

Event: Robert Hamill Inquiry interview  
Date: 4 May 2006  
Interviewers: Michael Stephens, Joy Hopkinson  
Interviewee: Maynard McBurney  
In attendance: Richard Murphy

MICHAEL STEPHENS: Thank you for coming. My name is Michael Stephens, and this is ...

JOY HOPKINSON: Joy Hopkinson.

MICHAEL STEPHENS: We're here on behalf of the Robert Hamill Inquiry. The interview is being recorded, and for the purpose of the record, may I ask you to give your names?

MAYNARD MCBURNEY: William Archibald Maynard McBurney.

RICHARD MURPHY: And he's accompanied by Richard Murphy of Edwards & Co, solicitors in Belfast.

MICHAEL STEPHENS: Thank you for coming. Before I ask any questions, I want to set out formally the terms on which this interview is being conducted. The purpose of the Inquiry is to inquire into whether any wrongful act or omission by the Royal Ulster Constabulary caused or contributed to Robert Hamill's death. It will also consider whether his murder was investigated properly. The Inquiry also has the power to make recommendations.

You have already been sent a copy of the full terms of reference, and you are welcome to see another copy now or at any time during the interview. The purpose of the interview today is to allow you an opportunity to give your full account of your knowledge of any of the matters which the Inquiry is investigating.

The procedure will be that you are asked to give your recollection of events which we think you may have some knowledge of. You will then be given the opportunity to comment on anything you may have

previously said in the past and which is relevant to the Inquiry. You will also be given the chance to comment on what we know about what others have said of your involvement.

The interview will not be conducted under caution. You are free to stop the interview at any stage to seek legal advice. No information that you give us may be used against you in any criminal proceedings. The Chairman of the Panel has obtained an undertaking from the Attorney General to that effect, and the full text of it is,

“An undertaking in respect of any person who provides evidence to the Inquiry that no evidence he or she may give before the Inquiry, whether orally or by written statement, or any written statement made preparatory to giving evidence, nor any document or information produced by that person for the Inquiry will be used in evidence against him or her in any criminal proceedings, except in proceedings where he or she is charged with having given false evidence in the course of this Inquiry or having conspired with or procured others to do so.”

Are you happy with that?

MAYNARD MCBURNEY: Very good.

MICHAEL STEPHENS: Shortly after the interview, you or your solicitor will be sent a transcript of the interview. This interview does not mean that you will necessarily be asked to give evidence to the Inquiry. There may be circumstances where the Inquiry may wish to re-interview you, such as to clarify a particular issue. Again, any further interviews will be conducted under the same conditions as this interview.

If, after the end of the interview, you recall anything else that you may think relevant, please let us know as soon as possible.

That's the preamble, as such, as we discussed. Can I just confirm that you received the documents that were sent to you, as far as disclosure, were sent to you?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: On 18 April, those were, as far as that was concerned, one, two and a third page of disclosure. I don't suppose you've had four of those? So, three?

MAYNARD MCBURNEY: Yes, plus (inaudible) four.

MICHAEL STEPHENS: No, that was --

RICHARD MURPHY: (several inaudible words).

MICHAEL STEPHENS: And yesterday I gave to your solicitor some further disclosure, which was a policy file, a statement of Lawrence Marshall, and letters from DPP.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Okay. Now as far as that's concerned, have you had sufficient time to prepare for your interview from those documents?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Are there any other papers which you wish to rely on, as far as the interview is concerned?

MAYNARD MCBURNEY: I've made some notes here of my own.

MICHAEL STEPHENS: That's your own preparation?

MAYNARD MCBURNEY: That's my own preparation.

MICHAEL STEPHENS: Fine. Now can I just ask you to give us a brief summary of your service in the RUC, please?

MAYNARD MCBURNEY: I joined the RUC on 12 February 1962, served for ten years, almost, as a uniform constable. After that I applied for CID, was appointed to CID and moved through the ranks roughly every four or five years after that, until I reached the rank of Detective Chief Superintendent. I served in various locations: in Belfast, Armagh, South Armagh, all those areas.

MICHAEL STEPHENS: And how long have you been an SIO, you say, a Detective Chief Superintendent?

MAYNARD MCBURNEY: Roughly five years.

MICHAEL STEPHENS: And as far as training as an SIO, any training in particular that you received?

MAYNARD MCBURNEY: I had been to Bramshill, the Intermediate Command course at Bramshill, places like that there, probably the most recognised.

MICHAEL STEPHENS: Have you done the major Crime course, the major Serious Crime course at Bramshill?

MAYNARD MCBURNEY: Yes. Yes. I did it at Wakefield, I think. And then when I come --

MICHAEL STEPHENS: So, you didn't do that at Bramshill?

