

## **IDENTIFICATION OF SUSPECTS**

1. A number of questions may usefully be addressed regarding the way in which witnesses were identified and treated by officers at the scene.
  - 1.1 The first question is what potential suspects and witnesses were recognised at the scene by officers?
  - 1.2 Secondly, what did officers see Allister Hanvey do?
  - 1.3 Thirdly, should any of the potential suspects have been arrested at the scene?

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

See sections 4, 7 and 11 below.

### **Submissions by Gus Campbell Solicitors (Marc Hobson)**

A fourth question is suggested; Did those police who purported to identify suspects get it right.

If one starts with the premise that Res Con Atkinson at least avoided making identifications, is it possible that other police did likewise, or perhaps fingered someone who ultimately had nothing to do with the violence in an effort to be seen to be seeing and doing something..

In consideration of this issue with respect to Marc Hobson the following submissions are made for the consideration of the panel;

1. It is not accepted that the evidence points unequivocally to Marc Hobson being present at the scene.
2. It is possible that persons purporting to identify Marc Hobson as being present are either mistaken or are deliberately attempting to mislead the Panel.
3. In addressing the issue of identification, the Panel are invited to consider other materials that assist in deciding whether those police who purportedly identified Marc Hobson did so correctly or indeed honestly. This involves not just the evidence of the Land Rover crew and the back-up police but also a comparison of these accounts with the catholic witnesses who were close to the very earliest events that night.
4. Did the investigation deal properly with the gathering and consideration of the evidence that suggested Marc xxxxx and not Marc Hobson was involved.

### **Submissions by the Police Service of Northern Ireland**

See sections below.

## Submissions by Richard Monteith Solicitors (Civilian Witnesses)

Agreed.

### **THE FIRST ISSUE: WHO WAS SEEN**

2. There are considerable materials on this issue:
  - 2.1 At 01.55 Con **A** made a radio call to check the address of Wayne Lunt. The response to Con **A**: no one listed (6583).
  - 2.2 02.01:55 Wayne Lunt's address was confirmed by Con John Adams (10521).
  - 2.3 Con Gordon Cooke identified as being in the crowd: Stacey Bridgett, **P53**, Rory Robinson, Marc Hobson, Timothy Jameson, Andrew Hill, Lisa Hobson, Kenneth Milligan and Noelle Moore. Con Gordon Cooke described **P53** in a multi-coloured checked shirt; Rory Robinson in a yellow shirt and beige trousers; Marc [REDACTED]/(Hobson) in a black leather jacket and blue denim trousers; Andrew Hill in a navy jacket and blue jeans; Kenneth Milligan in a Grey Umbro sweatshirt, white trainers and fawn trousers; Lisa Hobson had long dark curly hair, black jacket and black trousers; Noelle Moore in a grey Adidas top and purple denims (9225).
  - 2.4 Con **A** identified as being in the crowd: **P53**, Wayne Lunt, Stacey Bridgett, Dean Forbes. Con **A** described **P53** as wearing a multi-coloured checked shirt, tucked into blue jeans and a black jacket and black shoes. She described Wayne Lunt 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. She described Stacey Bridgett as wearing a cream shirt with a fine brown stripe over white jeans. She described Dean Forbes as wearing a light coloured checked shirt over light coloured cream trousers (p.9235).
  - 2.5 Res Con Paul Warnock saw Andrew Hill wearing blue jeans and a navy bomber jacket. He described Wayne Lunt as wearing a baseball cap, white jeans and a white top with dark stripes on it (9229).
  - 2.6 Con David Orr identified Noelle Moore in the crowd and a girl with long black hair who was with her (9977).
  - 2.7 Res Con **P40** described a person consistent with Marc Hobson's appearance being aggressive (6349)
  - 2.8 **P40** described a man in a navy shirt and dark trousers, who earlier gave the warning, standing outside the Alliance & Leicester shouting "what the fuck are you going to do?" after the officers dismounted from the Land Rover (6349).
  - 2.9 Res Con Godfrey Dean Silcock said Rory Robinson was verbally abusive to him and members of the public. He said that the crowd shouted verbal abuse including, "I hope they die". He described Rory Robinson as wearing a bright

yellow/orange shirt with a black check. He identified a youth who responded to the name Stacey 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. He said the man on the floor was unconscious and had trouble breathing (9220).

- 2.10 Res Con Robert Atkinson made a statement. He identified a male dressed in a green or blue shirt and dark trousers with short brown hair aged about 30 to 35 years who passed in front of the Land Rover who mouthed something. At Eastwood's shop, he extricated a man who was being attacked by four or five youths and removed him to Woodhouse Street for his safety. This man was dressed in a light coloured casual top. He accompanied Con Alan Neill to the Land Rover and was confronted by the man in the green/ blue shirt whom he had originally encountered. Res Con Robert Atkinson said that he saw three youths jumping on the head of a man lying on the ground outside Eastwoods. All this time a loyalist crowd taunted and tried to attack. They had to be held back and he struck a man dressed in a mustard coloured shirt, whom he believed was Rory Robinson. He observed Con A remove Wayne Lunt, who was dressed in a white baseball hat and a red, white and blue scarf (6346).
- 2.11 Con Alan Neill stated that he assisted in getting the crowd back up the street. Whilst doing so, he saw a male, late 20s, with a round face, a 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. Other police had arrived and were standing with Rory Robinson who was in his 20s, short black hair, thin with pointy features. Both these men were taunting the injured men. Rory Robinson was moving back and forward across the line trying to get through. He squared up to Con Alan Neill a few times. Con Neill assisted Con A in taking Wayne Lunt to the Land Rover, and he saw Stacey Bridgett with blood around his mouth. He saw Andrew Hill wearing a soft denim jacket and jeans and he appeared to be injured. Con Alan Neill recalled the man with the goat beard assaulting someone and having to strike him with his baton (6332).
- 2.12 Res Con Cornett said that the man in his 30s with the blue shirt and dark trousers was not the same man who was mouthing at the police. The females who came over to the Land Rover were shouting "not doing nothing"; they were not the two females who gave assistance to the injured (9681).
- 2.13 28/4/97 Some notes were made with descriptions of [REDACTED], Bridgett & Forbes (p.65810).
- 2.14 10/5/97 Con Alan Neill identified Marc Hobson at a confrontation ID parade (p.10963).
- 2.15 19/5/97 Con A recorded in message Form 33 the details of the man who had approached her at junction of Woodhouse Street and Church Street (7789).

- 2.16 26/5/97 Con Gordon Cooke made a statement to confirm that the man he saw in the crowd, that he had previously identified as [REDACTED], was in fact Marc Hobson (p.9228).
- 2.17 28/5/97 Res Con William Burrows made a statement in relation to his duties on the night of the incident. He did not see clearly what was happening and did not recognise any of the people involved (9242).
- 2.18 30/5/97 Res Con **P40** was interviewed about contact with Dean Forbes. He said he could not put names to faces (p.3806).
- 2.19 28/9/97 Res Con **P40** said there was one man who stood out to him who was waving his finger and shouting. Res Con **P40** 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 (9351).
- 2.20 16/9/97 Con **A** completed an injury on duty report in relation to the incident on 27 April 1997. She was tasked to attend a major disturbance in Market Street, and 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 Street. 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 (11396).
- 2.21 21/11/97 Con Alan Neill 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 (10948).

### Submissions by Gus Campbell Solicitors (Marc Hobson)

In the view of the Cory Investigators, the police appeared reluctant to name those involved, 08934

Con Cooke was not called to give evidence at the trial of Marc Hobson. Neither was P40.

Res Con Atkinson kept the crowd back with his baton while Con Neill attended to the body outside Eastwoods shop. There were a number of females present, p06347. The loyalists were trying to attack both the police and the nationalists,

Res Con Atkinson went to the Land Rover and during a struggle with a person in which the strap of his baton broke he saw 3 persons jump on the head of the

person outside Eastwoods. He broke free and went to the aid of of the injured person where he remained until assistance from other police arrived. He saw A with Lunt, p 06348.

At the Hobson trial, Res Con Atkinson was asked about going to the aid of the person on the ground outside Eastwoods. He said he kept the loyalist crowd back from getting in at them again, they were trying to break through to get to these people that were on the ground, 8342.

When he saw three persons jumping on him he ran over to the person lying outside Eastwoods and his assailants ran off back into the crowd at the upper side of the town, about 25-30 yards from the body. The crowd moved about from left to right in various groups, 08344. The crowd consisted of about fifty and that remained the position for several minutes and then assistance came, 08345. He believed it was 7 - 8 minutes before any other police arrived, 08346 (a total lie).

He claimed that Hamill had not been on the ground when he went to extract the nationalist from a fight that had started soon after he had alighted from the vehicle and that within 10- 15 seconds of dealing with the nationalist he had turned round and saw the two body's on the ground, p 08380.

While Con Neill attended to Robert Hamill he kept the crowd beyond Mr Hamill. He then made his way to the Land Rover from where he got into the altercation in which the strap of his baton broke and he saw 3 men jumping on Robert Hamill, 08383.

Two girls were at the two men lying injured on the ground. He did not see any of the woman come over to the Land Rover. He did not know how long Con Neill stayed with the injured but the two girls were with them, p08390.

There was no-one on the ground when he made his way up (to Eastwoods) and no one on the ground when he was running back into the mouth of Woodhouse Street, p 08391.

Its hard to get it into chronological order but it was after Con Neill had given assistance that he saw 3 persons with the first man, 08394. While Con Neill was giving assistance he kept the crowd at bay.

When he had the altercation with the man who had walked in front of the Land Rover and his strap had been broken, and he saw the three men jump on Robert Hamill's head, he broke free and made his way to Hamill to keep the crowd back and at no stage after that did he see anyone kick or punch or attack either of the two men on the ground, 08395.

Then after that the crowd were trying to get through and he was involved with them and he was not aware of what was going on behind him. He was helped by Con Neill initially. After dealing with the injured man he joined him to keep back the crowd, p08397.

When he was trying to hold people back he was facing away from Mr Hamill, He was trying to restrain about 25 people, p08403. People did get past his position.

Res Con Cornett's statement to police records alighting from the Land Rover seeing different groups fighting and women screaming and running back to the Land Rover to call for assistance and also an ambulance as 2 people had been injured, p 00689

P40's police statement; he recalled getting out of the Land Rover and seeing several fights taking place. He got involved in an altercation with a nationalist whom he removed to Woodhouse Street, and then saw 2 males lying in the middle of the road adjacent to Thomas Street. He assisted other police in moving the crowd back and observed a male with very short black hair, black mustache and a goatie beard, 5'9" and stocky build, black leather jacket and blue jeans. He was very aggressive, p00696.

At Para 2.19 of the Inquiry Submission the point is made that P40 stated "man wanted to get at man lying on ground". Firstly, this does not make it onto his statement and was not raised in questions. Further, the actual sentence in the interview is contained at page 09387 and the sentence ends with the word lying it does not say "lying on the ground" , Para 81150 states that this person wanted to get into more fights. There is no mention of him wanting to get at the man lying or the man lying on the ground. It would not be reasonable for the panel to conclude that P40 gave any consistent account of what this person did without the matter being raised and clarified in the oral hearings.

Con Cooke's police statement; when he arrived with Cons Murphy and Warnock he saw 2 persons lying on the left hand carriageway near the junction with Thomas Street and a crowd of 30-40 people 10 feet in front of them with several police in between trying to hold them back. Two females and a male were close to the injured persons. The crowd were trying to push past police to try to get towards the injured person, p00708. Other police arrived at this time. He started to move the crowd back towards West Street. He recognised Bridget, P53, Robinson, xxxxx whose correct address he noted later. He asked Robinson and xxxxx to move up the street, 00709.

Con Neill police statement; After he was pulled from the Land Rover by the person who said 'you sat there and watched that happen' he observed cat calling. He saw 8-10 persons who appeared to come from Thomas Street trying to make their way across into Woodhouse Street and approx 30 or more "taunting and getting on". A free for all then started. He made for a fight involving 3 on 1 outside Eastwoods, p 00681. He then moved to Woodhouse Street with one of the persons from this fight. Another fight started near him and he separated it. He was still awaiting backup and noticed 2 people on the ground with women attending to them. He went to the man who was rasping. He had spoke to Res Con Cornett and told her to get an ambulance and then tried to assist in getting the crowd back up the street. During this he noticed a male, late 20s, round face with goat beard, short hair was near him ad he saw

him kick at the injured man known as Robert Hamill. He was moved back. Other police had arrived at this stage, p 00682. He became aware of Con A dealing with Lunt and he went to assist her. He helped her take him back to the Land Rover. He returned to the crowd and helped move it towards West Street. The male with the goat beard and leather waistcoat became involved in another fight and was struck with his baton, p00683.

