

ACTS OF OTHER AGENCIES

1. The question is whether the Pathologist and FSANI acted with due diligence in relation to the murder investigation:

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

Please sections 4.13 and 5.4 below.

THE FIRST ISSUE: THE STATE PATHOLOGIST

2. The pathologist, Dr Crane, and the neuropathologist, Dr Herron, were asked questions relating to the time taken to produce their reports. While Professor Crane was made a Category B witness, it now appears plain that he acted as quickly as was reasonably possible, and that if there was any undue delay it was due to the lack of neuropathologists.

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

We consider this to be a fair assessment.

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

We agree with this.

Submissions by the Police Service of Northern Ireland

The PSNI have no comment to make.

Submissions by the Public Prosecution Service

See comments at §6 in this Part.

THE SECOND ISSUE: FSANI

3. Mr Marshall, the forensic scientist, was also questioned relating to the time taken to produce his report.
4. The materials are to this effect:

- 4.1 9/6/97 DC John McDowell spoke to Lawrence Marshall who told him that Stacey Bridgett's blood was on Robert Hamill's jeans. A report from Lawrence Marshall was expected later that week (NB No report was sent until 24/10/97) (3743).
- 4.2 21/7/97 DI Irwin wrote a crime report into the murder. 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) (NB If the forensic report had been completed in time, it would not have been able to include these samples) (6080). The report noted an oral indication from Lawrence Marshall, FSANI, that a blood stain on Robert Hamill's clothing was from Stacey Bridgett (6132)
- 4.3 1/8/97 Richard Monteith, solicitor, wrote to the DPP requesting early sight of the forensic and post-mortem reports. In manuscript at the bottom of letter a draft reply noted that the file has not reached the DPP (28477)
- 4.4 12/8/97 DPP Interim Direction Part I was issued. It was noted that forensic evidence (body fluids and physical methods) and the post-mortem were still outstanding. The direction was that no prosecution decision was to be made before receipt of those (18106)
- 4.5 24/10/97 Lawrence Marshall, FSANI, sent a report of scientific examination to DI Michael Irwin (17797)
- 4.6 3/11/97 DPP received Lawrence Marshall's report on the items of clothing attributed to Mr Hamill. Robert Hamill's black leather jacket had extensive blood staining on the back, with blood stains on the back right sleeve, right front and side. His jeans were bloodstained at the bottom of both legs, with staining more heavily on the left, and with light stains on the seat. On the white shirt there were bloodstains on the collar and over the right shoulder at the back. The report showed that unsuccessful DNA testing was carried out on Robert Hamill's jacket, seat of his trousers, right shoe and the right cuff of Maureen McCoy's jacket. Successful tests showed Stacey Bridgett's blood on his own clothes and the right leg of Robert Hamill's jeans; blood from unknown "a" on Robert Hamill's clothes and on Maureen McCoy's jacket collar; and blood from an unknown person "b" on D's top (17797)
- 4.7 12/11/97 A HOLMES action was raised. Accordingly, DI Michael Irwin spoke to Lawrence Marshall about his report. As a result of this conversation, Lawrence Marshall tested unknown "a" against the DNA of Marc Hobson, Andrew Allen and Wayne Lunt, all with negative result. Colin Prunty and Maureen McCoy said it was not their blood.
- 4.8 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 in an elongated shape meant that there was nothing to indicate which direction the blood came from and therefore he was reluctant to offer any interpretation as to how the blood got there but he 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 (18040).
- 4.9 28/11/97 The clothing of Allister Hanvey was returned to him from FSANI
- 4.10 9/12/99 Raymond Kitson stated 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 (18335)
- 4.11 24/6/02 Samples were identified as unknown "a" by Collette Quinn (72903). DCI **K** had the discrimination increased and the samples run against the DNA database 72906. The discrimination was partially successful 38904. He did not deal with MAA 1 to 4 (see 8164 27 April 1997 for a map of the exhibits).
- 4.12 31/3/04 The DNA profile for unknown "a" was loaded on the NI database (73301). (See explanation of DNA database 72806).
- 4.13 6/4/04 Lawrence Marshall reported on the extent of sampling of unknown "A's" blood (38901). (See also diagram of blood stains 72303).

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

It is alarming that there is a significant gap in time between Lawrence Marshall from FSANI informing DC John McDowell that Stacey Bridgett's blood was on Robert Hamill's trouser leg, and his report of scientific examination being sent to DI Irwin (please see 4.1 and 4.5 above). The gap in time is of approximately four and a half months, during which time no prosecution decision could be made by the DPP until the forensic report had been completed (please see 4.4 above).

5. Witnesses were asked to deal with the time taken for the FSANI to produce a report:

Collette Quinn

Statement

- 5.1 Para. 7: Timeframes on reporting would be agreed with the Investigating Officer. Where suspects had been charged, their file would take precedence and usually the report would be produced within 90 days, which was the time limit FSANI

were supposed to have. The time limit was extended to 120 days when suspects were on bail.

Lawrence Marshall

Statement

- 5.2 Paras. 4-19: Mr Marshall explains the short reason for not meeting the 80 day target for the report was that the biology department was under-resourced.

Oral Evidence

- 5.3 FSANI was under-resourced and had high volume, high pressure work. They hoped to turn a case around in 120 days. If it became a DPP file that would be speeded up to 80 days. That this DPP file took 151 days was down to a lack of resources but the finding of any substance was relayed to the police within 2 days of testing commencing (p.50)
- 5.4 FSANI works on an on-call system to do emergency work. Bridgett's blood was considered an emergency (p.7)

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

We still have concerns with the gap in time of the report of scientific examination being sent by Lawrence Marshall to DC Irwin. We appreciate that the FSANI may have been under-resourced and under pressure during this period. However, Lawrence Marshall was able to disclose to DC John McDowell as early as the 09.06.97 that Stacey Bridgett's blood was on Robert Hamill's trouser leg (please see 4.1 above), and yet it was not until the 24.10.97 that he sent his report to DI Irwin. It is alarming as this item (Bridgett's blood) was considered an emergency (please see 5.4 above) within a DPP file, which naturally took precedence (please see 5.3 above).

Comment

6. Although Mr Marshall was made Category B, no criticism was levelled at him or FSANI in the hearings. None is offered here. It is clear that he and the service were operating under severe constraints.

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

We agree with this.

Submissions by the Public Prosecution Service

1. A number of questions were put to the State Pathologist, FSANI and ODPP witnesses about the delays in receiving both the pathology report and the DNA analysis, and the role of the ODPP in pursuing the same. In light of the evidence given, no criticism is levelled at either the State Pathologist or FSANI witnesses in Inquiry Counsel's Closing Submissions, it being accepted that both services acted as fast as they could and that FSANI in particular was operating under severe constraints (§§2, 6, above). For the avoidance of doubt, the PPS makes the following observations:

a. The ODPP repeatedly pursued (either directly or through the Police) both the State Pathologist and FSANI for their reports during the months of July, August and September 1997: see for example [18101], [31881].

b. In 1992 a scheme had been set up with a view to minimising the amount of time spent in custody for those charged with indictable offences and setting target disposal periods. The agencies involved in meeting those timescales, including the Police, the FSANI and the ODPP, set up new machinery for close cooperation between them. A Progress and Tracking Group, chaired by the ODPP, was established to track individual cases. The Hamill case was raised at three meetings of the Progress and Tracking Group on 21 August, 18 September and 16 October 1997, and updates on the post-mortem and forensic reports were sought (3rd W/S of Raymond Kitson, [75419], [75422]-[75423]).