MAYNARD MCBURNEY: No. Now, do you mean CID or do you mean for Senior Authority?

MICHAEL STEPHENS: No, I mean the Major Serious and Serious Crime Course.

MAYNARD MCBURNEY: Yes, I did that one at, where did I do that?.

MICHAEL STEPHENS: I would have thought you did that at Bramshill if you did it.

MAYNARD MCBURNEY: Yes, I think you're right. Yes.

MICHAEL STEPHENS: So what were your responsibilities in 1997?

MAYNARD MCBURNEY: My responsibilities in 1997 were for what was referred to as the South Region in Northern Ireland. It comprised of the counties G, H, J, and K, which were split up really, let me think now, because this is much easier for me to look...

MICHAEL STEPHENS: And these are notes you've made --

MAYNARD MCBURNEY: These are notes I made.

MICHAEL STEPHENS: -- in preparation for this interview?

MAYNARD MCBURNEY: Yes. Let's just see where I have to go to find them. G, H, J and  
K; G was a --

RICHARD MURPHY: Those were divisions within the old RUC?

MAYNARD MCBURNEY: Yes. G Division, Newtownards, Downpatrick and Newry; H  
Division: Newry, Bestbrook, Armagh; J Division, Portadown, Lurgan,  
Banbridge and Craigavon; K Division Dungannon and Cookstown.

MICHAEL STEPHENS: And you also headed a crime squad as well?

MAYNARD MCBURNEY: The crime squad was based at Gough in Armagh.

MICHAEL STEPHENS: And how many staff would you have had on that?

MAYNARD MCBURNEY: CIU, Regional Crime Squad, roughly about 18-20.

MICHAEL STEPHENS: Right. And, as such, you were the head of CID, and all the officers  
within those divisions reported directly to you, did they?

MAYNARD MCBURNEY: That's correct. That would have included SOCOs people like that  
as well, ...

MICHAEL STEPHENS: Because the uniform branch and the CID were completely separate,  
were they?

MAYNARD MCBURNEY: That's correct, yes.

MICHAEL STEPHENS: Now, when did you officially retire?

MAYNARD MCBURNEY: I officially retired on 2 February. It was ... 2001.

MICHAEL STEPHENS: 2001?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: So, almost 39 years? Any commendations or anything of note that  
we should refer to as far as that's concerned?

MAYNARD MCBURNEY: Yes, the usual bits and pieces, probably (inaudible) and was  
awarded to Inspector-in-Chief, 20, 22, I don't know. I couldn't be  
entirely ... (overspeaking), yes. Good service, good conduct, oh, well,  
commendations for good police work that sort of thing.

MICHAEL STEPHENS: That's what I was referring to. I wasn't referring to --

MAYNARD MCBURNEY: Well, 20-plus, say, based on-- I got to the rank of inspector  
because --

MICHAEL STEPHENS: It was expected?

MAYNARD MCBURNEY: -- I didn't feel that I had the right to apply for (several inaudible words) because there were others that deserved it more than I did.

MICHAEL STEPHENS: Okay, if we can just move on to the murder investigation itself then. Can you think backwards to when you were informed of the murder of Robert Hamill itself?

MAYNARD MCBURNEY: Yes. Now, the reason I do this is because I have (inaudible) and I find it easier.

(20 seconds of pages turning)

MAYNARD MCBURNEY: Yes. I'm going to have to just take my time and find these bits and pieces because I've written down ... yes. I explained in this document here that I received a full briefing every morning by the Criminal Intelligence Unit based at Gough. (several inaudible words). Now, I in turn briefed HQ about every three days. On this particular occasion, on the morning of Sunday 27 April, when I attended at the CIU office, I cannot recall what time or indeed when I spoke to the Detective Chief Inspector on many occasions. The Detective Chief Inspector advised me that the IP had been in intensive care and has now been placed in an open ward. He is serious but nothing life threatening. I was also advised similarly by the Detective Inspector, however, he contacted me the day previous to the IP's death, I think, stating that he had taken a turn for the worse. The following day, I inquired as to how the inquiry was going, and I was told that they were still gathering intelligence prior to arrests. The Detective Inspector also told me that his condition had not worsened but had

not changed. That evening I turned into work at 5.30pm, and at 6.00pm approx. I was advised of the death, on 8 May.

MICHAEL STEPHENS: Right. So, from the outset, on 27 April, DCI **P39** had told you about the incident with one person in intensive care?

MAYNARD MCBURNEY: I'm not saying she told me that. What I'm saying is this: that I was aware on 27 April, on the morning of 27 April that the incident had occurred. I may not have spoken to -- she may well have spoken to me that day, but I cannot be certain of that. But I certainly spoke to her on the Monday after it. And it was then that she -- Monday/Tuesday-- and it was then that she advised me of the situation.