In 2001 he made a further statement stating that he had seen Allister Hanvey on the night in question, p17247.

Con Neill, in evidence at the Hobson trial, recalled that he noticed one of the bodies when he was trying to extract Res Con Atkinson from a fight there were possibly up to five people involved in that. He then made his way to the body of Robert Hamill and checked on him and noticed his breathing to be rasping. He was alone at that stage and there was nobody in the immediate area at that stage, p 08473.

He remembered being involved in a fight convenient to that area about 10-30 feet away, possibly before he checked on Mr Hamill, it probably was before because he could not remember actually, it was after that he thought he went to the body, Mr Hamill, when he was lying, p08474. He then thought it was after he made his way to Mr Hamill, p 08475. Then he thought it was before because he remembered seeing a person standing at the head area of Mr Hamill. He then related the account of seeing Hobson kicking at the body of Robert Hamill, p 08475. Mr Hamill was alone at this time, 08477. He was trying to split up another fight at the time. He did not believe any other police had arrived at that stage, 08477. He went to assist Con Atkinson later and saw he was involved in a fight involving the person he had seen standing over Mr Hamill, he struck him with his baton, 08481.

He could not remember whether he made his notebook or statement first, 08546, but he knew at that stage that there was some suggestion that the police had sat and watched this happen and had done nothing, 08547.

He attempted to assert in his evidence that he had possibly seen Mr Hamill running at someone with a bottle, he thought it was the same person because one person had been running at the other with a bottle in his hand and Mr Hamill was lying with glass round him and alcohol around him, and his belief was that the person running towards Mr Hamill had downed him, 08556. He then claimed to have seen the attack on Mr Hamill but not able to identify the attacker, whilst he had tunnel vision of other events he did not have tunnel vision of this event, 08557. He could not provide any description of the attacker, age, height, clothing, facial features. The only thing he could say about him was that he had a glass in his hand. He was clear that Mr Hamill was not on the ground before he got out of the Land Rover, 08558.

The man who pulled him from the land Rover must have been complaining about the cat calling going on in the streets, 08561. He was unable to say what the composition of the fights that commenced in terms of male and female participants, 08568. He could see the road in front of Eastwoods and if

someone had been unconscious on the road he would have seen them. He supposed that the person he saw running with the bottle was Mr Hamill, and that he was on his feet at that time, 08570. When he grabbed the nationalist from the fight this was from outside Eastwoods and he could not have missed someone on the ground outside Eastwoods and Mr Hamill was not on the ground at that time, 08572.

He recalled that there was no-one else other than the man with the goat beard standing over Mr Hamill, 08600. He did not see anyone stamping on one of the two men on the ground although he saw the person with either a glass or a bottle running towards him. There were perhaps 70 or 80 people by this stage, 8601. He was in the middle of a fight when he saw this, 8605, trying to separate another fight and got a glimpse of what was happening over at Robert Hamill's body, 08606.

He saw the man with the goatee again when he went to extract Res Con Atkinson from another fight but he could not describe any of the other persons, involved except for the man with the goat beard, 08607. Res Con Atkinson could not recall the two fights that Con Nell came to his aid, 08608.

He rejected the suggestion that Robert Hamill had been put to the ground before any of the Land Rover crew had stepped out of the vehicle.

Con Silcock was one of the first back-up police officers to arrive. He arrived a few minutes after 1.47 when he observed two persons lying on the Church Street bound direction of High Street, p00700. He attended to the person in the dark jacket who was unconscious and having difficulty breathing (Robert Hamill). He radioed for an ambulance and stayed with these two men who were with relatives until the ambulance arrived. There were a large number of aggressive males some of whom were pushed away from the injured men as they appeared to try and kick the men. One of the youths was pointed out as having jumped on the head of one of the injured men, and someone called him Stacey. (it is submitted that this incident witnessed by Con Silcock is one of the earliest police accounts of what the scene was apart from the Land Rover crew. The panel should look to these accounts in order to consider the veracity of the accounts given by the Land Rover crew.

The first radio transmission for assistance was sent at about 1.46am, and appears to be responded to by call sign 70 shortly thereafter, p06589.

Con Silcock identified Rory Robinson whom he knew as in the crowd and being abusive and shouting I hope they die, p 701 or I hope you die, p9964

Con Warnock responded to the same call and arrived at the centre of Portadown at about 1.50. He observed a large crowd and police having a confrontation with them. He helped A put Lunt into the back of the Land rover at about 1.55 and returned to the police station to sign out a riot gun. When he returned the crowd were still disorderly and police pushed the crowd back towards Church Place, 00712.

In notebook entry, on arrival the group were pushed back by police, 9971  
When he arrived the two men were on the ground. He stood at the front of the crowd which faced the police line; this was in order to create a distance between the injured men and the crowd which numbered 30 - 40, p17258.

James Murphy prepared a statement. He was in the company of Cooke and Warnock. There was a large group of 40-50 persons and two males lying motionless on the street. He attempted to keep the two groups apart with other officers, the two males were comforted by females, p00706.

### **Submissions by the Police Service of Northern Ireland**

See sections below.

### **Submissions by Richard Monteith Solicitors (Civilian Witnesses)**

Please see paragraph 3.39.

3. A large number of witnesses dealt with this issue in their statements and orally.

#### **David Orr**

##### *Statement*

- 3.1 Para. 12: He did not see Noelle Moore do anything.
- 3.2 Para. 15: He is sure that at some point when they were dealing with the accident Con A mentioned Wayne Lunt. They were talking about the incident.

##### *Oral Evidence*

- 3.3 His general feeling would be that there was more than one youth with a Ranger's scarf on that night (p.5).
- 3.4 He only recognised Noelle Moore at the scene because he had dealt with her recently. He would not be able to recognise Mr Hanvey, Mr Hobson, Mr Robinson, Mr Lunt or Mr Bridgett (p.15).
- 3.5 Per 10710 there is a suggestion that he should have noted Wayne Lunt in his statement. He said he did not know who Mr Lunt was.

#### **Paul Warnock**

##### *Statement*

- 3.6 Para. 13: Wayne Lunt was wearing a baseball cap, white jeans and a white top. He does not recall if he was wearing a scarf. He did not see anyone at the scene wearing a scarf. He grabbed Mr Lunt by the arm and took him to the

Land Rover. He was by the Land Rover for a matter of seconds after Mr Lunt was put in.

- 3.7 Para. 21: He saw Andrew Hill in the crowd.
- 3.8 Para. 24: Andrew Hill was wearing blue jeans and a bomber jacket. He was 5'6 or 7", with a slim build. Res Con Warnock does not recall Mr Hill doing anything.
- 3.9 Para. 25: He did not remember anyone with a bleeding nose. He did not remember anyone except Mr Hill, Mr Hanvey and Mr Lunt.

### Kenneth Milligan

#### *Statement*

- 3.10 Para. 6: He had been stopped at 10pm. He was usually off the streets by 10pm. The officer took their names. This happened every weekend.
- 3.11 Para. 8: He believed Con Cooke identified him as he had spoken to him earlier that evening. Mr Milligan knew Con Cooke. Con Cooke had glasses and grey hair.
- 3.12 Para. 9: Mr Milligan knew that Res Con Silcock gave a statement identifying him as the man in an Umbro sweatshirt but Portadown was full of that type of sweatshirt at the time.

#### *Oral Evidence*

- 3.13 He was at Lee Stockdale's between house 9pm and 6am per 8109 (p.131).
- 3.14 Per 51059: "We left Lee Stockdale's at 0.00 and went to Armagh Road. We walked to the Esso Garage then we went on to Jervis Street. We stayed in Jervis Street for the rest of the night. At some point Lisa Hobson and Noelle Moore joined them. A patrol stopped near them after dawn and asked who they were and if they'd been in the town earlier". Mr Milligan does not recall that (p.132).
- 3.15 Con Cooke identified him as being in the crowd being pushed by police. He was with two girls. He was wearing a grey Umbro sweatshirt, fawn trousers and black and white trainers. Con Cooke saw them later and identified them as Kenneth Milligan, Lisa Hobson and Noelle Moore (p.133). Kenneth Milligan says he was with Lee Stockdale (p.134).

### James Murphy

#### *Statement*

- 3.16 Para. 18: He recognised Donald Blevins in the crowd (9232). He was sure it was Mr Blevins as had had dealings with him. Donald Blevins was not an active part of the crowd but he was trying to calm the situation and he was trying to get people to leave area by speaking to them and pushing them away.

*Oral Evidence*

- 3.17 He did not recognise anyone, mainly because he did not spend any time on the streets (p.86). He could see faces but he was not invited to look at mug shots or attend an ID parade (p.87).

A

*Statement*

- 3.18 Para. 13: She did not recognise anyone in the crowd until she turned and saw Mr Lunt. He no longer had a scarf around his face. She does not know if he still had a bottle with him. He turned and ran when he saw her. Her concern was he would throw the bottle if she did not stop him.
- 3.19 Para. 18: She was approached by a man who was 5'9", with short ginger/fair hair, wearing light coloured trousers and a blue shirt and a tie who shouted at her after she released Mr Lunt.
- 3.20 Para. 25: She saw **P53** in the crowd. He was 5'9" wearing a multi-coloured shirt, blue jeans and a black jacket. She had no concerns about him.
- 3.21 Para. 28: She did not see any officer in a confrontation, or have a conversation, with Mr Bridgett, Mr Forbes or **P53**.

*Oral Evidence*

- 3.22 After she had let Mr Lunt out of the Land Rover a man immediately approached her and said, "What the fuck did you let him go for? He was one of ones that did it". This man was standing with another man. She did not see a woman in the area at the time (p.101). She regretted not putting in her notebook the interaction with the man. She gave the men her details and asked them to make a statement the following day (p.102). The pressure of the situation did not allow her any time to note their names (p.103).
- 3.23 She recognised Bridgett, Forbes and another in crowd (p.81686). She recorded the names of everyone she recognised in her statement. Bridgett had blood coming from his nose and he was in the crowd. She did not hear him say anything to the crowd (p.81686). She did not believe he was close enough to Robert Hamill to have got blood on him when saw him (p.107). Dean Forbes was also aggressive. She disagreed that they were calm spectators (p.108). She did not see them, or anyone else, doing anything (p.113). She had known Marc Hobson since 1996 (p.81691). She did not see him at the scene (p.140).

## John Adams

### *Statement*

- 3.24 Para. 9: The older man [in the group of people at the mouth of Woodhouse St] was stout and about 40 years old. He had a woman with him who was short and had black hair. The woman was not part of the group but was standing in the High Street.
- 3.25 Para. 14: He noticed Rory Robinson in the crowd. He was 5'8", slim build with darkish short hair. He did not remember what he was wearing. He said he lived at the other end of town so Con Adams let him past and escorted him through town. He was not aggressive.
- 3.26 Para. 15: p.21747 indicates that he did not see Mr Hanvey, Mr McClure or Mr Henderson. He did not know Mr McClure or Mr Henderson. He knew Mr Hanvey but not well.

### *Oral Evidence*

- 3.27 He had seen Robinson in the crowd but he was not doing anything in particular. He did not say anything of significance as he escorted him down the town. He did not know what Mr Robinson was doing. There was no-one else he recognised whose name he did not put in his notebook (p.166).

## Denise Cornett

### *Statement*

- 3.28 Para. 21: She did not recognise anyone in the crowd.

## Gordon Cooke

### *Statement*

- 3.29 Para. 8: There were a number of persons he recognised from the Loyalist community in the crowd.
- 3.30 Para. 14: In his notebook he stated he saw Mr Bridgett who was 5'8" and of average build. He did not recall his hair colour but he was quite short. His nose was bleeding. He was not doing anything. Con Cooke knew Mr Bridgett from police duties.
- 3.31 Para. 15: He saw **P53** in the crowd. He had dark hair and was taller than 5'8". He was wearing a multi-coloured check shirt. He was not doing anything.
- 3.32 Para. 16: He saw Rory Robinson: 5'7", thin build, short to medium black hair that was wavy at the front. He had prominent front teeth and a thin face. He

was wearing a yellow fine check shirt and beige trousers. He tried to push past the police a few times. He was not aggressive.

