at you, another man runs over and hits Davy Woods and another man starts attacking Rory Robinson all completely out of the blue. Nobody says a thing. They don't even say why they are doing this. They don't call you anything. They say nothing". (40) It is submitted that the likelihood that such a thing could have happened in complete silence is remote to say the least.

17. Andrew Allen was one of those who attended the party at Tracey McAlpine's house. Mr Underwood, QC referred him to his police interview (41) where he had been asked about the conversations going on there and he said "I heard that Hanvey had hit somebody with a bottle.....They were just talking about what happened, the usual old craic, and I just went on home shortly after". Allen told Mr Underwood, QC that he couldn't remember who was in the room when that discussion was going on. In his police interview he said "I sat there for twenty minutes or half an hour or so." (42) Pauline Newell had said in her statement of 20th May 1997 (43) that she woke around 5.00 am and got up to get a drink of water. She came downstairs and saw a number of people and she named them as "Allister Hanvey, Stephen Sinnamon, Fonzy, Chris Henderson and Dean Forbes". Iain Carville gave evidence on 26th February 2009. (44) He had said in his statement of 19th May 1997 (45) that he arrived at Tracey McAlpine's house after 3.00 am and he recalled seeing a number of people there including Allister Hanvey, Dean Forbes, Marc Hobson and Andrew Allen - most were sleeping. Tracey McAlpine also named Allen as being there around 5.00 am. (46) By saying that he was only at the house for twenty minutes to half an hour which is contrary to the above evidence, we submit that Andrew Allen was trying to put distance between himself and the others who were involved in the incident.

18. Pauline Newell gave evidence on 17th February 2009. In her statement of 20th May 1997 (47) she said that she came back in bus from Coach with her sister Tracey and Kelly Lavery. Stopped at Boss Hoggs and Tracey and Kelly walked on. Looked up street towards Church and saw Rory Robinson, Davy Woods and Fonzy walking up towards Thomas Street. They had been on the bus from the Coach. A document was put to Ms Newell by Mr Underwood, QC. (48) This contained information recorded by police on 10th May 1997 and stated:-

19. "Information reference murder of "Information reference murder of Hamill @ Portadown: - source obtained information from a female who was present during the fight. She is called Pauline & lives @ Brownstown & is currently wanted for questioning by Portadown CID. She says Hamill & 1 x male & 2 x female friends were walking from Thomas St to Woodhouse St. As they crossed Main St Hamill went over to a protestant crowd of approx 30 and called one a 'black bastard'. Then he hit this person * who retaliated. The others joined in and Hamill & his male friend were both beaten .* Named as Rory Robinson, 23-24 yrs, dark brown hair in curtain style , source thinks he is UVF. Many of the protestant crowd were in Boss Hoggs just prior to the incident. They should be on video according to source. Pauline works in fruit shop in Magowan Buildings".

20. Pauline Newell confirmed that she had worked in a fruit shop in Magowan Buildings and she did live in Brownstown but she couldn't remember telling anyone this. (49)

21. We note that in Pauline Newell's statement of 20th May 1997, she said "I have since heard in general rumour around the town that the fight was started by the ones coming down Thomas Street. They hit wee Davy Woods and then others joined in to come to his rescue." (50) This is inconsistent with the information recorded by police on 10th May 1997 that it was Rory Robinson who purportedly was hit.

22. David Woods gave evidence to the Inquiry on 27th February 2009. (51) He said that he was walking home on his own. He didn't stop for food or to talk to anybody on the way. He assumed that there should have been people behind him - they had just got off a bus. He had no recollection of how close they were behind him. He told Mr Underwood, QC that when he got to the junction, he went to walk up Thomas Street home and there was a crowd of people coming down Thomas Street. They were making a bit of a racket so Mr Woods thought he would walk on. Then he stopped because they started getting a wee bit rowdy. He hoped they would go past. There were maybe five people - men and women. He was very drunk. He was either outside Jameson's' or Number 7 Bakery then. The people were shouting and kicking a door. He didn't know if it was a door of Jameson's'. Some fellow out of the crowd ran down and punched Mr Woods. He didn't even see him coming. He just remembered getting smacked in the mouth. After that Mr Woods moved back in case he was going to be attacked but nothing else happened. His sister lived above Jameson's' Bar and she came out and brought him in and that was

the night over. Mr Underwood, QC drew Mr Woods' attention to Andrew Allen's police interview. (52)He asked Mr Woods why Mr Allen would have said that he was there with Mr Woods and Rory Robinson. Mr Woods maintained that he was on his own. (53)We would submit that Woods was trying to distance himself from Allen and Robinson in order to portray that he was a victim as opposed to an instigator of the violence.

23. We would refer the Panel to the submissions made by us in relation to the cause of the incident where we addressed the evidence of P42, Colin Prunty, Maureen McCoy, E, F and D. We also addressed the evidence of Carol Ann Woods, William Jones and the staff of Jameson's Bar, namely Beverly Irwin, Stephen Thornbury, Julie Sherwood and Derek Lyttle.

Rory Robinson, Andrew Allen and David Woods (references)

- 1 Direction page 10620
- 2 Pages 7559 - 7764
- 3 Pages 931 and 933
- 4 Page 262
- 5 Page 17591
- 6 March 11th page 28 line 1 - page 29 line 7
- 7 Page 15883
- 8 Page 17591
- 9 February 12th page 68 lines 18 - 19
- 10 March 11th page 26 lines 3 - 9
- 11 March 10th page 130 lines 11 - 12
- 12 Page 564
- 13 Page 568
- 14 March 11th page 16 line 13
- 15 Note of consultation page 17591
- 16 Page 581
- 17 March 11th page 4
- 18 Page 81135
- 19 Pages 7579 - 7581
- 20 Page 7561
- 21 Page 7605
- 22 Pages 7596 - 7599
- 23 Page 7600
- 24 Page 7626
- 25 May 11th page 68 line 13 - page 69 line 4
- 26 March 11th page 25 lines 6 - 7
- 27 Paragraph 37, page 81037
- 28 6332
- 29 May 19th page 125 lines 1 - 6
- 30 March 11th page 18 line 18
- 31 Page 9225
- 32 Page 9220
- 33 March 11th page 20 lines 1 - 11
- 34 Page 9224
- 35 March 11th page 20 line 18 - page 21 line 7

- 36 Paragraph 29 page 81142
- 37 Page 81619
- 38 March 3rd page 96 line 1 - page 97 line 8
- 39 Page 7305
- 40 March 10th page 142 lines 15 - 24
- 41 Page 7355
- 42 Page 7357
- 43 Pages 9128 - 9130
- 44 February 28 page 54 lines 3 - 11
- 45 Page 9185
- 46 Inquiry statement Paragraph 13 page 80773
- 47 Pages 9128 - 9130
- 48 Page 50182
- 49 February 2nd page 17 line 20 - page 18 line 5
- 50 Page 9130
- 51 February 27th page 3 et seq
- 52 Page 7302
- 53 February 27th page 16 line 8

Submissions by the Police Service of Northern Ireland

See sections below.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

Agreed.

THE FIRST ISSUE: SEARCH STRATEGY

- 3 The general materials shows this:
 - 3.1 10/5/97 07.00 DI Michael Irwin briefed the search teams in relation to the arrest operation of suspects p.72960.
 - 3.2 10/5/97 0721 Search commenced at Hanvey house p.72960.
 - 3.3 10/5/97 0730 Search commenced at Hobson house pp.9298 and 9301.
 - 3.4 10/5/97 0720 Dean Forbes was arrested p.773.

Submissions by the Police Service of Northern Ireland

See sections below.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

Agreed.

- 4 Three applications were made and warrants obtained for:
- Search of the Hobson home on 10/5/97 pp.49871 and 51322.
 - Search the Hanvey home on 10/5/97 pp.49869 and 51350.
 - Search of the Hanvey home on 13/5/97 (p.44) pp.50019 and 50021.
- 4.1 p.49871: on the application of DC Dereck Bradley. It is the same form for all three applications. There is no specificity in any of them except 'material' is sought (p45).
- 4.2 p.51322: "certain articles, namely trainers and clothing". It appears that at some point between the application the warrant information has been given to a Justice to enable him to sign off "trainers and clothing" (p50) It is not clear why p.51322 is dated prior to p.49871 (p48).

Submissions by the Police Service of Northern Ireland

See sections 7-8 below

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

Agreed.

HANVEY

- 5 The materials are to this effect:
- 5.1 9/5/97 23.45. Policy file decision four is made. Stacey Bridgett and Dean Forbes to be arrested next day. The files record that Wayne Lunt, Allister Hanvey, Marc Hobson and Rory Robinson were arrested and premises searched: p917.
- 5.2 10/5/97 07.21. A search for clothing of Allister Hanvey's home address was conducted. Sgt Michael Bingham, who led the search team on the Hanvey household said he has no recollection of the search being extended to look for a silver jacket or to cover adjoining lands for evidence of recently burnt clothing: pp73989 and 21753.
- 5.3 Con Michael Porter made a statement saying he was briefed by DI Michael Irwin on 10 May 1997 and, on information received, a search was carried out at the home of Allister Hanvey. He searched bedroom 1: p9292.
- 5.4 Con Stewart made a statement saying he was briefed by DI Michael Irwin on 10 May 1997 and, on information received, a search was carried out at the home of Allister Hanvey. He was the log keeper.

- 5.5 11/5/97. DC Paul McCrumlish and DC McIntosh were briefed by DCI **P39** to search the home of Thomas Hanvey. They were told that Allister Hanvey had gone to that address after the fight. The purpose of the search was to locate any clothing that might have been worn. The briefing specifically covered a jacket with grey sleeves and evidence of burnt material: p4577.
- 5.6 Thomas Hanvey's home was searched and a statement is taken from him in which he stated that Allister Hanvey was wearing a navy or black jacket quilted like a bomber jacket, blue jeans, t-shirt and trainers. He stated that Allister Hanvey arrived at his home at about 03.30 or 04.00 that morning and he was picked up by his father at about 10.00: p9306 and 3373.
- 5.7 13/5/97. A further search was conducted of Thomas Hanvey and Kenneth Hanvey's premises: pp9294, 9299, 9303 and 50121 (NB At this point they were briefed about the grey jacket: p4577).
- 5.8 10/11/00. DC Paul McCrumlish was interviewed in relation to the search of Allister Hanvey's premises. He said he was briefed to search for a jacket with grey sleeves and search for evidence of material. He said he did not recall who briefed for the search. He said he searched outside the premises while the search team was inside: p4562.
- 5.9 7/2/01. Con Geoffrey Ward made a statement in relation to two searches carried out on 13 May 1997. He was told to look for specific items but he did not note this down and could not remember what the specific items were. No clothing was seized as nothing matched the description given. He did not note any evidence of burnt clothing. He remembered that the yard of the second house (possibly Thomas Hanvey's) was searched: p17540.

Submissions by the Police Service of Northern Ireland

See sections 7-8 below

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

Agreed.

6 The witnesses were these:

Ian Ritchie

Statement

- 6.1 Para. 9: The usual procedure is that CID provides a search pack during briefings that contain a written list of items to search and Form 29.
- 6.2 Para. 11: I searched Hanvey house from 1107 to 1135.
- 6.3 Para. 13: If there was a garden, I assume the garden would have been searched too, as is normal.

Oral Evidence

- 6.4 He was part of the search of the Hanvey house on 13th May. He did not do anything unusual in the search, and was not aware of anyone doing anything unusual. He did not know about the search on 10th May (p.2). There were two searches on 13th May: Kenneth and Thomas Hanvey's houses. He may have been aware of a search on 10th, but cannot recall (p.14). As far as he was concerned, it was a normal search and he conducted it to my normal high standards (p.30).
- 6.5 Depending on the search, mostly there is a list of what you are searching for. He had done 15-20 searches (p.3). Officers are briefed for what they are searching for. He expected the search pack to contain 'all male clothing' or something along those lines to obtain clothing that might have been worn by a suspect (p.4). If it was in the brief for the search then they would look for bloodstained clothing. He did not know what would happen to lists of clothes to look for in search pack in 1997 (p.5). It may have been handed back to CID. The log keeper was responsible for the paperwork (p.6).
- 6.6 Per Para. 7 on p.81116: "Recalls they were briefed to search for items of clothing in connection with Hamill murder, specifically a silver or grey jacket. Also instructed to search for signs of burnt clothing. Should have put a note in notebook but only made a mental note. Time between brief and search was not very long so I'm sure these were the instructions." The search team did look for a silver or grey jacket (p.7). He is working purely from memory about what he was told to look for (p.17).
- 6.7 Per p17358 briefing "specially mentioned we were to look for a silver or grey jacket" (p17). He did not recall if he was shown any documents in 2001 when he made 17358. His recall in oral evidence has been refreshed at least from 2001 statement (p.18). He was asked to look for evidence of clothing having been destroyed. He thinks he was given information that it was burnt. He thinks he remembers "burnt" being used (p.19). P.17358 states the search lasted 28 minutes (11.07-11.35). He knows this as he recorded it in his notebook. It did not refer to another document (p.22). He does not have much memory of anything beyond what was contained in the statement (p.23). P.50021 does not refer to a silver jacket. This does not change his view as it was his knowledge at time they were looking for a silver jacket (p.29).
- 6.8 The log keeper keeps search warrant. It can be accessed at any time during search (p.15).
- 6.9 The Hanvey house was a bungalow. He is not sure if there was a yard or just gardens. He is not sure if there were outhouses (p.19). He searched the grounds and looked for remains of charred clothing. They would have conducted a fairly thorough search of whole premises, including outhouses. If had looked in outhouses it would all be in Form 29 (p20). The whole house was searched (p26).

- 6.10 Search team were briefed by a (DC McCrumlish p27) at Mahon Road. The log keeper was briefed at same time. It was a verbal briefing. He may not have seen paperwork (p24). They were not asked to look for a blue Daniel Poole jacket. Witness does not recall seeing such a jacket when they went through Hanvey's house (p25).

Michael Porter

Statement

- 6.11 Para 6: The briefing instructions were given orally and he would have made a brief written note of the specific details in his notebook. They were instructed to search for clothing. He does not recall being given any specific details about type, colour or brand or to look for a silver jacket or burnt clothing. Unless they had been given specific instructions they would have taken all of those items they could find.
- 6.12 Para 17: The search was in accordance with the briefing.

6.13 Rachel Murphy

Statement

- 6.14 Para. 5: For the Hanvey houses searches, she was briefed by DC McCrumlish. She does not recall if she was tasked to search for certain items but if so it would be recorded in her notebook, and it is not recorded there. **P5** also attended the search.

Oral Evidence

- 6.15 She was involved in a search of Kenneth Hanvey house on 13/5/97 and Thomas Hanvey house on 13/5/97 (p19).
- 6.16 P.50023 is a standard form completed in manuscript during a search. She was responsible for completing it as she was log keeper. It noted "hole in wall in bedroom 1, behind hall handle door etc." (p.20). There was nothing unusual about that level of detail (p.21). The duty of the log keeper is to maintain a record of a search. She would go to and fro from search teams to note timings and recovery of property. She does not recall what documentation she had (p.23). She would not get any statements about those whose houses were being searched (p.30).
- 6.17 Per p.50029 it is usual to search the entire premises (p.21).
- 6.18 The number of officers used depends on resources (p.23).
- 6.19 Briefings about what to search for were conducted face-to-face. She does not recall briefings for the searches (p.23).

- 6.20 Per p.4562: “McCrumlish recalls he was briefed to search for clothing Hanvey may have worn on night of incident, and seize jacket with description of, or similar to, dark jacket with grey sleeves and to search for evidence of burnt material. Does not recall who briefed search team who accompanied him. While search team in house spoke briefly to Kenneth Hanvey and searched area of ground immediately adjacent to the house. Did not go beyond garden and did not go into adjoining fields. Did not go into adjoining land as there were no obvious signs of recent tracks in area around house. Found no evidence of burnt material” (p.25).
- 6.21 She does not recall being directed to search burnt material. The only thing is the first entry in Hobson search notebook that had noted from DI Irwin that they were to look for a jacket. She cannot say that about other searches. It should have been in the briefing that the search on 10/5 did not show evidence of burnt clothing (p.26).
- 6.22 As log keepers, they try to ensure house is secured if occupiers were not present. They try and make a house as secure as they can possibly make it (p.27). Witness does not know if there were occupiers at the houses (p.28).

John McAteer

Statement

- 6.23 Para. 43: He attended the briefing for arrests by DCI **P39** and DI Irwin but did not need to be briefed. His job was to go with search team to Mr Hanvey’s house and arrest him. He would not have received a search pack. The search team would have been briefed on roughly what they would have been looking for, and repeats that Tracey Clarke gave them a description on the night.
- 6.24 Para. 44: He says the back of house was searched and there was no evidence of fires or anything having been disposed of. We looked for footwear such as blood but found nothing.

Oral Evidence

- 6.25 Per p.80783 para. 32: “Tracey gave description of what Hanvey was wearing but I accept this does not appear in statement”. If Tracey Clarke had given a detailed description and identified a specific garment etc he would have recorded that in the statement. He believes the description Tracey Clarke gave was a vague description. He would have recorded it if Tracey Clarke had said Mr Hanvey was wearing a silver lightweight jacket and orange stripes down sleeves (p.103). He cannot remember whether he specifically asked her but he would have asked Tracey Clarke the description. He would not expect a note saying ‘witness was asked for description but could not say’ (p.111). Police only write down specific things a witness tell them that is relevant to an investigation (p.112).

- 6.26 He did not do briefing of the search team but if Tracey Clarke had given a specific description he would have informed the DI who was giving the briefing. He was at Mr Hanvey's house during the search and if he had a description he would have told the Sgt in charge of the search team. It follows that the search team could not have been told anything specific to look for (p.104). He was not conscious of anyone who could have given the search team information about a garment to look for at Mr Hanvey's. He would have expected a full house search at Mr Hanvey's to look for any clothing capable of providing a forensic link (p.106). He has no idea if anything was done beyond search of bedroom 1, per pp.73989 and 73996. He may have gone through house himself but does not recall. It appears from the record that they would have done a quick search of house but the main search was in bedroom 1 (p.108) as there is no evidence to say they did not (p.109). He does not know if the issue of destruction of clothing was passed on to the search team (result of 'phone trace) (p.119). From his experience, if the search team had been detailed to find anything specific they would probably have done a more detailed search than is shown on search record. The search record shows the only detailed search done was of the room frequented by Mr Hanvey (p.120). The only place bloodstained clothing was likely to be in a small house was Mr Hanvey's bedroom. The suspicion that clothing was burned was coming fourth-hand so they did not ignore it but there was nothing confirmed until after the 'phone trace (p.121).

Geoffrey Ward

Statement Notes

- 6.27 Para. 6: I believe we were looking for a grey or silver jacket but I do not believe we were asked to look for burnt clothing.
- 6.28 Para 8. It is normal practice to search around gardens in case item has been left there or is lying in garden and one would expect to see that in Form 29.

Oral Evidence

- 6.29 He was part of the search of the Hanvey house on 13/5/97. He was not concerned with the first search on 10/5/97 (p.32). He does not think he was told about search on 10/5/97 (p.33).
- 6.30 Search teams normally consist of 6 people. That is the standard size. On this occasion there were only 3 officers. The search did not suffer. It just took longer. A log was still kept (p.33).
- 6.31 Per para 6 p.81236: "Were briefed on 13/5/97 to search Allister Hanvey's premises. Briefing was by DC McCrumlish and he performed same role as in previous search. Other members were Cons Murphy and Ward, R/Con Ritchie. He does not recall details of search but believes reading 17538 they were looking for a silver/grey jacket but does not believe they were asked to

look for burnt clothing,” (p.34). Apart from reading p.17538 he has no recollection of what they were looking for (p.35).

- 6.32 It is normal procedure to search the garden. He believes it is not mentioned in the log. That may be an oversight (p.35). He would not necessarily expect the log to record a search outside as officers will not cause any damage. It depends on the log keeper to note if a garden is searched. They would have had a pretty thorough search of outside as it would be significant to find such evidence. He does not recall if there were outbuildings (p.36). When looking for clothing you do need to look in all rooms (p.37). Per p.17540 “remember area around house was searched” (p.38). “Conducted a thorough search of the house. Remember house was quite small.” Con Ward says he saw the search log and there were only 2 or 3 rooms for the whole house (p.39). He was asked to make p.17540 to give more detail to previous statements. Had been out of Northern Ireland since November 1999, so did not know about the investigation (p.41). P.17541 states “No items clothing seized as nothing matching description of clothing we had been briefed about was found”. He does not recall anything being mentioned about a blue Daniel Poole jacket (p.42).
- 6.33 Did not take a note of clothing being searched for (p.37).
- 6.34 He has done previous searches where 20 to 40 items of clothing were seized where they were not specified but the warrant stated “clothing” (p.38).

Charles Andrews

Statement Notes

- 6.35 Para. 14: 10/5 Hanvey search - he believes he was only directed to search 1 room.
- 6.36 Para. 8/9: Only recovered 1 jacket, trousers and shoes.

Oral Evidence

- 6.37 He does not recall what they were told to look for in the Hanvey search on 10/5. There is no mention in his notebook of clothing or trainers (p.2). At the Hanvey house he picked one jacket, one pair of trousers, and one pair of shoes (p.5). Only one room was searched. That is not unusual (p.16).
- 6.38 Items at Hanvey house were picked up by Con Porter. Sgt Bingham was in charge of the team; Mr Stewart was log keeper (p.5). He suggests they only searched one room as his room in particular was of interest (p.6). It is possible they were told to look for one thing and one thing only. From other searches, a searcher would find an item and then ask Detective or log keeper or person in charge if that was what was being looked for (p.7). He does not recall who gave the briefing. His notebook says DI Irwin was present but he does not recall who did the speaking (p.15).

- 6.39 Shown an aerial photo of Hanvey house, he recalls the house was very long. There were substantial outhouses adjacent to the property. He does not recall seeing them during search. Teams carry on searching until they are told to stop. He does not recall being told to go outside and look at cattle sheds etc. (p.13).

William Stewart

Statement

- 6.40 Para. 10: On 10/5 searched Hanvey house. They were briefed by DI Irwin at 0700. The house was entered at 07.21 and one shirt, one pair of trousers and shoes were seized.

Oral Evidence

- 6.41 He has no independent memory of the search (p.28).
- 6.42 He would have had the warrant in his briefing pack with the search record (p.20).
- 6.43 Per p.51349 “Briefing at JD CID by DI Irwin re search at home Allister Hanvey. Search for clothing and trainers under Art 10 PACE. Detailed log keeper. Sgt Bingham i/c”. He cannot remember more about briefing than was in his statement and notebook. If there were specifics that would normally be in the notebook and search log (p.21). He cannot remember who decided to stop the search (p.22). He would not expect detectives to play a role in directing search but they would be relevant in determining if something seized was relevant (p.23).
- 6.44 The disparity between what was seized at Bridgett’s and at Hanvey’s was down to point at which they were told to stop. It depends on the search how much they seized (p.24). A longer search would be either because they search more rooms or the room to be searched contains lots of items (p.26).
- 6.45 He searched one room at the Hanvey house. The sketch is the only recollection he has, as he remembers he had to go through rooms to get to the one they were looking for (p.25). He does not have a memory of the search other than “going from room to room to room. That’s the only memory of the search I have” (p.36).
- 6.46 P.51342 shows three younger brothers of Mr Hanvey were at the house. Con Stewart does not recall who was in house, but others were there. He says names on the log are the names of those present (p.28). He identified which room belonged to Mr Hanvey by asking people present at the house (p.29). Per p.9292 “Subsequently seized a pair of dark blue jeans, pair of white and black trainers and black padded jacket. Mr Hanvey identified these items as his own” (p.30). Con Stewart does not recall that. He relies on the suspect

telling the truth about their clothes (p.31). He does not recall an instruction to take all trainers and shoes (p.32).

- 6.47 He does not recall seeing outhouses at the Hanvey house, going near them, or getting instructions about them (p.32).

P5

Statement

- 6.48 Para. 9: On 13 May he assisted DC McCrumlish with documents in preparation for searches of the premises of Kenneth Hanvey and Tracey Clarke [sic] (Thomas Hanvey).
- 6.49 Para. 10: He does not remember the search of Allister Hanvey's house. He imagines they searched the whole house and were looking for specific clothing.

Oral Evidence

- 6.50 A second search of Allister Hanvey's house was carried out on 13th May 1997 as fresh information had come in relating to clothing (p.74). Mr P5 would imagine the search was conducted as part of the murder investigation (p.75).
- 6.51 Mr P5 cannot recall if they were looking for signs of burnt clothing or whether they searched outhouses during the Hanvey search but he imagines it would have been, or should have been, included on the search record (p.81). He cannot recall being briefed to look for a blue puffa jacket. If they were requested to search for specific clothing, it is likely to be noted (p.82).

Paul McCrumlish

Statement

- 6.52 Paras. 17-20: He searched Thomas Hanvey's home and garden on 11/5 and he was briefed by **DCI P39** to search for a dark jacket with grey sleeves and evidence of anything having been burned.
- 6.53 Para. 21: On 13/5 he was involved in the second search of Thomas Hanvey's home and Hanvey's parents' home looking for the dark jacket with grey sleeves.

Oral Evidence

- 6.54 Per para 5 p.80890. If DI Irwin did briefings, they were supervised by DCS McBurney or P39 (p.69).

- 6.55 A second search was required as it was more than likely that further information came in to identify clothing, and if clothing was different from the first search they would have done a further search (p.61).

Michael Bingham

Statement

- 6.56 Para. 11: he was team leader in 10/5 search and he was given the warrant. He was briefed by DI Irwin.
- 6.57 Para. 12: DC McAteer was there to steer them.
- 6.58 Para. 13: He exhibits the search log of the Hanvey search (p.73989).
- 6.59 Para. 17: In 1997 it would be normal to search for clothing in areas other than a bedroom. There were 4 other boys living in the house and they could not be expected to keep their stuff in their own wardrobes. They were very much guided by detectives, and had they been told that the individual might have disposed of his clothing, they would have searched outside for rubbish and recorded that in the log.

Oral Evidence

- 6.60 P.51350 shows they were looking for “trainers and clothing”. He does not recall that. Paras. 14 and 15: “When arrived at house, Mrs Hanvey met me. As team leader I had to explain legislation and circumstances surrounding search. Conducted house damage check through all bedrooms, bathrooms, kitchens, outhouses and any vehicles” (p.79). Compared to p.73990. Section on existing damage on first condition “Bedroom in fair condition”. He does not recall if he only checked one bedroom for damage. He agrees the log suggests only a bedroom was searched: “0727 Team A entered house. Commenced search of bedroom 1...0740 Team A out of bedroom” (p.80).
- 6.61 Per para. 15 p.81504: “this [0721-0745] would be a reasonable time for searching a small dwelling with specific information about what to look for.” That the search team “arowed in” on bedroom 3 and stopped the search once they got specific clothing is accurate (p.81).
- 6.62 He says the search team was very much guided by the detective with him [DC McAteer] (p.82) and that he brought the search to an end when specific clothing was found. If the Panel believes the detective did not do that then believes the search team were given specific instructions (p.83). It could happen that if someone was interviewed and said “I was wearing X and Y”, they would just look for X and Y (p.84).

