

I refer you to enclosure at 89A with which is attached a copy of Detective Chief Superintendent McBurney's investigation report, together with supporting evidential papers.

As Supervising Member, your sole function at this juncture is to review the documentation now forwarded and satisfy yourself that a thorough investigation into the criminal aspects inherent in this complaint has been conducted. If this is the case then a Statement will be issued accordingly following which we will await deliberation from the DPP as to whether or not he considers there is sufficient evidence to warrant the criminal charge of "misconduct in a public office" against any RUC officer.

Upon learning of the DPP direction, we either await the disposal of charge(s) preferred or, alternatively, if no prosecution is directed, arrange for the suspect officers to be reinterviewed under discipline caution. Superintendent Anderson will then submit a supplementary report pertaining to outstanding discipline whereupon a related Statement will be issued. The investigation report will then be forwarded to the ACC for his adjudication and he will express an opinion as to whether or not he considers there is sufficient evidence to warrant the preferring of disciplinary charges. The Commission will be so advised and a member, other than yourself, will duly consider the disciplinary issues.

Having outlined the procedures to be followed, I now propose to concentrate on the actual investigation itself.

It is most unfortunate co-operation was not forthcoming from either nationalist or loyalist sources. Indeed, the only significant material witness evidence we have, over and above local crime file statements, is that provided by the police involved.

Having closely monitored the progress of the investigation from the outset you have personal knowledge of the strenuous efforts made by the Investigating Officer to secure witness statements. Despite offering every facility to potential witnesses they, through fear, apathy or on solicitors' advice, chose not to give evidence. Notwithstanding this drawback, it seems to me that all other issues were followed up as far as practicable. It would not be my intention to duplicate the Investigating Officer's report by recording all items of evidence assimilated during the course of the enquiry. However, having reviewed the evidential papers I am satisfied that:-

- (a) the four officers subject to the investigation were questioned in depth;
- (b) that witness evidence has been taken from RUC officers who provided back up;
- (c) that all potential witnesses identified have been approached;
- (d) that all related records, eg baton reports, notebook extracts, radio transmissions etc, have been secured;
- (e) that relevant 'action sheets' were opened and statements taken from ancillary services;
- (f) associated photographic, mapping evidence is on file.

I suggest we now pose the question, "What further measures could one reasonably expect the Investigating Officer to carry out in pursuance of the enquiry?" It is my view all relevant lines of enquiry have been exhausted and, in consequence, I recommend the Commission issues a Statement (Criminal) to this effect.

However, prior to preparing the Statement and associated letters, I consider it would be useful, from the point of view of refreshing my own memory at a later stage, to briefly note my current thoughts re the merits of the allegation:-

- (1) The witness evidence provided by Constable Neill, Reserve Constable Aitkinson and Reserve Constable [REDACTED] (nee Cornett) is reasonably consistent. That given by Reserve Constable P40 appears confused and unconvincing.
- (2) There is no doubt in my mind that upon becoming aware of the outbreak of disorder, Constable Neill, Reserve Constable Aitkinson and Reserve Constable CORNETT did everything one could reasonably expect them to do in an attempt to quell the disturbances and assist the injured parties.
- (3) As for Reserve Constable P40 I believe his evidence suggests he made a point of staying on the periphery of the fracas. Indeed, the Reserve Constable to a great extent condemns himself by saying (in response to being asked if it would have been physically impossible for 3/4 officers to have controlled the situation), "Well at the end of the day if we got, if we'd have, my wife could have been walking behind a coffin as well so she could have, if I had been in the middle of that". It is quite amazing that Reserve Constable P40 would make such a comment, bearing in mind his contention that he at no time saw any fighting.
- (4) It is not in dispute that:
 - (a) Thomas Mallon made the landrover crew aware nationalists were coming down Thomas Street towards Market Street.
 - (b) The landrover crew were well aware that substantial numbers of Protestants from the 'Coach' bus trip were making their way in groups up past the junction of Thomas Street and Market Street.

Despite the above the crew remained for those few precious minutes at the bottom of Woodhouse Street making inconsequential conversation with Stacey Bridgette and Dean Forbes.

Whilst I would accept there was no wilful intention on the part of police to leave nationalists vulnerable, I consider the failure by Constable Neill (having knowledge of all the circumstances), to position his landrover at the bottom of Thomas Street, was a crucial factor influencing the outbreak of trouble. No one can say that the presence of the RUC landrover at the bottom of Thomas Street would have prevented disturbances from breaking out. However, had there been a physical police presence at the Thomas Street/Market Street junction earlier than otherwise was the case, police would most certainly have been aware that an ugly sectarian incident was developing. More immediate action could therefore have been taken to keep the rival sections apart and a request for reinforcements made much earlier. Had police not engaged in conversation with Bridgett and Forbes and, immediately after

speaking to Thomas Mallon, taken up position at the bottom of Thomas Street, it is quite likely they could have physically prevented the nationalists from crossing to Woodhouse Street until the loyalists had been moved from the junction or alternatively escorted the nationalists into Woodhouse Street.

As I see it, the sectarian conflict was developing as police sat chatting. This was despite the fact the landrover crew must have been aware that all the ingredients for serious and violent sectarian confrontation were present in Portadown town centre that night.

Constable Neill was not only the driver of the landrover, but also the senior RUC man at the scene and, accordingly, on his shoulders lies the responsibility for the failure of police to react with sufficient urgency. It is my intention to recommend some form of disciplinary action against Constable Neill and, at the appropriate time, will be giving further consideration to this issue.


Notwithstanding the above, one cannot get away from the fact that the sole purpose of the landrover patrol that night was to prevent public disorder in Portadown centre. Additionally, members of the crew were well aware that the Thomas Street/Market Street Woodhouse Street junctions had seen sectarian confrontations in the past.

- (5) I must admit to having my suspicions regarding the purpose of the two telephone calls made from the Aitkinson household to the Hanvey home. However, in the final analysis, Reserve Constable Aitkinson denies any knowledge of the calls and witnesses have come forward to explain their purpose. The prospect of proving these allegations, even if additional lines of enquiry were pursued, is, in my view, remote.

Conclusion

Being of the opinion that a satisfactory investigation has been conducted in the criminal allegation of "misconduct in a public place", I have prepared the following:

- (a) Statement of Completion (Criminal) for your signature;
- (b) Draft letter to [redacted] filed at 89B, for approval;
- (c) Draft letter to [redacted] Solicitor, filed at 89C, for approval;
- (d) Draft letter to Detective Chief Superintendent McBurney, filed at 89D, for approval;
- (e) Draft letter to ACC, filed at 89E, for approval.


GREG MULLAN
12 January 1998

90. 16/1/1998
a most excellent and clear minute.
Statement signed.
Draft letter approved.
[redacted]