- 3.33 Para. 18: He asked Mr Hobson to move up the street a few times and several times Mr Hobson tried to go past. Mr Hobson was quiet and not aggressive; he was just trying to walk to the men on the ground.
- 3.34 Para. 19: He saw Timothy Jameson in the crowd. He was 5'7", medium build, clean shaven. He knew Mr Jameson through his father. Con Cooke had sometimes carried out protection duties.
- 3.35 Para. 20: He saw Andrew Hill wearing a navy jacket and blue denims. He was quite effeminate, maybe from the way he stood. Con Cooke was sure the police had stopped individuals through the Prevention of Terrorism Act.
- 3.36 Para. 21: Noelle Moore was in a grey Adidas top and purple denims. Neither Lisa Hobson, Noelle Moore nor Kenneth Milligan were doing anything aggressive.

### Robert Atkinson

#### *Statement*

- 3.37 Para. 26: He struck Rory Robinson with his baton. He assisted Con A with a youth he knew as Wayne Lunt. He saw Victoria Clayton and Rat Gray. He saw Ms Clayton wiping blood from Mr Bridgett's face.

#### *Oral Evidence*

- 3.38 He and Con Neill saw a guy getting into trouble. There had been a clash between two or three people and there were possibly four guys who had grabbed the man. Res Con Atkinson and Con Neill ran over from the Land Rover and grabbed him. They would have had to run over the top of the man on the ground to do that (p.64). The man they grabbed was wearing a light coloured top. He was a smallish man (p.66).
- 3.39 Mr Bridgett was at the front of the crowd being troublesome. Res Con Atkinson did not see Tracey Clarke there (p.76). He did not see what Mr Bridgett did after leaving the Land Rover area. He did not know Mr Forbes at all. Other police asked him if he could identify someone and said what he was wearing (p.83). He thought the two people he saw walking up the High Street were Mr Bridgett and Mr Robinson (p.84). He did not see Mr Bridgett holding a bottle at the Land Rover. He did not see Mr Bridgett get a bloody nose but he did have one (p.86).

### Submissions by Gus Campbell Solicitors (Marc Hobson)

Res Con Atkinson's statement to the Inquiry; he repeated that when he had assisted Con Neill with the male in a fight outside Eastwoods by taking him to

Woodhouse Street he looked back towards Eastwoods and saw 2 males lying on the roadway. He and Con Neill went to the assistance of these two and with great difficulty they kept them back, p81389. They removed one loyalist from the loyalist faction as he was being aggressive and took him to the Land Rover. In the course of a struggle with someone at the Land Rover during which his strap was broken he observed 3 males jump on Robert Hamill's head. He ran back to Mr Hamill and protected him from further assault until the arrival of other police. He recalled Con Neill putting him in the recovery position and seeing two males tending to both. With the arrival of assistance Lunt was removed, p 81390. He was mostly involved with Con Neill

In oral evidence he stated that there was no-one on the ground when they got out of their vehicle, p63

When he and Con Neill had moved towards the two men who had been knocked to the ground there was no-one around them the crowd had moved back towards the church, p68. There were attempts to get at the body (marked in the snapshot at 3) and he got in front of number 3, the Catholics were behind him, p69, when the crowd got close and he had to strike Rory Robinson they were 10 feet from Mr Hamill. He was asked how Bridget's blood could have got onto Mr Hamill and he stated that he did not know as , from the initial find of the bodies on the ground they did not get back at the bodies, p 70.

He was in front of Eastwoods shop and they were defending themselves for two or three minutes without help and was in the same position when back-up arrived

Res Con Cornett's unsigned statement to Inquiry; she recalls seeing the 2 males on the ground but claims that they were definitely not on the ground when she had first got out of the Land Rover, Para 14. She ran to the first man, there were two females with him, he was unconscious and broken glass was on the ground near his head. There was no-one else near him as the crowd were pushed back by police, 6 or 7 feet away, Para 16.

P40's statement to Inquiry: he recalled that he, Res Con Atkinson and Con Neill tried to keep the larger group of loyalists away from the nationalists and 2 men on the ground, p 81149.

He recalled the man with the goatie shouting "hope he fucking dies" and pointing his finger. He did not include this in his own statement, p 81150

In oral evidence he sought to correct the impression of fighting by saying it was more like scuffles and that he had not seen any punches being thrown, but whatever was going on was already ongoing by the time he got out of the Land Rover, p5.

He was asked about the contents of his psychiatric report prepared for the purposes of making a claim for compensation. He did not know if he had told the psychiatrist about seeing the man covered in blood and having decided not

to intervene that he had not been in danger from the crowd, and when asked whether he was over-egging the pudding in his claim for compensation he stated that he did not know what he had told him, p17.

He stated that in retrospect there were faces that he did know, maybe not names, but faces that he could have made more of if there had been more time, p23.

He was asked whether he had put a story together and then accused of telling lies which he refuted, p29. It was then put to him that he sat in the Land Rover while fighting was going on when he was warned to watch out for Catholics and Protestants coming together; The witness having previously said he had nothing more for the Inquiry did not answer, p30.

He was asked about DS Bradley asking him if he wanted to change his very short statement and he stated that he did not as he was happy with it, p 66.

He was asked if he had embellished his claim for nervous shock, a claim that was dismissed at first instance, in which he had mentioned blood that he had not mentioned in his statement, or to DS Bradley or in his under caution interview in September 1997, p79. He denied making a conscious decision not to intervene, p81.

He recalled that when he put the male into Woodhouse Street he went across the street to assist his colleagues because he had seen a male on the ground. These colleagues included not just the Land Rover crew but also other police who had arrived, p124. He was asked to reflect on that and then he said "yes.

When he was dealing with the aggressive mob he had his back to the persons on the ground and he was dealing with the loyalist crowd in front of him, p125.

It was only in 2006 that he sought to put on any written record that the man with goat beard had said "hope he fucking dies", p127. He agreed that it looked as if paragraph 31 of his statement to the Inquiry "Stacey Bridgett is the only person who he named, but there were other people in retrospect who he saw but didn't write down their names". Then in Para 32 "I think this was due to my being tired and not having the time to debrief with my colleagues." It was suggested that he didn't say that he "did not name them because he couldn't name them." Instead he said he "cannot remember these persons now." He accepted that it sounded as though he could have remembered names but with the passage of time he could not remember them now, p131. He disagreed that he could have named people. He had no answer to the question "why he did not put names (or descriptions) of people he did know but put a graphic description of someone he did not know," p 133.

Con Cooke's s statement to the Inquiry; he recalled arriving at the scene and seeing the Land Rover crew close to the Land Rover except Con Neill whom he did not see. He saw the two injured men on the street, p 81675.

He didn't see anyone in the crowd assault the men on the ground or get within 10-12 feet of the injured men, p81677.

There was chaos and a lot of running about and milling about, p7. Members of the crowd were trying to get towards the two injured men but the police were between them. The crowd were about 10-12 feet away from the injured men and police 2-3 feet away from the crowd, p8.

He went straight over to his police colleagues upon arrival which included the Land Rover crew and police from the other vehicle that had arrived before them, p25. He was not in a static straight line, The police were moving about as people from the crowd came towards them or went round the side and tried to push through, they were moving to hold them back, p 27. His opportunity to observe in these circumstances was limited

He was asked about the identification of Marc xxxx. He accepted that when he recorded the events in his notebook and statement, he relived and recoded what he had seen. Without hesitation he recorded marc xxxxx's details, p33.

Whichever he wrote first he repeated the same details in the second document, although he probably did not spend much time putting thought into the second written document. He then revisited the scene later that morning with DC Keys and went over the events; his statement at p 81682 was put in which he had outlined the position of the injured men, crowd, ambulance. He outlined briefly everything he had seen, p34. He told him he recognised a few people but could not recall if he named them or described them, p35

It was put to him that he had 3 opportunities to reflect on the identity of the person he identified as xxxxx and he answered that he had associated that name with that face, albeit wrongly, p35.

He acknowledged that he had also put the wrong address for Hobson but the correct address for xxxxx on the two occasions he wrote the details down,

He was asked by Bradley to look over his statement to see if he was sure about the identifications, p37. He was not directed to any one person in particular and Hobson's name was not put into his head by Bradley, p 38.

Without his intervention in coming to him and asking him to reflect he might never have realised. and corrected it, p39.

He got the descriptions wrong when compared with the descriptions at Para 18 of his statement to the Inquiry; 5'5"-6 medium to slender build., 8144 QPF gave his description as 5'8" , short brown hair, sideboards, moustache, goat beard, 14 stone, well built. 00267, Timothy Jameson's statement "Marc has very short, brown hair, goatee beard and is overweight"; Marc Hobson's interview, 06719 "Five foot eight, 14 stone, short brown hair, ...Long sideburns but neatly trimmed to match the hairstyle,... a goatee beard,... fair build, overweight?", (page 43). He did not recall the person as having a goatee beard although his notebook did record such a feature, p41.

He was not called to give evidence at the Hobson trial. He did not know if this was because he was a poor identification witness, p45.

Cons Neill's Inquiry statement; whilst trying to break up fights from 20' he saw Hobson who was facing him kick out at Robert Hamill, 81037. Other police started to arrive and Constable Silcock attended to both injured men. Cons Orr, Warnock, A, Murphy and they tried to form a line to push the crowd up towards the church

Con Neill in oral evidence restated that there was definitely nobody on the ground before those fights actually started in front of them, p18. He accepted that his statement of the events made no mention of Hanvey, p22. He had no recollection of any police pulling kickers off Catholics despite Prunty's evidence that they were, p24

He was not aware by the time he got back to the police station that he was liable to criticism. That only came later that same day when an inspector told him that there was an allegation he had sat and done nothing, p54. He then clarified that he was aware that criticisms had been made before he made his statement but that it was later that he realised they were being made into a complaint, p55.

He refused to accept he might have been mistaken about Robert Hamill being engaged in an incident with a person holding a glass and denied that the whole event had been put in to try to make out that Robert Hamill was alive and running about much later in proceedings than he actually was, p74.

Having had the timeline suggested by the radio transmissions, that the call for an ambulance was made at 1.48 by Con Cornett and Cornett's account put to him he was asked to accept as a possibility that he was mistaken about the two persons not being on the ground when he got out of the Land Rover, he was not prepared to accept that, p82.

The neglect of duty criminal investigation was extant at the time he gave evidence at Hobson's trial, p84. He denied lying about Hobson's involvement, p86. He was 20-30 feet from him when he observed him and involved in trying to break up a fight. He could not recall who moved the man with the goat beard back, whether they were police or civilian, p92

He could not describe any of the persons involved in the 3 on 1 fight outside Eastwoods, the first fight he went to assist Res Con Atkinson in, 08592 and p95.

He accepted that the description of the person involved in the fight at Woodhouse Street was poor in that all he could recall was that he was in his 20s and he thought he had brown hair even though he was within inches of him, p97.

Regarding the second fight in which he assisted Res Con Atkinson, he could not pay any attention to the 4 or 5 despite being at close quarters to them, p08559 and p98.

Regarding the third fight in which he assisted Res Con Atkinson and during which he saw Hobson kick at Robert Hamill, he could not provide one jot of information about their descriptions, 8606 and p 99.

He would have had to look through the Crowd he was trying to contain in a hand to hand confrontation, p103, (ref snapshot showing Con Neill and Res Con Atkinson at or near traffic island with crowd towards the Thomas Street junction. Robert Hamill is shown further up the road towards St Mark's Church) (it is the only juxtaposition of crowd, Robert Hamill and police that would facilitate Con Neill having any chance of seeing anyone approach Robert Hamill. This juxtaposition flies in the face of any rational understanding of what the dynamic that night was; the crowd were intent on assaulting Catholics. On this juxtaposition Robert Hamill was not being protected he was exposed).

He accepted that the description he provided of Hobson was remarkably detailed for an observation lasting only a matter of a few seconds.

He was asked about his statement having Hobson kicking at Robert Hamill and his notebook simply kicking him and he recalled that he was seeking to convey that he was swinging his foot at Mr Hamill, whether his foot made contact he couldn't say, p109

He could not explain why in his statement he had used the phrase kick at to mean a kick that may or may not have connected without actually stating what he meant clearly, . His notebook contained an entry that it was a kick. He claimed that the reason he didn't clear that up was that he hadn't seen his statement until some time later, p111.