Maynard McBurney

Statement

- 6.63 Para. 38: He thinks DI Irwin instructed teams to look very specifically for clothing. He believes Hanvey's search team were told to look for a specific jacket, based on what Tracey Clarke said. The reason they instructed SOCOs was to ensure evidence of burnt clothing was picked up.
- 6.64 Para. 40: He does not know if Hanvey was to be asked about disposal of his clothing.

Michael Irwin

Statement

- 6.65 P.81459: On evidence from Tracey Clarke and Timothy Jameson, as directed by DCS McBurney, he prepared and organised the search and arrests. For this: DCS McBurney directed that Res Con Atkinson was not to be included. DC McAteer was to accompany the search team to the Hanvey house as he had the full information. As Res Con Atkinson was not being arrested this limited the terminology on Mr Hanvey's warrant, but DC McAteer would not be prevented from seizing any relevant clothing. The Hanvey search team would not be briefed on the Atkinson issue. Nor was search team briefed about a "burn site", as the team were not aware of that allegation. Each search team was aware of the relevant footwear and clothing of each individual. He was assisted in this by DS Bradley.
- 6.66 P.81460: Terminated duty at 0130 10th May and recommenced duty at 0630 to brief search and arrest teams.

Colin Murray

First Report

- 6.67 Para. 16.39: The search strategy relating to Allister Hanvey was negligent. He wonders why the search team was not briefed to search dark jacket with grey sleeves or a burn site when the search was conducted on 10/5/97.
- 6.68 Para. 16.41: The RUC had evidence that Mr Hanvey was not wearing the clothing he said he was wearing. Despite that a superficial search of his home address was conducted. A serious concern must be why the search was restricted to one room when other suspects were subject to a more detailed search.
- 6.69 Para. 16.43: The search of the Hanvey house should have also had the aim of proving or disproving a connection between Res Con Atkinson and Allister Hanvey.

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

The search of Stacey Bridgett's house on the 6/5/97 had been confined to one bedroom out of four. The confinement of the search to the one room in Allister Hanvey's room was therefore not unusual.

It is hard to see what possible evidence would have been obtained, in the search of Hanvey's house, to prove or disprove a "connection" between Atkinson and Hanvey, that would have furthered the alleged tip-off allegation.

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

The Panel is referred to those aspects of submission Section 8 which is headed "The Jacket".

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

How, if it was stated by Tracey Clarke, "get rid of clothes", does this become "burn"? Further, it is difficult to follow Colin Murray's comment at 6.69..

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

Colin Murray is wrong, it is submitted, in saying that the search strategy in relation to the Hanvey home on 10 May 1997 was negligent if it is inferred that this in any way reflects on Michael Irwin's involvement.

As previously pointed out in part 10 (see previous submissions), it is suggested that it is likely that the team were properly briefed by Michael Irwin. Information was collated early in the morning and was put on the white board. It is likely, despite what he says, that DC McAteer was in that briefing. No one returned to Michael Irwin to clarify what the officers were looking for. It is likely that the clothes referred to in the search warrant were those described by Reserve Constable Warnock in his statement of 27 April 1997 and not clothes which Alistair Hanvey said he was wearing. Whilst the search log only refers to one bedroom, the evidence of the searchers suggests that more than this was searched. Finally, DCS McBurney was specific that the search of the Hanvey house did not give anything away regarding the Hanvey/Atkinson allegation.

Comment

- 7 The Panel may wish to consider whether the search of the Hanvey home on 10 May 1997 was competently performed. The detectives knew, from what Tracey Clarke had said in the early hours of that day, that there was reason to believe he had been tipped-off to destroy his clothes. The searchers must have realised that he shared a house with, amongst others, his father and his brothers. Yet the search was restricted to one room and was stopped once one set of clothes was seized. The absence of any record of a search for burned

clothing, or of the substantial outbuildings, corroborates the evidence that there was no such search. Neither the searchers nor DC McAteer can explain why the search was so compromised. The content of the briefing for the search may prove to be of critical importance.

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

The search on 10th May was confined to Hanvey's bedroom (5.3) and did not encompass the whole house or any of the outbuildings (6.39, 6.47). Michael Porter testified that, according to his notebook, they were not tasked to look for any particular clothing, just clothing (6.11), or, according to Constable Stewart, clothing and trainers (6.43). One shirt, one pair of trousers and shoes were seized (6.40). The search commenced at 7:27 am (6.60 - 7:21 am according to 6.40) and concluded at 7:40 am (6.60), so it lasted for just 13 minutes (6.60 - 19 minutes if 6.40 is right). Sgt Michael Bingham, who was in charge of the search, had no recollection of being told to look for a silver jacket or evidence that clothing had been burnt (5.2 n.b. Tracey Clarke in her statement never mentioned burning clothes, just disposing of them).

At that time, the only significant description of Allister Hanvey's clothing on the night of the attacks on Robert Hamill and D came from Tracey Clarke, apparently given orally to the officers who interviewed her (6.25), although DI John McAteer could not remember and had not noted her giving a specific description (ibid). Thomas Hanvey, who gave Allister Hanvey a false alibi, was not interviewed until 11th May, when he described Allister Hanvey as wearing a navy or black quilted bomber jacket, blue jeans, a tee shirt and trainers (26.10). Allister Hanvey's parents described Allister Hanvey as wearing similar clothes: a black padded CAT jacket, blue jeans and a tee shirt (26.11). At this point, both Allister Hanvey's father Kenneth and his Uncle Thomas were saying that Allister spent the night at Thomas' house. Since a number of witnesses saw him at Tracey McAlpine's party, the Hanvey family were already conspiring to give him a false alibi, which suggests that they knew he was present at the attack. They may, therefore, have been lying about the clothing he was wearing.

On the same day, 11th May, Jonathan Wright described Allister Hanvey as wearing a grey jacket with orange stripes on the arms (26.13). Much later, on 1.11.2000, Tracey Clarke's mother said that Tracey Clarke told her and Jim Murray that RC Robert Atkinson had told Allister Hanvey to burn his coat. Tracey Clarke was upset that he should be told to burn his good silver coat (50.5). This may have been the information that Tracey Clarke gave DI John McAteer, but which he failed to record (6.25). DCS McBurney believes that the search team were given a description based on Tracey Clarke's account, and that SOCOs were used to ensure any evidence of burning of clothes was found (6.63). DI Irwin, who briefed the search teams on 10th May, suggests that full information may not have been given to the search teams to prevent RC Atkinson's being alerted (6.65).

It is not clear, therefore, that the officers who searched Allister Hanvey's bedroom had any idea of what exactly they were looking for, other than clothing that might reveal a forensic link to the attacks. Normally, a large amount of clothing would have been seized (6.5, 6.11), so the fact that so little was taken indicates that, despite being apparently unaware of Tracey Clarke's description, and not yet having heard the Hanvey family's description, the officers had in fact been briefed to find specific items, but, understandably after this passage of time, cannot remember what that description was, and, less understandably, made no note of it at the time.

On 13th May Allister Hanvey's house was searched again, and so was Thomas Hanvey's, and this time officers were told to look for a silver/grey jacket and/or evidence of burning (6.7, 6.20, 6.31, 6.52, 6.53). This search of Allister Hanvey's home was also a very short search, lasting only 28 minutes (6.2). Only half the normal complement of officers (3 rather than 6) was used (6.1). Nothing appears to have been seized as a result of this search.

The search of Allister Hanvey's home on 10th May apparently took place after Tracey Clarke had described Allister Hanvey's clothing, but this description, and the possibility that he had burned his clothes, was not transmitted to the search officers. By 13th May, the search officers had the right description (supplied by Jonathan Wright on 11th May), but by then, if Allister Hanvey had not already taken the advice Tracey Clarke alleged had been given to him on the morning after the attack by RC Atkinson, he had been thoroughly pre-warned by the search on the 10th and had ample opportunity to dispose of any incriminating clothing (unlike Stacey Bridgett, on whose trousers Robert Hamill's blood was found despite the time lag between the attack and the search of his house on 6th May). In module 16 we come to the conclusion that DCS McBurney wanted to protect RC Atkinson, and took active steps to do so, amounting to collusion. The perfunctory and, in terms of outcomes, useless searches of Allister Hanvey's and Thomas Hanvey's homes served DCS McBurney's purposes admirably, whether by accident or design.

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

The RUC on the 10/5/97 did not have any information that Hanvey had been wearing a silver/grey jacket on the night in question. The silver/grey jacket first emerged in the statement of Jonathan Wright on the 11/5/97. At the time of the search on the 10/5/97 the evidence the RUC had was from Reserve Constable Warnock that Hanvey was wearing a dark baseball jacket with grey sleeves and from Tracey Clarke that Hanvey had been told to "destroy his clothing". The question therefore arises-what was the content of the briefing for the search of the Hanvey household on the 10/5/97?

The evidence is confused and contradictory as to whether a specific jacket would have been mentioned at the briefing, or whether it was phrased in more general terms. Mr Irwin accepts that they were not briefed to look for a burn site. The probability is that they were not briefed to look for destroyed clothing.

It seems to us, again with the benefit of microscopic hindsight that they should have been so briefed.

It will be remembered that Tracey Clarke did not finish her statement until the early hours of the morning of the 10/5/97. It is clear that during that night, DI Irwin and others moved quickly to organise search warrants from a Justice of the Peace (who was on standby), search teams, arresting detectives, CID personnel and interview teams. The probability is therefore that if there was an omission in the briefing, it was an oversight.

No-one from the search team has suggested that any instruction was given to restrict the search to one room, so it seems likely that once they found Hanvey's clothing in his bedroom that the search was terminated.

We note from the search of Stacey Bridgett's house on the 6/5/97 that the search was confined to his bedroom (one of four bedrooms in the house) 73969, and as Con Andrews stated, this was not unusual p16 .

Submissions by the Police Service of Northern Ireland

It is accepted that the first search (10 May) of the Hanvey home could have been better conducted. This issue is dealt with in further detail in Chapter 16 (section 6).

The reason(s) for the failings of the search are not entirely clear. There may have been problems in the briefing or in the preparation for the search (which was of course hastily arranged), or the fault may lie in the actual execution or management of the search. Searches of the outbuildings or the grounds of this substantial property may have required additional time and resources and that may have been another factor.

If the search was undermined for sinister reasons it might be considered surprising that those who were responsible for this would leave the proof behind them in the documents which show the limited nature of the search.

Equally, if the suggestion is that the search was deliberately compromised to protect Hanvey, it is difficult to follow why the police would decide to go back to conduct a thorough second search. It can hardly be suggested that they were simply going through the motions to cover their tracks.

It is submitted that the only proper construction to put on these facts is that the police were determined to find evidence to connect Hanvey to the murder. They appear to have realised that the first search did not extend far enough and they decided that this mistake had to be quickly rectified.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

Further to queries one may have about Tracey Clarke's statement, we submit that it does seem extraordinary that she does not appear to have described

Alister Hanvey's clothing. It is remarkable that Tracey Clarke was unable to describe the jacket worn by Hanvey on the evening in question. If, as is alleged, she did observe him at the scene, she would easily have been able to furnish the Police with a description of the jacket when she initially attended and allegedly furnished a voluntary statement, particularly if she had in fact purchased the jacket. D/Con McAteer maintained that he would have recorded if Tracey Clarke had stated that Hanvey was wearing a silver jacket with orange stripes or sleeves.

- 8 The Panel may wish to consider whether, given the obvious difficulties in getting witnesses to give evidence, the RUC must have realised that any corroborative materials, such as DNA evidence, would have been important. If so, the conduct of the search is particularly unfortunate. The Panel may wish to consider whether it went beyond mere incompetence – if the search had uncovered evidence that Mr Hanvey had destroyed his clothing then it would have strengthened the case against Res Con Atkinson, so there may have been an incentive not to find such evidence if any of the RUC personnel involved was interested in protecting Res Con Atkinson.

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

As our comments above indicate, it is important for the Inquiry to consider whether the conduct of the searches was the result of collusion.

Forensic evidence would have been at the forefront of any proper police investigation, as would detailed briefings and meticulous searches. None of them seems to have featured in Alister Hanvey's case.

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

The question is posed whether this went beyond mere incompetence? The alternative is stark, and must have involved the following conspiracy;

On becoming aware of the allegation concerning Atkinson and Hanvey, DCS McBurney, DI Irwin and probably DC McAteer engaged in a conspiracy to protect Atkinson (and Hanvey) to ensure that no evidence corroborative of Tracey Clarke's statement was obtained as a result of the search of Hanvey's house. This conspiracy must have involved them sitting down and agreeing to deliberately mislead the search team of Hanvey's house, and instructing them to ensure that nothing was found to corroborate Tracey Clarke's allegation. This must necessarily have taken place during the period they were engaged in organising the resources outlined above.

The Panel have seen and heard DI Irwin and DC McAteer. The Panel have also heard from a variety of witness, from Sir Ronnie Flanagan down, as to DCS McBurney's attitude towards corrupt policemen and his determination to get Atkinson. It's our submission that the evidence is that all three officers

were professional men of integrity. It is inconceivable that these officers would have engaged in such a conspiracy

Their initial actions in immediately securing the telephone records and within a short period of time informing the Chief Constable, C&D, ICPC and DPP flies in the face of such a conspiracy.

Submissions by Gus Campbell Solicitors (Marc Hobson)

The invitation for the panel to consider the incentives of RUC personnel to protect Res Con Atkinson is noted. This invitation, it is submitted, should be extended to the events at Portadown on 27 April 1997 and the motives of RUC personnel especially the Land Rover crew in protecting themselves from criticism, persons such as Hanvey from prosecution, and Atkinson from exposure. In short, was there an atmosphere of collusion that extended beyond Atkinson to other RUC personnel? See sections 5, 6, and 7 above.

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

It is unfair that the supposed lack of evidence resulting from the alleged incompetent search of the Hanvey's household is being construed as positive evidence which is being held against Reserve Constable Atkinson. In the absence of such evidence such an inference cannot be made.

Submissions by the Police Service of Northern Ireland

It is submitted that it is obvious that police gave consideration to the importance of gathering corroborative material such as DNA evidence. Search teams were put in place to attend at the premises of the suspects for the specific purpose of locating items (in particular shoes and clothing) which might show a connection to the murder scene and serve to corroborate other evidential material such as witness testimony.

The urgency with which steps were taken by DI Irwin to obtain resources late at night to ensure that search teams were in place is a testament to the determination of the RUC to gather such evidence, and the commitment of its officers to bring the perpetrators to justice. This has been the subject of positive comment by Mr. Murray (Para. 16.24 of his report).

Even the best strategies can suffer difficulties in their implementation. There were shortcomings in the search of the Hanvey home which were rectified on the 13 May. The suggestion that there were officers who might have had an incentive to undermine a search to protect Atkinson is as bizarre as it is offensive. No such allegation has been put to any officer and there is no basis in the evidence for suggesting that such any such inference should be drawn.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

We cannot comment.

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

Please refer back to previous submissions at Part 10.

LUNT

9 The materials are to this effect:

9.1 9/5/97 23.45. Policy file decision four was made. Stacey Bridgett and Dean Forbes to be arrested next day. The files record that Wayne Lunt, Allister Hanvey, Marc Hobson and Rory Robinson were arrested and premises searched p. 917.

Please insert any submissions or comments if you so wish

10 There were no material witnesses specific to Mr Lunt.

Please insert any submissions or comments if you so wish

Comment

11 See below under the passages dealing with the Hobson search.

Please insert any submissions or comments if you so wish

FORBES

12 The materials show this:

12.1 6/5/97 Officers search the premises of Dean Forbes 9723.

Please insert any submissions or comments if you so wish

13 The material witness was Forbes himself. He said that he gave police clothes when they searched his house and they took what they wanted (p88) he did not direct them to clothes (p89).

Please insert any submissions or comments if you so wish

Comment

14 See below under the passages dealing with the Hobson search.

Please insert any submissions or comments if you so wish

BRIDGETT

- 15 The only relevant material document shows that on 6/5/97 Officers search the premises of Stacey Bridgett 780.

Submissions by the Police Service of Northern Ireland

According to Mr. Murray the searches conducted on the 6 May 1997 were focussed and proportionate, and officers had been appropriately briefed (para 16.9 of his report).

- 16 Two witnesses gave evidence about this search:

Charles Andrews

Statement

- 16.1 Para 4: Bridgett search not specific as claimed four shirts, two trousers and one pair of shoes.

Oral Evidence

- 16.2 Does not recall what to search for at Bridgett's on 6/5/97 (p3). It would appear from log, they were not asked to search for anything specific at Bridgett's house as they picked up four shirts, two trousers and one pair of shoes (p4). Only 1 room was searched. This was not unusual (p16).

William Stewart

Statement

- 16.3 Para 4-8: Searched house of Stacey Bridgett on 6/5/97. Entered his house at 0720 and seized four shirts and two trousers from his bedroom. Search was completed at 0745.

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

As noted above, only one bedroom was searched and DC Keys attended at this search.

Comment

- 17 See below under the passages dealing with the Hobson search.

Please insert any submissions or comments if you so wish

ALLEN

18 The relevant material is that on 15/5/97 the premises of Andrew Allen are searched and his clothing seized 869.

Please insert any submissions or comments if you so wish

19 The only witness to deal with this search was Edward Honeyford:

19.1 Para 22: On 15/5/97 was briefed to search Andrew Allen's house for clothing. Was briefed by DS Bradley. Search lasted 20 minutes but length depends on lay-out of house and nature of items being searched for. If an officer is briefed to search for clothes that is all the officer should search for.

Please insert any submissions or comments if you so wish

Comment

20 See below under the passages dealing with the Hobson search.

Please insert any submissions or comments if you so wish

ROBINSON

21 The materials show that:

21.1 9/5/97 23.45 Policy file decision four is made. Stacey Bridgett and Dean Forbes to be arrested next day. The files records that Wayne Lunt, Allister Hanvey, Marc Hobson and Rory Robinson were arrested and premises searched 913 at 917.

21.2 10/5/97 09.05 Police File Decision seven is made. Rory Robinson is not located at this time 913 at 920.

21.3 [Untimed] Rory Robinson is located 913 at 924.

21.4 The relevant witness was Edward Honeyford.

21.5 Para 21: On 11/5/97 was involved in search and arrest for Rory Robinson. Was briefed by DI Irwin to look for clothing and footwear.

Please insert any submissions or comments if you so wish

Comment

22 See below under the passages dealing with the Hobson search.

Please insert any submissions or comments if you so wish

HOBSON

23 The materials show that:

23.1 9/5/97 23.45 Policy file decision four is made. Stacey Bridgett and Dean Forbes to be arrested next day. The files records that Wayne Lunt, Allister Hanvey, Marc Hobson and Rory Robinson were arrested and premises searched 913 at 917.

Please insert any submissions or comments if you so wish

24 The witnesses were:

Edward Honeyford

24.1 Para 19: Was involved in a number of search and arrest operations. On 10/5/97, was briefed by DI Irwin for search and arrest of Marc Hobson. Believes it was a verbal briefing. Notebook is at 50234. Was given no statements just an action sheet containing items to be searched for. Uniformed would do the actual searching. Were to look for "grey coloured sweater, pair of blue jeans, grey Nike Sweatshirt and black leather jacket." Notes there is no reference to footwear which seems unusual where there is a kicking allegation. DC McDowell was Exhibits Officer so seized items were handed to him.

Rachel Murphy

Statement

24.2 Para 3: During briefing for Hobson house was with Constables Ward and Ritchie.

24.3 Para 4: Believes no items were seized during Hobson search.

Oral Evidence

24.4 Was involved in a search of Hobson house on 10/5/97.

24.5 Does not know if she had been shown a log of search of Hobson's house (p29). Was detailed to look for shoes, jeans and a grey sweatshirt at Hobson house. She does not recall if those items were retrieved (p29).

Geoffrey Ward

Statement

24.6 Para 3: On 10/5 was briefed by DI Irwin to search Hobson's house.

- 24.7 Para 4: whenever all rooms are searched the search would be terminated. Items seized include trousers, coat and shoes.

Please insert any submissions or comments if you so wish

Comment

- 25 No criticism has been made of these searches. Rather, their conduct may be valuable evidence of what should have occurred in the Hanvey search on 10 May 1997.

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

We are surprised that no criticism has been made of these searches. In the first place, Tracey Clarke and Timothy Jameson named the alleged perpetrators on 9/10th May. A policy decision was made at 11:45 pm on 9th May to arrest Bridgett, Forbes, Lunt, Hanvey, Hobson and Robinson (but not Fonzy Allen, as we have remarked elsewhere) on 10th May. The attack which led to Robert Hamill's death took place on 27th April 1997; the clock - particularly the forensic clock - was ticking. There was not a moment to waste.

Forbes and Bridgett were already suspects. DCI P39 had wanted to arrest them on 1st May, but the arrests were delayed until 6th May. The reason given for the delay was lack of interview rooms at Portadown RUC station (module 10, 17.54, 20.22). Presumably they were released without charge, otherwise DCS McBurney would not have decided to have them re-arrested on 10th May. The GBH investigation, which ran until Robert Hamill died on 8th May, was clearly not being run with any sense of urgency, and no allegation had been made at that point of collusion between RC Atkinson and Alister Hanvey. No doubt RUC officers talked freely about the GBH investigation among themselves, and may well have spoken to others or been overheard by others who knew the suspects. Portadown is a small place. Everyone knew about the attacks and that Robert Hamill was fighting for his life in hospital. It would have been the talk of the town. A gap of five days between DCI P39's decision to arrest Fobes and Bridgett and the actual arrests ran the risk that all the perpetrators, who were no doubt talking to one another, would destroy evidence.

There seems to be very little information about the search of Forbes' house on 6th May (12 - 13). However, in relation to the search of Bridgett's house on the same date, we know that one of the officers conducting the search, Charles Andrews, said that he was not tasked to look for anything specific (16.1, 16.2) and that only one room was searched (16.2). The search lasted just 25 minutes (16.3). Although Fonzy Allen was not arrested, his house was searched "for clothing." The search lasted 20 minutes (19.1). Rory Robinson could not be found on 10th May and was not arrested until 11th May (21.5). In Hobson's case, RUC officer Edward Honeyford was told to look for specific items of clothing, but not for shoes, which he thought unusual given that there were

allegations of kicking (24.1). Rachel Murphy, however, says she was told to look for shoes (24.5), as does Geoffrey Ward (24.7).

With the exception of the search of Hobson's house, the other searches seem to have been perfunctory and non-specific. We do not see how they could have provided a model for the search of Hanvey's home.

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

We have already noted that only one bedroom was searched in Stacey Bridgett's house

Submissions by the Police Service of Northern Ireland

It is submitted that every search location presents different challenges to officers across a number of variables. It is disputed that one search location is directly comparable to another.

The PSNI does not seek to avoid the conclusion that the search of the Hanvey premises was inadequate. However, it is important not to overstate the extent of any inadequacy. It is noted for example that the search at the Bridgett premises was again limited to one room only (according to the log). Her also, officers were not directed to search for specific items: see evidence of Mr. Andrews (page 4 and 16). Yet this search (which took place on the 6 May) and the others conducted on that date, were singled out for specific praise by Mr. Murray.

THE SECOND ISSUE: USE OF WITNESSES

HANVEY

- 26 The materials show:
- 26.1 27/4/97. A gathering took place at Tracey McAlpine's house. Dean Forbes and Andrew Allen were there. Witnesses put Allister Hanvey there but this is contentious: p.9080.
 - 26.2 29/4/97 1500. DS Dereck Bradley was instructed by the SIO to produce descriptions and details of possible suspects from the descriptions in the statements p.12442.
 - 26.3 8/5/97. After speaking to Tracey Clarke, DI Michael Irwin and DC John McAteer spoke to Andrea McKee who purportedly related what Tracy Clarke had told her about the incident p.22760.
 - 26.4 9/5/97 13.35. DC John Dickson spoke to Stephen Sinnamon. During the course of the interview, Stephen Sinnamon appeared very nervous and officers

put to him that he had not been absolutely truthful. He did not deny that. He said that during the party, the fight was discussed. He would not say who by. He says that someone said "one of them boys," hit Davy Woods and then the fight started p.15461.

- 26.5 9/5/97. Timothy Jameson made a statement. He identified various people who assaulted a man, whom he identified as Robert Hamill, including Allister Hanvey whom he saw kick and punch him on the ground p.266.
- 26.6 9/5/97. Allister Hanvey, Marc Hobson and Jonathan Wright walked into town at 01.30 to 02.00. They walked to the Chinese takeaway in West Street. They then walked down into the town. As they got to the call-a-cab office they were stopped by a drunk man who asked for a cigarette. Marc Hobson and Jonathan Wright stopped and Allister Hanvey walked on p.9594.
- 26.7 9/5/97. Tracey Clarke spoke to DC John McAteer and commenced a statement. Tracey Clarke was interviewed in the presence of Andrea McKee p.262.
- 26.8 9/5/97. Information was received by Special Branch stating that Allister Hanvey was responsible for the beating of Robert Hamill. DI Irwin logged this and noted on 2/6/97 that he has been charged on 10/5/97 p.10647.
- 26.9 10/5/97. Allister Hanvey was interviewed by **DC P24** and DC Paul McCrumlish. He said he did not know Res Con Robert Atkinson's name and the only policeman he knew there was Res Con Jim Murphy. He said he was with Jonathan Wright and Marc Hobson on the night p.6599. (NB It was not checked with Res Con Jim Murphy whether Allister Hanvey had spoken to Reserve Con Robert Atkinson until 2 January 2001 when Res Con Jim Murphy denied it p.34807).
- 26.10 11/5/97. Thomas Hanvey's home was searched and a statement taken from him in which he stated that Allister Hanvey was wearing a navy or black jacket quilted like a bomber jacket, blue jeans, t-shirt and trainers. He stated that Allister Hanvey arrived at his home at about 03.30 or 04.00 that morning and he was picked up by his father at about 10.00 p.9306.
- 26.11 11/5/97. Kenneth Hanvey and Elizabeth Hanvey were interviewed by DC Paul McCrumlish and DC McIntosh. They said that Allister Hanvey went into town on 26 April 2007 wearing blue jeans, a t-shirt and a black padded CAT jacket. Kenneth Hanvey visited his brother Thomas Hanvey the next morning and spoke to Allister Hanvey who had stayed the night at Thomas Hanvey's house. Allister Hanvey told him about the fight and that one of the police officers asked him to help keep the crowd back. Allister Hanvey had suggested this police officer would be giving evidence to support him but he refused to name him p.17361.
- 26.12 11/5/97. Father Dooley received an anonymous call. The caller says that the officers were woken by two girls and that Allister Hanvey and Stacey Bridgett were seen jumping on Robert Hamill's head. (NB He did not make a statement until 11 November 2000) p.2541.