MICHAEL STEPHENS: So, as the head of CID for Southern Region, you would normally have been informed of murders?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And were the processes such -- who would decide on the appointment of the SIO for a murder in those cases?

MAYNARD MCBURNEY: A murder such as that would -- I would determine who was the SIO. On this occasion, we have political connotations and allegations within the context of a police station. Right, then, Headquarters would decide who the SIO was.

MICHAEL STEPHENS: So, in this instance, then, did that occur? Did Headquarters decide?

MAYNARD MCBURNEY: What happened was I went to the scene with the intent of carrying out an investigation. From my point of view, it had been satisfactory so far. Whoever had been in that night or ... it may well have been the following day; I cannot recall. I have nothing to confirm when I got the message from the Chief Constable's office. I think it may well have been on the date of the 8 May, but I'm not sure, that I was directed to investigate the allegation of inactivity by police.

MICHAEL STEPHENS: Right. This is the complaint made by the Hamill family?

MAYNARD MCBURNEY: That was the complaint made by the Hamill family.

MICHAEL STEPHENS: Okay. I'll come back to that in a little while. As far as this is concerned, you've been made aware of the fight on 27 April, and, as such, you've been appraised on a regular basis, apparently, by the DCI or the DI about the progress and also about the individual himself, as regarding his condition?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: As such, were you aware who was actually heading the investigation, or was it just a brief from either the DCI or the DI?

MAYNARD MCBURNEY: There would be absolutely no question about that; that the Detective Chief Inspector would be in charge. She's the one with full responsibility -- I mean, I'm not tying that down. That is the way it works.

MICHAEL STEPHENS: That was the way -- you would have held her responsible for ...?

MAYNARD MCBURNEY: Yes, yes. But certainly if she wasn't there, whether she was off on leave or whatever, then her Detective Inspector would have taken over that responsibility, as the Deputy SIO.

MICHAEL STEPHENS: Right. And your role in that was to supervise her, if she had sufficient resource, sufficient --

MAYNARD MCBURNEY: May I ask a question here? Are you at this stage referring to the murder, or are you referring to ...?

MICHAEL STEPHENS: I'm referring to the GBH, as it was then.

MAYNARD MCBURNEY: Oh, that's what you're referring to. That's alright, yes.

MICHAEL STEPHENS: So, your role was to supervise and see if she had enough staff?

MAYNARD MCBURNEY: Yes, if she had sufficient staff, keep in touch, ascertain problems, if there were any. Be there to facilitate help or answer questions or direct (several inaudible words).

MICHAEL STEPHENS: So, on 8 May, we now have -- Robert Hamill dies, and you were involved as the SIO on that particular murder?

MAYNARD MCBURNEY: Once that occurs, it would be my responsibility to make my way there, as I did, with all speed regardless of time, night or day, and

decide who then was going to be the SIO, how the inquiry was going to progress and take whatever action I felt necessary.

MICHAEL STEPHENS: Before we go into the actual ... the mechanics of this particular murder, how many murders would you be dealing with within the South Region at that time?

MAYNARD MCBURNEY: I don't know, but there would have been quite a few.

MICHAEL STEPHENS: Yes, well, that's why I was asking the question really.

MAYNARD MCBURNEY: I tell you how I can answer that -- I tell you how I can answer that, I think. Right. Let's take 16 June 1997, okay, which is a (inaudible). Two police shot in Lurgan. On 15 July 1997, murder, [REDACTED]; 25 July 1997, murder, Lurgan, [REDACTED] (inaudible); 27 September 1997, murder in Newtownards. And it keeps going on like that there. On 8 February 1998, murder Lurgan 29 March 1998, murder Armagh. That's the way it keeps going.

MICHAEL STEPHENS: So, almost on a monthly basis, then?

MAYNARD MCBURNEY: Yes

RICHARD MURPHY: And some of those are quite – high profile. Some of them very high profile. But also, if I recall correctly, the murder of [REDACTED] was a young girl at the time.

MAYNARD MCBURNEY: [REDACTED] was murdered by a very vicious, callous UVF murderer. Two brothers ...one of them is in prison for murder; the other went to the same (inaudible). It was early in the morning. I think put up (several inaudible words). Eventually wanted to come, eventually ended up in prison, and the other (several inaudible words).

RICHARD MURPHY: Sorry, to ask about that because—if I recall correctly---she was murdered in her bed, in her own house, and it attracted a lot of media attention at that time.