He was asked about his interview under caution at page 09427 in which he stated that he had seen Hobson kick Robert Hamill, "I saw him kick Hamill..in the head... it was not ..he didn't jump on his head it was just a straight kick", he accepted that this passage clearly suggested that he actually kicked him, and when pushed he accepted that he was saying that that was exactly what he meant in that interview. p 113. He was reminded that at page 09430 of his interview in September 1997 he had gone on to repeat that he had kicked him but it was not as vicious as somebody may have done, he explained that by saying that the head had not been lifted off the ground but he could not honestly say, p114.

When asked why he did not put in about the straight kick in his November 1997 statement but rather emphasised the kicking at and not sure if it made contact, he said he did not have all the information in front of him, p117. He claimed he had no difficulty remembering that he had not actually seen the kick land" when he came to make his November 21197 statement, p117.

He was aware that as the charges were being dropped against all other defendants the focus of attention was going to be on his evidence, p119. He denied that he watered down the lie to blur the edges of Hobson's involvement, p119.

His account was that the kick had taken place in the presence of other police and civilian witnesses, at a time when Robert Hamill was vulnerable, when his family were concerned about him and yet no-one else had seen the event, p120.

It was put to him that his evidence was deliberately changed because the charges against all other defendant's were being dropped and the spotlight was falling on his evidence.

His failure to put Hanvey into his statement was just a lapse of memory at that time, p12

Con Silcock in his statement to the Inquiry added that he responded immediately to the call for assistance and arrived 2 or 3 minutes after 1.47. When he arrived at the scene the police were running around trying to keep the crowd away from the men, 81160. Having attended to D he went to the assistance of Mr Hamill who was with two people one of whom was his cousin. He noted Rory Robinson in a group that were shouting "I hope they die, they die". The crowd were being held back by police, the crowd were verbally abusive and aggressive. He did not see anyone try to assault any of the injured men, 81162.

In oral evidence he said that when he arrived the police were all over the show, p42, trying to protect the men on the ground. When he was there they were getting rather close to the two people on the ground

Con Warnock, in his statement to the Inquiry said he was with Cons Cooke and Murphy when he responded to the call for assistance at 1.47, 81239. The police in the line were forming a barrier between the person lying at the bottom of Thomas Street in the middle of the Market Street junction and the crowd, p81240.

When he got out of the car he saw some police, 4 or 5 officers they were spread out forming a line across the junction of High Street and Market Street. The police had their batons drawn. The crowd were approximately 20-25 feet away from the 2 people lying on the ground. He moved up to join police line to make sure that the crowd were not encroaching on the 2 people lying on the ground, p81241. He saw the Land Rover crew forming part of the same line. p81241. He recalled Constable A taking Lunt out of the crowd and he assisted her in taking him to the Land Rover, 81242. He then went to the police station to sign out a riot gun. When he returned with the gun the crowd had swelled in size and the Land Rover officers were still present along with Cons Cooke, Murphy, Silcock, Adams, Orr and A, p 81244. The police started moving the Crowd back after he returned from collecting the riot gun towards St Mark's Church, p81247

He did not see anybody attack the persons on the ground, or attempt to attack, p 65. He could not recollect any fighting between the crowd and they were staying back from the police line, p66.

In oral evidence he said that the 4 or 5 officers were the Land Rover crew and they were in a formal line cross the junction of Thomas Street to the opposite side of the road which would have been Woodhouse Street, p37. Whenever he arrived he got out of the police car, a line was being formed in front of the crowd across the junction from Thomas Street to Woodhouse Street. He hadn't seen what had happened to require that cordon, p 72.

In Cons James Murphy's statement to the Inquiry he recalled that there were at least 4 maybe 6 police on the street when he arrived, the Land Rover crew and police from another vehicle, p81712. He joined police trying to control the crowd and tried to push them up the town which tried to run back down towards the junction. The crowd had no fear of the police. The police were scattered all over the place for most of the time and trying to watch their own backs, he was even separated from Cons Cooke and Warnock. It was clear there was no clear strategy, it was a matter of everyone mucking in to try to push the crowd back, p 81713. While he was trying to control the crowd other police arrived as well as officers on foot, there was between 10 and 12 officers in total no more. The MSU arrived only after the crowd had been controlled, p81714.

They got the crowd under control and pushed them up to the top of West Street. They were facing the crowd at the barriers at West Street for a long time before MSU arrived, p81716

In oral evidence he said the crowd was spread over the full width of the street, both sides of the central reservation, p79. The crowd was involved in small scuffles taking place all over the street, it was quite hectic, out of control, p 80. He believed at that time the crowd did not offer a threat to the men on the ground because the police were in the vicinity, p 82. He felt threatened by the crowd, they were surrounded and isolated, p83. The only reason he came up with Hanvey's name in 2001 was as a result of direct questioning, p88. The arrival of further police prevented any further injury.

The minor skirmishes were taking place all over the street with fights between catholic and Protestant and between loyalist and loyalist, p99

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

The Panel is referred to paragraph 34 of Robert Atkinson's statement when he states "I pointed him out to Sergeant [P89] and told him to be wary of Hanvey because of his expertise in martial arts." (81392)

#### **Submissions by the Police Service of Northern Ireland**

See section 4 below.

### **Submissions by Richard Monteith Solicitors (Civilian Witnesses)**

If a number of those charged with murder were seen at the scene - we submit after the event - this does not have a bearing on the issues which are germane to the Inquiry's terms of reference. Only in relation to Allister Hanvey and Reserve Constable Atkinson does an issue arise, and this has been dealt with above. Further, by way of comment, it may be said that, if Reserve Constable Atkinson saw Allister Hanvey at the scene, he could (most improperly) have advised him either that night or next morning to get rid of his clothing. It does not follow that he saw him attack Mr Hamill or D. This is by way of comment and not on instructions.

### **Comment**

4. All of those subsequently arrested, save for Mr Woods and Mr Allen, were identified at the scene by officers. A large number of potential witnesses were also identified at the scene.

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

As we pointed out in our comments on module 5, it is possible that all four RUC officers in the Land Rover gave Stacey Bridgett and Dean Forbes a false alibi for the attacks on Robert Hamill and D. If that is the case, then their evidence must be regarded as unreliable.

The fact that those subsequently arrested were all identified as being present does not, of course, make them guilty. It merely establishes that they had the opportunity to take part in the attacks.

The difficulty for the Inquiry is that none of the police officers present witnessed the attacks. The four officers in the Land Rover claim to have been unaware of the attacks until after they had taken place, and the other officers on the scene all arrived afterwards.

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

It is clear that the police officers at the scene not only identified five of the six persons subsequently charged with the murder of Robert Hamill, but also a large number of potential witness, some of whom later became potentially critical witnesses for a successful prosecution.

### **Submissions by Gus Campbell Solicitors (Marc Hobson)**

In consideration of this issue with respect to Marc Hobson the following submissions are made for the consideration of the Panel;

It is not accepted that the evidence points unequivocally to Marc Hobson being present at the scene.

It is possible that persons purporting to identify Marc Hobson as being present are either mistaken or are deliberately attempting to mislead the Panel.

The evidence of Marc Hobson's presence and participation is not consistent (ref snapshot showing Con Neill and Res Con Atkinson at or near traffic island with crowd towards the Thomas Street junction. Robert Hamill is shown further up the road towards St Mark's Church) (it is the only configuration of crowd, Robert Hamill and police that would facilitate Con Neill having any chance of seeing anyone approach Robert Hamill. This juxtaposition flies in the face of any rational understanding of what the dynamic that night was; the crowd were intent on assaulting Catholics. On this juxtaposition Robert Hamill was not being protected he was exposed).

Only Neill purports to make an identification of Marc Hobson. It is submitted that this identification cannot on its own be relied upon as Neill was a flawed witness. If the Panel conclude that he and the other Land Rover crew lied about their initial evidence it is conceivable at least that they could have lied about other aspects of their involvement. There is the strong suspicion that Atkinson lied about a number of other matters and maintained that lie for many years.

Constable Cooke's evidence of identification is similarly flanked with difficulties, stemming from his identification of the person as Marc xxxxx, the similarity in appearance of Hobson and xxxxx, the circumstances of that identification being changed and the descriptions of the person not appearing to match the 3 reasonable contemporaneous descriptions available in the documents that were put to Cooke in XX. It is not our contention that Marc xxxxx was the person at the scene. We simply contend that as far as Cooke is concerned, if this is the material which the Inquiry seek to corroborate Neill's account it would carry with it if this were a jury trial a carefully worded warning from the judge on the dangers of accepting it without much careful thought.

In our submission, the alibi for xxxxx was accepted on nothing more than a hunch; they just believed xxxxx'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.

How could P40 and Cooke be talking about the same person if one was aggressive and the other not.

There are grave concerns relating to the integrity and accuracy of Constable Neill. Primarily there must be at least a suspicion that his proximity to the malign influence of Atkinson potentially at least created the environment for a less than truthful account. In truth all the Land Rover crew were susceptible to this possible influence. The various statements and evidence before the

Inquiry raise this legitimately question; did Constable Neill tell the truth about what he saw, what he did and what reasons could there be for him to not be truthful before the Inquiry.

The first consideration must be whether he could have seen the person described in his original statement at all. This is considered in greater depth in our submissions in the “Response to the Disorder” chapter. For the reasons set out in that chapter there are reasonable doubts that Constable Neill was out of his Landrover in the time he claimed to have been and the trial judge rased questions over his honesty in that regard.. It is our submission that he and the other Landrover Crew members lied about this in order to cover up their inaction or delayed action. In other words, they remained in the Land Rover during the period of time when Robert Hamill was being attacked. The time frame presented by each of the Land Rover crew in evidence may not materially differ from the actual time frame. The crucially important distinction is that the critical events had already occurred by the time they did react.

Their lies about this casts a shadow of suspicion over the rest of their evidence because one can properly ask the following question; if they were prepared to lie about such a crucial incident, it is highly likely that they lied about other incidents to cover up or to present a better picture of their behaviour once they did get out.

Assuming the panel concludes that the landrover crew did lie about their initial actions it is reasonable to go on to consider the extent to which they each went in furtherance of that initial lie. Atkinson we know had little difficulty going on to perpetrate further lies that night not only in an effort to cover up his initial inaction but also in his attempts to protect Hanvey from arrest.

The context in which Contable Neill identified this person must be considered. It is not accepted that Marc Hobson was present at the time. See our submission on “building a case against the Suspects” for fuller details.

Factors weighing against the conclusion that Hobson was present include the failure to arrest him at the time, despite his alleged involvement in criminal acts at a time when police numbers were increasing; the less than satisfactory identification by confrontation. Whilst it is accepted that he had refused other forms of identiication the fact that he was the only one to be identified in this manner suggests that in some way he was being framed.

Gordon Cooke's ID; It is not accepted that Cons Cooke has identified Marc Hobson as claimed in 9225 and 9228. The Panel are invited to consider that, again, there must be concerns as to this identification for the following reasons

Constable Cooke had 3 occasions to consider the accuracy of the information he was recording with respect to the person he ultimately said was Hobson. Firstly, his statement which having been told by Insp McCrum between 3.30 and 4am to prepare one which was to include his recollections of the scene and the identity and description of anyone he recognised, p13.

Secondly, the writing of his notebook. He had put a lot of thought into writing which ever one he wrote first, (p 32). He did not put much thought into the second account, p33. The fact that he copied one off the other only explained why there is a copy of the account but it does not fully account for the repetition of the mistake. He would have had to opportunity to review his account and correct the mistake. . Thirdly, his visit to the scene with DC Keys at about 6.30am, p15. . This revisit provided a third opportunity to consider the events. He told DC Keys that he recognised a few people either by name or description ( p34). He just kept associating the same face with the same name, albeit wrongly, (p34)

There must be real concerns about the manner in which this name was corrected. Accepting for the moment that he was not directed to any one in particular the whole purpose of the exercise was to get Cooke to change his identification because the investigation at that time believed it was Hobson and not xxxxx who was present. Con Cooke's evidence in his original statement at that stage was frustrating this conclusion. There must be concerns that the process of re-evaluation designed as it was to clarify the situation does so by Cooke changing his statement. Without Bradley's intervention it might never have been "corrected", (p38).