- 26.13 11/5/97. Jonathan Wright was interviewed and he identified Allister Hanvey as wearing a grey top with orange stripes on both arms p.9137.
- 26.14 12/5/97. Leanne Hobson made a statement and said that Marc Hobson, Allister Hanvey, Jonathan Wright, Gregory Blevins had been to the flat of her boyfriend (Dean Johnston) before the incident. She was not sure what time they left. Marc Hobson returned to the flat at about 02.30. He was on his own p.9603.
- 26.15 13/5/97. Christopher Henderson was interviewed by DC Eric Williamson. He put Allister Hanvey at Tracy McAlpine's party, and does not remember what he was wearing p.2279. Mr Henderson said that he and Allister Hanvey left Tracey McAlpine's house at some point after 0500 and went back to the town and caught a taxi. (This is the first time that anyone, except Tracey Clarke, put Allister Hanvey at Tracey McAlpine's party) p.21624.
- 26.16 14/5/97. Kelly Lavery made a statement. On return [from garage], she slept and then when she woke she saw Dean Forbes and Allister Hanvey in Tracy McAlpine's house but threw them out p.9178.
- 26.17 14/5/97. Tracey McAlpine made a statement. It did not mention Allister Hanvey 9616.
- 26.18 15/5/97. Jonathan Wright made a second statement. He said the content of his first statement (p.9137) was correct up to where he got to the Church. He changed it to state they walked down the town and could see a fight further down in the middle of the street between 20 to 30 people. He saw a man who was about 25 years old, with very short hair standing behind the crowd in the middle of street. The man was wearing a blue shirt, striped tie and dark trousers. He was shouting towards the crowd of Protestants to come on. There was fighting going on in the crowd he was shouting at p.9141.
- 26.19 15/5/97. Andrew Allen said [in interview] that 3 or 4 boys from the bus ran down the street and knocked down the boy that was swinging at Andrew Allen. One of the boys who came off the bus and who knocked his attacker to the ground was Marc Hobson pp.7344 and 7412.
- 26.20 15/5/97. Andrew Allen indicated that Marc Hobson was fighting in a violent crowd and so was Rory Robinson. He said Stacey Bridgett were at the fight. He says he saw Dean Forbes at Tracey McAlpine's party. He says he heard at Tracey McAlpine's party, that Allister Hanvey had hit someone with a bottle, and that Allister Hanvey was at the front of the group coming down the road from the bus returning from the Coach pp. 7412 and 7344.
- 26.21 15/5/97. Res Con Cornett stated that the Hanvey family received a threatening letter p.951.
- 26.22 16/5/97. Jason Woods made a statement that he got the bus back from the Coach Inn with Paul Currie. They got back to Portadown at about 0140 to

0145. They got off the bus at Z Cabs, and he and Paul Currie and walked up the town. He saw the Land Rover at the Alliance & Leicester. He said the town was very quiet, and there “wasn’t a sinner on it.” Just ahead of them were Tracey Clarke, Pauline Newell and Kelly Lavery whom they caught up with and walked home with p.9183.

- 26.23 19/5/97. Iain Carville was interviewed and made a statement. He said he was with Christopher Henderson at about 0230 in the town and they saw an ambulance pulling away from Thomas Street. The crowd was heading out of town. He met Marc Hobson and possibly Allister Hanvey and went to Tracey McAlpine’s. He says that he saw Allister Hanvey, Dean Forbes, Andrew Allen at Tracey McAlpine’s house after 0300. He also saw Pauline Newell, Shelley Liggett, Kelly Lavery, Jason Woods, Steven Bloomer, Stephen Sinnamon and Christopher Henderson at party p.9184.
- 26.24 19/5/97 Gregory Blevins made a statement. Marc Hobson, Jonathan Wright, Allister Hanvey and Donald Blevins left [Dean Johnston’s house] between 0115 and 0145. Mr Blevins walked with them as far as the roundabout and went home but the others walked on towards the town p.9618.
- 26.25 20/5/97 Pauline Newell made a statement. She went to Tracey McAlpine’s house. She went to bed but went downstairs again at 0500 and saw a group of people including Allister Hanvey, Stephen Sinnamon, “Fonzy”, Chris Henderson and Dean Forbes p.9129.
- 26.26 21/5/97 Stephen Sinnamon was re-interviewed by DC Eric Williamson, who did not believe his first account. He then stated that he walked on his own. He remembered seeing Mark Hobson and Allister Hanvey but did not walk with them. He denied seeing the fight but saw people running about. DC Williamson did not believe that account and found him to be evasive in his answers. He commented that Stephen Sinnamon knows or witnessed more but would not divulge it. No statement was recorded p.3692.
- 26.27 29/5/97. Steven Bloomer said that he walked on to the progressive Building Society where he met Tracey Clarke and heard shouting, then police and ambulance sirens. Then he saw two men on the ground. He saw Timothy Jameson and Kyle Magee near the church so walked over to them and then walked away home. On his way, he met Ian Carville and Chris Henderson. They went to Tracey McAlpine’s (aka Newell) house. They got to the house at about 0245 and saw Stephen Sinnamon, Stacey Bridgett, Allister Hanvey, Pauline Newell, Chris Henderson and Ian Carville there. He left again with Iain Carville and went home p.9151.
- 26.28 On 3 September 2001, DC Eric Williamson will make a statement saying that on 13 May 1997, he spoke to Christopher Henderson at his home. Christopher Henderson said that on 27 April 1997, he went to Tracey McAlpine’s house and saw Allister Hanvey, Stephen Sinnamon, possibly Dean Forbes and Kelly Lavery. He said there was no talk about the fight, but that it may have been mentioned casually with no reference to who did what. He noted that most

weekends are similar. He could not say what Allister Hanvey was wearing p.59201.

- 26.29 17/10/97 15.30. A meeting was held with Roger Davison, Gordon Kerr QC, DS Robert Cooke, DS Dereck Bradley, DC John McAteer, Tracey Clarke and Tracey Clarke's parents, [REDACTED] and Jim Murray. Roger Davison recorded that Tracey Clarke was able to recite the events of the night in accordance with her statement without having had an opportunity to refresh her memory. He considered that she was reasonably articulate and seemed to be telling the truth. If she were to give evidence he considered that she would come across as very truthful. Tracey Clarke expressed that she would rather die than give evidence p.17591.
- 26.30 21/10/97. A meeting was held between Roger Davison, Gordon Kerr QC, DS Robert Cooke, DI Michael Irwin, DC Edward Honeyford, Timothy Jameson and Bobby Jameson. From the outset of the consultation, Timothy Jameson said he could not remember what he saw. In particular he could not distinguish in his mind between what he saw and what people had said to him had happened. Gordon Kerr QC quizzed him but he maintained his assertion that he could not remember what happened and only wrote in the statement what the police told him to write p.17591.
- 26.31 13/8/99. A note from was sent from Mr [REDACTED], ODPP to the Deputy Director indicating that he had reviewed the decision in relation to prosecution in the Hamill case. He noted that Tracey Clarke was Allister Hanvey's ex-girlfriend and lived on an estate where the LVF had a substantial following. She said that she did not want to give evidence because she still loved Allister Hanvey and because the other suspects were her friends. The note also referred to Timothy Jameson who said he was too drunk to remember, p.18321.
- 26.32 9/11/00. Trevor Leatham made a statement. When Mr Hanvey was arrested for the murder of Mr Hamill, he spoke to Res Con 'Bobby' Atkinson at the Tae Kwon Do club and Res Con Atkinson told him that when they got back down he had seen Al Hanvey standing back and watching the fight and he was either drunk or high on drugs. Mr Atkinson told Allister Hanvey to go home and they argued until he went away. When Allister Hanvey was on remand in the Maze prison, Trevor Leatham spoke to him and asked him if he did what he was in for. Allister Hanvey said "I don't know I can't remember" and that was all the conversation they had p.17392.
- 26.33 13/11/00. DCI K interviewed Res Con Paul Warnock who confirmed that he knew Allister Hanvey from general policing duties in Portadown and saw him at the very front of the crowd facing the police line. There were 30 to 40 people so he was not focused on Allister Hanvey but he did not see Allister Hanvey assault anyone or throw anything. When the police were facing Allister Hanvey in the crowd the injured men were behind them. At the time he could not recall Allister Hanvey's name and he asked someone – possibly Reserve Constable Robert Atkinson, who told him and the name clicked with him p.11145.

- 26.34 28/12/00. **Sgt P89** made a statement that on 27 April 1997, he was moving a large crowd into West St at the time of the incident and was within speaking distance of Res Con Atkinson who was on his left side with Res Con Silcock nearby. Amongst the 40 loyalists, was one individual who was very hostile, he was reluctant to move back and had to be physically forced by **Sgt P89** who considered that the individual was close to assaulting him. **Sgt P89** recalled Res Con Robert Atkinson saying to him words to the effect of do you know who that individual is and saying that the individual is an expert or black belt in martial arts. **Sgt P89** said that Res Con Robert Atkinson mentioned the fellow's name as Hanvey but **Sgt P89** could not recall what he was wearing p.11084
- 26.35 2/1/01. Res Con James Murphy made a further statement and recalled seeing Allister Hanvey at the scene. He had known him as a result of a road traffic accident which Allister Hanvey was involved in the previous month but Res Con Murphy did not know what Allister Hanvey had been wearing and did not see him commit any offence p.34807.
- 26.36 23/1/01. Jason McClure was re-interviewed and said that he saw Allister Hanvey, Chris Henderson and Dean Forbes at Tracy McAlpine's party. They stayed at the party and then he walked into town with Allister Hanvey and Chris Henderson at about 05.00 or 06.00. He remembered someone at the party talking about the fight but could not remember who or what was said p.17308.
- 26.37 26/9/01. Res Con Paul Warnock made a further statement in which he recalled having seen Allister Hanvey at the scene and recognizing him from policing duties around Portadown but did not know his name at the time. He thinks Res Con Atkinson told him his name p.17258.
- 26.38 17/10/01. **Sgt P89** said he was worried because a complaint had been made against him to C&D by Allister Hanvey in relation to his use of an FRG (Riot Gun). **Sgt P89** was interviewed by Supt Karen Kennedy and CI Desmond Jackson p.10266. There is no record of such a complaint.
- 26.39 7/11/01. Paul Currie completed a QPG [Questionnaire Party Goer]. He said he walked through the town with Shelley Liggett, Jason Woods and Pauline Newell. He was at Winemark when he heard sirens and saw blue flashing lights. He only found out about the incident the next day. He was with Allister Hanvey for most of the night p.57016.

Submissions by Gus Campbell Solicitors (Marc Hobson)

It is claimed that Andrew Allen stated in his interviews at 7344 and 7412 that Marc Hobson had knocked his attacker to the ground having come from the "Coach" bus. This is not what the evidence states and it is wholly unsupported and inconsistent with all the other evidence available to the Inquiry. It is not at all clear that Allen was stating that Hobson came from the bus at p7318(not 7344) but he clarifies that Hobson was not at the Coach, p7350, He later claimed that Hobson was not in the crowd, p7409,.

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

The Panel is referred to that part of the submission contained in Section 8 headed "The Jacket"

27 The witnesses gave this evidence:

Allister Hanvey

Oral Evidence

- 27.1 He no longer lived with Tracey Clarke (p.201). He never asked her about her statement as they moved on when they got back together (p.2). They never talked about the incident even before they' had made up (p.77). He never held animosity against Tracey Clarke, only the police (p.81). Tracey Clarke was easily led (p.82).
- 27.2 Re her saying (p.17327) that she saw him kick Robert Hamill, he denied that. He believed this was concocted by police and Andrea McKee. When Tracey Clarke made her first statement it was OK, but when Andrea McKee secretly met police they added the hearsay (p.218). He had a hunch from the start she was the witness that made him get arrested (p.219). He did not know when he found out that Tracey Clark was the witness (p.221). In her statement, Tracey Clarke said she spoke to Res Con Atkinson and she then went on to Tracey McAlpine's party where people were discussing the incident (p.222). He was not aware that Tracey Clarke said the police and Andrea McKee put pressure on her to make the statement. It is a coincidence that both he and her say same thing, having never talked about it (p.50).
- 27.3 He went onto the UVF wing as opposed to LVF as it "made no odds" (p.19). He does not have UVF sympathies (p.102). He left Hydebank as he received death threats and was too young to go to Maghaberry (p.102). He did not associate with UVF or any associates after leaving prison (p.103). He had a UVF poster in 2001 as it was painted in the Maze by a prisoner. He kept it as someone has worked hard on it (p.128).

Victoria Clayton

Oral Evidence

- 27.4 She knew Tracey Clarke and Allister Hanvey to see but had no association. She did not recall seeing Tracey Clarke or Allister Hanvey in Portadown at the relevant time (p.15750). She knew them but they were not great friends (p.112).

Mark Currie

Oral Evidence

27.5 He vaguely knew Allister Hanvey (p.85). He did not see him in area that night. He was not in the crowd being pushed back.

Timothy Jameson

Statement

27.6 Para. 27: He did not see Allister Hanvey “punch or kick anyone.”

Stacey Bridgett

Oral Evidence

27.7 When asked “can you say x wasn’t doing this” said “I never seen Hanvey.” (p.83).

Jason McClure

Oral evidence

27.8 Per p.17308 “I left party at 05.00/06.00 and walked down town to taxi with Allister Hanvey and Christopher Henderson. I saw police in town but did not recall speaking to any of them. I was very drunk and my memory is poor. I cannot remember anything else about that night.” He was not sure if he walked with them that night (p.84).

27.9 He did not recall p70990 (p85). He was not trying to help police when making p.70990 in saying Allister Hanvey, Dean Forbes, Stephen Sinnamon and Christopher Henderson were at Tracey McAlpine’s party. He thought that is what he then thought had happened (p.87). He tried to answer the questions he was asked (p.90).

Dereck Bradley

Statement

27.10 On 6/5/97 they went to Allister Hanvey’s house. He was not in. They received abuse from the father (p.51), pp.8132 and 9190 were taken at the same time (p.52). If a QPF showed a witness had nothing to say, they would not take a statement (p.53). He had not discussed other suspects with DI Irwin when he interviewed Mr Hanvey as he recalls the only suspects they had were arrested on 5 and 6 May (p.108). He did not put Hanvey senior as being abusive in p.81508 as he was not asked (p.109). He recorded “was on my way to uncle Tom Hanvey’s house...where I stay every Saturday night” as that was what he was told. He did not know Allister Hanvey had an “uncle Tom.” (p.116).

John Leckey

Oral Evidence

- 27.11 He spoke to Tracey Clarke, on 9/11/99 and made an attendance note (p.270) (p.23) immediately after the call ended (p.31). He had her police statement by this stage (p.24). He was convinced she was being truthful (p.26). She did not suggest parts of p.31616 were false or that Andrea McKee had influenced her or put words in her mouth (p.33). The main emphasis was on allaying fears about her safety (p.35). He does not know where she made the call from (p.36).
- 27.12 He spoke to Timothy Jameson on 6/1/00. He was morose and un-cooperative and Mr Leckey did not believe that words were put in his mouth or that he feared for his safety (p.28).

Submissions by Richard Monteith Solicitors (Tracey Clarke)

The Panel should take care to note that the Attendance note which the Senior Coroner completed in relation to the call from Tracey Clarke on 9th November 1999 does not record the Coroner forming the view that she was "being truthful". The Coroner recorded that "when she spoke to me she was very tearful and I was completely satisfied that she was genuine.". It cannot be inferred from this record that the Coroner had formed the view that Tracey Clarke was being truthful with respect to the contents of her statement to the RUC of 9/10 May 1997. The Coroner appears to be reflecting on nothing more than the fact that Tracey Clarke was not feigning fear or distress with respect to the prospect of giving evidence at the inquest.

Comment

- 28 The Panel may consider that it was obvious to detectives from the outset that they would face difficulties getting witnesses to talk about Allister Hanvey, let alone to give evidence against him. That suggests that they should have used all reasonable endeavours to secure scientific evidence and to corroborate such other evidence as they had. In particular the Panel may need to determine the extent to which, and the reasons why, those police officers who saw him at the scene failed to give any account of their dealings. **Sgt P89** stands out as having had a confrontation with Hanvey at the scene but not telling the detectives about it.

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

Sgt P89 has placed Allister Hanvey at the scene acting in a hostile manner, so much so that P89 had to physically force Hanvey back, and indicated that he felt Hanvey was close to assaulting him (26.34), but, as the Inquiry Team has noted, he did not mention this to detectives at the time. P89 later indicated that he was worried about possible disciplinary action that may be taken against him as a result of a complaint lodged by Allister Hanvey for P89's use of a riot

gun (26.38). P89 said that he was even interviewed by Superintendent Karen Kennedy and CI Desmond Jackson of C&D in relation to the incident. However, there appears to be no record of such a complaint. CI Jackson's evidence to the Inquiry on page 49 of day 44 (5.5.2009) confirmed that a riot gun was requested for use during the police activity that night in addressing the crowds. Jackson's evidence suggests that such a request would indicate "that it was a very volatile situation". We respectfully invite the Inquiry to consider why there is no record of this complaint. It could be that P89 lied about its existence to explain why he had not mentioned Hanvey's aggressive behaviour earlier. On the other hand, if the complaint was lodged, a record of it should have existed, and this would have corroborated P89's evidence that Allister Hanvey was at the scene and acting in such a hostile manner that it required P89 to use physical force in order to push Hanvey back. Other police officers have also placed Hanvey at the scene (RC Paul Warnock and RC James Murphy) but they have indicated that they knew him previously and that they did not see him commit any offence (26.33, 26.35). Res Con Atkinson has also indicated that he saw Hanvey on the night of the assault on Robert Hamill and D (please see 2.5 of module 16). RC Atkinson allegedly warned P89 that Hanvey was an expert or a black belt in martial arts and told P89 that his name was Hanvey (26.34). It is potentially significant that P89 is one of several police officers who have placed Allister Hanvey at the scene, but he is the only one who has had no previous interaction with or knowledge of Hanvey, and he is the only one that has indicated that Hanvey was behaving in a hostile manner (so much so that P89 felt Hanvey was about to assault him as he was forced to physically move Hanvey back).

Allister Hanvey's claim that he was not a UVF sympathiser, despite requesting to be held in the UVF wing in the Maze prison (27.3), lacks credibility (as did most of his evidence). The fact that he was displaying a UVF poster in 2001, and his explanation that he kept it because someone had made it in the Maze and had worked hard on it (ibid), suggest he both had UVF sympathies at the time of the attack and retained them in 2001. The Inquiry may consider those sympathies to resonate with the allegation that Hanvey took part in a savage sectarian attack on Robert Hamill. They may also see some connection with PONI's view that RC Atkinson was "perhaps part of the loyalist side" of the local community in Portadown (module 16, 3.76).

We are not sure why the Inquiry Panel think that the evidence that Allister Hanvey was at Tracey McAlpine's party is contentious (26.1). The following witnesses put him there: Tracey Clarke (statement); Christopher Henderson, who said he left the party with Hanvey some time after 5:00 am (26.15); Kelly Lavery, who slept at the house but woke up to find Hanvey and Forbes in the house (26.16); Iain Carville (26.23); Pauline Newell, who also awoke to find, among others, Hanvey, Forbes and Allen at around 5:00 am (26.25); Steven Bloomer, who arrived at the house at around 2:45 am and found Hanvey and Bridgett there, among others (26.27); and Jason McClure (26.23). Many of these witnesses also put each other at the party. The importance of this evidence is that it definitively breaks Allister Hanvey's alibi that he was staying at his uncle's house. All of these witnesses except Jason McClure mentioned Hanvey's presence at the party in statements made in May 1997, by which

time DCS McBurney knew about RC Atkinson's telephone records. Yet DCS McBurney did not put these matters to Atkinson until September 1997, and then in such a way as to alert him to police interest in his telephone calls in the aftermath of the assault on Robert Hamill.

In our view, Thomas Hanvey (26.10) and Kenneth Hanvey (26.11) both lied in order to provide Allister Hanvey with a false alibi for the night of 27th April 1997, yet they were never charged with conspiracy to pervert the course of justice.

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

In the context of Northern Ireland in 1997, every investigation, especially where it involved an incident between Catholics and Protestants, was beset with difficulties in obtaining witness evidence. Subject to a criterion of perfection, it is abundantly clear that they used all reasonable endeavours to secure scientific evidence and corroborate such other evidence they had.

We have already accepted that P89's statement was bereft of detail, not only in respect of Hanvey but also lacked any real detail. As far as Cons Neill and Murphy are concerned, they had not seen Hanvey do anything and, as we have already commented, volunteered the fact of seeing him when asked the specific questions.

It is hard to envisage what possible ulterior or sinister motive any of these officers had. For example, Con Neill only knew him from dealing with him in a road traffic accident, and P89 knew nothing at all about Hanvey and had to be told by Atkinson his name and that he was a martial arts expert.

Submissions by Gus Campbell Solicitors (Marc Hobson)

Those police officers who now admit to seeing Hanvey at the scene are one thing. The panel should consider whether it is likely that other police officers saw Hanvey but deliberately failed to name him then and now as well as considering why some police only mentioned seeing Hanvey much later than their initial statements..

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

The Panel are referred to the evidence of Sergeant P89 agrees that it was the case that Reserve Constable Atkinson identified Allister Hanvey at the scene.

Submissions by the Police Service of Northern Ireland

Elsewhere in these submissions I have dealt with the strategy implemented by P39 which placed a premium on gathering evidence from witnesses (Chapter 10). It was her view that immediate arrests were not appropriate and it has been submitted that this was an entirely reasonable judgment call to make. However, it is also accepted that if immediate arrests could not be made for

whatever reason this was likely to have a negative impact on the opportunities for gathering scientific evidence.

At the time when arrests became appropriate it is submitted that detectives recognised the importance of securing corroborative material. The searches which were conducted on the 6 May 1997 and 10 May 1997 were well organised and effectively executed and were intended to bolster the cases which the witnesses Clarke and Jameson had made to detectives. The search at the Hanvey household was inadequate in a number of respects but detectives redoubled their efforts and a further search was made at that location (which would have been assisted by the descriptions of Hanvey's clothing supplied by Jonathan Wright).

It is submitted that the Inquiry should conclude that the RUC made all reasonable endeavours to secure scientific evidence and that this is firmly established by the evidence of what was gathered at the crime scene and from the victims and their friends and associates, as well as what was gathered from the premises of suspects. It is clear from these actions that the RUC viewed a scientific approach as an important feature of their investigation and one which was likely to be vital to the success of any prosecution.

The evidence shows that all officers who attended the scene were expected to make statements identifying those whom they observed at the scene whether they could do this by name or description, and whether the observations were of innocent bystanders (witnesses) or those who they suspected might have played a role in the violence.

It is unclear how or why this message got lost in the translation because it is accepted that some officers did not detail in their statements all that they would have known about personalities they had observed at the scene.

It is accepted that the absence of a formal debrief may have been a significant factor here. It is also accepted that some officers could have fallen into the trap of failing to describe or name unless they could say that they suspected a person's involvement in the commission of crimes. The PSNI's position regarding Res. Con. Atkinson's failure to name Hanvey in his statement is well documented elsewhere in these submissions.

Sgt. P89's statement has been politely called a "model of understatement" (p.15). He did not make it until the 7 May 1997. Nobody apparently asked him to make a statement before this, and nobody asked him to include descriptions of clothing. However, as a reasonably senior officer it is questionable whether he needed to be told to do these things. In his evidence he explained that he did not appreciate at the time of making his statement just how serious the incident had been; he had been in much worse riots (page 15). Plainly, this is an officer who would have benefited from a thorough debriefing.

LUNT

- 29 The materials are to this effect
- 29.1 27/4/97. **Con A** identified Wayne Lunt as being in the crowd. She described him as 5'9", slim, wearing white trainers, white jeans, white sweat shirt with grey stripes on the sleeves, white peaked cap and a red, white and blue scarf wrapped around his face p.9235.
- 29.2 Res Con James Murphy made a statement in which the only person he identified was Wayne Lunt. He said Wayne Lunt had a red, white and blue scarf p.9231.
- 29.3 27/4/97. Con Alan Neill made a statement. He assisted **Con A** in taking Wayne Lunt to the Land Rover p.6332.
- 29.4 29/4/97 1500. DS Dereck Bradley was instructed by the SIO to produce descriptions and details of possible suspects from the descriptions in the statements p.12442.
- 29.5 30/4/97 Donald Blevins spoke to the police and said he was with Judith Lyttle and saw Tracey McAlpine in the street. He saw Wayne Lunt with a cider bottle and saw him being arrested then released from the Land Rover p.13319.
- 29.6 30/4/97 Andrew Hill was interviewed by questionnaire. He said he was sitting on the seat at the church and saw scuffles and shouting at the junction. He was with Wayne Lunt, Lisa Hobson, Gareth Cust and Simon McNally p.8113.
- 29.7 3/5/97. Colin Prunty said that the crowd who attacked seemed to appear very suddenly but he saw a man wearing a Rangers FC type scarf being put into a Land Rover. Prior to that, he had seen the man with the scarf 'put the boot into' Robert Hamill p.8135.
- 29.8 7/5/97. Ryan Carville was interviewed by questionnaire. He said he was with Matthew Bloomer and Robert McLoughin. He denied seeing an assault but did see the police catching a man, with a Rangers FC scarf over his face, who had run from Woodhouse St towards the church. This man had black hair combed back, was thin built and 5'8" tall p.8139.
- 29.9 8/5/97 Colin Prunty made a statement. At the same time [as he was stopped by a policeman] he saw another policeman grab a man in a Rangers FC scarf. He said this man had been kicking Robert Hamill. This man was later released from the Land Rover and Colin Prunty confronted **Con A** asking her if she got his name, because he was one of the ones who did it. He says the man in Rangers scarf went back to shouting, 'up the UV'. Mr Prunty said that the man was aged 20 – 25, about 6' tall and had short dark hair. Mr Prunty said that the scarf was worn tight to the man's neck in a knot p.9101.