P40 gave a description that the inquiry have been invited to conclude is consistent with Marc Hobson. It is also consistent with a description of Marc xxxxx whose image dating from circa 2003 has been uploaded onto the inquiry documents. Marc Hobson was asked to give a description of Marc xxxxx and he described his appearance as similar to his own, a goatee beard, short hair, he would have been roughly about six foot, he would have been, slightly taller, heavy built. This description and likeness to xxxxx is supported by the photograph of xxxxx which shows that he does have a resemblance to Hobson. It could also explain Cooke's initial identification in a manner different to that offered to the Inquiry.

The panel are invited to exercise caution in accepting the veracity of P40's evidence on this description for the following reasons: in all of his statements that deal with this incident P40 was only able to provide this one description. He was asked if there was any particular reason why he had only given this one description and his answer was "that he was there and he stuck out for his actions, p124.

His claim in oral evidence that this person so described said "I hope he fucking dies" was in fact sourced from suggestions made to him by DS Bradley that were themselves a "picture of what others had said" to Bradley, p125. This statement attributed to the person described did not make it into his notebook or statement at any time until his interview and statement were recorded by this Inquiry, even when the inquiry changed from an assault to a murder one, p126.

The person described was behaving in a way that might have amounted to a crimnal offence but arresting him did not occur to him, p127.

Was asked about 81151, para 31. He agreed that it sounded like he was saying that while Stacey Bridget was the only person he named there were others that he could have named but did not because he was tired and had not been de-briefed, p130. A de-briefing might have helped to put a name to a face, p131.

P40 was asked why he provided a description of a person he did not know but did not name any of the persons he did know.

Counsel to the Inquiry put it to P40 that he sat (with his colleagues) in the Land Rover: “ I'm accusing you of sitting in the Land Rover while fighting is going on when you have been warned to watch out for Catholics and Protestants coming together. What do you say about that? (Pause and no answer), p29.

There can be little doubt that P40's oral evidence on this issue left considerable question marks over his evidence. It is submitted that the Panel should exercise caution in attributing any weight to his evidence in so far as it suggests that Marc Hobson was the person being described or that that person shouted “I hope he fucking dies”. His evidence is open to the following criticisms: he clearly appreciated that by the time he came to be interviewed by the Inquiry and make his statement that there would be questions raised as to why he did not name anyone else at the scene despite having local knowledge and being based in Portadown. That is why para 31 of 81151 is phrased as it is; to give a reason why he only named one person. The natural reading of that paragraph is that he did know more people but did not put their names into his book because he was tired and had not been de-briefed. The de-briefing excuse was nothing more than an attempt to climb aboard the “failure to de-brief bandwagon” that was by the time this Inquiry was gathering evidence was well and truly up and running.

His excuse is not born out by the objective evidence as his account of not knowing their names (and the need for a debrief), does not account for why there was only one description in his statement. Descriptions did not require a debrief.

It is our submission that the provision of only one description in this account is highly suspicious. It may be accounted for by officers getting together and Con Neill's account being copied. Whatever the reason P40's account of himself in oral evidence left a lot to be desired on this issue and we invite the Panel to exercise caution before accepting his evidence as either honest or accurate,

At para 2.19 Inquiry Sub claim that P40 “man wanted to get at man lying on ground”. Firstly, this does not make it onto his statement and was not question upon, further the actual sentence in the interview is contained at page 09387 and the sentence ends with the word lying it does not say “lying on the ground”, para 81150 states that this person wanted to get into more fights. There is no mention of him wanting to get at the man lying or the man lying on the ground. It would not be reasonable for the Panel to

conclude that P40 gave any consistent account of what this person did without the matter being raised and clarified in the oral hearings.

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

At all times Reserve Constable Atkinson made every effort to identify those at the scene, both at the scene (in particular to Sergeant P89), in his statement of 27<sup>th</sup> April, and in his further discussions with Detective Sergeant Bradley. Reserve Constable Atkinson never denied that he saw Allister Hanvey at the scene and indeed identified him to his Sergeant, P89. Reserve Constable Atkinson has given full reasoning as to why he did not name Allister Hanvey in his statement of the 27<sup>th</sup> April and we would refer to our submissions under Section 9 on this issue.

### **Submissions by the Police Service of Northern Ireland**

The primary responsibility of police officers attending the scene was the preservation of life. Against a background of serious disorder, aggression and hostility it was a secondary (albeit an important) responsibility to put names or descriptions to those who were breaking the criminal law or who were otherwise in a position to inform the police about how and why events unfolded as they did and who was involved.

It is submitted that it is a credit to many of the police who attended the scene that despite the mayhem going on around them they were still able to maintain a focus which would later allow them to compose detailed statements containing much in the way of helpful information which would have assisted the GBH and then the murder investigations. This could not have been a straightforward task.

It is accepted that not every police statement achieved the gold standard. It is accepted that some police statements omitted to include details which were later to become important. This is regrettable. However, with the possible exception of Res. Con. Atkinson's failure to include the name of Alistair Hanvey in his statement, it is submitted that there is absolutely no basis for suggesting that any officer sought to cover up the involvement of any of the assailants.

Rather, it is submitted that there are wholly innocent reasons which explain the omissions. For example it would appear that there are good grounds for considering that Constable A became distracted by her subsequent duties (attending a road traffic incident). Had she been debriefed it is unlikely that she would have failed to mention the altercation at the land rover when Mr. Lunt was identified as being involved in the attack.

Likewise many officers saw Hanvey at the scene and would have been in a position to describe his clothing or to describe his aggression towards the police (eg. Neill, P89, Murphy, Neill, Warnock). However, none of the police witnesses saw Hanvey attacking or attempting to attack Mr. Hamill or D. Therefore, the relevance of any such observations may not have been obvious

to them at the time. It is the case that a structured debriefing ought to have been ordered by Inspector McCrum or P89. Had this been carried out with those officers who attended at the scene, and had it been carried out effectively it is likely that these officers would have been in a position to provide relevant information.

### **Submissions by Richard Monteith Solicitors (Civilian Witnesses)**

Please see above.

### **THE SECOND ISSUE: WHAT THE OFFICERS SAW ALLISTER HANVEY DO**

5. The materials are to this effect:
  - 5.1 Res Con Paul Warnock identified Allister Hanvey as being in the crowd wearing jeans and a dark coloured baseball type jacket with greyish sleeves.
  - 5.2 9/11/00 Trevor Leatham spoke to Res Con 'Bobby' Atkinson at the Tae Kwon Do club and he told him that they were in a Land Rover going up the other side of the street when they had seen a fight breaking out at the corner of Woodhouse Street. Res Con Atkinson said that there were a few people involved and they went up the town and came back to the fighting. Res Con Atkinson told him that when they got back down he had seen Allister Hanvey standing back and watching the fight and he was either drunk or high on drugs. Atkinson told Mr Hanvey to go home and they argued until Mr Hanvey went away (17392).
  - 5.3 17/11/00 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 Res Con Robert Atkinson, who told him and the name clicked with him. He did not speak to Res Con Robert Atkinson later that night but remembers seeing him in the communications room when Res Con Robert Atkinson was recalled. Res Con Paul Warnock gave a statement to DC Donald Keys before terminating duty and did not discuss the contents of the statement with Res Con Robert Atkinson. He could not recall anything further about Allister Hanvey's clothing over what he said at the time about a jacket with grey sleeves. He recalls Allister Hanvey because he was one of the more prominent people in the crowd facing the police line (11145).
  - 5.4 6/12/00 Con Alan Neill was interviewed by DCI **K**. He said for the first time that he saw Allister Hanvey on the night and recognized him. He thought Allister Hanvey was wearing a tracksuit top. Con Alan Neill thinks it unlikely

that Res Con Robert Atkinson would have had the time or opportunity to speak to anyone during the fracas and he did not see Res Con Robert Atkinson speak to a girl (11119).

- 5.5 6/12/00 Con Alan Neill remembered Res Con Robert Atkinson [when he was on the phone at time of recall to the police station] saying that he had seen people around one of the injured parties but he could not or did not identify them. Con Alan Neill was not fully awake so he could not recall which it was (11124).
- 5.6 28/12/00 Sergeant **P89** made a statement where he said that on 27 April 1997, he was moving a large crowd into West Street 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 Sergeant **P89** who considered that the individual was close to assaulting him. Sergeant **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 was an expert or black belt in martial arts. He said that Res Con Robert Atkinson mentioned the fellow's name as "Hanvey" but Sergeant **P89** cannot recall what he was wearing. Sergeant **P89** recalled that Res Con Robert Atkinson struck Rory Robinson in the stomach because of the note he made but had no actual recollection of this now (11084).
- 5.7 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 James Murphy did not know what Allister Hanvey had been wearing and did not see him commit any offence (34807).
- 5.8 Res Con Paul Warnock made a further statement in which he recalled seeing Allister Hanvey and recognizing him from policing duties around Portadown but he did not know Mr Hanvey's name at the time. He thought Res Con Atkinson told him his name (17258). He did not see any contact between Mr Hanvey and Res Con Robert Atkinson (17257).
- 5.9 Con David Orr made a statement stating that he knew the name Allister Hanvey but did not know him to see at the time of the incident (11036).
- 5.10 Con Alan Neill saw Allister Hanvey wearing a tracksuit top (NB He did not make a statement about this until 19/6/01) (17247).
- 5.11 Sergeant **P89** was warned by Res Con Robert Atkinson about Allister Hanvey being a martial arts expert (11084).
- 5.12 Res Con Robert Atkinson admitted that he saw Allister Hanvey to his right on the night of 27th April 1997 (9476).
- 5.13 Allister Hanvey was interviewed and said he did not know Res Con Robert Atkinson's name and the only policeman he knew there was Res Con Jim

Murphy. It was not checked with Res Con Jim Murphy whether Allister Hanvey had spoken to him until 2 January 2001 when Res Con Jim Murphy denied it (6599 at 6602).

- 5.14 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 James Murphy did not know what Allister Hanvey had been wearing and did not see him commit any offence (34807).

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

Reserve Constable Atkinson denies the conversation as outlined at 5.2 above took place and when cross-examined on the issue Mr Leatham's recall of the conversation was greatly undermined. Insofar as the contents in this section relate to the clothing that Allister Hanvey was allegedly wearing, this is a matter which is dealt with in our submission at Section 8 of the closing submissions and we would refer thereto. We would also refer to 5.4 above where Constable Neill in interview states that he thinks it unlikely that Reserve Constable Atkinson would have had the time or opportunity to speak to anyone during the fracas and did not see Reserve Constable Atkinson speak to a girl.

#### **Submissions by the Police Service of Northern Ireland**

See section 7 below.

#### **Submissions by Richard Monteith Solicitors (Civilian Witnesses)**

Please see below (7).

6. Witnesses said as follows:

##### James Murphy

##### *Oral Evidence*

- 6.1 He knew Hanvey as he had dealt with him regarding a traffic accident. He saw Hanvey in the crowd. He did not know what he was doing or wearing. There was no mention of Mr Hanvey in his notebook or statement that he made on 27th April 1997 as he did not see him doing anything of note (p.87).

##### Paul Warnock

##### *Statement*

- 6.2 Para. 22: He knew Mr Hanvey through normal policing duties. It was hard to say if he was a "recognised person".

- 6.3 Para. 23: Mr Hanvey would step 2 or 3 feet out from the crowd then go back in.
- 6.4 Para. 26: He thought it may have been Res Con Atkinson who gave him Mr Hanvey's name. However, it could have been Con Neill, Res Con **P40** or Con Orr.

*Oral Evidence*

- 6.5 Mr Hanvey was at the scene shouting and roaring at the front of the crowd (p.48). Res Con Warnock did not remember him at the time but remembered later as he thought he asked officers at the scene who Mr Hanvey was. He could have asked any of the officers, including Res Con Atkinson. Mr Hanvey was wearing a dark jacket with grey sleeves. It was definitely two tone and was made of thin material (p.49). He knew Mr Hanvey from his picture being in the paper (p.62). He could not recall knowing Mr Hanvey from police duties (p.64). He did not see Mr Hanvey push, or have a confrontation with, an officer (p.68).