- 29.10 9/5/97. Maureen McCoy said she saw a tall thin man in the back of the Land Rover wearing a Rangers scarf, a light coloured jacket and blue jeans. He was let out of the Land Rover and ran back into the crowd. She asked the policewoman why she did that p.9106.
- 29.11 10/5/97 13.08. Wayne Lunt was interviewed. It was put to him that he was seen kicking Robert Hamill. He denied it. He stated that when he was released from the Land Rover, the ambulance had not yet arrived. (NB **Con A** requested his address at 01.55). He said that he was wearing a blue and white Toronto top, a white USA baseball cap, Rangers' scarf, white jeans and a pair of Ascot Gutties (trainers) p.6803.
- 29.12 10/5/97 14.15. Dean Forbes' first interview of the day took place. He said that when he saw the men on the ground, he was with Ann Bowles, Lynn Bowles and their third sister, at p.7069. He said Wayne Lunt was wearing a white top, bar scarf and a baseball cap p.7026.
- 29.13 10/5/97. Crimestoppers named Philip Lunt, Wayne Lunt, Marc Hobson, Andrew Osbourne and another male who was living in England p.2262.
- 29.14 19/5/97. **Con A** stated that Wayne Lunt was in the Land Rover between 01.57 and 02.05. When he was released, two men approached. One of the men was 5'7", had dark hair and was heavy set. The other man was 5'7", had short sandy hair and was wearing a blue shirt, tie and trousers. The man with sandy hair shouted "what did you let him out for, he was one of the ones who did it". The other man explained that he was a relative of one of the injured men. **Con A** told him Wayne Lunt's details had been taken and the dark haired man took **Con A's** details p.7789.
- 29.15 16/9/97. Con A completed an injury on duty report in relation to the incident on 27 April 1997. On 27 April 1997, she was tasked to attend a major disturbance in Market Street. She stated that "Upon arrival I observed one male person with a mask on carrying a bottle in his hand, my thought was that this male was about to throw the bottle at a crowd that had gathered. I alighted from the vehicle but the male ran towards Church St. I returned to my colleagues to assist in moving a large crowd away from an injured person lying on the road. A short time later I observed the male person again without any mask covering his face. This male, again made to run off. I gave chase and caught this male person, at this time he kicked my shin and ankle." p.11396
- 29.16 30/10/97. A consultation was held with Gordon Kerr QC, Ronald McCarey, Ms Ita Brady, solicitor, and Colin Prunty. Colin Prunty described the man in the Land Rover as tall with jet black hair, with his fringe gelled down and clean shaven. The man was in the Land Rover laughing. Colin Prunty says that he swung at the person in the Land Rover as he was laughing and shouting 'Fenian bastard. Up the UV'. He was one of the people shouting 'kill him' at Robert Hamill but could not say where he was kicking him p.18062.

- 29.17 3/11/97. The Hamill family advised the DPP that Colin Prunty had identified the person he saw attacking Robert Hamill who was placed in the Land Rover from a BBC TV programme which showed three men being released from remand custody, p.18011.
- 29.18 3/11/97 Colin Prunty made a witness statement. He stated that on 31 October 1997, he visited the Hamill house and Diane Hamill showed him a video of the BBC news showing three males walking out through a fenced area. He recognised one of them as the person wearing the Rangers scarf, and Diane Hamill and Fiona Hamill told him that that person was called Dean Forbes p.9105.
- 29.19 4/11/97. In relation to Dean Forbes, Con A had known him from the end of 1992. She did not see him at or near the Land Rover whilst she was there. She saw him in the crowd whenever they were being moved back. Dean Forbes was not wearing a scarf and the only one that she had dealings with who was wearing a scarf was Wayne Lunt p.9240.
- 29.20 4/11/97. A file note was made by Raymond Kitson. He noted that further consultation is required. This was arranged for Wednesday 12.30 (at Portadown RUC Station). No decision could be taken until this consultation has taken place, information arising from that consultation had been considered and counsel's advices are obtained p.18032.
- 29.21 5/11/97. Consultation took place at Portadown police station with Gordon Kerr QC, Raymond Kitson and Colin Prunty. Colin Prunty was adamant that it was Dean Forbes he saw attacking Robert Hamill and later being released from the Land Rover. He said it was definitely not Wayne Lunt p.18079.
- 29.22 13/8/99. Mr [REDACTED] noted that once their evidence became unavailable there was no other evidence against Dean Forbes, Allister Hanvey or Rory Robinson. He discussed the evidence in relation to Wayne Lunt, who was additionally identified by Con A and Colin Prunty. Following Colin Prunty's statement that he believed it was Dean Forbes he saw in the Land Rover, he stated that there was clearly insufficient evidence to prosecute Wayne Lunt for the murder of Robert Hamill p.18321.

Submissions by Gus Campbell Solicitors (Marc Hobson)

Document at page 2262 at Para 29.13, above, was only supplied in redacted form and was not placed before the panel in evidence. It is impossible for us to have any view on the significance of this used at this stage in the proceedings.

30 The witnesses were as follows:

Wayne Lunt

Statement

30.1 Para. 15: He was wearing a white cap, jeans, sweatshirt and trainers. The scarf over the lip was the height of fashion in 1997.

Oral Evidence

30.2 He was wearing a Rangers scarf that came up to just below bottom lip. He was not hiding his identity by the scarf. It was the way he wore scarves (p.12). He had a baseball hat on with its peak at front. He was wearing white clothes and had relatively short dark hair (p.34). He looked like the photo at p.75201 (p.35).

Colin Prunty

Oral Evidence

30.3 He misidentified the man he thought he had seen attack Robert Hamill (p.155).

Andrew Hill

Oral Evidence

30.4 He knew Wayne Lunt. He saw him that night. He walked from West St into town (p.15). Wayne Lunt was standing about when they were at church. When Andrew Hill was at the scene Wayne Lunt was not in the crowd. He did not see him being chased by police or being put in the back of the Land Rover (p.16).

Donald Blevins

Oral Evidence

30.5 Saw Wayne Lunt. He was by himself and having difficulty breathing as he was drunk (p96).

Dean Forbes

Oral Evidence

30.6 Per p.6949: “man in Rangers scarf and white baseball cap being put in Land Rover and coming out again. Con A then went up to those at summer steps, as crowd being pushed back, and tells them to go on.” (p.57). The man was put in the back by Con A with help of two to three officers (p.57). He was in for a few minutes (p.58). He did not know the man in scarf (p.59).

Michael Irwin

Oral Evidence

- 30.7 The photograph Mr Prunty was shown came from after the individuals were charged (p.79). It was a DPP decision to show the photographs as he had seen the video. It could have been a problem that Mr Prunty was shown a photograph (p.80). DI Irwin's belief was the evidence was severely flawed at that stage anyway because he was saying the individual was Forbes when the police proved it was not (p.81). Mr Prunty told the police that they had charged the wrong man on his evidence (p.82). He added to the identification that Mr Forbes was the individual in the scarf (p.83).

Please insert any submissions or comments if you so wish

Comment

- 31 The Panel may wish to consider whether an attempt should have been made at an early stage to arrange a confrontation between Mr Lunt and Mr Prunty. The case was based on identification, yet no consideration appears to have been given to testing it before it became evident that Mr Prunty had seen a video of Mr Forbes. Further, once that information became available his identification was tested only by way of photographs that were not properly recorded. The propriety of that may call for determination.

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

Wayne Lunt's evidence about wearing a scarf covering the lower part of the face lacks credibility. He argued that it was the height of fashion in 1997 (30.1). In our experience, this is nonsense. It was usual in 1997, and indeed has been throughout the conflict, and persists to the present day, to use a scarf to hide one's face when an individual is involved in riotous and violent behaviour, and wishes to conceal his or her identity.

The question of Colin Prunty's misidentification of Wayne Lunt as being Dean Forbes requires careful consideration. We would remind the Inquiry that when Constable A sought to verify the identity of the person she had detained, she was told over the police radio that he was not known at the address she had given. He then gave Dean Forbes' correct address. Colin Prunty knew neither Wayne Lunt nor Dean Forbes. He simply identified the man in the Land Rover as one of the people who had attacked Robert Hamill. When he saw the video footage at the Hamill home, he was convinced that the man he had seen in the landrover was Dean Forbes and not Wayne Lunt. So concerned was he that the wrong person had been charged on the basis of his misidentification that he went to the police, an action which ultimately led to the dropping of charges against Wayne Lunt (29.22). These are clearly the actions of an honest man. The Inquiry will have to consider whether he was honestly mistaken, or whether it was Dean Forbes he saw in the Land Rover.

If it was Dean Forbes, then Constable A must have committed perjury (29.19). The fact that the man she arrested was hiding his face with a scarf may be relevant to this matter, as may the fact that Wayne Lunt was on bail at the time. Another relevant factor may be that Constable A described Wayne Lunt as wearing white jeans (29.1) and Dean Forbes as wearing cream trowsers (33.15), but Forbes claimed that she was wrong about the colour of his trousers, which he said were black cords (33.16). Linda Boyle, his girlfriend, said that Forbes asked her to tell Jill Ritchie that he had been wearing black jeans (33.18).

On the assumption that it was Wayne Lunt that she detained, the Inquiry will wish to address the following questions:

- 1) Why Constable A let Wayne Lunt go?
- 2) Why did she not record this incident in her notebook?
- 3) Why did she not take the names of the two men who remonstrated with her, one of whom (Colin Prunty) alleged that Wayne Lunt had been involved in the assault?

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

This was an identification of Lunt by Prunty by way of description. All the evidence pointed to there being one man wearing a Rangers scarf. In Prunty's statement to police 09103, he stated,

"After 5 or 10 minutes I saw the fella with the Rangers scarf being let out of the back of the Land Rover. He went back into the crowd shouting, "Up the UV" which I knew to be the UVF . I was surprised he had been let go and asked the Policewoman if she had got his name. She never answered and I told her the fella with the scarf was one of the people that had been kicking at Robert Hamill ."

He further stated....

"One of the Policemen actually pulled me back and as he was doing this I saw another Policeman grab hold of one of the fellas in the group that was kicking Robert Hamill . He was wearing a Rangers scarf and he was took away and put in the back of the Land Rover. He, like everybody else in the group, was kicking Robert.." 9103

There was only one person taken from the crowd and put in the Land Rover, and the police evidence was that that person was wearing a Rangers scarf.

On the face of it, this was sound interlinked identification evidence of Lunt being one of the persons being involved in the kicking of Robert Hamill.

There was no onus or duty on the police, in the face of this strong evidence, to arrange a confrontation between Lunt and Prunty.

Submissions by the Police Service of Northern Ireland

It is submitted that whether an identification parade ought to have been conducted was a question of judgement. This was a situation in which the evidence of Con. A came together with that of Mr. Prunty to make a reasonably strong identification case. However, Mr. Prunty's police statement (00513) makes it clear that the key factor in his identification of Lunt was the red, white and blue scarf and the way that he had been wearing it, rather than any physical features. The police also had the additional layer of Tracey Clarke's evidence. Accordingly, to have arranged an identification parade was a high risk strategy from a police/prosecution perspective which risked undermining at least that part of the case which depended upon Mr. Prunty..

Mr. Kitson was asked to comment on the question of identification evidence. He explained that when he considered the crime file he did not see the absence of identification parades as a particular omission (page 95-96). Mr. Kerr QC was of a similar mind (page 89).

It is submitted that the propriety of using photographs as a vehicle to assist or test Mr. Prunty's identification evidence is a matter for the ODPP.

Submissions by the Public Prosecution Service

Please see the submissions in response to §16, Part 18, below.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

It is submitted that Mr Prunty's evidence is so inconsistent that even if he had identified Lunt, this could have been of little value.

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

These were policy decisions for DCS McBurney. It is submitted that in evidence Michael Irwin did his best to answer questions about these policy decisions, however, this was mainly due to DCS McBurney being now deceased. It is submitted that Michael Irwin, nevertheless, did his best to answer questions openly and helpfully. For example, when asked about why Wayne Lunt was not put on an identification parade as a result of Colin Prunty's evidence, Michael Irwin gave an entirely reasonable explanation that the circumstances had been described by Prunty but not the person, ie: Lunt wearing a red/white and blue scarf etc ... but no description of the person himself. Further, Michael Irwin made this point in the DPP file submitted. Therefore, Prunty could not actually identify Lunt. It is not right, therefore, to say no consideration was given to a confrontation. As it turned out, Colin Prunty then went on to wrongly identify Dean Forbes as the person in the Land Rover when he saw him on television leaving a Court hearing.

D. FORBES

- 32 The materials show this:
- 32.1 27/4/97. **Con A** identified Dean Forbes as being in the crowd. She described him as wearing a light coloured checked shirt over light coloured cream trousers p.9235.
- 32.2 29/4/97. DS Dereck Bradley was instructed by the SIO to produce descriptions and details of possible suspects from the descriptions in the statements p.12442.
- 32.3 30/4/97. Donald Blevins spoke to police. He heard that the people who carried out the assault had been talking to the police a short time before the assault p.13319.
- 32.4 9/5/97. Timothy Jameson made a statement. He said he was with Stephen Bloomer and Kyle Magee. He saw Dean Forbes punch a man in the face who was wearing a grey Umbro sweatshirt p.266.
- 32.5 9/5/97. Stephen Sinnamon was questioned. He was aware of an incident in the town centre but not of anyone being assaulted. He was with Gregory Blevins, Andrew Allen, Tracey Clarke, Tracey Newell, Pauline Newell, Kelly Lavery, Dean Forbes and Andrew Osbourne, p.8141.
- 32.6 9/5/97. Tracey Clarke spoke to DC John McAteer and commenced a statement. She was interviewed in the presence of Andrea McKee, p.262.
- 32.7 10/5/97. 14.15 Dean Forbes' first interview of the day took place. He said that when he saw the men on the ground, he was with Ann Bowles, Lynn Bowles and their third sister, p.7069. He said Wayne Lunt was wearing a white top, bar scarf and a baseball cap p.7047.
- 32.8 10/5/97. Ann Bowles spoke to DC [REDACTED]. She said she was sat on the steps of the Ulster Bank eating her food purchased from Boss Hoggs with her sister and Elayna May. She saw Dean Forbes standing on the controlled traffic reservation. She asked him what was going on and he said that there was a fight going on.
- 32.9 13/5/97. Jill Ritchie made a statement and said that on 8 May 1997, she was approached by Linda Boyle who was Dean Forbes girlfriend. Linda Boyle told Jill Ritchie that Dean Forbes was "in a lot of trouble over the thing that happened." Linda Boyle asked if Jill Ritchie had seen him in the town centre. Linda Boyle prompted her without being asked that Dean Forbes was wearing a cream Ralph Lauren shirt and black jeans. Jill Ritchie said she had not seen him on the night p.9614.
- 32.10 15/5/97. Andrew Allen indicated that Marc Hobson was fighting in a violent crowd and so was Rory Robinson. He said Stacey Bridgett was at the fight. He saw Dean Forbes at Tracey McAlpine's party. He heard at Tracey McAlpine's

party that Allister Hanvey had hit someone with a bottle, and that Allister Hanvey was at the front of the group coming down the road from the bus returning from the Coach pp.7412 and 7344.

- 32.11 19/5/97. Iain Carville was interviewed and made a statement. He saw Allister Hanvey, Dean Forbes, Andrew Allen at Tracey McAlpine's house after 03.00 p.9184.
- 32.12 20/5/97. Pauline Newell made a statement. After a few minutes she walked up the main street and saw Stacey Bridgett and Dean Forbes standing at the Land Rover talking to the police. As she passed the Land Rover she heard bickering from the other side of the street but paid no attention. She went back to Tracey McAlpine's house. Pauline Newell went to bed but went downstairs again at 05.00 and saw group of people including Allister Hanvey, Stephen Sinnamon, "Fonzy", Chris Henderson and Dean Forbes p.9129.
- 32.13 21/5/97. Stephen Sinnamon was re-interviewed by DC Eric Williamson, who did not believe his first account. He also saw Stacey Bridgett and Dean Forbes but did not walk with them. He denied seeing the fight but saw people running about. DC Williamson did not believe that account and he was evasive in his answers. He commented that Stephen Sinnamon knows or witnessed more but will not divulge it p.3692.
- 32.14 7/6/97 DC John McAteer spoke to Ann Bowles at her home. Ann Bowles said that while she was standing at the Northern Bank she saw a crowd of about 50 people in the middle of the road and there was a lot of shouting. She walked past the Land Rover to the Abbey National and it was then she saw Dean Forbes standing in the traffic reservation. She did not know if the police were on the street but states that they could have been, it was very difficult to see as people were running about p.7777.
- 32.15 7/6/97 Alison Bowles was interviewed at home. She gives the same details as her sister Ann Bowles. She stated that there were no men standing at the police Land Rover p.7778.
- 32.16 On 3 September 2001, DC Eric Williamson made a statement saying that on 13 May 1997, he spoke to Christopher Henderson at his home. Christopher Henderson said that on 27 April 1997, he went to Tracey McAlpine's house and saw Allister Hanvey, Stephen Sinnamon, possibly Dean Forbes and Kelly Lavery. He said there was no talk about the fight, but that it may have been mentioned casually with no reference to who did what. He noted that most weekends are similar p.59201.
- 32.17 17/10/97 15.30 a meeting was held with Roger Davison, Gordon Kerr QC, DS Robert Cooke, DS Dereck Bradley, DC John McAteer, Tracey Clarke and Tracey Clarke's parents, [REDACTED] and Jim Murray. Roger Davison recorded that Tracey Clarke was able to recite the events of the night in accordance with her statement without having had an opportunity to refresh her memory. He considered that she was reasonably articulate and seemed to be telling the truth. If she were to give evidence he considered that she would

come across as very truthful. Tracey Clarke expressed that she would rather die than give evidence p.17591.

- 32.18 21/10/97. A meeting was held between Roger Davison, Gordon Kerr QC, DS Robert Cooke, DI Michael Irwin, DC Edward Honeyford, Timothy Jameson and Bobby Jameson. From the outset of the consultation, Timothy Jameson said he could not remember what he saw. In particular he could not distinguish in his mind between what he saw and what people had said to him had happened. Gordon Kerr QC quizzed him but he maintained his assertion that he could not remember what happened and only wrote in the statement what the police told him to write p.17591.
- 32.19 24/10/97. Roger Davison of the DPP wrote to Raymond Kitson of the DPP regarding the consultation with Tracey Clarke and Timothy Jameson. He said that subject to Counsel's opinion and the other evidence arising, a direction of no prosecution be issued in relation to Dean Forbes and Rory Robinson p.18081.
- 32.20 30/10/97. A consultation was held with Gordon Kerr QC, Ronald McCarey, Ms Ita Brady, solicitor, and Colin Prunty. Colin Prunty described the man in the Land Rover as tall with jet black hair, with his fringe gelled down and clean shaven. The man was in the Land Rover laughing. Colin Prunty said that he swung at the person in the Land Rover as he was laughing and shouting 'Fenian bastard. Up the UV'. He was one of the people shouting 'kill him' at Robert Hamill but could not say where he was kicking him p.18062.
- 32.21 3/11/97. The Hamill family advised the DPP that Colin Prunty had identified the person he saw attacking Robert Hamill, who was placed in the Land Rover from a BBC TV programme which showed three men being released from remand custody p.18011.
- 32.22 3/11/97. Colin Prunty made a witness statement. He stated that on 31 October 1997, he visited the Hamill house and Diane Hamill showed him a video of the BBC news footage, showing three males walking out through a fenced area. He recognised one of them as the person wearing the Rangers scarf. Diane Hamill and Fiona Hamill told him that that person was called Dean Forbes p.9105.
- 32.23 4/11/97. In relation to Dean Forbes, **Con A** had known him from the end of 1992. She did not see him at or near the Land Rover whilst she was there. She saw him in the crowd whenever they were being moved back. Dean Forbes was not wearing a scarf and the only one that she had dealings with who was wearing a scarf was Wayne Lunt p.9240.
- 32.24 4/11/97. A file note was made by Raymond Kitson. He noted that further consultation is required. This was arranged for Wednesday 12.30 (at Portadown RUC Station). No decision could be taken until this consultation has taken place; information arising from that consultation has been considered and counsel's advices are obtained p.18032.

32.25 5/11/97. A consultation took place at Portadown police station with Gordon Kerr QC, Raymond Kitson and Colin Prunty. Colin Prunty was adamant that it was Dean Forbes he saw attacking Robert Hamill and later being released from the Land Rover. He says it was definitely not Wayne Lunt p.18079.

32.26 13/8/99 Mr [REDACTED] noted that once their evidence became unavailable, there was no other evidence against Dean Forbes, Allister Hanvey or Rory Robinson. He discussed the evidence in relation to Wayne Lunt, who was additionally identified by **Con A** and Colin Prunty. Following Colin Prunty's statement that he believed it was Dean Forbes he saw in the Land Rover, he stated that there was clearly insufficient evidence to prosecute Lunt for the murder of Hamill p.18321.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

We repeat paragraph 31.

33 The witnesses were as follows:

Victoria Clayton

Statement

33.1 Knew Mr Forbes (p.112). If she had seen him she would have recognised him (p.113).

Stacey Bridgett

Oral Evidence

33.2 He knew Tracey Clarke and Allister Hanvey. Per p.17327, where he, and others, are identified as kicking Robert Hamill is "untrue". He does not know what happened to Forbes as lost track of him after talking to police. He does not know if Forbes could've been seen kicking (p.82).

Mark Currie

Oral Evidence

33.3 He vaguely knew Mr Forbes (p.85). He did not see him in the area that night. He was not in the crowd being pushed back

Anne Bowles

Oral Evidence

- 33.4 She spoke to Dean Forbes by the sign in front of Clarks (p.65). She did not speak to him for long, as she just wanted to get past as quickly as possible (p.69). He said a fight had broken out at the bottom of Thomas Street (p.71).
- 33.5 She knew Mr Bridgett to say hello to. She did not see him. When she spoke to Mr Forbes he was on his own (p.70).

Alison Bowles

Statement

- 33.6 Para. 6: She saw Dean Forbes standing outside the Abbey National. They were 20 to 30 yards from fights when she spoke to him.

Oral Evidence

- 33.7 She did not speak to Dean Forbes. Just he and her sister spoke. She does not recall how far away from him she was. They did not stop for long, just long enough to find out what was going on. They had no involvement and did not want to know anything (p.86). She does not recall what his reply was but her notes say “there was a fight going on.” (p.96).
- 33.8 She will not alibi Dean Forbes per p.7064 in that she was not talking to him and Lynn Bowles was not there that night (p.90).

Donald Blevins

Oral Evidence

- 33.9 He thought Mr Forbes was in crowd (p.115). He was not in any way trying to get involved in fighting (p.118)
- 33.10 Messrs Robinson and Forbes were standing at the opposite side of Woodhouse Street from him. They were arguing and shouting at each other (p.106). They were in the crowd trying to get through police (p.107).

Dean Forbes

Oral Evidence

- 33.11 Per p.17328: Tracey Clarke identifies him as kicking and Michelle Jamieson as running up and protecting the other man. He did not know why she named him (p.53). He knew Allister Hanvey. He did not know, if she was making statement out of spite, why she would include him (Forbes). He did not see Stacey Bridgett in the group kicking. He knew Marc Hobson to see and knew Mr Robinson. He did not know why they were grouped together as he was not

- out with them that night (p.54). He had not spoken to Tracey Clarke about the night (p.55).
- 33.12 He knew Timothy Jameson. Per p.268: He saw Dean Forbes punch a man in a grey Umbro sweater in the face and run off. Dean Forbes says he did not know why he would make that up. He had never seen Timothy Jameson after the statement was made (p.55).
- 33.13 He knew about statements after his arrest (p.55). He found out two weeks ago the names of A and B. He was not shocked at seeing the names on statements (p.56).
- 33.14 Per p.6963: people came and said “were you in that?”. He said no and they pulled him back a few steps. There was a woman, in a white T-shirt or jumper, standing in middle of crowd and shouting at the crowd (p.50). He saw two the Bowles sisters; no-one else (p.109).
- 33.15 **Con A** identified Dean Forbes (p.9236), “light coloured check shirt over cream trousers,” as being in crowd being pushed back. Dean Forbes says he spoke to her for three or four minutes (p.7084): “**Con A** accused Forbes of being involved.” She was smiling when she said this (p.61) when the crowd was being pushed, and then he was caught in the push (p.60).
- 33.16 He said **Con A** was wrong about his trousers (p.86). He said he was wearing a beige top and black cords. He was not lying about clothes, (p.87). He referred to black trousers in p.6936, as they asked what he had been wearing (p.89). He did not recall asking Linda Boyle (his girlfriend at time) to talk to someone about clothes (p.91).
- 33.17 Per p.59234: Linda Boyle went to Mr Forbes house and was told of his arrest. He said he told her by ‘phone call.’ Linda Boyle said Dean Forbes asked her to speak to Jill Ritchie and tell her what Dean had been wearing but does not recall the item she was asked to say he was wearing. He denied that. He did not know why she would make it up (p.92).
- 33.18 Per p.9615: Linda Boyle went to Jill Ritchie and said (Dean Forbes) was in a lot of trouble and that he was wearing cream shirt and black jeans (p.94). He does not know where this came from as he did not ask Linda Boyle for this (p.95).
- 33.19 Richard Monteith answered the question, as Dean Forbes looked at him, about whether to take part in an ID parade (p.114).
- 33.20 He made an application to leave YOI and go to UVF wing of the Maze for his own safety. He was receiving death threats in YOI. He was advised to go to the UVF wing by family friend (p.78). He was on the wing with Stacey Bridgett and Allister Hanvey. Rory Robinson was not on the same wing. He did not discuss the incident when in the Maze (p.79). He did not think to talk about it. He denied he is lying (p.81).

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

Dean Forbes' contention that he did not think to discuss the incident of the assault on Robert Hamill and D with Stacey Bridgett and Allister Hanvey whilst all three were in the UVF wing of the Maze (33.20) lacks credibility. All three of them were in the same prison wing accused of this assault which led to Robert Hamill's death. It seems unlikely that it would not be discussed, particularly if all three of them were innocent of any involvement, as they profess.

We are uncertain as to what definition of due diligence the Inquiry Team is applying here. DCI P39 was ready to arrest Forbes on 1st May but the arrest did not happen until 6th May, and then he was released without charge. In our view, DCS McBurney's attempts to protect RC Atkinson (please see module 16) fatally compromised the whole murder investigation and materially contributed to the fact that Forbes and the other defendants were not tried for Robert Hamill's murder. We doubt that the government would have agreed to establish the Robert Hamill Inquiry if the RUC had exhibited due diligence. We respectfully suggest that a true picture cannot be obtained by looking at the words or actions of any individual suspect or RUC officer in isolation - which does not mean that each individual need not be treated fairly - and that, equally, no aspect of the police investigation can be considered in isolation from the whole.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

It is difficult to see what evidence could have been obtained to connect Dean Forbes with any assault on R Hamill.

Comment

- 34 The Panel may think that there was no want of due diligence in relation to Mr Forbes.

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

We agree

Submissions by the Police Service of Northern Ireland

The PSNI agree with this comment. In particular it is to be noted that Forbes was arrested on two occasions (6 and 10 May 1997), and his home was searched and clothing seized during the first arrest. He was charged with murder. However as a result of the withdrawal of the evidence of Clarke and Jameson he was necessarily released; there was no scientific evidence or other evidence to connect him to the incident. It is submitted that every reasonable effort was made to connect Forbes to the murder.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

Agreed.