**P89**

*Oral Evidence*

- 6.6 Res Con Atkinson was close to his left (p.78). Res Con Atkinson said the man who was being very hostile was called "Hanvey". He was told he was an expert in martial arts and was capable of putting **P89** down (p.12).
- 6.7 The man identified as "Hanvey" was accompanied by a young woman who was also very aggressive to **P89** in particular, perhaps because he had the baton gun. He assumed it was Hanvey's girlfriend. Res Con Atkinson talked to the woman about her behaviour in order to get her to quieten down and go home. **P89** felt Res Con Atkinson knew her. He did not recall if Res Con Atkinson used the woman's name. **P89** saw Res Con Atkinson talk to Hanvey and got him to quieten down and go home (p.13). It was not a deep conversation (p.82). **P89** had the impression that Hanvey was intoxicated (p.14). He did not know Tracey Clarke. He did not know Vicky Clayton (p.80). He did not hear anything exchanged between Hanvey and the girl. He only saw them together for a few minutes (p.82). A female was mentioned at 11084 but her association with Hanvey was not mentioned (p.104). However, even now **P89** had a clear recollection of the girl and Hanvey together (p.105).
- 6.8 **P89** did not observe Res Con Atkinson doing anything untoward (p.82) He did not discuss Hanvey with Res Con Atkinson after the incident (p.83).
- 6.9 He did not see Res Con Atkinson strike Mr Robinson (p.107).
- 6.10 **P89** put the information about Hanvey in his statement at 11084. He did not recall Res Con Atkinson telling him Hanvey's name (p.55). He assumed the aggressive man was a martial arts expert and called "Hanvey" (p.56).

Per.11084: "I recall Atkinson [said], do you know who he is...he mentioned the fellow's name as Hanvey". **P89** said he did not say his name was Hanvey. The statement was recorded by **P5** when he was on sick leave. He did not remember saying that to **P5** (p.57). He may have overlooked it when he signed the statement or the words were put in where he was "prompted to a certain degree". Res Con Atkinson may well have mentioned the name, it was just he did not remember (p.58).

- 6.11 He did not follow the incident and did not know that Mr Hanvey was released as he was on sick leave or had gone somewhere else. (He left Portadown for a year in 1997. He went to Newcastle, which was 40 miles away p.113). "I was unaware, was ill, sick" (p.59). He did not think the information about the martial arts expert was of assistance as he did not know he was a suspect (p.60). "That he had to be pushed up road was no more relevant than the other 40 or 50 people who were present at the disturbance". **P89** never thought about it being relevant when Mr Hanvey was charged. He did not know when he realised the martial arts expert had been charged (p.61).
- 6.12 **P5** made the statement in his own handwriting. **P89** did not know how many statements he recorded that day ("Further to my previous statement today 28/12/00" (p.11084)) (p.72). It should be a full stop after "further to my previous statement" (p.74).
- 6.13 Per p.106 of his Inquiry Interview "He mentioned Hanvey to me...watch that guy, he's a martial arts expert...There was no reason to suggest Hanvey was involved in the assault so it never dawned that it was same man" (p.76). That is an accurate representation of **P89**'s evidence (p77).

### Gordon Cooke

#### *Oral Evidence*

- 6.14 Para. 34: He knew Mr Hanvey through police duties. He did not see him at the scene.

### Alan Neill

#### *Statement*

- 6.15 Para. 51: He saw Mr Hanvey between First Trust and the drapers in Market St. He knew Mr Hanvey attended the Tae Kwon Do Club. Con Neill did not see him do anything. He did not include him in his statement as he was tired and had not been properly debriefed.

#### *Oral Evidence*

- 6.16 He made a statement in which he did not name Mr Hanvey but he had seen him there. He did not remember him doing anything to **D** or Mr Hamill. The officers were asked to make a statement in relation to what happened (p.22).

Eleanor Atkinson

*Oral Evidence*

- 6.17 Robert Atkinson came home at 04.00 and again at 08.00. On neither occasion did he say he saw Allister Hanvey at the scene (p.3).

Robert Atkinson

*Statement*

- 6.18 Para. 26: He saw Allister Hanvey at the scene. He identified Mr Hanvey to Sgt **P89**.

*Oral Evidence*

- 6.19 He thought Sgt **P89** asked who the man was [referring to Hanvey] and Robert Atkinson told him his name and to watch out. Hanvey was not doing anything (p.75). Res Con Atkinson was dealing with his own section. Res Con Atkinson did not have a conversation with Mr Hanvey (p.76). He believes that Mr Hanvey's description of the officer who asked him to help with crowd was not him as it was not his colour of hair. A few of the officers on the street would have known Mr Hanvey (p.77). He did not see Mr Hanvey involved in the fight (p.149).
- 6.20 He did not remember the conversation with Trevor Leatham. He said Mr Leatham had a drink problem (p.77).
- 6.21 He did not see Mr Hanvey involved in the fight (p.149).

Maynard McBurney

*Statement*

- 6.22 Para. 41: He spoke to a number of officers who were at the scene who alleged that they saw Res Con Atkinson talking to Mr Hanvey at the scene. This came out in **K**'s investigation but it was well known, certainly within hours of the interviews.

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

Insofar as the contents of this section relate to the clothing that Allister Hanvey was allegedly wearing, this matter is dealt with in our submission at Section 8 (Was there a tip-off?) and we would refer thereto.

We would refer the panel to paragraph 6.8 above, the evidence of Sergeant P89, who had Hanvey identified to him by Reserve Constable Atkinson, did not see Reserve Constable Atkinson doing anything untoward. He did not discuss Hanvey with Reserve Constable Atkinson after the incident suggesting that he had not seen Hanvey do anything untoward.

No one with the exception of Trevor Leatham suggested that Reserve Constable Atkinson had an untoward conversation with Allister Hanvey at the scene. Even if there was an exchange, as outlined by Sergeant P89, it takes the possible criticism of Allister Hanvey no further as what he is alleged to have said to Hanvey at the scene accords with his efforts at crowd control and that he had been identified by Atkinson as a spectator. Reserve Constable Atkinson readily identifies Hanvey to Sergeant P89 at the scene. Warnock had Hanvey's name identified to him at the scene but knows not who identified it to him. Trevor Leatham, who was not at the scene, is the only witness who has suggested that Atkinson interacted with Hanvey in any way which suggested that Atkinson was wishing to protect Hanvey. The Panel will wish to consider what weight if any can be attached to Trevor Leatham's evidence, as he was not at the scene, it is contrary to what other people at the scene are saying and it is not disputed, when suggested, that he was a man without problems of his own.

### **Submissions by the Police Service of Northern Ireland**

See section 7 below.

### **Submissions by Richard Monteith Solicitors (Civilian Witnesses)**

Please see below (7).

### **Comment**

7. It is plain that a number of officers saw Allister Hanvey at the scene. Importantly, Res Con Atkinson did so but did not tell the detectives. If Mr Leatham's evidence is accepted then the Panel may think it likely that the reason for his failure is that Mr Hanvey was causing trouble but Res Con Atkinson wished to protect him. Sgt P89 had a confrontation with Mr Hanvey, which suggests that Mr Hanvey was acting aggressively and was at the front of the crowd at an important time. Mr Hanvey's own evidence is inconsistent with that and that inconsistency, once resolved, may be an important indicator in whether Mr Hanvey was doing anything about which he now feels the need to lie.

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

Regrettably, we do not think the evidence summarised here allows the Inquiry to determine with any certainty what part, if any, Allister Hanvey, or indeed any of the other suspects, played in the attacks.

However, we do think that the Inquiry has ample evidence to suggest that not only RC Atkinson but many of the RUC officers turned a blind eye to what they saw not only Allister Hanvey, but others, doing on the night in question. Portadown is a small town. Those suspects who were subsequently arrested had paramilitary links. According to a written answer of 21.10.1999 to a PQ, five of the six men originally charged were housed in the wing of the Maze prison allotted to the Ulster Volunteer Force (UVF) while they were on remand. The sixth man asked to join the Loyalist Volunteer Force (LVF) wing. By rights, any local RUC officer should have known these men.

RC Atkinson's failure to mention having seen Allister Hanvey at the scene was, we believe, a significant omission, to which the Inquiry is entitled to have regard in deciding whether RC Atkinson was seeking to protect Allister Hanvey and whether RC Atkinson later advised Allister Hanvey to dispose of the clothing he was wearing that night.

We remind the Inquiry of the possibility that all four officers in the Land Rover may have given Stacey Bridgett and Dean Forbes a false alibi.

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

Apart from the issue of what Reserve Con Atkinson may or may not have seen, it is perfectly understandable that a number of officers who saw a person or persons at the scene, did not include those names in their statements as they had not witnessed those persons involved in an attack on Robert Hamill or D. The Panel should also bear in mind the circumstances in which the Landrover Crew came to make their statements. They had gone home in the early hours of the morning after a long spell of duty, recalled from their beds, and directed to make witness statements concerning this traumatic event.

Lest there be any suggestion of anything untoward in these officers omitting to mention Hanvey at the scene, the following should be borne in mind,

- (a) there is absolutely no suggestion that any of them had an ulterior motive to protect Hanvey by failing to mention him
- (b) in relation to Cons Neill and Murphy, neither saw Hanvey do anything of significance, and both volunteered subsequently that they had seen him at the scene
- (c) in relation to P89 it is hard to argue that his statement of the 7th May 1997 was other than bereft of any detail, but as P89 himself said in his evidence (outlined at 6.11 above), "that he had to be pushed up the road was no more relevant than the other 40 or 50 people who were present at the disturbance".

The Panel may feel that in present day policing, there should be a specific instruction to police officers that where a serious incident has occurred, they should include, not only the names of those persons who were acting illegally, but details of those who were present at the scene.

#### **Submissions by Gus Campbell Solicitors (Marc Hobson)**

Res Con Atkinson was not the only poice officer who failed to name Hanvey at the scene. Some of the other Land Rover crew did not mention his presence either.

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

We would refer to the submission above with regards to Trevor Leatham and submisisions under Section 9 regarding the contents of Robert Atkinson's statement.

#### **Submissions by the Police Service of Northern Ireland**

It would appear that in an unguarded moment Res. Con. Atkinson told Mr. Leatham that he had observed Alistair Hanvey at the scene. He did not on the evidence before the Inquiry tell Leatham anything that would establish that he saw Hanvey participating in the attack on Mr. Hamill. It might be argued with some force that if Atkinson did not say anything to Leatham (in this unguarded moment) to suggest that he had knowledge that Hanvey had involved himself in the attack, then perhaps it is the case that he did not have such knowledge.

However, that is not the end of the matter, and if this conclusion follows, it is certainly not enough to exculpate Atkinson. The description which Atkinson provided to Leatham which indicated that Hanvey was either drunk or high on drugs and sufficiently uninhibited to enter into an argument with police, adds weight to the suspicion that Hanvey was indeed an active aggressor at the scene.

It is submitted that there is no adequate excuse for Atkinson's failure to include his dealings with Hanvey in his statement. He had the opportunity of reviewing his original police statement and indeed he added further information to it following a meeting with Sergeant Bradley, identifying other people who were at the scene. The PSNI accept that Atkinson's failure to tell detectives about Hanvey's behaviour at the scene coupled with the later telephone contact between the Atkinson and Hanvey households affords a sound basis for drawing the inference that Atkinson was at least highly suspicious about Hanvey's involvement and wanted to protect him whether or not he actually saw him attack Mr. Hamill.

#### **Submissions by Richard Monteith Solicitors (Civilian Witnesses)**

We agree with this analysis. It is submitted that there is no concrete evidence linking Mr Hanvey with any direct physical contact with either Mr Hamilton or D.

8. The determination of the issue whether he was in fact doing anything which gave Res Con Atkinson cause to tip him off by telephone to destroy his clothes will also turn on the assessment of Tracey Clarke and Andrea McKee.

#### **Submissions by Arthur J Downey Solicitors (Andrea McKee)**

We endorse this generic submission and develop our own submissions on the assessment of Andrea Mc Kee in later Sections.

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

Please see our comments at paragraph 18 of module 5 in relation to Tracey Clarke's reliability.

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

We agree

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

Submissions on this point can be found under Section 8 of the closing submissions which deals with the alleged tip-off.

#### **Submissions by the Police Service of Northern Ireland**

The PSNI agree with this comment.

#### **Submissions by Richard Monteith Solicitors (Civilian Witnesses)**

This has been addressed. Further, one could comment that, should the "tip off" have taken place, whether at the scene or on the following morning, that is consistent simply with Reserve Constable Atkinson's having seen Allister Hanvey at the scene. We repeat that this is not on instructions.

### **THE THIRD ISSUE: SHOULD THERE HAVE BEEN ARRESTS AT THE SCENE?**

9. The materials show this:
  - 9.1 Con A did not think that the assault on her was worth investigating as it was just a few kicks. She thought Wayne Lunt was going to throw the bottle of Buckfast. When Lunt returned to the crowd, he had no bottle and his scarf

was around his neck. She was not happy to release him, but they could not afford the man power to detain him (10443).