S. BRIDGETT

- 35 The materials show this:
- 35.1 27/4/97. **Con A** identified Stacey Bridgett as being in the crowd. She described him as wearing a cream shirt with a fine brown stripe over white jeans p.9235.
- 35.2 Con Silcock made a statement. He identified a youth who responded to the name Stacey who was wearing a grey charcoal top and had blood coming from his nose. A woman with a white top alleged that the youth had jumped on the head of one of the injured men p.9220.
- 35.3 27/4/97 Con Alan Neill made a statement. He saw Stacey Bridgett with blood around his mouth p.6332.
- 35.4 28/4/97 DS Dereck Bradley debriefed Res Con Robert Atkinson on his statement. Res Con Robert Atkinson told him that Victoria Clayton was seen wiping blood off Stacey Bridgett p.17572.
- 35.5 29/4/97 DS Dereck Bradley was instructed by the SIO to produce descriptions and details of possible suspects from the descriptions in the statements p.12442.
- 35.6 30/4/97 Kyle Magee was interviewed by questionnaire. He was with Stacey Bridgett, Christopher Henderson, Conor Black, Stephen Bloomer, Jason Woods and Jonathan Nelson. He said he saw the fight and got close to it p.8119.
- 35.7 30/4/97 Kyle Magee made a witness statement. He was with Victoria Clayton, Jennifer O'Neill, Timothy Jameson, Stephen Bloomer and he saw the fight p.9143.
- 35.8 30/4/97 Victoria Clayton was interviewed and accepted she had been wiping blood from Stacey Bridgett's nose p.2150.
- 35.9 30/4/97 Donald Blevins spoke to police. He heard that the people who carried out the assault had been talking to the police a short time before the assault p.13319.
- 35.10 9/5/97 Tracey Clarke spoke to DC John McAteer and commenced a statement. She was interviewed in the presence of Andrea McKee p.262.
- 35.11 10/5/97 11.56 Stacey Bridgett's first interview took place p.7220.

- 35.12 10/5/97 F was re-interviewed. She said she did not tell police about a youth jumping on the head of the injured man p.7783.
- 35.13 11/5/97. Father Dooley received an anonymous call. The caller said that the officers were woken by two girls and that Allister Hanvey and Stacey Bridgett were seen jumping on Robert Hamill's head p.2541 (NB He does not make a statement until 11 November 2000).
- 35.14 15/5/97. Andrew Allen indicated that Marc Hobson was fighting in a violent crowd and so was Rory Robinson. He said Stacey Bridgett was at the fight. He saw Dean Forbes at Tracey McAlpine's party. He heard at Tracey McAlpine's party that Allister Hanvey had hit someone with a bottle, and that Allister Hanvey was at the front of the group coming down the road from the bus returning from the Coach pp.7412 and 7344.
- 35.15 15/5/97 Jonathan Wright made a second statement. He said the content of first statement (p.9137) was correct up to where he got to the Church. He saw Stacey Bridgett trading punches with one person p.9141.
- 35.16 15/5/97. Victoria Clayton confirmed she wiped blood from a man's nose at the scene but said she could not be sure it was Stacey Bridgett p.7780.
- 35.17 20/5/97. Pauline Newell made a statement. She saw Rory Robinson, David Woods and "Fonzy" Allen walking up the street through the town centre towards Thomas Street. After a few minutes she walked up the main street and saw Stacey Bridgett and Dean Forbes standing at the Land Rover talking to the police. As she passed the Land Rover, she heard bickering from the other side of the street but paid no attention p.9129.
- 35.18 21/5/97. Stephen Sinnamon was re-interviewed by DC Eric Williamson who did not believe his first account. He also saw Stacey Bridgett and Dean Forbes but did not walk with them. He denied seeing the fight but saw people running about. DC Williamson did not believe that account and he was evasive in his answers; he commented that Stephen Sinnamon knew or witnessed more but would not divulge it p.3692.
- 35.19 29/5/97. Steven Bloomer said that he walked on to the progressive Building Society where he met Tracey Clarke and heard shouting, then police and ambulance sirens. Then he saw two men on the ground. He saw Timothy Jameson and Kyle Magee near the church so walked over to them and then walked away home. On his way, he met Ian Carville and Chris Henderson. They went to Tracey McAlpine's (aka Newell) house. They got to the house at about 02.45 and saw Stephen Sinnamon, Stacey Bridgett, Allister Hanvey, Pauline Newell, Chris Henderson and Ian Carville there. He left again with Iain Carville and went home p.9151.
- 35.20 17/10/97 15.30. A meeting was held with Roger Davison, Gordon Kerr QC, DS Robert Cooke, DS Dereck Bradley, DC John McAteer, Tracey Clarke and Tracey Clarke's parents, [REDACTED] and Jim Murray. Roger Davison recorded that Tracey Clarke was able to recite the events of the night in

accordance with her statement without having had an opportunity to refresh her memory. He considered that she was reasonably articulate and seemed to be telling the truth. If she were to give evidence he considered that she would come across as very truthful. Tracey Clarke expressed that she would rather die than give evidence p.17591.

- 35.21 21/10/97. A meeting was held between Roger Davison, Gordon Kerr QC, DS Robert Cooke, DI Michael Irwin, DC Edward Honeyford, Timothy Jameson and Bobby Jameson. From the outset of the consultation, Timothy Jameson said he could not remember what he saw. In particular he could not distinguish in his mind between what he saw and what people had said to him had happened. Gordon Kerr QC quizzed him but he maintained his assertion that he could not remember what happened and only wrote in the statement what the police told him to write p.17591.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

We note 35.12..

Submissions by Richard Monteith Solicitors (Tracey Clarke)

The paragraph at 35.20 is repeated on multiple occasions throughout these submissions. It will be addressed only once and the same submission can be taken as read for the other similar paragraphs. First, on a point of detail the note of the consultation with the DPP and Tracey Hanvey does not record that she was able to "recite the events of the night in accordance with her statement without having had an opportunity to refresh her memory." The note of the consultation records that she was "able to relate the events of the night more or less in accordance with her statement". She had not had an opportunity to refresh her memory. There is a significant difference between a person being able to "relate" the events of a significant night in their lives "more or less" and a person who is able to "recite" the events without refreshing their memory. The former is an accurate representation of the note and does not carry the same connotation that the statement she made to the police must, therefore, be accurate. This is plainly the inference that is being laid upon the DPP note. However, this is a classic non sequitur. It simply does not follow that, because Tracey Clarke could give a coherent account of the night in question, that the statement she made to the police was true. In her evidence to the Inquiry she repeatedly stated that the making of the statement to the police was indelibly burned in her memory as it had been a turning point in her life. This is, respectfully, plainly an accurate and honest assessment. She had made a statement which implicated a man whom she had been in a relationship and whom she later married and four other persons from her locality in a murder. It is not at all surprising that she was able to relate an accurate account of it to a group of lawyers who had assembled to hear her do precisely that. The Inquiry will have had the benefit of seeing and hearing Tracey Clarke. Despite her obvious distress at giving evidence at the Inquiry she presented as an intelligent and, as Mr Davidson had noted, an "articulate" woman. The fact that she recounted the events of 27th April 1997 to the DPP

and Mr Kerr does not lend particular weight to the contention that she was being truthful in her statement to police.

36 The witnesses gave this evidence:

Anne Bowles

Oral Evidence

36.1 She knew Bridgett to say hello to. She did not see him. When she spoke to Dean Forbes he was on his own (p.70). She did not see anyone with a bloody nose (p.71).

Stacey Bridgett

Oral Evidence

36.2 He knew Tracey Clarke and Allister Hanvey. Says of p.17327, where he, and others, are identified as kicking Robert Hamill it was “untrue.” (p.82).

36.3 He said that Tracey Clarke and Jonathon Wright’s statements were untrue (p.86).

36.4 Per p.9225: shows crowd were shouting and jeering at police and trying to rush past and he moved crowd and recognised Stacey Bridgett(?). Mr Bridgett did not recall that but said he was not at the front of the crowd (p.88). Con Cooke said the ambulance had not arrived at this stage. Mr Bridgett did not recall ambulance. He knew it was there and vaguely remembered it (p.89).

36.5 He did not recall anyone shouting at him or shouting his name (p.89). Per p.700 has people shouting “Stacey” at man in grey top with blood coming from nose. He denied this was him. Con Silcock said (Inquiry Interview p.30) he had never seen such a look of excitement in his face (p.97). Mr Bridgett said Con Silcock was mistaken as he got clothing wrong. He said everyone called him “Bridgey” except family. He could not explain why no-one used his name in evidence (p.98).

36.6 He agreed with p.9141 that there was a lot of shouting of sectarian insults (p.79). Page 9141 stated Mr Bridgett was trading punches. He said that he was not trading punches and maybe he saw him get hit and put hands up to defend himself. (p.80).

36.7 A girl wiped his blood at Mandeville St area (p.86).

Mark Currie

Oral Evidence

36.8 He knew Stacey Bridgett (p.85). He did not see him in area that night. He was not in crowd being pushed back (p.87).

Victoria Clayton

Statement

36.9 Para. 5: Denied that she wiped blood off Stacey Bridgett at the traffic island. She thought she was near Church.

Oral Evidence

36.10 She did not know Stacey Bridgett at the time (p.113).

36.11 She could remember Stacey Bridgett's cut lip (p.2150) but not other things as the lip happened after the crowd was downtown, when they were walking home (p.109).

Dean Forbes

Oral Evidence

36.12 He did not see Stacey Bridgett in the group kicking(p.54).

Gordon Cooke

Statement

36.13 Para. 14: In his notebook: "saw Bridgett; 5'8" average build." He did not recall hair colour but it was quite short. His nose was bleeding. He was not doing anything. He knew Stacey Bridgett from police duties.

Oral Evidence

36.14 He did not see Stacey Bridgett close enough for him to get blood on Robert Hamill. It was not possible that he got close enough when Con Cooke was there. The crowd were 10-12 feet from the injured persons. Police were two to three feet from the crowd (p.9).

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

Please see 37.

Comment

- 37 The potential case to be made against Stacey Bridgett entailed the possible res gestae referring to him as “Stacey,” the blood found on Robert Hamill’s jeans, Mr Bridgett’s denial of being near to him, and what Jonathon Wright and Andrew Allen said of him. The Panel may wish to consider whether adequate effort was made to pull that case together, and whether there is an adequate explanation why the blood evidence was not put to him in interview.

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

Both Andrew Fonzy Allen (35.14) and Jonathan Wright (35.15) say they saw Bridgett fighting, thus corroborating Tracey Clarke's and Timothy Jameson's statements. However, Timothy Jameson named Fonzy as one of the assailants, thus attacking his credibility.

We cannot think of any legitimate explanation for why the fact that Stacey Bridgett's blood was found on Robert Hamill's jeans was not put to him in interview.

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

It was perfectly proper and reasonable for the police not to re-interview Stacey Bridgett concerning a spot of his blood on Robert Hamill's jeans. It is our submission that to have done so would have weakened the case against Bridgett, as he probably would have claimed some innocent explanation for it. As DI Irwin (81465) pointed out, the initial findings placed Bridgett close to Robert Hamill's feet and the initial forensic scientist's opinion was that this was a blood drop. Mr Marshall’s opinion, which was conveyed to DI Irwin, was that this initial finding would not support the possibility that Stacey Bridgett was actually assaulting Robert Hamill at the precise time his blood dripped on to Robert Hamill's trousers. Stacey Bridgett, on two separate occasions had continued to deny being in the vicinity of the assaults, and denied any contact with the injured party.

DI Irwin further stated (81466) that the information from the forensic scientist was discussed with DCS McBurney and P39 and having regard to the limitation of powers under PACE (NI) Order 1981, the fact that the police could show Bridgett was lying and that further forensic examinations were ongoing, they took the view that no further action was appropriate at this stage.

It is our submission that this was a sound professional judgment.

Indeed as Mr Kerr Q.C. in evidence said, at p83...

"18 Q. Now I want to ask you just briefly then about some other
19 discrete issues.

20 In your statement in relation to the blood spot

21 that's found linking Stacey Bridgett with Mr Hamill in
22 your Inquiry statement you said essentially you would
23 have expected police to go back and re-interview him.
24 Now, I think you have probably dealt with this, but
25 you accept that that's a judgment call for the police at

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1 the time?

2 A. It has to be, yes.

3 Q. Do you agree at that stage what they had, in fact, was
4 a lie?

5 A. That's correct, yes. It suggested his evidence that he
6 was nowhere near the deceased was wrong.

7 Q. It could very well be, if they go back and re-interview
8 him and put that blood to him, the effect of that is for
9 him to make up some story about why that might
10 innocently have come into contact with Mr Hamill?

11 A. That could be one of the effects, yes.

12 Q. It is a judgment call as to whether to do it or not?

13 A. Indeed.

14 Q. Just to confirm, I think we have all -- I think the
15 Panel know, but under PACE at that time, it was only in
16 exceptional circumstances that the police went back and
17 re-interviewed somebody after they had been charged?

18 A. That's correct.

19 Q. Neither you nor the DPP directed or suggested or advised
20 at any stage that he should be re-interviewed?

21 A. No, because there didn't appear to be any further
22 progress in speaking to the forensic scientist, so there
23 was nowhere further to take it.

24 Q. Do you agree with me the other problem the police would
25 have had back on 12th May when they got the information

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1 about the blood spot, at that stage they were not aware
2 of the precise nature of the blood spot, whether it was
3 a teardrop, whether it was a smear, etc?

4 A. I don't have the exact timings, Mr Adair, but I do
5 recall that we had preliminary notice from the forensic
6 scientist that there was a mark and it was only at
7 a later stage that that was developed into a description
8 of the mark and what it might mean."

Submissions by the Police Service of Northern Ireland

It is submitted that none of these materials whether individually or collectively could have been used to construct a viable case against Bridgett in connection with the murder. It is submitted that Tracey Clarke's evidence was key and without her evidence these others materials were inconsequential.

Firstly, the possible *res gestae*. This was a matter for the ODPP and their counsel to consider. Senior counsel (Mr. Kerr) has expressed the view that the material did not constitute *res gestae* which would be relevant to the murder; it might have been relevant to an affray (page 76). The role of the police is to put forward the evidence to the ODPP and police must respect the legal analysis which that office places upon the evidence.

Secondly, the issue around the blood on the jeans has been considered elsewhere in these submissions. It is submitted that this evidence would have helped to enhance Tracey Clarke's evidence had she been prepared to go to court, for it pinned Bridgett to the lie that he did not go near to Mr. Hamill. That Bridgett could have departed from that lie by advancing a possible innocent explanation constitutes a sound reason for denying him the opportunity of a reinterview. Interviewing Bridgett about the blood was unlikely to have improved the police case against him.

Thirdly, the evidence of Allen and Wright has to be considered, and the question asked, what does it prove? It is submitted that their evidence established that Bridgett was present at the scene and behaving aggressively ("trading punches") but no more than that. It did not prove any connection with the victims.

In his report to the ODPP on the 22 July 1997 (10604) DI Irwin summed up the evidence against Bridgett as: "Recognition by witness A who saw him with four others assault the deceased." He also referred to the fact that forensic evidence would be forthcoming to link blood from Bridgett to Hamill's clothing. Reference was also made to the fact that Bridgett was seen by Jonathan Wright trading punches and seen by Con Cooke at the front of the crowd.

It is also clear that the ODPP liaised with the forensic officer regarding the blood spot and took this into consideration when directing on the case.

It is submitted that the evidence demonstrates that the police were aware of the various evidential strands and the importance of scrutinising them. The case against Bridgett failed not because of any unwillingness or inability to pull various diverse materials together. It failed through lack of evidence when Ms. Clarke withdrew her co-operation.

Submissions by the Public Prosecution Service

Please see the submissions in response to §§9, 12, 13 and 14 of Part 18, below.

Submissions by Richard Monteith Solicitors (Civilian Witnesses)

The reference to "Stacey" does not, if accepted, in our submission link Bridgett to any physical assault on either D or R Hamill. In relation to blood, there is no evidence that this was dropped by him in the course of a physical assault.

A. ALLEN

- 38 The materials are to this effect:
- 38.1 29/4/97. DS Dereck Bradley was instructed by the SIO to produce descriptions and details of possible suspects from the descriptions in the statements p.12442.
- 38.2 9/5/97. Timothy Jameson made a statement. He said he was with Stephen Bloomer and Kyle Magee. He saw a man called McClure and his girlfriend. He saw 'Fonzy' kick the man lying on the ground, p.266. The name "Fonzy" is typed as "Gonzy" p.28505.
- 38.3 9/5/97. Stephen Sinnamon was questioned. He was aware of an incident in the town centre but not of anyone being assaulted. He was with Gregory Blevins, Andrew Allen, Tracey Clarke, Tracey Newell, Pauline Newell, Kelly Lavery, Dean Forbes and Andrew Osbourne, p.8141.
- 38.4 13/5/97. "Fonzy" was identified as Andrew Allen.
- 38.5 15/5/97. Andrew Allen was arrested and interviewed. He accepted his nickname was "Fonzy." Andrew Allen said he was with Rory Robinson and Davy Woods on the night. He was with Rory Robinson at the fight. He stated that a crowd of boys and girls came down Thomas Street. One of the boys hit David Woods in the face, another started fighting with Rory Robinson. Another boy came at Andrew Allen. He ran up Thomas Street and another boy was standing there and swung punches at him. Three or four boys from the bus ran down the street and knocked down the boy that was swinging at Andrew Allen. One of the boys who came off the bus and who knocked his attacker to the ground was Marc Hobson, p.7300 and p.7390.
- 38.6 16/5/97. David Woods was re-interviewed. He said he was struck on the left cheek by a man wearing a dark leather jacket. He said he knew the man was Catholic because the man called David Woods an "Orange Bastard." The man hit him as he was running past and into the town. He denied seeing Andrew Allen or Rory Robinson behind him on the street and said he was on his own. He was aware of hustle on the main street but did not witness the fight and did not see anyone in the crowd, p.7534.
- 38.7 19/5/97. Iain Carville was interviewed and made a statement. He saw Allister Hanvey, Dean Forbes, Andrew Allen at Tracey McAlpine's house after 03.00 p.9184.
- 38.8 20/5/97. Pauline Newell made a statement. She saw Rory Robinson, David Woods and "Fonzy" Allen walking up the street through the town centre towards Thomas Street p.9129.
- 38.9 12/6/97. Andrew Allen was interviewed by DC Keys and DC McDowell. It was put to him that at an earlier interview, there was a typographical error in

the alleged nickname which should have read as 'Fonz' or 'Fonzie'. He declined to answer p.7484.

- 38.10 13/6/97. DC Eric Williamson noted on Message 27 that he had made enquiries in relation to the nickname "Fonzy." He noted that Andrew Allen used to go to college and would be about a year older than [Christopher] Henderson p.2302.
- 38.11 21/10/97. A meeting was held between Roger Davison, Gordon Kerr QC, DS Robert Cooke, DI Michael Irwin, DC Edward Honeyford, Timothy Jameson and Bobby Jameson. From the outset of the consultation, Timothy Jameson said he could not remember what he saw. In particular he could not distinguish in his mind between what he saw and what people had said to him had happened. Gordon Kerr QC quizzed him but he maintained his assertion that he could not remember what happened and only wrote in the statement what the police told him to write p.17591.

Submissions by Gus Campbell Solicitors (Marc Hobson)

The comment at 38.5 regarding Hobson being named by Allen as having come from the bus is incorrect. See comment at section 26.19

39 The witnesses said this:

Dennis Hayes

39.1 Re p.7411 he knew Andrew Allen, in 1997; as Fonzy (p.96).

Christopher Henderson

Statement

39.2 He knew Andrew Allen as Fonz(ie). He had known him for about 3 years.

Andrew Allen

Oral Evidence

39.3 Davy Woods (p.7495) had people coming down Thomas St. Andrew Allen did not recall (p.120).

39.4 Andrew Allen said (p.7305) he was standing by bakery with Davy Woods and Rory Robinson waiting for people to catch up and Catholics walking down Thomas St. in a group attacked them. Andrew Allen did not recall this (p.126). He accepted Tracey Newell saw Andrew Allen, Davy Woods, and Rory Robinson together on street (p.140).

- 39.5 Andrew Allen did not know why he puts them all at Thomas St and Davy Woods and Rory Robinson denied it. He did not attack Catholics as he knew there were groups coming up from Boss Hoggs (p.128).
- 39.6 He was known as Fonzy (p.129).
- 39.7 Timothy Jameson (p.268) puts “Fonzy” as kicking a man on the ground in the face. Andrew Allen denied it (p.130).

Dean Forbes

Statement

- 39.8 Para. 18: He knew Allen as ‘Fonzy’. He did not see him in the fighting.

Michael Irwin

Statement

- 39.9 P.81461: On 15th May, Andrew Allen, also known as “Fonzy,” was arrested based on nickname identification by Timothy Jameson.

Oral Evidence

- 39.10 Andrew Allen was released due to a typo about his nickname in the handwritten statement and that an ID parade could not be arranged that day (p.32).

Submissions by Gus Campbell Solicitors (Marc Hobson)

Mr Allen was not asked to deal with those parts of his interviews recited at 26.19 and 38.5, above.

Submissions by the Police Service of Northern Ireland

See below at section 40.

Comment

- 40 Timothy Jameson clearly identified “Fonzy” as a person who kicked Robert Hamill. Andrew Allen was identified as using that nickname by 13 May 1997, and when interviewed he admitted that he had been present. Timothy Jameson’s statement was considered strong enough to use against the others whom he identified. Despite all of that, Andrew Allen was not prosecuted. The reasons given in the crime report were that an identification parade had been refused and that there was confusion over the nickname. The Panel may wish to consider whether those were spurious. No other suspect was the subject of

an identification parade. It was misleading to say that there was confusion over the nickname. Timothy Jameson's statement, when typed, contained a typographical error, but that was rectified before the crime file was delivered.

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

It seems extraordinary to us that Andrew Allen should be released due to a typographical error about his nickname (39.10), which gave it as "Gonzy" (38.2) rather than "Fonzy". The police were able to identify Andrew Allen as "Fonzy" (38.4, 38.5). The person, "Fonzy", was accused by Timothy Jameson of kicking the man on the ground in the face (38.2, 39.7), a very serious allegation that we believe required a more concerted effort on the part of the police to arrange an ID parade (39.10) in order to dispel any doubt about this minor typographical error and hold Andrew Allen as a suspect.

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

As regards Andrew Allen not being prosecuted, the first evidence the police had was that from Timothy Jameson in his statement, wherein he stated (17655)..

"I then saw another fellow kick the boy lying on the ground. This fellow has black hair and I know him to see about Portadown, he is called 'Fonzy' . He would be in his early 20's. I saw 'Fonzy' kick the fellow lying on the ground, with the black jacket in the face a couple of times"

There is no doubt that confusion arose over the nickname Gonzy/Fonzy. By the 13/5/97 the police had linked the nickname to Andrew Allen.

Andrew Allen was arrested and interviewed on the 15/5/97. There had clearly been an issue of a typographical error where "Fonzy" had been written as "Gonzy" Allen stated in interview that his nickname was "Fonz" at 7326. It seems apparent from 7342 of the interview of Allen on that date that the police were aware that "Gonzy" should be in fact "Fonzy"..

"To be fair you know, the evidence that we have from this one particular witness, he calls the person 'Gonsey' but in our enquiry and from the other people that we have spoke to here it is 'Fonsey' and it is probably, it is a mistake by the person in the name but we would be satisfied from the description and what he is saying that it was yourself as this man has already said to you, that it is yourself that he is referring to .

ALLEN Yes."

It could not be suggested by any stretch of the imagination that Allen could have be charged on the basis of this evidence per se. He was released on bail to be re-interviewed on the 12/6/97. What the police required now was to hold an identification parade or confrontation so that Jameson could identify the person he knew only as "Fonzy". Jameson refused to attend an identification

parade for this purpose. There was no prospect of prosecuting Andrew Allen in these circumstances.

Submissions by the Police Service of Northern Ireland

The only evidence of substance which implicated Andrew Allen with involvement in the murder was the statement provided by Timothy Jameson who named him as "Fonzy".

A difficulty arose because "Fonzy" was mistakenly transcribed as "Gonzy". Accordingly, Allen was in the circumstances appropriately released on bail to have the identification issue clarified by way of an identification parade. A number of resources have to be put in place before an ID parade can take place. It cannot be organised instantaneously. DC Honeyford was directed by DI Irwin to make arrangements with Timothy Jameson but Jameson declined to participate (see page 31 and 32 of DI Irwin's oral evidence). These facts were reported to the ODPP and as no other evidence existed against Allen, no charges against him were directed.

It is correct to say that no other suspect was subjected to an ID parade. However, the circumstances applicable to Allen were unique.

Submissions by the Public Prosecution Service

Please see submissions in response to §§8, 22 in Part 18, below.

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

The hand written statement of Timothy Jameson initially identified Andrew Allen as: "Gonzy or Fonzy". It was realised under interview that this was Andrew Allen who was on bail to facilitate an I.D. parade which Allen had requested. Timothy Jameson was asked to participate in an identification parade with Andrew Allen in it but he refused. Michael Irwin put all this information into the crime file. Michael Irwin was then contacted by Mr Davidson of the DPP (18096) and opined that since Drumcree 1997 the attitudes of Protestants had hardened and there may be problems with Timothy Jameson's and Tracey Clarke's willingness to give evidence. Apart from the foregoing, it is difficult to see how Michael Irwin could have done more.

R. ROBINSON

41 The materials show this:

41.1 27/4/97. Con Gordon Cooke made a statement in which he identified Rory Robinson as being in the crowd. Rory Robinson was in a yellow shirt and beige trousers p.9225.

- 41.2 27/4/97 Con Godfrey Dean Silcock made a statement in which he said Rory Robinson was verbally abusive to him and members of the public. He described Rory Robinson as wearing a bright yellow/orange shirt with a black check p.9220.
- 41.3 27/4/97 Con Alan Neill made a statement. Other police had arrived and were standing with Rory Robinson who was in his 20s, short black hair, thin with pointy features. This man was taunting the injured men. Rory Robinson was moving back and forward across the line trying to get through. He squared up to Constable Alan Neill a few times. He assisted **Con A** take Wayne Lunt to the Land Rover, and he saw Stacey Bridgett with blood around his mouth p.6332.
- 41.4 29/4/97 DS Dereck Bradley was instructed by the SIO to produce descriptions and details of possible suspects from the descriptions in the statements p.12442.
- 41.5 29/4/97 Police questioned Rory Robinson, by questionnaire. He said he was wearing white and brown pinstriped jeans, an orange shirt with a check pattern and a blue bomber jacket with a chevron on it. He was described as 5'10" to 6', of light to medium build, clean shaven, straight dark hair, middle parting, with pale complexion p.8125.
- 41.6 30/4/97 Donald Blevins spoke to police. He said that he saw Rory Robinson in the crowd p.13319.
- 41.7 6/5/97 Dean Forbes said that by the time he got to the Land Rover, there was a row going on. He described men kicking at the body. One was 5'9" or 5'10", with broad shoulders, black bomber jacket, black jeans and shoulder length black hair. The other was 6'0", dark green shirt, brown short hair, possibly black trousers p.6988.
- 41.8 9/5/97 Timothy Jameson made a statement. He was with Stephen Bloomer and Kyle Magee. He saw Rory Robinson, who was wearing cream coloured jeans, fighting p.266.
- 41.9 10/5/97 Tracey Clarke spoke to DC John McAteer and commenced a statement. Tracey Clarke was interviewed in the presence of Andrea McKee p.262.
- 41.10 10/5/97 22:12 Rory Robinson was interviewed for the first time. He denies that he was struck by a policeman and that he was part of a crowd being aggressive 7559 at 7622.
- 41.11 11/5/97 10.27 Rory Robinson was interviewed for a second time. He denied that he was in the front line, taunting the police or taunting any injured person and he denies squaring up to a policeman p.7648.

- 41.12 11/5/97 13.09 Rory Robinson was interviewed for a third time. He denied that he was one of the group kicking a person on the ground p.7711 and he denied the allegation of a witness who noticed him fighting p.7717.
- 41.13 15/5/97 Andrew Allen said he was with Rory Robinson and Davy Woods on the night. He was with Rory Robinson at the fight. He stated that a crowd of boys and girls came down Thomas Street. One of the boys hit David Woods in the face, another started fighting with Rory Robinson. Another boy came at Andrew Allen. He says he ran up Thomas Street and another boy was standing there and swung punches at him. Three or four boys from the bus ran down the street and knocked down the boy that was swinging at Andrew Allen. One of the boys who came off the bus and who knocked his attacker to the ground was Marc Hobson. Andrew Allen indicated that Marc Hobson was fighting in a violent crowd and so was Rory Robinson pp.7300 and 7390.
- 41.14 15/5/97 Jonathan Wright made second statement. He said the content of the first statement (p.9137) was correct up to where he got to the Church. Jonathan Wright stated that there was a lot of people shouting, "Fenian Bastards." There were two or three from the catholic crowd shouting, calling the Protestants, "Orange Bastards." The fighting lasted about five to ten minutes. He saw Rory Robinson in the middle of the crowd running around like a headless chicken p.9141.
- 41.15 16/5/97 David Woods was re-interviewed. He said he was struck on the left cheek by a man wearing a dark leather jacket. He said he knew the man was Catholic because the man called David Woods an "Orange Bastard". The man hit him as he was running past and into the town. He denied seeing Andrew Allen or Rory Robinson behind him on the street and said he was on his own. He was aware of hustle on the main street but did not witness the fight and did not see anyone in the crowd p.7534.
- 41.16 20/5/97 Pauline Newell made a statement. She saw Rory Robinson, David Woods and "Fonzy" Allen walking up the street through the town centre towards Thomas Street p.9129.
- 41.17 17/10/97 15.30. A meeting was held with Roger Davison, Gordon Kerr QC, DS Robert Cooke, DS Dereck Bradley, DC John McAteer, Tracey Clarke and Tracey Clarke's parents, [REDACTED] and Jim Murray. Roger Davison recorded that Tracey Clarke was able to recite the events of the night in accordance with her statement without having had an opportunity to refresh her memory. He considered that she was reasonably articulate and seemed to be telling the truth. If she were to give evidence he considered that she would come across as very truthful. Tracey Clarke expressed that she would rather die than give evidence p.17591.
- 41.18 21/10/97 A meeting was held between Roger Davison, Gordon Kerr QC, DS Robert Cooke, DI Michael Irwin, DC Edward Honeyford, Timothy Jameson and Bobby Jameson. From the outset of the consultation, Timothy Jameson said he could not remember what he saw. In particular he could not distinguish in his mind between what he saw and what people had said to him had

happened. Gordon Kerr QC quizzed him but he maintained his assertion that he could not remember what happened and only wrote in the statement what the police told him to write p.17591.

41.19 28/12/00 **Sgt P89** recalled that Res Con Robert Atkinson struck Rory Robinson in the stomach because of the note he made but has no actual recall of this now p.11084.

Submissions by Gus Campbell Solicitors (Marc Hobson)

See comments above at section 26.19, 38.5 and below at section, concerning 41.13.

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

Reserve Constable Atkinson confirms that he struck Rory Robinson.

Submissions by Richard Monteith Solicitors (Tracey Clarke)

See Comment at 35.21

42 A number of witnesses gave relevant evidence:

Stacey Bridgett

Oral Evidence

42.1 He knew Rory Robinson but did not see him at scene (p.80).

Victoria Clayton

Oral Evidence

42.2 She knew Rory Robinson. If she had seen him she would have recognised him (p.113).

Timothy Jameson

Statement

42.3 Para. 25: He did not see “Robinson fighting.”

Rory Robinson

Statement

- 42.4 Para. 7: He described himself at pp.7579-81 as wearing an orange checked shirt, blue bomber jacket and cream pinstripe trousers. He could not now remember what he was wearing.

Donald Blevins

Oral Evidence

- 42.5 He thought Rory Robinson ran through police lines and swung at someone on Catholic side but did not recall really who that was (p.97) as he was walking towards the incident at time (p.107). He remembered the incident, not the person (p.98).
- 42.6 He did not know why Rory Robinson was shouting (p.98).
- 42.7 Rory Robinson and Dean Forbes were standing at opposite side of Woodhouse St from him. They were arguing and shouting at each other (p.106). They were in the crowd trying to get through the police line (p.107).

Gordon Cooke

Statement

- 42.8 Para. 16: He saw Rory Robinson: 5'7", thin build, short to medium black hair wavy at front. Prominent front teeth and thin face. Yellow fine check shirt and beige trousers. He tried to push past police a few times. He was not aggressive.

Oral Evidence

- 42.9 Rory Robinson tried to push past police (p.10).

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

No comment other than to refer the Panel to the evidence in Section 7 that Reserve Constable Atkinson struck Rory Robinson with his baton.

Comment

- 43 The Panel may wish to consider whether the totality of the witness evidence save for that of Tracey Clarke and Timothy Jameson made out any case against Mr Robinson.

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

Both Andrew Fonzy Allen (41.13) and Jonathan Wright (41.14) say they saw Robinson fighting, thus corroborating Tracey Clarke's and Timothy Jameson's statements. However, Timothy Jameson named Fonzy as one of the assailants, thus attacking his credibility.

Sgt P89 said that RC Atkinson struck Robinson in the stomach with his baton (41.19) and RC Atkinson admitted striking Robinson with his baton (module 6, 13.18). It seems unlikely that Atkinson would have done this or P89 would have reported seeing it unless Robinson was behaving aggressively. If this incident did occur, then it was probably after Robert Hamill had been kicked unconscious, as P89 did not come on the scene until then. However, it is often found that people who have been engaged in a violent attack remain "hyped up" and violent for some time afterwards.

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

There was no prospect of a successful murder charge against Robinson without the evidence of Tracey Clarke and Timothy Jameson

Submissions by the Police Service of Northern Ireland

The evidence shows that apart from Tracey Clarke and Timothy Jameson no other witness could give evidence which was capable of connecting Robinson to the death of Mr. Hamill. Certainly, police uncovered evidence that he had behaved aggressively at the scene (eg. Constable Neill, Con. Silcock), but such evidence was inconsequential unless there was evidence of a connection with Mr. Hamill. Any such connection disappeared with the withdrawal of the evidence of Clarke and Jameson.

Submissions by the Public Prosecution Service

Please see submissions in response to §§8, 22 in Part 18, below.

M. HOBSON

44 The materials are these:

- 44.1 27/4/97 Con Gordon Cooke made a statement in which he identified Marc ██████████/(Hobson) as being in the crowd. Marc ██████████/(Hobson) was in a black leather jacket and blue denim trousers p.9225.
- 44.2 27/4/97 **Constable P40** described a person consistent with Marc Hobson's appearance being aggressive p.6349.

- 44.3 27/4/97 Con Alan Neill stated that he assisted in getting the crowd back up the street. During that, he saw a male, late 20s, round face with goat beard and very short hair, wearing a leather type soft casual waistcoat kick at Robert Hamill. This male with the goat beard was moved back as best as possible. He was taunting the injured men. Con Neill recalled the man with the goat beard assaulting someone and having to strike him with his baton p.6332.
- 44.4 28/4/97 Occurrence report referred to use of batons by Con Alan Neill in an incident involving man described as "unknown male, stocky built, goat style beard, short dark hair wearing leather waistcoat." p.9931.
- 44.5 29/4/97 DS Dereck Bradley was instructed by the SIO to produce descriptions and details of possible suspects from the descriptions in the statements p.12442.
- 44.6 6/5/97 [REDACTED] was ruled out as having been mistakenly identified by Con Gordon Cooke. The person in question was identified as Marc Hobson, pp.12443 and 9228.
- 44.7 9/5/97 A statement was taken from Marc Hobson. He said he was with Allister Hanvey and Jonathan Wright in Dean Johnston's flat. Leanne Hobson, the girlfriend of Dean Johnston, was there. Allister Hanvey, Marc Hobson and Jonathan Wright walked into town at 01.30 to 02.00. They walked to the Chinese takeaway in West Street. They then walked down into the town. As they got to the call-a-cab office they were stopped by a drunk man who asked for a cigarette. Marc Hobson and Jonathan Wright stopped and Allister Hanvey walked on. Marc Hobson says he then walked on with Jonathan Wright as they were going to meet the people from the Banbridge bus. By the time they reached the church, the police were moving people up the street towards the church. Marc Hobson and Jonathan Wright sat on the wall in front of the church. He saw a body lying in the street. He saw no one near the body and said there was no fighting or shouting. There was an ambulance in the middle of the street. He then left and went back to Dean Johnston's flat on his own. Jonathan Wright walked up Hanover Street. He says that he got back to Dean Forbes' flat by 02.30. Dean Johnston and Leanne Hobson were there. Marc Hobson sat and talked to them then fell asleep. He left the next morning at about 07.00. He said he was wearing a black leather jacket, blue jeans, grey sweatshirt and white Nike training shoes, p.9594.
- 44.8 9/5/97 Timothy Jameson made a statement. He says Marc known as 'Muck' from Deerpark was fighting a man with a grey Umbro sweater and blue jeans. He describes Muck as having short brown hair, a goatee beard and is overweight. Thinks he was wearing a black leather jacket. Saw him knock the man to the ground then fight with a man in blue shirt and tie in mid 30s with short ginger hair p.266.
- 44.9 9/5/97 Tracey Clarke spoke to DC John McAteer and commenced a statement, which would be finished the next day. Tracey Clarke was interviewed in the presence of Andrea McKee p.262.

- 44.10 10/5/97 14.21 Marc Hobson's first interview of the day took place p.6701.
- 44.11 15.00 Policy file decision nine was made. Con Alan Neill was to attend the confrontation identification of Marc Hobson. It was recorded that no other officers are requested to attend as it was necessary to interview them in relation to their ability to identify suspects. Due to the ICPC not being available, the interviews were not carried out p. 922.
- 44.12 Con Alan Neill identified Marc Hobson at a confrontation ID parade p.9831.
- 44.13 10/5/97 Crimestoppers named Philip Lunt, Wayne Lunt, Marc Hobson, Andrew Osbourne and another male who was living in England p2262.
- 44.14 11/5/97 Jonathan Wright was interviewed and he identified Allister Hanvey as wearing a grey top with orange stripes on both arms. He said Marc Hobson was wearing blue jeans, white trainers and a blue sweater 9139. He said he was with Marc Hobson and Allister Hanvey. Jonathon Wright was described as 5'11", clean cut, clean shaven, tanned with short dark hair p.8147.
- 44.15 11/5/97 Dean Johnston made a statement. He said that Allister Hanvey, Marc Hobson and Jonathon Wright were together at his home until about 01.35 or 01.40. Marc Hobson returned alone between 02.30 and 03.00 p.9605.
- 44.16 12/5/97 Leanne Hobson made a statement and said that Marc Hobson, Allister Hanvey, Jonathan Wright, Gregory Blevins had been to the flat of her boyfriend (Dean Johnston) before the incident. She was not sure what time they left. Marc Hobson returned to the flat at about 02.30. He was on his own p.9603.
- 44.17 15/5/97 Andrew Allen said he was with Rory Robinson and Davy Woods on the night. He was with Rory Robinson at the fight. He stated that a crowd of boys and girls came down Thomas Street. One of the boys hit David Woods in the face, another started fighting with Rory Robinson. Another boy came at Andrew Allen. He says he ran up Thomas Street and another boy was standing there and swung punches at him. Three or four boys from the bus ran down the street and knocked down the boy that was swinging at Andrew Allen. One of the boys who came off the bus and who knocked his attacker to the ground was Marc Hobson. Andrew Allen indicated that Marc Hobson was fighting in a violent crowd pp.7300 and 7390.
- 44.18 15/5/97 Jonathan Wright made a second statement. He said the content of the first statement (p.9137) was correct up to where he got to the Church. He could see a fight further down in the middle of the street between 20 to 30 people. He saw a man about 25 years old with very short hair standing behind the crowd in the middle of street. Man was wearing a blue shirt, striped tie and dark trousers. He was shouting towards the crowd of Protestants to come on. There was fighting going on in the crowd he was shouting at. Marc Hobson then left him and ran down into the crowd. He saw Marc Hobson being pushed about by the crowd and lift his hand to reach out for somebody p.9141.

- 44.19 19/5/97 Iain Carville was interviewed and made a statement. He said he was with Christopher Henderson at about 02.30 in the town and they saw an ambulance pulling away from Thomas Street. The crowd was heading out of town. He met Marc Hobson and possibly Allister Hanvey and went to Tracey McAlpine's p.9184.
- 44.20 19/5/97 Gregory Blevins made a statement. He walked to Dean Johnston's flat with Marc Hobson, Jonathan Wright and Allister Hanvey. Leanne Hobson was there. Marc Hobson, Jonathan Wright, Allister Hanvey and Iain Carville left between 01.15 and 01.45. Donald Blevins walked with them as far as the roundabout and went home but the others walked on towards the town p.9618.
- 44.21 21/5/97 Stephen Sinnamon was re-interviewed by DC Eric Williamson who did not believe his first account. Stephen Sinnamon did recall whom he walked from Boss Hogg's to St Mark's church with. He had said initially that he walked with Pauline Newell and Tracey McAlpine but it was pointed out to him that neither had mentioned him. He then stated that he walked on his own. He remembered seeing Mark Hobson and Allister Hanvey but didn't walk with them. He denied seeing the fight but saw people running about. DC Williamson didn't believe that account and he's evasive in his answers, he comments Stephen Sinnamon knows or witnessed more but will not divulge it p.3692
- 44.22 26/5/97 Con Gordon Cooke made a statement to confirm that the man he saw in the crowd, he had previously identified as [REDACTED], was in fact Marc Hobson p.9228
- 44.23 8/9/97 Res Con P40 said there was one man that stood out to him who was waving his finger and shouting. He said that he was being very abusive and he wanted to get to the person lying on the ground. The man had very short, black hair, a goatee beard and a black moustache and was stockily built p.9387.
- 44.24 17/10/97 15.30. A meeting was held with Roger Davison, Gordon Kerr QC, DS Robert Cooke, DS Dereck Bradley, DC John McAteer, Tracey Clarke and Tracey Clarke's parents, [REDACTED] and Jim Murray. Roger Davison records that Tracey Clarke was able to recite the events of the night in accordance with her statement without having had an opportunity to refresh her memory. He considers that she is reasonably articulate and seemed to be telling the truth. If she were to give evidence he considers that she would come across as very truthful. Tracey Clarke expressed that she would rather die than give evidence p.17591.
- 44.25 21/10/97 A meeting was held between Roger Davison, Gordon Kerr QC, DS Robert Cooke, DI Michael Irwin, DC Edward Honeyford, Timothy Jameson and Bobby Jameson. From the outset of the consultation, Timothy Jameson said he could not remember what he saw. In particular he could not distinguish in his mind between what he saw and what people had said to him had happened. Gordon Kerr QC quizzes him but he maintained his assertion that

he can not remember what happened and only wrote in the statement what the police told him to write p.17591.

- 44.26 18/11/97 A further direction in respect of Hamill [sic – Hobson], will depend on clarification of whether Constable Alan Neill saw Hobson kick or attempt to kick at Hamill. A further statement should be taken from Constable Alan Neill p.18041.
- 44.27 21/11/97 Con Alan Neill said he was involved in breaking up a fight when he saw a person whom he now knows to be Marc Hobson standing beside Robert Hamill, near his head and shoulders a couple of feet away at the very most. Con Alan Neill had a clear line of vision and after Marc Hobson had spoken a few words to Robert Hamill he kicked him in the shoulder or head area although he is not sure whether Marc Hobson made contact p.10948.

Submissions by Gus Campbell Solicitors (Marc Hobson)

Document at page 2262, at para 44.13 above, was only supplied in redacted form and was not placed before the panel in evidence. It is impossible for us to have any view on the significance of this used at this stage in the proceedings

Inspector Irwin's notebook entry at 12292 records that he left D/S Lawther to check the alibi provided for xxxxxx. He then authorised his release unconditionally.

The statement of XXXX located at p09645 was a supposed alibi statement taken from a person in xxxxxxxxxxxx's company. The nature of the alibi was that both had been drinking heavily and had slept in the same house but in different bedrooms from 7.30pm on 26 April 1997 until 11.30am the following morning

Tracey Clarkes statement deals with the participation in murder of 5 persons in 5 lines, p263.

- 45 The witnesses said as follows:

Neil Ritchie

Oral Evidence

- 45.1 At the time Marc Hobson had a shaved head, was slightly stocky, and had a goatee (p.70).

Jonathan Wright

Oral Evidence

45.2 Per p.9139: he was up by the Church. Marc Hobson was beside him (p.85). Marc Hobson and he decided to go home, about 0205. He walked to the left hand side of the church, Marc Hobson to the right hand side. Marc Hobson wore blue jeans, white trainers and blue sweater. He did not recall if he had a jacket (p.86).

45.3 Marc Hobson had a goatee on the night (p.107).

Timothy Jameson

Statement

45.4 Para.18: He did not know Muck's name was Marc. If he had seen him fighting he would not have picked out that he was wearing a grey Umbro sweater.

45.5 Para. 21: He did not see Muck knock a man to the ground.

Marc Hobson

Statement

45.6 Para. 13: He knew Tracey Clarke, as she was going out with Allister Hanvey. Tracey Clarke did know him as "Muck".

Oral Evidence

45.7 Per p.9669 "Saw man, late 20s, with goat beard and very short hair wearing leather-type waistcoat kick at Robert Hamill." Marc Hobson says this was misidentification (p.140) p.9226: identifies a man wearing black leather jacket in crowd who tried to push past.

45.8 Per p.11063: Marc Hobson did not know if Con Cooke knew him. He said it was another misidentification (p.142).

45.9 Per p6350: Marc Hobson said it was not him and must be unsure to change statement a month later (p143).

45.10 [REDACTED] lived in same area as Hobson, had goatee beard, short hair, roughly 6', heavy build (p.198).

45.11 He said Con Neill made up his kick or was mistaken identity (p149). Con Neill confronted Marc Hobson in a room and said "that's the man kicking at the head of Robert Hamill." (p.150). He did not know if there was a conspiracy by police to frame him (p.151).

Gordon Cooke

Statement

45.12 Para. 18: He asked Marc Hobson to move up street a few times and several times he tried to go past. He was quiet and not aggressive.

Oral Evidence

45.13 He identified [REDACTED] at the scene. After his return from a two week holiday, he was asked by DS Bradley if he was sure he'd identified people correctly. He realised he had put [REDACTED] instead of Hobson so changed it and a made statement on 26/5/97. He knew both of them and put the wrong name to the face (p.11). Marc Hobson's name not put in his head (p.39). Marc Hobson lives in totally different area from [REDACTED] (p.36). He put address of [REDACTED] in as he remembered [REDACTED] address (p.37). He made p.11063 to correct the mistake (p39). "Hobson is 5'6", medium to slender build, very short dark blond hair. Clean shaven," (p.11063) is an accurate description but Hobson is more medium build (p.40). Page 8144 described Hobson as "5'8", short brown hair, sideboards, moustache, goat beard, 14 stone, well built" (p41). Page 268 described Hobson as "very short brown hair, goatee and overweight." Con Cooke said his and other descriptions about weight do not match. He did not recall the person he identified as having a goatee (p42). In p.6719 Hobson described himself as "5'8", 14 stone, very short brown hair, long trimmed side burns, goatee that he has had for years (p44) overweight" (p45). Page 9969 stated [REDACTED]/Hobson had "goatee and wearing black jacket" (p68)

Alan Neill

Statement

45.14 Para. 31: He saw Marc Hobson kick at the back of Robert Hamill's head. He did not see a kick connect or Robert Hamill's body move. He had a largely uninterrupted view.

Oral Evidence

45.15 Per p.6334 "a male, late 20s, round face with goat beard and very short hair, wearing a leather-type, soft casual waistcoat, was near me and I saw him kick at the injured man I now know as Robert Hamill". He believed that was accurate and he was involved in other fights at the time (p86). Marc Hobson was 10 – 20 feet from him. He had a clear view of Marc Hobson (p87). In evidence he gave it as 20 – 30 feet (p89). Per p.6334 "male with goat beard was moved back as best as possible." He did not know who moved him back (p90). Marc Hobson was the only one he saw at Robert Hamill (p94). He could not give a description of the first fight he went to with Res Con Atkinson (p95).

Submissions by Gus Campbell Solicitors (Marc Hobson)

In Con Neill's interview under caution in September 1997 he dealt with the moment when he saw the man with the goat beard at page 09426, "two ladies were getting verbal abuse as well as the two fellas that were lying on the

ground, and I was trying to keep them back and it was about that stage that the fella with the goatee beard"

Comment

- 46 The case against Marc Hobson was well constructed. No criticism has been made of it save by Mr Hobson himself. The Panel may conclude that the RUC recognised that confrontation evidence could be useful, and consider why it restricted its use to Hobson. Other potential suspects were seen by other police officers, but no thought appears to have been given to conducting identification parades or other confrontations.

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

The case against Marc Hobson was anything but well-constructed. Constable Neill said at Hobson's trial that he saw him aiming a kick at Robert Hamill, but could not say if the kick connected. That was the height of the evidence against Hobson, and he was convicted of the minor charge of affray.

It is true that the RUC made slightly greater efforts in Hobson's case than in that of other suspects, in that they went so far as to organise a confrontation identification - infinitely less desirable than a full ID parade - but it is difficult to interpret this as anything more than going through the motions.

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

There were no other potential suspects for whom it was appropriate to conduct an identification parade or confrontation. It is not clear to us who it is suggested should have been confronted or identified or by whom. If a person is known to a witness, it would not be appropriate to have a confrontation or identification parade.

Mr Kerr Q.C. was asked about this in the following passage at p89.

"Q. Now, can you help us in relation to your thoughts when
15 you got the police file and were asked to advise in
16 relation to the various issues? Did it ever occur to
17 you that the police had not carried out identification
18 parades or confrontations where they should have in this
19 case?
20 A. No. It seemed to me that the police had been very, very
21 active in pursuing the case as far as they could."

Submissions by Gus Campbell Solicitors (Marc Hobson)

It is not accepted that the case against Hobson was at all well constructed.

To maintain that the case for murder was well constructed would appear to ignore the core problems facing the DPP; they had an indictment alleging murder that was on the papers quite impossible to prove: the most that could be established was that he had participated in a violent gesture well after the acts that felled Robert Hamill had occurred; to prove a murder allegation would have required evidence of a joint enterprise not immediately obvious on the papers.

There were two main difficulties with the case being made against Hobson;

Firstly, in terms of the material available at his trial it relied heavily on the evidence of Con Neill who accepted in evidence before the Inquiry that the spotlight was on him when it came to the trial. It was supported in a small but crucial cameo role by Res Con Atkinson's evidence. There are question marks over the credibility and honesty of both of these witnesses.

Secondly, in terms of the totality of the evidence available before this Inquiry the main additional witnesses, Tracey Clarke and Timothy Jameson raise serious questions over their reliability.

In the trial the Crown faced a number of difficulties over the evidence of Constable Neill. In an ideal prosecuting world Constable Neill's evidence would have been corroborated by a number of other similar accounts. There were none in this case. There was a live issue as to whether the Police had been out of the Land Rover at a time that would have enabled Neill to witness what it is he alleged against Hobson. That is why Res Con Atkinson was called as a witness at the trial. This was despite the fact that he was at that same time and had been for the past 18 months under investigation for criminal conduct arising directly out of his involvement in this case.

The view was obviously taken by the DPP in advance of the trial that any concerns about Res Con Atkinson did not affect his value as a witness in support of Con Neill. It is submitted that the evidence on this does not support such a charitable view. If there was a belief that Atkinson had perverted the course of justice in the tipping off there was at least a concern that his acts in perverting justice extended beyond merely keeping quiet about Hanvey and keeping him informed of the progress of the investigation. There is bound to be at least the suspicion that he would need to have the one constable in whose company he was for most of that night informed and on his side. That constable was, of course, Alan Neill.

We submit that there is material which supports the argument that both Neill and Atkinson lied in the trial of Hobson and lied to this Inquiry. These lies were not mere coincidence but were orchestrated in an effort to achieve three things; the deflection of criticism in the face of neglect of duty allegations; the covering up of Res Con Atkinson's tipping off; a united front by all members of the Land Rover crew. We submit that the materials not only strongly suggest that this occurred but that it was most likely hatched on the way back to the police station those same police having assisted in restoring order.

The materials and arguments in support of this are:

1. Constable Neill does not mention seeing Hanvey at all until pressed about it in 2001, p17248.

2. The preponderance of the evidence supports the view that Robert Hamill was felled very rapidly. This evidence also strongly supports the view that this was before the Land Rover crew got out. The most compelling evidence is that a member of the public was moved enough to go to the Land Rover and complain that they had sat there and watched it happen. All of the Land Rover crew claim that there were no bodies on the ground when they first alighted from the vehicle. This is an orchestrated lie by each of the crew to deflect criticism, at the least.

3. Con Neill's account of seeing Hobson kicking at Robert Hamill must have occurred before the arrival of back-up officers. It was not supported by any other witness, catholic, protestant or police. This is quite amazing and cannot be explained by the chaos, confusion and disorder of the occasion. The timeline strongly supports the view that once he was felled his relatives and other police were in attendance very quickly. This included Cons Neill, Cornett, and P40. His claim that he saw this "kick at" while he was dealing with a fight is a lie: there simply was never any opportunity for Robert Hamill to be left alone and exposed like this after he was put to the ground. There is no evidence in support of any "window of opportunity".