- 9.2 Con A made a third statement clarifying that Res Con Paul Warnock had been in the Land Rover with her for a short period but left again. During that time the Land Rover rear doors had been opened and closed. She was in contact via radio with Portadown RUC Station in order to confirm Wayne Lunt's identity and that as soon as he was released from the Land Rover she was approached by a man whom she was in no doubt was referring to Lunt. (9240).
- 9.3 Colin Prunty gave evidence at the Marc Hobson trial. He referred to a man in a Rangers scarf being released from the Land Rover (8313 at 8333).

### **Submissions by the Police Service of Northern Ireland**

See sections 11-12 below.

10. Witnesses dealt with this issue.

#### **Con A**

##### *Statement*

- 10.1 Para. 13: She did not recall anyone in the crowd until she turned and saw Mr Lunt. He no longer had his scarf around his face. She does not know if he still had the bottle with him. He turned and ran when he saw her. Her concern was that he would throw the bottle if she did not stop him.
- 10.2 Para. 14: She did not know if Mr Lunt had anything to do with the incident but she ran after him to find out who he was. He kicked her legs and ankles. She and Con Neill took Mr Lunt to the Land Rover.
- 10.3 Para. 15: She thought Res Con Warnock helped but he left as Mr Lunt was compliant in the Land Rover.
- 10.4 Para. 16: She was satisfied when the response came back from the station. She assumed Mr Lunt had given her correct details. She thought that she would prosecute him for disorderly behaviour and assault on a police officer. Once she had Mr Lunt's details she would call him back to the station for an interview.
- 10.5 Para. 17: She was not concerned that Mr Lunt would run back into the crowd as he had calmed down. Mr Lunt did not go back into the crowd.
- 10.6 Para. 38: She did not make a complaint against Mr Lunt for assaulting an officer as it was part of CID's case.

##### *Oral Evidence*

- 10.7 She saw Wayne Lunt as she came in to town. Her attention was not on him (p.92). She did not know him. She did not put anyone else in the back of the Land Rover or see another officer put someone in the Land Rover (p.93). She did not see anyone else with “a white sweatshirt with grey stripes, Ranger’s scarf around face, white jeans & baseball cap” (p.81684). Mr Lunt’s scarf was obscuring his nose and mouth. She does not remember how cold it was. She assumed he would throw the bottle. He was holding the bottle upside down (p.94).
- 10.8 She stopped the car, ran after [Lunt] and he ran off to the church and she could not catch him (.81684) (p.94). She saw him again in the crowd (p.135). She physically put Lunt in the back of the Land Rover and climbed in behind him. She did this because she wanted to get his name and address. She did not recall if she closed the door. She normally always shut and locked it (p.97). She had put suspects in the back of a Land Rover before. She normally made a note of their names. She made a note in her notebook. Mr Lunt was not causing trouble in the Land Rover. He was in the Land Rover for 5 minutes (p.98).
- 10.9 She did not detain Mr Lunt as it would have taken officers off the ground. If she had been told that Mr Lunt was on bail, she still would not have detained him as they did not have the manpower (p.99). She was not concerned that Lunt would run back into the crowd as he had calmed down. They would have dealt with him if he had gone back into crowd” (p.81686). She stated at p.10454 that the threat from Mr Lunt had not gone but she was not happy to release him. When she first detained him the crowd were trying to pull him off her (p.100). She did not know under what power she was holding him in the Land Rover as he was not under arrest (p.112). It was not possible to lock someone in the Land Rover and leave them there (p.155).
- 10.10 She did not make any radio calls except to confirm Mr Lunt’s address (p.96). She did not recall speaking to Res Con Adams to confirm Mr Lunt’s address. Her notebook did not record it. She did not release him without confirming his identification (p.116). She was radioing to see what Mr Lunt’s address was for any follow-up proceedings (p.117). She did not make a record of which address was the correct one. She was not told that he was on bail (p.119). She did not know if she would have arrested him if she had known. She would have consulted Sgt **P89** or Insp McCrum (p.120). She radioed Mr Lunt’s date of birth to the communications room. She could not explain why there was no record of that (p.122). She denied it was during a conversation at the police station that she found out Mr Lunt’s date of birth (p.124).

Dean Silcock

*Oral Evidence*

- 10.11 Per 81162, “He does not know if Rory Robinson shouted “hope they die” (p.48) but he was shouting, his body was tensed and he had a wild look in his

eyes (p.49). He did not know if he would have arrested Robinson (p.50). There was a woman in a white top who pointed out the youth who had jumped on Robert Hamill. "He was smaller than Robinson and was wearing a grey tracksuit top. I heard people call him Stacey and he would turn to look. He had blood coming from his nose" (p.81162). If Res Con Silcock had had the opportunity then he would have arrested him (p.49). Mr Bridgett also had wild eyes (p.74). He did not ask the woman what her name was as he did not have the opportunity (p.58). He found out some people were relatives of the injured men when he was giving them first aid (p.60). In p.9221 the comment "I now know the person to be Robinson" was misleading. He knew Mr Robinson from general duties (p.67).

### Paul Warnock

#### *Statement*

- 10.12 Para. 15: Normally once someone was put in the back of a Land Rover, it would go to the police station. He was not surprised that person was released as if they had been detained due to their disorderly behaviour and they calmed down, then the police could take their details and deal with them later.
- 10.13 Para. 27: He did not make arrests at the scene as there was no evidence to say that they had committed a crime. People were always shouting and roaring. If it was warranted, and he had had to fire the baton gun, then officers would have attempted to make arrests. Making an arrest would have diminished their numbers.

### James Murphy

#### *Oral Evidence*

- 10.14 He believed that lots of people at the scene could have been guilty of public order offences, but nothing more serious (p.86).

### Gordon Cooke

#### *Oral Evidence*

- 10.15 The crowd was aggressive. People could have been arrested for being disorderly (p.7).
- 10.16 The crowd were 10 or 12 feet from the injured parties. The police were 2 or 3 feet from the crowd (p.9).
- 10.17 He did not see Mr Bridgett get close enough to Robert Hamill to get blood on him. It was not possible that he got close enough when Con Cooke was there (p.9).

- 10.18 Mr Robinson tried to push past the police line (p.10).
- 10.19 He identified [REDACTED] at the scene. After he returned from a 2 week holiday he was asked by DS Bradley if he was sure he had identified people correctly. Con Cooke realised he had identified [REDACTED] instead of Mr Hobson so made a statement on 26th May 1997. He knew both of them and had just put the wrong name to the face (p.11). Mr Hobson's name was not put in his head (p.39). He was not asked to give evidence at the Mr Hobson trial. He did not know why not (p.11). Mr Hobson lived in totally different area from [REDACTED] (p.36). He put the address of [REDACTED] in his statement as he remembered [REDACTED] address (p.37). He made p.11063 to correct his mistake (p.39). "Hobson is 5'6", medium to slender build, very short dark blond hair. Clean shaven" (11063) was an accurate description but Mr Hobson was of medium build (p.40). 8144 describes Mr Hobson as "5'8", short brown hair, sideboards, moustache, goat beard, 14 stone, well built" (p.41). 268 described Mr Hobson as "very short brown hair, goatee & overweight". He did not recall the person he identified as having a goatee (p.42). 6719 Mr Hobson describes himself as "5'8, 14 stone, short brown hair", long trimmed side burns, goatee that he has had for years (p.44). He was "overweight" (p.45). P.9969 stated that the person identified had a "goatee and was wearing a black jacket" (p.68).
- 10.20 He saw a man in a grey Umbro sweatshirt and a woman with long, dark, curly hair. He later spoke to Kenneth Milligan, Lisa Hobson and Noelle Moore. He took their details as he thought they were potential witnesses (p.81679) (p.11). He would record as best he could the names of people who may be witness to a public order incident. He was not particularly trained to do that (p.12).

## **P89**

### *Statement*

- 10.21 Para. 17: The martial arts man was in his early 20's, was of slim build and was about 5'10".
- 10.22 Para 18: The girl with "Hanvey" was in her late teens and was quite small. There was a lot of conversation between "Hanvey" and the girl that led him to believe that they were in a relationship.
- 10.23 Para. 26: Res Con Atkinson informed him that he had struck Rory Robinson with his baton.

### Denise Cornett

### *Statement*

10.24 Para. 18: Whilst she was with the injured man and the woman in the green jacket with him, she saw Con Neill struggling with a young man at the Land Rover. She got up and ran to help Con Neill. She tried to restrain the youth Con Neill was struggling with but then another youth ran over and tried to kick the man Con Neill was holding. One of the men kicked Con Neill. He was in his early 20s, wearing a white top and had brown wavy hair. She grabbed one by the arm but he got away.

### Robert Atkinson

#### *Oral Evidence*

10.25 The man who had an altercation with Con Neill grabbed Res Con Atkinson by the jacket and he tried to take his baton off him. The strap broke. The man was “real stocky” (p.66). Res Con Atkinson saw men on the ground when he was having the altercation with the man over the baton. He thought he saw the man at point 2 in the snapshot first. He saw a couple of guys by the body. They were jumping about him (p.67).

10.26 After they broke away from the man, he and Con Neill ran over to the men on the ground. There was no-one with the men. He noticed at point 3 in the snapshot that there was a bottle lying on the road beside one of the men and the ground was wet. The crowd had moved back towards the church. There were several attempts made to kick the man at point 3 again (p.68).

10.27 He struck Mr Robinson with his baton and put him back up the street (p.69).

10.28 He helped Res Con Cornett put Mr Lunt in the Land Rover. He was not there when he was let out. He agreed it was not practical to arrest him and that he would have been easy to re-arrest if she knew his identity (p.72). The same applied to Mr Robinson (p.73).

### Alan Neill

#### *Oral Evidence*

10.29 Para. 32: He could do nothing to assist Robert Hamill or to arrest Marc Hobson after seeing him kick at Mr Hamill as he was assisting Res Con Atkinson, who had a gun, who was being pulled into the crowd. He saw Mr Hobson join the crowd and pull at Res Con Atkinson. It was impossible to make an arrest at the scene

10.30 Para. 37: Mr Robinson’s actions were enough to arrest him but there were not the resources.

### Henry McMullen

### *Oral Evidence*

10.31 For officers at a scene, their first priority was the preservation of life. The next priority was to catch those involved. The more time that passed the harder it was to solve a crime (p.59).

### Colin Murray

#### *1st report*

10.32 Para. 7.15: It was right to release Wayne Lunt provided that police action was taken later.

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

We agree with Mr Murray

### Submissions by the Police Service of Northern Ireland

See sections 11-12 below.

### Submissions by Richard Monteith Solicitors (Civilian Witnesses)

There is no evidence, even at this stage that any arrest could have been made for murder, or even assault on either Mr Hamill or D. We adopt the view of Con. Murphy at 10.14 herein and the comment at 11 below.

### **Comment**

11. From what Con A saw Mr Lunt do, and his assault on her, she could have arrested him, and in fact it is not clear what power she thought she had to detain him at all unless it was the ability to arrest him. However, to have kept him under arrest would have stretched the resources available to deal with the disorder, so it may be understandable that she let him go from the Land Rover. It is less easy to understand why she did not then detain Mr Lunt again when she was immediately approached and told that he was a kicker. The Panel may need to decide whether she acted negligently in failing to do that.

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

It seems to us that Wayne Lunt should also be warned of the potential criticism or adverse inference that he participated in the attack on Robert Hamill.

According to the Inquiry's timeline, Constable A must have detained Wayne Lunt at or before 1:55 am, which is when she radioed in to check his address. The ambulance arrived at 01:58 am. Constable A released Wayne Lunt at

2:05 am. She must have been told that he was a "kicker" at some point after that, by which time she would have been aware, at the very least, that someone had been hurt seriously enough to have been taken away by ambulance. Her failure to arrest Wayne Lunt on suspicion of assault seems unjustified. It seems clear that she was acting on her own initiative and without any orders from a superior officer at the time. Her contention that carrying out an arrest would have depleted the manpower on the ground sounds very like post-hoc justification. She had already singled Wayne Lunt out as a troublemaker, and now she was given information that he had been involved in an assault which she must have known to have been serious. In our view, her failure to (re-) arrest Wayne Lunt once he had been identified to her as an attacker was a dereliction of duty.