Two pieces of evidence condemn him as a liar:

i. His evidence to the Inquiry concerning his use of the phrase "kicked" or "kick at" showed that by the time he came to make his November 1997 statement he had deliberately decided to lie. His interview under caution in September 1997 was a contradiction of his November statement; it was an exaggerated lie. It was suggested in oral evidence that one reason why he would have lied about this was that the spot light was about to fall on his evidence at Hobson's trial as the cases against the other defendants was collapsing. Whatever his motives in making the allegation in the first place, his decision to water it down most likely stems from an attack of conscience.

ii. It was always a mystery how Con Neill could have seen Hobson in the confused situation while dealing with the crowd as he claimed he was doing. in his first statement. It was his evidence before the Inquiry that he was dealing with a fight when he happened to see from about 10-20 feet Hobson kick at Robert Hamill. The preponderance of the evidence from the other Land Rover crew, supported by the back-up officers, was that the crowd were trying to attack the nationalists and were being pushed up the street by, first of all the land Rover crew and then helped by the back-up officers when they arrived. This would have meant that any officer so engaged would almost certainly have had to have their back to the two prone men with the crowd as best possible being contained on the St Marks church side of the Thomas Street junction. P40 and Atkinson confirmed this in evidence. When Con Neill came to give evidence at Hobson's trial he would have realised that, in order to see Robert Hamill being kicked, he would have needed to have been

looking straight at him or at least have him in front of him. He could not easily see him if he was pushing the crowd back who were trying to get at Robert Hamill as Robert Hamill would have been behind him. His snap-shot given in evidence is nothing more than an exercise in deceit. It contradicts both of his colleagues in the juxtaposition of Robert Hamill, police and crowd and for good reason. It is the only such placement that affords him an opportunity of seeing what he claimed. If one needs further confirmation of this deceit one only need consider that with such a juxtaposition Robert Hamill and D would have been exposed to the threat all officers claimed they were trying to protect them from.

Is that why in his statement dated 27 April 1997 Con Neill referred to what he was doing as “assisting in getting the crowd back up the street” but when it dawned on him that this would prove to be a problem he changed that to being involved in a fight in his evidence at the trial and in subsequent accounts?

Is that also why when his statement was put to him in evidence at the Inquiry about keeping the crowd back he “yes I believe I was involved in one or other fights?” We submit that this was a very deliberate and subtle correction so as to maintain the consistency of his account.

4. Constable Neill could not give a description of the person who had run at Mr Hamill with a bottle or say how many women there were in the nationalist crowd. He was unable to describe the "good Samaritan "who had passed in front of the land rover at an early stage in the events of that evening nor could he describe any of the loyalists who had attacked the nationalists . He was unable to describe a nationalist who ran in and punched a man although he managed to grab him. Nor could he describe any of those who were fighting with Reserve Constable Atkinson. He could not describe the person whom he claimed was running at Robert Hamill with a bottle. All of these highly significant events, in particular the two or three occasions when he would have been in very close proximity to the people, he could not describe. In contrast the description of Hobson or xxxxx he provided was remarkably detailed for an observation lasting only a couple of seconds

5. The evidence of Tracey Clarke calls for special caution. As opened by counsel to the Inquiry “one can't form a view about the credibility of Tracey Clarke until one has heard all the evidence of Andrea McKee, and perhaps vice versa”.

Clark provided a unique challenge for Hobson and falls to be considered like so many witnesses in a unique way. It is accepted that she may have been very close to the incident that night and she may have seen a lot or some of what occurred. There are some who would like to take her statement to the police and hold it up as the oracle for what happened.

She presented a unique challenge to the Inquiry because she has abandoned her initial statement and instead claimed that she did not see what she claims to have seen and explained her early statement by stating that her aunt Andrea McKee and the police were responsible for the lies contained in that statement.

There are so many question marks over the accuracy of her 10 April 1997 statement as to merit caution before acting upon it. Clarke herself could not be cross-examined upon it in the normal manner since she had abandoned it. To properly evaluate her evidence one has to consider the circumstances she found herself in at that time.

An objective analysis of her position on the street that night. She was cross examined on this. According to earlier statements she was on the ground outside Poundstretcher. The positioning of Robert Hamill's body on the ground would be an important determiner over whether she was in any position to see anything

When she spoke with Andrea McKee on the Sunday morning she was excited and was open and talking freely about what had happened the previous night and earlier that morning. She was keen to talk about events but did not say anything about Hanvey's involvement still less about the involvement of others

It was only during the week as rumours and talk filled the streets of Portadown that she said anything about the involvement of anyone. It is striking the ease with which she talked to her aunt about these events and the identification of those involved and the ease with which she spoke to people at the Tai Kwan Do Club and the police and made her statement. She was clearly a chatter and gossip. There is no reason why such a gossip could resist giving every and all details to Andrea McKee much earlier? We submit that the key to her veracity lies in the answer to the question; why if she had seen all that she claimed did she not tell her aunt about it all that morning

There must clearly be a temptation to accept her evidence as the absolute truth about what happened. It would provide a much bigger field of persons responsible for Robert Hamill's death. The prospect of her having told lies is perhaps unimaginable for some but there is material that suggests she may have been lying.

- i. Her opportunity to see what she alleges would not have been ideal.
- ii. Her silence to Andrea McKee when she visits her at her home on Sunday morning
- iii. The lack of any detail in her statement about such a violent event. The incident in which she describes those involved in this brutal murder includes an account of what is done to Robert Hamill by five persons she purports to identify, and who they were. This consumes a total of 5 lines in her statement. There is no effort by the crown to obtain a more detailed account. No consideration appears to have been given to the holding of any identification procedure involving Tracey Clarke and Marc Hobson. It is not accepted that Clarke's evidence in her statement to police amounts to recognition - she simply identifies him as Muck (17328). All others are specifically named.

iv. Clarke in her oral evidence states that she did not see anybody kick or hit anybody (p12.8 & 12.9) and furthermore adds that the names were suggested to her by police (p13) and she had heard them about the town. When asked if she knew any of the ones she had named in her statement, she stated that she did not know all of them and at the time she did not know Muck, she knew Marc Hobson now but not then, p50 (Clarke's Oral evidence). Cognisance must therefore be given to the scenario whereby police did not hold an identity parade with Clarke and Hobson because it was clearly understood by them that she did not in fact know who he was.

v. The difficult relationship between the Hanvey and Clarke .

vi. The fact that a medical note records an acknowledgment by her of Hanvey's involvement. Doesn't name anyone else.

6. In our submission, the alibi for xxxxx was accepted on nothing more than a hunch; they just believed xxxxxxx's account. The danger is that this acceptance falls into the trap of "we have Hobson, xxxxx is not Hobson, eliminate xxxxx from the equation and you have a nice neat Hobson". The alibi was not in fact an alibi and if called in support of xxxxx at any trial would have been dismissed by the judge as not amounting to an alibi. The address was close enough for xxxxx to be there, and he was out of his friends sight for many hours, he was also considerably drunk.

7. Andrew Wright said he did not see any fighting when he was present. DC Honeyford took his statement in which he alleged that Hobson was involved in fighting. It was put to him in evidence that he had coerced Wright's free will into saying things in the second statement that had not occurred. It is submitted that DC Honeyford had the capacity as a "no nonsense" police officer to become irritated at Wright for , as far as he was concerned, lying in the PFQ and first statement and that he would have been tempted to treat him with hostility in the session that produced the second statement as alleged by Wright in evidence.

8. Con Cooke; see our comments in section 7.

9. P 40; see our comments in section 7.

Submissions by the Police Service of Northern Ireland

Confrontation was useful in the case of Hobson because it was considered that Con. Neill's evidence was capable of being used to underpin charges against Hobson.

The above comment does not identify in respect of which witnesses and which suspects (and in respect of what offences) identification parades or confrontations could have been utilised, and to what effect.

The early submission is repeated: when Mr. Kitson and Mr. Kerr QC gave evidence they explained that upon their consideration of the papers at the time, the absence of identification parades etc did not cause them concern.

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

It is not correct to say that no thought was given to identification parades or other confrontations apart from Mark Hobson. There has been previous reference to Wayne Lunt's identification questions and Andrew Allen's identification questions. The majority of the evidence was recognition evidence. There was no co-operation at all from the individuals associated with Robert Hamill on the night who could have provided identification evidence.

Michael Irwin accepted under cross examination by Charles Adair QC that, whilst he was not the decision maker, he was part of the "... decision making process". He was satisfied that the identification process was as it should have been with no one "... not confronted or put on identification parade that should have been."

D. WOODS

- 47 The materials show this:
- 47.1 29/4/97 DS Dereck Bradley was instructed by the SIO to produce descriptions and details of possible suspects from the descriptions in the statements p.12442.
- 47.2 15/5/97 Andrew Allen said he was with Rory Robinson and Davy Woods on the night. He was with Rory Robinson at the fight. He stated that a crowd of boys and girls came down Thomas Street. One of the boys hit David Woods in the face, another started fighting with Rory Robinson. Another boy came at Andrew Allen. He says he ran up Thomas Street and another boy was standing there and swung punches at him. Three or four boys from the bus ran down the street and knocked down the boy that was swinging at Andrew Allen. One of the boys who came off the bus and who knocked his attacker to the ground was Marc Hobson pp.7300 and 7390.
- 47.3 15/5/97 18.13. Andrew Allen was interviewed a second time. He described David Woods' attacker as someone about the same size as Andrew Allen, with black hair p.7459.
- 47.4 15/5/97 Policy file decision 17 was made to arrest David Woods because Andrew Allen named him as a suspect p.930.
- 47.5 15/5/97 David Woods was arrested and interviewed and blood samples taken. He was walking near Jameson's bar when he heard people shouting, "You Orange Bastards." (p.7495) He says he was then attacked by one of two men

coming up Thomas Street, one of whom had a blue shirt and tie and the other had a black leather coat. The man in the black leather coat ran at him, hit him in the face and ran past him into the middle of the town.

- 47.6 16/5/97 William Jones was interviewed and made a statement. He was in his flat (with his girlfriend Carol Ann Woods) overlooking Thomas St and looked out to see three or four men and three women running down Thomas St towards Market St. One man was about 24 to 26, 5'10" medium build with dark short hair; he was wearing a black waist-length leather jacket and black trousers which may have been denim. A second man was about 26 to 28, 5'8", light build with dirty fair short hair, wearing a patterned grey jumper and light jean. The third man was 28 to 32 years old, 5'10" in height, stocky, blond fair hair shaved into side and back and brushed back on top with a full face; he was wearing a pale blue shirt, dark tie, black trousers and black shoes. William Jones says he saw the first man run to Market Street and hit out with his right arm. He appeared to hit the face of a person standing at the junction. He realised that the man who had been hit was Davy Woods, the brother of his girlfriend Carol Ann Woods. Davy Woods was brought into the flat and William Jones saw the first man and the second man, described above, lying on the road. There was a crowd of 15 to 20 people running around and two girls appeared to be kneeling over the two men. Police had arrived and appeared to be pushing the crowd back to the church. This whole incident lasted about two to three minutes p.9111.
- 47.7 16/5/97 David Woods was re-interviewed. He said he was struck on the left cheek by a man wearing a dark leather jacket. He said he knew the man was Catholic because the man called David Woods an "Orange Bastard." The man had hit him as he was running past and into the town. He denied seeing Andrew Allen or Rory Robinson behind him on the street and said he was on his own. He was aware of hustle on the main street but did not witness the fight and did not see anyone in the crowd p.7534.
- 47.8 20/5/97 Pauline Newell made a statement. She saw Rory Robinson, David Woods and "Fonzy" Allen walking up the street through the town centre towards Thomas Street p.9129.
- 47.9 29/5/97 William Jones was re-interviewed and made a further statement. When he went downstairs to bring David Woods into the house, he could hear people shouting abusive remarks at each other such as 'Orange Bastards', 'Fenian Bastards', 'up the RA', and 'up the UVF.' When William Jones had got David Woods upstairs and had checked him for injuries, the fight was over and the police had arrived. The whole episode lasted for a couple of minutes, p.9114.

Please insert any submissions or comments if you so wish

48 The witnesses said as follows:

Carol Ann Jones

Oral Evidence

48.1 Her brother was a loner. He knew people but was not in a “group” (p79). He was definitely not a violent person, he was quiet natured (p80). He was 15 or 16 and lived at home with his mum (p77). She did not see how he got hit (p82). When she saw her brother he was at Eastwoods (p91).

Please insert any submissions or comments if you so wish

Comment

49 Mr Woods was arrested and interviewed quickly after being named. His sister and her boyfriend exculpated him. No criticism has been made of the RUC in relation to Mr Woods, and none is offered here.

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

Please see our comments at module 5, paragraph 15, concerning David Woods and the alleged assault upon him. We remain to be convinced that he was not involved in the assaults on Robert Hamill or D.

Submissions by the Police Service of Northern Ireland

The PSNI concur with this comment.

THE THIRD ISSUE: FORENSIC SCIENCE

A. HANVEY

50 The materials show that:

50.1 27/4/97 01.4? Allister Hanvey withdrew £10 from the First Trust ATM2 in Portadown.

50.2 A HOLMES action noted that DC McIntosh spoke to Allister Hanvey’s parents who said that he was wearing trainers, blue jeans, a t-shirt and a black CAT jacket p.7782.

50.3 13/5/97 FSANI form submitted with clothing and footwear possibly worn by Allister Hanvey; jeans, trainers and black padded jacket submitted p.8205.

- 50.4 28/11/97 The clothing of Allister Hanvey was returned to him from FSANI p.4048.
- 50.5 1/11/00 Tracey Clarke's mother was interviewed. She said that Tracey Clarke told her and Jim Murray that Res Con Robert Atkinson had told Allister Hanvey to burn his coat. Tracey was upset that he should be told to burn his good silver coat p.14896.

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

Considerations of matters referred to in 50.5 should be considered in the context of submissions set out in Part 8

Submissions by Richard Monteith Solicitors (Tracey Clarke)

The statement by Tracey Clarke's mother, from whom she was semi-estranged, was taken more than three years after the event. Notably in this statement her mother states that on the morning of 18th April 1997 Tracey spoke about a fight in Portadown but did not mention the names of anyone involved. She also gave no details about the fight she allegedly saw. She did, according to her mother, relate that she saw a body lying in the street. She also relates that Tracey did not mention much about the fight over the first few days. She then stated that "after the first few days Tracey started to talk to us about "the fight in Portadown and what went on". Notably, however, her mother records no details at all about the actual fight. What follows in the statement is a series of assertions about Reserve Constable Atkinson and the alleged disposal of clothing. The absence of any corroboration in the content of this statement with that made by Tracey Clarke on 9th/10th May 1997 is striking.

Comment

- 51 As the work done in 2001 and 2001 demonstrated, there was a good deal of evidence to collect about Allister Hanvey's clothes and the timing of withdrawal of money in the centre of Portadown. Had that collection taken place in 1997 witnesses at the party could have been pressed about what Hanvey was wearing. His alibi could easily have been broken. It may have been more difficult for Tracey Clarke to resist giving evidence. The Panel may need to consider whether the failure to undertake those inquiries in 1997 that were in fact undertaken in 2001 was wrongful.

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

For all the reasons set out in module 16, we consider that Allister Hanvey was wrongfully protected by DCS Burney, who failed to pursue the case against him with the rigour it required in 1997 and fatally compromised the murder investigation.

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

In relation to the clothes Hanvey wore and in particular the jacket, after extensive enquiries were made by K and indeed this Inquiry, it is hard to see how these enquiries have significantly strengthened any case against Hanvey.

As regards investigation into the withdrawal of the money in Portadown from Hanvey's account in order to establish his whereabouts, P5 who was tasked by K to carry out such an enquiry in 2000, stated at p77,

"18 Now, we know that as a result of work that you did
19 in 2000 the police came into possession of ATM records
20 which showed that Allister Hanvey was around the town in
21 the early hours -- around, I think, 8 o'clock, something
22 like that --

23 A. Yes.

24 Q. -- on the morning of 27th April. I wonder if you can
25 help the Panel about the degree of hindsight we should

78

1 be using here. That's work you did in 2000. Is that
2 work that should reasonably have been expected of
3 detectives in 1997, though?

4 A. Well, it was available, put it like that, because the
5 powers were there, which I used, under PACE to get
6 production orders. They were there. But, in fairness,
7 probably financial investigations weren't an obvious
8 line of enquiry possibly. It is only probably since
9 2000 onwards that, due to money laundering, etc,
10 financial enquiries do be important in investigations."

It seems likely therefore that the pursuit of financial audit trails, especially in the context of attempting to disprove an alibi, were not automatically seen as a potentially fruitful ground in investigations in 1997. It is therefore unfair in hindsight to describe this "omission" as even negligent, never mind "wrongful".

It is our submission that different Investigating Officers engage in differing lines of enquiries and strategies in every investigation. By analogy, different counsel or solicitors may pursue different questions or call different witnesses in a trial. A post trial microscopic examination of how the trial was conducted, would probably demonstrate that a different line of enquiry or different witnesses called may have been preferable. This does not mean that the line pursued was wrongful-it is just a different strategy. We ask the question-which one of us, having been engaged over a period in a project, case, or major decision making process, in hindsight would not be open to potential criticism for not having done one thing or another? This can hardly be described as wrongful.

We find it inconceivable that any of the witnesses who were at the party and gave evidence to the Panel, would have changed their attitude and given evidence in open court against Hanvey, if the ATM evidence or clothing evidence had been put to them.

Tracey Clarke would not have been influenced by any of these matters as to her decision not to give evidence against Hanvey and others at a murder trial.

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

See that part of Submission 8 headed "The Jacket"

Submissions by the Police Service of Northern Ireland

The PSNI accept that there were other investigative opportunities which weren't exploited in 1997, although the Inquiry has heard that financial investigations were not as common in 1997 as they are now. That said, the position of the PSNI is that all reasonable investigative opportunities should have been expedited.

However, it is far from clear that improving the case against Hanvey would have lent any further encouragement to Tracey Clarke to give evidence. The suggestion that there was a relationship between the strength of the evidence against Hanvey and her willingness to give evidence under oath is not supported. Tracey Clarke has said in rather dramatic terms that "she would rather die" than give evidence against Hanvey (17591). Those who consulted with her in October 1997 were convinced that compelling her to give evidence would not work. There were no circumstances in which she was going to give evidence against Hanvey. The Inquiry has observed this for itself.

W. LUNT

- 52 The materials show this:
- 52.1 Between 7 and 21 May 1997, Lawrence Marshall at FSANI received forensic materials. He also received clothing items from Stacey Bridgett, Dean Forbes, Rory Robinson, Davy Woods, Andrew Allen, Wayne Lunt, Maureen McCoy and Marc Hobson. Lawrence Marshall also received blood samples which were lifted from the ground p.9656.
 - 52.2 15/6/97 The fingerprint report was returned. It showed prints on a tonic wine bottle found at scene which belonged to Wayne Lunt. It showed DC Donald Keys as the officer in charge (See photo 236. Lunt's is the left-hand bottle) p.12508.
 - 52.3 6/8/97 DI Michael Irwin signed a form headed "DISCLOSURE UNUSED MATERIAL," which listed the report on results of the fingerprinting. In the manuscript on the form it noted that the report showed Lunt's fingerprints on

tonic wine bottle and had been considered by DS Dereck Bradley and DI Michael Irwin and the statement reader. It noted that the report had been disclosed as unused material. It was not mentioned in the file p.12512.

- 52.4 16/9/97 **Con A** completed an injury on duty report in relation to the incident on 27 April 1997. On 27 April 1997 she was tasked to attend a major disturbance in Market Street. She states that “Upon arrival I observed one male person with a mask on carrying a bottle in his hand, my thought was that this male was about to throw the bottle at a crowd that had gathered. I alighted from the vehicle but the male ran towards Church St,” p.11396.

Please insert any submissions or comments if you so wish

- 53 The witnesses gave evidence as follows:

P39

Statement

- 53.1 Para 28: She was not sure why Wayne Lunt’s fingerprint on tonic wine bottle was not put to him.

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

We are not sure why either.

Comment

- 54 There was some reason to believe that bottles were being used as weapons at the scene. When Mr Lunt’s fingerprint was reported on the bottle in June 1997 he was still a suspect. The Panel may wish to consider whether the failure to take any steps to put the evidence to him for comment or to seek further scientific evidence from the bottle was wrongful.

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

Lawrence Marshall found that large areas of staining on Robert Hamill's clothing turned out to be wine rather than blood (module 10, 25.23). The bottle bearing Wayne Lunt's fingerprints was a tonic wine bottle (module 10, 24.13). If Robert Hamill was struck by a bottle, then some of his DNA may have adhered to the bottle. If his DNA had been found on the bottle bearing Wayne Lunt's prints, then, together with the wine stains on Robert Hamill's cloths, a strong case could have been made against Wayne Lunt.

Despite the fact that this forensic opportunity was lost, of course Wayne Lunt should have been asked about the presence of his prints on the bottle.

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

This did not add anything to the case against Mr Lunt. He had been seen by Con A with a bottle. See further the general submissions concerning the interview of a suspect post charging which we made concerning Bridgett.

No further scientific evidence could have been obtained from the bottle once it was fingerprinted, and indeed it was good police practice to have that bottle fingerprinted.

Submissions by the Police Service of Northern Ireland

The carrying of a bottle of alcohol in public is suggestive of many things but even in circumstances where bottles were used as weapons at the scene of a murder the presence of a fingerprint without more is of little significance.

It is submitted that nothing whatever turns on any omission to confront Lunt with the fact that he could be connected with a bottle found at the scene.

D. FORBES

55 The materials showed this:

55.1 6/5/97 DI Michael Irwin submitted form "A" ("Incident Information form") to FSANI with the clothes of Robert Hamill and **D**. The form indicated that he was the Investigating Officer and it described an incident at 01.45 when there was a serious assault on Hamill and **D** where both men were thumped and kicked. It was noted that there were no known original suspects and that no immediate arrests were made. A number of persons in the area were identified with 'bleeding injuries' at the time of the incident and were believed to have been involved in the assault (during which at least three people jumped on Robert Hamill's head). Dean Forbes and Stacey Bridgett were recorded as suspects, p.8176.

55.2 Between 7 and 21 May 1997, Lawrence Marshall at FSANI received forensic materials. He also received clothing items from Stacey Bridgett, Dean Forbes, Rory Robinson, Davy Woods, Andrew Allen, Wayne Lunt, Maureen McCoy and Marc Hobson. Lawrence Marshall also received blood samples which were lifted from the ground, p.9656.

55.3 8/5/97 Blood samples were taken from Stacey Bridgett and Dean Forbes. They were received by FSANI, p.8187.

Please insert any submissions or comments if you so wish

Comment

- 56 There was no scientific evidence against Dean Forbes. In the absence of an earlier arrest and search the Panel may be unable to say whether some evidence could and should have been captured.

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

DCI P39 was ready to arrest Dean Forbes on 1st May, during the GBH investigation, but the arrest had to be delayed until 6th May because of lack of interview rooms at Portadown RUC station (module 10, 17.54, 20.22). The attack took place on 27th April, so Dean Forbes would have time to dispose of any incriminating evidence prior to 1st May, but by 6th May he had had even more time. The GBH investigation, which ran until Robert Hamill died on 8th May, was clearly not being run with any sense of urgency, and no allegation had been made at that point of collusion between RC Atkinson and Allister Hanvey. No doubt RUC officers talked freely about the GBH investigation among themselves, and may well have spoken to others or been overheard by others who knew the suspects. Portadown is a small place. Everyone knew about the attacks and that Robert Hamill was fighting for his life in hospital. It would have been the talk of the town. A gap of five days between DCI P39's decision to arrest Forbes and Bridgett and the actual arrests ran the risk that all the perpetrators, who were no doubt talking to one another, would destroy evidence.

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

We agree that this is entering the area of speculation. We have already dealt with P39's strategy and the reasons for the delay in arresting Forbes until the 6/5/97. He was re-arrested immediately the evidence became available from Tracey Clarke.

Submissions by the Police Service of Northern Ireland

Elsewhere in these submissions an analysis has been conducted of the strategy deployed by P39 which emphasised the importance of gathering information about suspects from witnesses, rather than moving to immediate arrests. Arguments have been made against this strategy and certain suspects have been identified as being susceptible to early arrest. The argument in favour of early arrest is that it better opens up opportunities to gather scientific evidence.

Consideration of the information which police had on Dean Forbes at the commencement of the investigation would suggest that he was not an obvious candidate for early arrest. Con A had seen him in the crowd and she had made a statement to that effect but she did not refer him as being violent or aggressive (00716). Arguably it was not until Mr. Blevins spoke to police on the 30 April (13319) that an arrest was indicated. Forbes was due to be arrested on the 1 May, but as has been described elsewhere those arrests had to

be postponed. He was, however, arrested and his premises searched on the 6 May.

It is submitted, therefore, that there was no reasonable opportunity to make an earlier arrest of Forbes.

Stacey Bridgett

- 57 The materials were to this effect:
- 57.1 6/5/97 DI Michael Irwin submitted form "A" ("Incident Information form") to FSANI with the clothes of Robert Hamill and **D**. The form indicated that he is the Investigating Officer and it describes an incident at 01.45 when there was a serious assault on Hamill and **D** where both men were thumped and kicked. It notes that there were no known original suspects and that no immediate arrests were made. A number of persons in the area were identified with 'bleeding injuries' at the time of the incident and were believed to have been involved in the assault (during which at least three people jumped on Robert Hamill's head). Dean Forbes and Stacey Bridgett were recorded as suspects, p.8176.
- 57.2 Between 7 and 21 May 1997, Lawrence Marshall at FSANI received forensic materials. He also received clothing items from Stacey Bridgett, Dean Forbes, Rory Robinson, Davy Woods, Andrew Allen, Wayne Lunt, Maureen McCoy and Marc Hobson. Lawrence Marshall also received blood samples which were lifted from the ground p.9656.
- 57.3 7/5/97 The FSANI form was sent by DC Donald Keys to test items of clothing believed to have been worn by Stacey Bridgett including cream jeans which were recorded as blood stained p.8181.
- 57.4 8/5/97 Blood samples were taken from Stacey Bridgett and Dean Forbes. They are received by FSANI, p.8187.
- 57.5 9/5/97 DC John McDowell sent the FSNI form to request test of blood sample from Stacey Bridgett against the clothes of Robert Hamill and **D** p.8190.
- 57.6 15/5/97 Victoria Clayton confirmed she wiped blood from a man's nose at the scene but said she could not be sure it was Stacey Bridgett, p.7780.
- 57.7 9/6/1997 DC John McDowell spoke to Lawrence Marshall who confirmed that Stacey Bridgett's blood was on Robert Hamill's jeans and that a report of his findings would be with the police later that week, p.3743.
- 57.8 24/10/97 Successful tests showed Stacey Bridgett's blood on his own clothes and the right leg of Robert Hamill's jeans p.17797.
- 57.9 28/10/97 DI Michael Irwin wished the DPP to consider the forensic evidence linking Stacey Bridgett p.18342.

57.10 17/11/97 A file note was made by Roger Davison, DPP, that he had discussed the evidence of Stacey Bridgett's blood on Robert Hamill's clothes (on the right leg of his jeans) with Lawrence Marshall, FSANI. One small spot of blood the size of a penny coin was found. The blood on the left trouser leg was smeared and did not come from Stacey Bridgett. Lawrence Marshall said the fact that the spot was not an elongated shape meant that there was nothing to indicate what direction the blood came from and he was reluctant to offer any interpretation as to how the blood got there but said it was consistent with Robert Hamill lying on the ground and a drop of Stacey Bridgett's blood falling as he stood over him, p.18040.

Please insert any submissions or comments if you so wish

58 The witnesses said this:

Stacey Bridgett

Oral Evidence

58.1 The note at p.18040 showed Stacey Bridgett's blood on Robert Hamill's right trouser leg. No interpretation of how it got there but consistent with vertical drop. Mr Bridgett did not know how it got there (p85).

P39

Statement

58.2 She was not sure why Stacey Bridgett's blood found on Robert Hamill's jeans was not put to him.

Lawrence Marshall

Statement

58.3 Para. 16: He received a match for Stacey Bridgett's blood on Robert Hamill's jeans on 12/5.

58.4 Para. 17: The fact that the stain was a spot rather than an elongated drop suggested that the blood had been projected through the air rather than through direct contact and it is possible that it dropped while Robert Hamill was on the ground.

Oral Evidence

58.5 Per p.18040 "Spoke by phone with Lawrence Marshall...at 1130. He informed me that a small spot of blood (identified as Stacey Bridgett's) was found on Robert Hamill's trouser leg, one or two inches above the hem. It was a round spot no bigger than a 1p coin. There was one other blood spot near this spot but it was not tested. The fact the blood was not in an elongated shape means

that there is nothing to indicate which direction it came from” (p12). “Mr Marshall was reluctant to [say] how it got there but said it was consistent with Robert Hamill lying on ground and a drop of Stacey Bridgett’s blood falling as he stood over Robert Hamill.”

- 58.6 It was unusual in 1997 to have discussions with DPP’s office. It happened a couple of times a year. It was always DPP calling FSANI. It was normally for elaboration/clarification of statement (p13). At the time he had no formal training in blood pattern analysis but had experience. He has had training since. He does not offer opinion on how blood got on trousers as there is insufficient blood on bottom of jeans and it is from several different sources. He said there was no evidence of kicking from blood (p14).
- 58.7 He would be very reluctant to draw conclusion from pattern of blood, even if all the blood was Stacey Bridgett’s. Given the jeans, Stacey Bridgett saying he was no closer than 10ft is false (p15). He could not distinguish between an allegation that Robert Hamill was kicked by Stacey Bridgett or if it dropped from Stacey Bridgett onto Robert Hamill (p16). If Roger Davison had put Stacey Bridgett’s contention to him he would have told him it was false (p17). The blood drop is consistent with blood dropping straight down but he cannot say what position trouser leg was at the time (p20). He was not aware Roger Davison’s call was prompted by Gordon Kerr QC asking for clarification about what staining could indicate (p39). He did not recall any discussion of distances (see 17640) (p40). He could not recall if the conversation was about establishing if there was direct physical contact.
- 58.8 The distance blood travels depends on force of movement involved rather than volume of blood (p42). In most normal circumstances blood will not travel 10ft. It could happen, but in a more deliberate action (p43). He was not able to help with the distance involved in this stain (p44). Any combination of angles could produce a circular result as long as the blood strikes perpendicular to fabric (p47). He thought that he gave Roger Davison the reservations expressed here. He did not recall Roger Davison asking if there was other material on jeans that might have been from Stacey Bridgett (p53).

Michael Irwin

Statement

- 58.9 81466: When told about Stacey Bridgett’s blood on Robert Hamill’s clothes, he discussed with P39 whether: 1) they could question Stacey Bridgett about assault as he had already been charged; 2) questioned merits of re-interviewing as he had denied being present; 3) Considering not immediately interviewing as forensic examinations were still ongoing. In view of legislation, consistency of views amongst senior detectives and that info did not add to evidence regarding assault, decision was made not to re-interview.

Oral Evidence

58.10 The information was passed on from the police to Mr Marshall that Stacey Bridgett had been identified as standing over and kicking Robert Hamill. Mr Marshall's response was that he would deal with the forensic end of it. Mr Marshall's view was that the drop of blood did not support Stacey Bridgett kicking Robert Hamill, only that he stood over him and the blood dropped (p11). Mr Marshall said that the drop put Stacey Bridgett in the area of Robert Hamill's trouser leg and that Stacey Bridgett was not moving at the time (p12). Mr Irwin knew that on the 12th May the forensic examination of the blood stains was still ongoing and that the Stacey Bridgett drop was a heads-up (p13).

Please insert any submissions or comments if you so wish

Comment

59 The Panel may wish to decide whether the RUC took adequate steps to ensure that there was no further scientific opinion available, and whether it was bound to re-interview Mr Bridgett to put the lie to him.

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

Everything we have said at paragraph 56 above applies equally to Stacey Bridgett.

The forensic evidence of Stacey Bridgett's blood being on the leg of Robert Hamill's jeans is potentially extremely significant, particularly as the sample was not elongated which suggested that it had dropped on Robert Hamill while Stacey Bridgett stood over him (please see 57.8 and 57.10 above). In our submission, the Inquiry is entitled to set this evidence against Bridgett's denial of any participation in the assault on Robert Hamill, and to draw adverse inferences.

Mr Lawrence was right when he said that the mere presence of a drop of Bridgett's blood on Robert Hamill could not prove Bridgett's participation in the assault, but the RUC had witnesses who had seen Bridgett fighting and Bridgett had denied the assault. They would certainly have been warranted in putting this evidence to Bridgett, and there does not appear to be any reasonable explanation why they did not do so.

We wonder whether the size of the drop of blood on Robert Hamill's jeans could have been an indication of how far Stacey Bridgett was from Robert Hamill's jeans to be stained to that degree, and whether further forensic enquiries could have been made into this issue. We also wonder whether enquiries were made by the RUC to see whether Stacey Bridgett sought medical assistance for his injury, and whether Victoria Clayton was asked what she used to wipe blood from someone who may have been Stacey Bridgett and whether she still had whatever she used in her possession (57.6).

Had the article in question been found, it would have established whose blood she wiped and whether any of Robert Hamill's blood was on it.

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

We do not know what further scientific opinion is being referred to. We have dealt with the issue of Bridgett being re-interviewed.

Submissions by the Police Service of Northern Ireland

The blood stain identified on Mr. Hamill's trousers was the subject of scientific opinion. Mr. Marshall opined that the blood stain supported a connection between Bridgett and Mr. Hamill where the former could have been standing over the latter. It is submitted that there is no evidential basis for suggesting that a further scientific opinion was likely to yield any greater advantage to a prosecution case. In any event it is submitted that it would have been a matter for the ODPP to commission any further expert opinion if that was considered appropriate.

The PSNI repeats the submission that the decision to refrain from seeking to re-interview Bridgett in connection with the blood stain was an entirely sensible judgment call which served the purpose of protecting the prosecution case from any attempt on his part to circumvent the evidence by manufacturing an "innocent" explanation.

Submissions by the Public Prosecution Service

Please see submissions at §§9, 12, 13, 14 in Part 18, below.

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

The detectives were entitled to wait for further forensic evidence. It is difficult to see what they should have been pushing for in terms of a "... further scientific option". Lawrence Marshall was compiling a report, giving a heads up when he felt there was something and was a very senior and experienced forensic science officer.

DCS McBurney and P39 decided with Michael Irwin that the police had no power to re-interview a charged prisoner pursuant to the Magistrates' Court (NI) Order in force at that time.

In addition, it is submitted that after charging, the individual must be told of his right to legal representation and that any solicitor would advise that he need not answer further questions in these circumstances.

A. ALLEN

60 The materials showed this:

- 60.1 Between 7 and 21 May 1997, Lawrence Marshall at FSANI received forensic materials. He also receives clothing items from Stacey Bridgett, Dean Forbes, Rory Robinson, Davy Woods, Andrew Allen, Wayne Lunt, Maureen McCoy and Marc Hobson. Lawrence Marshall also receives blood samples which were lifted from the ground p.9656.
- 60.2 15/5/97 The premises of Andrew Allen were searched and his clothing seized p.869.

Please insert any submissions or comments if you so wish

Comment

- 61 There is no apparent reason to believe that any scientific evidence was available in relation to Andrew Allen once he was arrested. As with other suspects, the Panel may wish to consider whether earlier arrests were called for.

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

As we have already noted (please see comments at paragraph 25), the searches, when they did take place were perfunctory. The police acted promptly once they had Timothy Jameson's statement, but by the time they searched Andrew Allen's home on 11th May there was very little chance of finding any forensic evidence.

In our submission, the question the Inquiry needs to address is whether the RUC was justified in treating the assault on Robert Hamill, which they knew at an early stage to be life-threatening, as just another Saturday night punch-up, or whether they should have secured the scene and arrested all those engaged in fighting and subjected them to immediate forensic screening.

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

We have dealt with the issue of Andrew Allen. He could not have been arrested at an earlier stage.

Submissions by the Police Service of Northern Ireland

The PSNI agree with this comment. There was no reasonable basis for arresting Andrew Allen before the evidence of Timothy Jameson materialised.

R. ROBINSON

- 62 The materials showed this:

- 62.1 Between 7 and 21 May 1997, Lawrence Marshall at FSANI receives forensic materials. He also receives clothing items from Stacey Bridgett, Dean Forbes, Rory Robinson, Davy Woods, Andrew Allen, Wayne Lunt, Maureen McCoy and Marc Hobson. Lawrence Marshall also receives blood samples which were lifted from the ground p.9656

Please insert any submissions or comments if you so wish

Comment

- 63 There is no apparent reason to believe that any scientific evidence was available in relation to Rory Robinson once he was arrested. As with other suspects, the Panel may wish to consider whether earlier arrests were called for.

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

Our comments at paragraph 61 above in relation to Andrew Allen apply equally to Rory Robinson.

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

We have already dealt with P39's strategy. There was insufficient evidence to arrest him prior to the statements of Tracey Clarke and Jameson, and an immediate arrest was made when that evidence became available.

Submissions by the Police Service of Northern Ireland

The PSNI agree with this comment.

The evidence shows that apart from Tracey Clarke and Timothy Jameson no other witness could give evidence which was capable of connecting Robinson to the death of Mr. Hamill. Certainly, police uncovered evidence that he had behaved aggressively at the scene (eg. Constable Neill, Con. Silcock), but no more than that. It is submitted that it was inadequacies in the evidence of this kind which informed P39's strategy. It is disputed that there is any reasonable basis for contending that Robinson ought to have been arrested before he was.

M. HOBSON

- 64 The materials were to this effect:
- 64.1 Between 7 and 21 May 1997, Lawrence Marshall at FSANI received forensic materials. He also received clothing items from Stacey Bridgett, Dean Forbes, Rory Robinson, Davy Woods, Andrew Allen, Wayne Lunt, Maureen McCoy and Marc Hobson. Lawrence Marshall also receives blood samples which were lifted from the ground p.9656.

Please insert any submissions or comments if you so wish

Comment

65 There is no apparent reason to believe that any scientific evidence was available in relation to Mr Hobson once he was arrested. As with other suspects, the Panel may wish to consider whether earlier arrests were called for.

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

Our comments at paragraph 61 above in relation to Andrew Allen apply equally to Marc Hobson, especially in view of Constable Neill's evidence that he saw Hobson aim a kick at Robert Hamill.

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

There could not have been an earlier arrest. He was arrested as soon as there was evidence from Tracey Clarke and Jameson. In his statement of the 29/4/97 Con Cooke had mistakenly identified Hobson as xxxxxxxx. Con Neill had given a description of Hobson, but not his name. xxxxx was arrested on foot of Con Cooke's statement on 6/5/97 and was released. In his statement of 26/5/97 Con Cooke clarified that the person that he had named as Mark xxxxxxxx was in fact Mark Hobson (0711)

Submissions by the Police Service of Northern Ireland

The PSNI reiterate its view that it was reasonable for P39 to pursue her strategy with a view to seeking to improve upon the quality of evidence which was available to connect those known to be at the scene with offences. The decision to refrain from making early arrests of Hobson and others was a judgment which was justifiable within the context of that strategy.

D. WOODS

66 The materials showed this:

66.1 Between 7 and 21 May 1997, Lawrence Marshall at FSANI received forensic materials. He also received clothing items from Stacey Bridgett, Dean Forbes, Rory Robinson, Davy Woods, Andrew Allen, Wayne Lunt, Maureen McCoy and Marc Hobson. Lawrence Marshall also receives blood samples which were lifted from the ground p.9656.

66.2 22/5/97 Clothing of David Woods was submitted to FSANI for testing whether Robert Hamill's blood was on clothing or footwear and to test for fibre transfers p.38870.

Please insert any submissions or comments if you so wish

Comment

67 There is no apparent reason to believe that any scientific evidence was available in relation to David Woods once he was arrested.

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

Our comments at paragraph 61 above in relation to Andrew Allen apply equally to David Woods.

Submissions by the Police Service of Northern Ireland

The PSNI agree with this comment.

THE FOURTH ISSUE: RECOMMENDATION FOR PROSECUTION

Generally

68 Fiona Hamill said in her statement that:

68.1 Para. 11: The accused were Protestants so would have got away with it anyway.

68.2 Para. 12: She heard from a part-time police officer who worked with brother that he had overheard a conversation between an officer and [REDACTED] saying they were going to let them go one by one to keep the Hamills at ease.

Submissions by the Police Service of Northern Ireland

This is disputed. There is no valid basis for suggesting that Protestants could expect to get away with their crimes or that the RUC would be facilitators of any such cause or objective.

Those charged:

69 The materials showed this:

69.1 10/5/97 Policy file decision 10 (un-timed) was made to charge Stacey Bridgett, Dean Forbes, Wayne Lunt, Allister Hanvey and Marc Hobson with murder p.923.

69.2 13/5/97 16.00 A consultation took place with Raymond Kitson and Mr W Junkin of the DPP, DCS Maynard McBurney, DCI P39 and [REDACTED]. The case against the defendants rested on evidence of two witnesses Tracey Clarke and Timothy Jameson, who were willing and able to give evidence p.19069.

- 69.3 DI Michael Irwin reported to DCI P39 at J Division regarding Tracey Clarke and Timothy Jameson. He noted that Tracey Clarke was the ex-girlfriend of Allister Hanvey. She lived in a predominantly Protestant area which has a Loyalist Volunteer Force (LVF) following and due to ongoing pressure she periodically resided with relatives. She alleged that due to this incident she had to terminate two temporary employment posts, both in the Portadown area. She would have known the persons named, through her association with the 'Banbridge scene,' her relationship with Allister Hanvey and through her girlfriends. The report indicated that DNA samples had been taken from Dean Forbes, Stacey Bridgett, Rory Robinson and Kyle Woods (not Allister Hanvey, Marc Hobson, Wayne Lunt or Andrew Allen). The report recommended the charge of murder to be proceeded with as charged: Dean Forbes, Stacey Bridgett, Allister Hanvey, Wayne Lunt, Rory Robinson and Hobson but recommended no prosecution of Woods or Allen 6080 and 15952.
- 69.4 30/7/97 **DCI P39** and Deputy Sub-Divisional Commander ██████ read and endorsed DI Michael Irwin's DPP report of 22 July 1997. **DCI P39** noted, "the non co-operation of some witnesses and the Hamill family's solicitor, has resulted in all possible evidence not being made available. The evidence of Witnesses A and B is crucial, however, I refer you to the separate confidential report, submitted. I strongly support the recommendation that an early consultation be held with these witnesses. The medical and post mortem evidence, not yet to hand, will be salient in this case. Considering all the evidence to hand, I agree with Detective Inspector Michael Irwin's recommendation."
- 69.5 Commander ██████ noted "the facts are as comprehensively outlined by Detective Inspector Irwin. A consultation as suggested would be very beneficial. I recommend prosecution as outlined by Detective Inspector Irwin on page 48 of his report" p.6135.
- 69.6 5/8/97 the DPP requested that before any final directions were issued in R v Hanvey, Lunt etc. the file be drawn to his attention. Also, when consideration is given to the case and any associated complaint directing officer should refer to the case of R v Dytham (1979) p.18122.
- 69.7 27/10/97 Raymond Kitson of the DPP telephoned Gordon Kerr QC for an update and some advice p.18342.
- 69.8 28/10/97 A note for file was made by Raymond Kitson. He noted that the file was referred to him by Roger Davison on 24 October 1997. He recorded that, in summary the position was that Witness A would not give evidence. Witness B claimed that he cannot recollect anything. He was, in Roger Davison's view, lying. In Roger Davison's view without the evidence of Witness A and Witness B, Dean Forbes, Allister Hanvey and Rory Robinson would not be prosecuted p.18342.
- 69.9 9/12/97 Raymond Kitson wrote to the Director in relation to a letter from the Secretary of State. Raymond Kitson noted that the police investigation file was received on 7 August 1997 by the DPP. The file reported eight persons,

six of whom had been charged with murder, the other two were not regarded as relevant as there was insufficient evidence to charge them with murder. Upon receipt of the file it was noted that the post-mortem report was not yet available, neither was the forensic report. Raymond Kitson states that at the beginning of October 1997, under pressure from the remand Court, it was decided to proceed with consideration of the file in the absence of the post-mortem and forensic reports. This report indicated that on 10/10/97, Roger Davison called DI Michael Irwin (the investigating officer on the case) who said that since the incident in Drumcree, the attitude of the Protestant members of the community had hardened and it could not be guaranteed that the witnesses would give evidence. The result of consultations was that Tracey Clarke and Timothy Jameson could not be relied on to give evidence. It is then reported that Senior Counsel advised that without that evidence there was no reasonable prospect of convicting Allister Hanvey, Dean Forbes or Rory Robinson of any offence p.18335.

Submissions by the Police Service of Northern Ireland

See sections below.

Comment

- 70 The file sent to the DPP was misleading in suggesting that everything had been done that could reasonable have been in order to corroborate what Tracey Clarke and Timothy Jameson said against Allister Hanvey. As discussed elsewhere, the failure to investigate the tip-off allegation may have had a bearing on the lack of corroboration. However, it properly identified the need to test the evidence of those crucial witnesses.

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

To say that the file was sent to the DPP on the tip-off allegation was misleading is an understatement, as is shown by the Inquiry Team's analysis of the report at paragraph 2.16 of module 14.

In our view, the failure to pursue Tracey Clarke's allegations against RC Atkinson promptly and properly was fatal to both the neglect complaint and the murder investigation.

All that the RUC did to attempt to corroborate Tracey Clarke's and Timothy Jameson's claims was to arrest the persons they named, subject their homes to perfunctory searches, and, for the most part, seize apparently random items of apparel for forensic testing.

Tracey Clarke's claim that Allister Hanvey was at Tracey McAlpine's party was capable of corroboration, and would have broken his false alibi.

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

We have already commented and will be commenting on the strategy employed by DCS McBurney in relation to the tip-off allegation. Even if those matters discovered by K, in the subsequent investigation, had been discovered in 1997, there was no prospect of a conviction of Hanvey without the evidence of Tracy Clarke and or Timothy Jameson.

There is no evidence to suggest that the file sent to the DPP was deliberately misleading.

Submissions by Gus Campbell Solicitors (Marc Hobson)

The effect of the retraction of Clarke and Jameson's evidence was the withdrawal of murder allegations against most of the accused, except Marc Hobson. The Crown case against him was that he acted in a joint enterprise with the others not before the court;

Opinion by Kerr, page 17742 (Nov 07 document 1851) counsel directs further proofs in the following terms:

7...It must be clarified whether or not Constable Neill saw a kick or an attempted kick. If it was the former and the pathology report suggested that the deceased died from multiple blows such as kicks then a charge of murder in relation to Mr Hamill may be justified. If it were however an attempt to kick then it may be difficult to show the particular intent for attempted murder, even allowing for the fact that certain witnesses may establish that members of the crowd were shouting "Kill them".

Mr Kerr QC was clearly advising there that if it were only an attempted kick then a charge of murder could not be recommended? If it were an attempted kick he was advising that the best that could be recommended would be attempted murder and even that would have difficulties.

Con Neill's original statement, page 10945, the evidence was that

“During this a male ,late 20s, round face with goat beard and very short hair, wearing a leather type soft casual waistcoat, was near me and I saw him kick a the-injured man I now know as Robert Hamill . The male with the goat beard was moved back as .best possible. Other police had arrived at this stage and were standing with Rory Robinson, 20s, short black hair, thin with pointy features. Both these persons were taunting injured people and those that were looking after them. Robinson was moving back and forward across the line trying to get through. “

Neill's statement obtained on foot of Gordon Kerr's directions was taken on 21 November 1997, page 9672.

‘I had a clear line of vision to Hamill and Hobson and after Hobson spoke a few words to Hamill, Hobson kicked at Hamill, in the shoulder or head area . I can clearly visualise Hobson kick at Hamill once. I am not certain whether he made contact with Hamill or not.’

This further statement confirmed that it was at best an attempt to kick or, indeed, no kick at all? Having seen that statement in late Dec 1997, page 17632, Mr Kerr QC advises in the following terms:

“I have carefully considered the evidence as it now stands. The pathology evidence is in my view of great significance. Mr Hamill died as a result of repeated blows during an attack on him when he was on the ground. Participants in that attack are liable for his death as participants in a joint enterprise. In view of the pathology evidence I do not feel the exact analysis of the roles referred to in my previous opinion is necessary. The evidence of Con. Neill places Hobson well into that join enterprise as an active participant. Accordingly I must advise that he be prosecuted for murder.”

The evidential position had weakened as against Mr Hobson because there was now no prospect of establishing the infliction of any injury on Mr Hamill by him. The best that could be achieved would be his involvement in a joint enterprise which on the face of the papers would be difficult to establish. Indeed, it is difficult to see where there was clear evidence of Mr Hobson's involvement in violence in the material that was available at the trial (the material available to the Inquiry may present a different picture).

The only evidence against him of involvement in any violence on Mr Hamill was the evidence of Constable Neill

The trial judge at the conclusion of the case against Hobson posed the following questions, at 08723:

McCollum LJ; Supposing I were to come to the conclusion that I was not satisfied beyond a reasonable doubt that this accused was part of the crowd who carried out the attack which left Mr Hamill lying on the ground ?

MR KERR : Yes, my Lord .

McCollum LJ: And supposing I came to the conclusion that Constable Neill was right and he saw this these actions by him at a later stage, but at a stage when the attack had concluded?

MR KERR : Yes, my Lord .

McCollum LJ: The ultimately fatal attack had concluded and I was not satisfied that the accused had actually delivered any blow, would that leave any room for conviction on the first count ?

MR KERR : In my respectful submission were those your factual findings, my Lord . .

McCollum LJ; Yes .

MR KERR : . It would not be appropriate for you to convict on murder .

These passages and the evidence available to the Inquiry make it clear that the Crown had no realistic prospect of a conviction for murder. The Panel are invited to consider whether the decision to Prosecute Hobson for murder, as opposed to a lesser offence was adequately considered. In essence, how could a weakening of the evidential position produce a hardening of the view of Mr Hobson's involvement. Where was the clear evidence of his involvement in a joint enterprise that associated him with the actions of those who were directly responsible for the fatal injuries?

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

The evidence of Tracey Clarke was properly identified and tested by the DPP

Submissions by the Police Service of Northern Ireland

The PSNI relies upon the submissions made elsewhere in this document on the subject matter of this comment.

In particular, the suggestion that the crime (murder) file sent to the ODPP was misleading is the subject of detailed comment at Chapter 16, section 12. The suggestion that there was any failure to properly investigate the tip off allegation is dealt with at Chapter 14.

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

The decisions regarding the tip off allegations and its investigations were in the control of DCS McBurney alone.

A. ALLEN

71 The materials are to this effect:

71.1 15/5/97 Policy file decision 18 recorded “insufficient evidence to charge Andrew Allen at present.” p931.

Please insert any submissions or comments if you so wish

Comment

72 The issue whether the RUC adequately considered a prosecution of Andrew Allen is considered above.

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

Except for Constable Neill's evidence against Hobson and the drop of Bridgett's blood, it is not clear to us what additional evidence the RUC had against those who were charged over and above Tracey Clarke's and Timothy Jameson's statements. Only Timothy Jameson named Andrew Allen, but if a statement was a good enough basis to charge others, we do not now why it could not have grounded a charge against Andrew Allen.

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

We have already dealt with this issue.

Submissions by the Police Service of Northern Ireland

The PSNI relies upon the submissions which it has made on this matter at section 40 (above).

WOODS

73 The materials showed that:

73.1 16/5/97 Policy file decision 20 was made to release David Woods without charge as there is "insufficient evidence," p.933.

Please insert any submissions or comments if you so wish

Comment

74 In the light of the lack of evidence against David Woods, and of the exculpatory statements made about him, no criticism has been made of the decision not to recommend prosecution.

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

As we discussed elsewhere (paragraph 15 of module 5), we believe that David Woods' account of how he came by his eye injury was not credible, but this was never tested by the RUC.

We believe that the Inquiry should revisit its list of potential criticisms and adverse inferences if it accepts any of our comments above.

Submissions by the Police Service of Northern Ireland

The PSNI agree with this comment.

Potential criticisms and adverse inferences

Andrew Allen

- Participated in the attack on Robert Hamill.

Michael Bingham

- Failed to carry out an adequate search of the Hanvey home on 10 May 1997.

Stacey Bridgett

- Participated in the attack on Robert Hamill.

Tracey Clarke

- Gave a false statement to the police which led to the detention of the persons named in it.
- Gave false evidence to the Inquiry.

Dean Forbes

- Participated in the attack on Robert Hamill.

Allister Hanvey

- Participated in the attack on Robert Hamill.
- Provided the RUC with a false account of his movements and his clothes.
- Destroyed the clothing that he was wearing at the time of the attack.

Marc Hobson

- Participated in the attack on Robert Hamill.

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.

Timothy Jameson

- Participated in the attack on Robert Hamill.
- Falsely alleged DC Honeyford took a false statement from him.

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.

John McAteer

- Failed to carry out an adequate search of the Hanvey house on 10 May 1997.

Maynard McBurney

- Failed to ensure that the investigation into the murder of Robert Hamill was conducted with due diligence and/or conducted the investigation so as to protect Allister Hanvey and Robert Atkinson.

Andrea McKee

- Provided false information at the meeting in Seagoe.
- Coerced Tracey Clarke into giving a false statement to the RUC about the murder of Robert Hamill and the tip-off allegation against Robert Atkinson.
- Falsely accused Robert Atkinson of conspiring to pervert the course of justice.
- Gave false evidence about the above to the Inquiry.

Michael Porter

- Failed to carry out an adequate search of the Hanvey house on 10 May 1997.

Rory Robinson

- Participated in the attack on Robert Hamill.
- Gave false evidence to the Inquiry.

P34

- Failed to carry out an adequate search of the Hanvey house on 10 May 1997.