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

In respect of the suggestion that Con A was negligent in not detaining Mr Lunt a second time on being told he was a kicker, the Panel may feel that as the disorder was still ongoing, she had to return to assist her colleagues, and she had already taken his details, it was understandable that she did not detain him for the same reason that she didn't in the first place ie the pressing need to restore order.

In relation to the man or men who made the complaint about Con A releasing Lunt, it is significant that she gave them her details and asked them to come to the station the following day to make a statement. It was not until the 8/5/97 that Colin Prunty made his statement to police, having failed to mention in his questionnaire on the 3/5/97 that he had made this comment to a police officer, and indeed declined to make a witness statement on that date.

As Con A herself stated in evidence, it is regrettable that she did not include this in her initial witness statement. There is no suggestion that there was anything sinister or untoward about this-it was an omission.

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

We are in agreement with this point.

### **Submissions by the Police Service of Northern Ireland**

Constable A appears to be confused about the legal niceties governing an arrest. With knowledge that Lunt had assaulted her and/or was behaving in a disorderly manner, she had legal authority to arrest him. That in fact she did arrest him by bringing him into the land rover and refusing to release him until she had established his identity seems to have been lost on her.

It is submitted that Con. A's initial decision to release Lunt, having established his identity, in order that she could assist her colleagues at the scene, was the correct one. At that time Con. A had no reason to believe that Lunt was guilty of any offence apart from a minor assault on her which did not require to be processed at that time. If Lunt was to be processed at that time Constable A

and at least one other officer would have had to leave the scene for the purposes of bringing him to the nearby police station. This would have further depleted the already limited resources which were working to restore order on the street and would have represented a disproportionate response.

It is agreed that the question of whether a suspected "kicker" should have been released in such circumstances is more finely balanced. However, the same factors which influenced the first decision to release Lunt were also in play at the time of Mr. Prunty's intervention, and in particular the impact his continued detention would have had in terms of stretching police resources.

It is also important to consider that Con. A was operating in a tense and fast moving environment which presented many physical and logistical challenges to police officers. Con. A wasn't present at the scene when the attack on Mr. Hamill and D occurred. She did not have any direct knowledge of that attack and would not have known anything about the gravity of the incident or the seriousness of the injuries. Her first act was to pursue Lunt, and after initially losing sight of him, she pursued him again and made an arrest. This was an example of courageous and sensible police work. Her intervention and the time spent confirming Lunt's identity had led to a noticeable calming in his behaviour according to her evidence, so that she was no longer concerned that he would re-join the crowd.

In retrospect it is of course clear that it would have been much to the advantage of the police investigation had Mr. Prunty's information led Con. A to detain Lunt. If that had been done the later confusion surrounding Prunty's identification might have been avoided.

It is submitted, however, that Con. A had to make a snap decision. There was no time for a careful analysis or a refined balancing act between two policing objectives. Had she detained Lunt she would disadvantaged her police colleagues who were heavily outnumbered by an aggressive crowd. She judged it best in the spur of that moment to go back to the duty of policing the crowd.

In the circumstances, and taking all of the above factors into account, it is submitted that it is unfair to characterise as negligent Con. A's decision to release Lunt.

### **Submissions by Richard Monteith Solicitors (Civilian Witnesses)**

Please see above.

12. There is no other candidate for detention at the scene. Although a number of individuals were plainly liable to arrest it is also plain that the police were rightly concentrating on quelling the disorder. However, the Panel may need to determine whether the fact that officers desisted from immediate arrests because of the pressing need to restore order placed an onus on them and on detectives to ensure that debriefings were carried out fully.

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

As the senior officer present, Inspector McCrum was also in dereliction of his duty in not ensuring a proper debriefing of all officers at the scene. He knew that a man had been taken to hospital, unconscious and suffering from head injuries. He could not have known that Robert Hamill would never recover consciousness and would die, but the possibility of that outcome ought to have occurred to him. Even if it never crossed his mind, he had enough information to know that a serious assault had taken place. Once order was restored, which we accept had to be his first priority, he should have taken steps to secure the crime scene and to ensure that every officer made a full written report before going off duty.

Each officer on duty at the scene was also under an individual obligation to ensure that he or she filed a full report before going off duty. All of them had witnessed, at the lowest, disorderly behaviour, and many of them could identify named persons engaged in such behaviour. All of them must have been aware that someone had been seriously hurt.

In our submission, the Inquiry should have regard to Professor McEvoy's expert report, which outlines the attitudes of nationalists towards the RUC and the RUC's attitude towards them. What his report does not, and cannot be expected to, capture is the depth of the hostility of most RUC officers in the Portadown area towards Catholics in 1997. As NGOs, BIRW and CAJ were aware of countless complaints from Catholics of sectarianism towards them by police officers, particularly in the Portadown area, in the mid to late 1990s, exacerbated by the tensions surrounding Drumcree. Sadly, the actions of the police on the night of 27<sup>th</sup> April 1997 smack all too obviously of that sectarianism in practice. They were the actions of police officers who regarded the events of that night as so routine as not to require any proper investigation. In the unlikely event of a Protestant having been kicked unconscious in the town centre, we have no doubt that there would have been a very thorough investigation, but with the victim being a Catholic it was scarcely worth the effort. The Inquiry will no doubt bear in mind that the very misleading accounts given out by the RUC in official press releases in the immediate aftermath of the attacks are not borne out by the evidence given to the Inquiry by any of the officers on the ground.

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

We agree that there was no other candidate for detention at the scene. There was no onus on the Land Rover Crew and occupants of the backup vehicles to ensure that there was a debriefing.

We accept that because of the inability to arrest at the scene, and in particular once it became clear that the incident was serious, that there was an additional onus to ensure that statements were taken promptly. This was in fact organised, DC Keys and P39.

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

We are in agreement with this point.

### **Submissions by the Police Service of Northern Ireland**

It is submitted that the emphasis which the police gave to restoring calm and order to the centre of Portadown on the 27 April 1997 was the only sensible tactic which police could deploy.

The police found themselves in a powder keg situation. They were heavily outnumbered. They were ill equipped in that they did not have shields or riot gear. The large loyalist crowd was aggressive. Two men lay injured on the road with unknown injuries. There were elements from the Catholic community on the street who were naturally angry about what had happened. There was the very real potential for further disorder.

The primary police objective had to be to protect the injured from any further attack and to facilitate the attendance of medical assistance and the transfer of the injured to hospital. It was vital to keep unruly elements from both sides apart in order to prevent further disturbances, to calm the situation and to disperse the crowd.

It is submitted that that these objectives were achieved. That the objectives were achieved so quickly and without significant further injury to others is a testament to the professionalism, organisation and courage of those officers who were at the scene that night.

In all of the controversy which has surrounded the killing of Mr. Hamill few commentators have paused to consider that there could well have been further loss of life or serious injury but for the intervention of police.

The paucity of police resources at the scene meant that officers had to wholly concentrate on the objectives mentioned above. For the police to have compromised their approach by attempting to make arrests would have been foolhardy. Resources were so stretched that for officers to have come out of the line in order to make and secure arrests would have diluted the effort which was going into ensuring that there were no further disturbances.

In the final analysis it is submitted that only ill-informed outsiders would suggest that arrests were possible and ought to have been made in this situation. Arrests could only have been made at the risk of rendering the outcome a whole lot worse.

This submission does not suggest that police could turn a blind eye to those who could be detected breaking the law. On the contrary it is the duty of every police officer to bring all relevant information to the attention of those responsible for investigating crime. As the evidence demonstrates many of the officers were able to compile statements which identified those who were

behaving aggressively and those others who were at the scene and who may have witnessed significant events. It is accepted, however, that not every police statement was as full and as detailed as it might have been. It is accepted that one of the main faults in the information gathering process was the absence of a structured debrief. The PSNI has already made known its displeasure with the absence of a brief/debrief, in that Inspector McCrum has been admonished for his omission in this respect. (see 10168).

That said, it is submitted that there is no evidence to suggest that the officers who attended the scene were in a position to identify by name or description those who actually attacked Robert Hamill. If this submission is accepted then it would be speculative to suggest that anything of substance turns on the absence of a debrief, or on any deficiency in the statements.

Referring to the potential criticisms or adverse inferences:

a. It is accepted that the Inquiry is entitled to criticise Res. Con. Atkinson for failing to include Allister Hanvey's name in his statement. It is clear that Atkinson saw the need to warn P89 about Hanvey and must therefore have been concerned about Hanvey's level of aggressiveness. Moreover, if Mr. Leathem's evidence is accurate Res. Con. Atkinson had direct dealings with Hanvey in circumstances where he believed him to be intoxicated or under the influence of drugs, and where he (Hanvey) argued with him rather than obey a direction. All of these matters should have been brought to the attention of detectives.

b. It is accepted that the Inquiry is entitled to criticise Con. A for failing to make reference in her first statement to what was said to her when she released Lunt from the land rover. This matter has already been the subject of adverse comment in the report of Kennedy (10168) and Con. A has received an admonishment with regard to her poor record/notebook keeping, poor file/report management and the omission of important evidence from her initial statement.

c. It is accepted that the Inquiry is entitled to criticise P89 both for his part in the failure to brief/debrief his officers, and for his omission to tell officers about his dealings with Hanvey.

The Police Manual, Chapter 3, paragraph 9 provides that prior to terminating duty Constables should be debriefed by their supervising sergeants and inspectors. It is accepted that a debrief did not take place before constables terminated duty on the 27 April 1997, and while the land rover crew were required to return to the police station to make statements when Mr. Hamill's condition was known, there was no co-ordinated effort to ensure that the statements provided contained all of the information which those officers could give until some time the next day at P39's direction

P89 has not provided any good reason to explain why he did not make a police statement until the 7 May 1997. Moreover, he has been unable to provide a satisfactory reason to explain why he did not detail his dealings with a man

(Hanvey) who was behaving in a hostile manner, and whom he thought might be about to assault him. Such information would not have led directly to the prosecution of Mr. Hanvey for any offence relating to Mr. Hamill, but it would have been helpful to detectives in building up a picture of the behaviour of suspects at the scene. An experienced senior officer would have been expected to attend to their duty with greater care and professionalism.

d. It has been highlighted that Constable Neill might be criticised for failing to mention to detectives that he saw Hanvey at the scene. It is submitted that such a criticism would be excessive in the circumstances.

Consideration of the events of that night reveals the pro-active role played by Con. Neill in intervening to quell the violence. His subsequent statement contained much in the way of helpful detail. His evidence was ultimately central to the conviction of Marc Hobson.

It is submitted that it would be unreasonable in this context to expect that Neill's statement would have named or described every bystander whom he came across that night. In his oral evidence Con. Neill had no recollection of seeing Hanvey doing anything suspicious that night (p.22) but in December 2000 he was able to tell DCI K that when he saw Hanvey he was wearing a tracksuit top(11119).

In retrospect Neill's ability to have named Hanvey as being present at the scene and wearing a track suit top would have been to the advantage of the investigation of both the murder and the tipping off allegation. In mitigation, however, Neill was not assisted to unpack this information because he had not been given any particular reason to think that it might be relevant. Put another way his mind was bound to have been focussed on giving up as much information as possible about those whom he saw breaking the criminal law such as Hobson, rather than those whose behaviour was unexceptional.

It is in this kind of scenario where a debrief might well have been invaluable. In the absence of a debrief it is submitted that Neill is entitled to avoid any criticism.

### **Submissions by Richard Monteith Solicitors (Civilian Witnesses)**

Please see above.

### **Potential Criticisms or Adverse Inferences**

Andrew Allen

- Participated in the attack on Robert Hamill

Robert Atkinson

- Failed to make an adequate statement or otherwise give information for the purpose of the investigation

Stacey Bridgett

- Participated in the attack on Robert Hamill

Dean Forbes

- Participated in the attack on Robert Hamill

A

- Failed to include the details of persons who complained when she released Wayne Lunt
- Failed expeditiously to report her dealings with Wayne Lunt and those complainants

Allister Hanvey

- Participated in the attack on Robert Hamill
- Provided the RUC with a false account of his movements and his clothes

Marc Hobson

- Participated in the attack on Robert Hamill

Timothy Jameson

- Participated in the attack on Robert Hamill
- Falsely alleged DC Honeyford took a false statement from him

P89

- Omitted to ensure that RUC officers present at the scene were adequately debriefed
- Failed to alert detectives to the confrontation between him and Allister Hanvey

Alan Neill

- Failed, whether in a statement or otherwise, to tell detectives that he had seen Allister Hanvey at the scene

Rory Robinson

- Participated in the attack on Robert Hamill