MICHAEL STEPHENS: What I was just trying to achieve by that, Maynard, really, was just get an overview of what workload that you were dealing with in 1997, and what sort of rolling programme of murders you had at that time.

MAYNARD MCBURNEY: The funny thing is that that really was quite an important murder because that girl was shot in her bed as you say, not only that, but there were very, very few resources to deal with it. And one of the few was a Detective Inspector in Lurgan. And he and I actually ended up carrying out searches on our own.

MICHAEL STEPHENS: Right. So as far as the scene concerned with this, and the Inquiry's view, to look at your responsibilities -- you told us what your responsibilities were. But you also tell us that on a regular basis, on a monthly basis almost, you were having murders which you, as the Senior Investigating Officer, would respond to?

MAYNARD MCBURNEY: That's correct.

JOY HOPKINSON: So, can I clarify? So, you were the SIO for a number of murders at that stage?

MAYNARD MCBURNEY: Oh, no, no, no because it was not as simple as that, Joy. To explain, the answer to that question really is quite simple. From my point of view, that's maybe the way it should have worked, but because of the numbers, you couldn't do that because you had seventy such supervisions, and you haven't enough superintendents. We had only two. Mostly they were dealing with other bits and pieces. So, what I did was -- it was hard to keep track of murders in general. It was hard to keep a track of them -- of most of the things. When I say, "Hard to keep a track of them", it was very difficult to ensure the continuity of investigation. Consequently, what I did was I always made sure that the person in charge of the division or subdivision - whatever - was put in charge of a murder like that. And whoever -- that is, the Chief Inspector, that is, making the Detective Inspector as his deputy, right. Now that ensured that if I was taken away, or the Detective Superintendent was taken away or whatever, that nobody could turn around and say, "You're not investigating that murder". There was complete continuity because if I left, if someone else left, the Chief or the Inspector still held the key and the responsibility for continuous investigation.

JOY HOPKINSON: So, in this case, you said earlier that the appointment of SIOs -- you would determine who would be the SIO for the murder investigations?

MAYNARD MCBURNEY: Yes, and I ... yes. I ...

JOY HOPKINSON: You want to qualify that, though?

MAYNARD MCBURNEY: Yes. Had it not been for Headquarters directing me to do such-and-such and such-and-such I believe that under those circumstances, I would still have made the Detective Chief Inspector in charge of the inquiry with the Inspector as the deputy. I would have been there and facilitated, and, well, I might as well tell you, sometimes I got a wee bit short. But that's for another day. And I would have remained there until such time as I thought that case was finished or there's more to be done or whatever.

JOY HOPKINSON: So, in the case of the Robert Hamill murder investigation, you determined that you would be the SIO for that investigation --

MAYNARD MCBURNEY: That's correct, yes.

JOY HOPKINSON: -- as opposed to perhaps using the DCI and a Detective Inspector in that case?

MAYNARD MCBURNEY: And I was also directed by Headquarters to do it. Essentially, I was directed by Headquarters to investigate the inactivity by police. What ... when I saw that side, there was absolutely no way that you could go in there and investigate that on its own. You had to reassess the whole situation. You had to assess well -- what about the murder? Because you can't investigate one without the other. And for to put someone in to investigate that particular crime, put a lesser person in charge of the murder inquiry, wouldn't have been

correct, in my opinion. I also have the attitude that okay, if the murder, which should receive precedence in the first instance anyway, because it was the crime you really wanted to, you know, clear. Then, if it was done properly, the other would fall into place. I have no doubt about that because you had to keep looking at everything. Not necessarily how, but you had to leave everyone that you could continue to talk to them, get information, get what you want out of them without ruining the murder inquiry.

JOY HOPKINSON: So, is it fair to say the reason why you were appointed SIO of the murder inquiry was because you were appointed to deal with the misconduct charges and allegations? And because you thought they were intrinsically linked you also needed to look into the murder in full facts, it made sense that you also would be the SIO for the murder investigation?

MAYNARD MCBURNEY: That's correct, yes.

JOY HOPKINSON: So, would it -- your appointment to the misconduct allegations came first, and then your appointment as SIO to the murder later on?

MAYNARD MCBURNEY: Yes, that would have happened within a very short period of time.

JOY HOPKINSON: But basically all together?

MAYNARD MCBURNEY: Yes.

JOY HOPKINSON: Thank you.

MICHAEL STEPHENS: I think as far as that's concerned, P39, on 9 May, opened up a policy file, which I served on your solicitor. And within that policy file, policy entry number 2, made on 9 May; it records yourself as the SIO, P39 as the deputy and Michael Irwin as the office manager, with a receiver, DS Bradley, in the office.

Now, as far as that was concerned, did you ask her to complete that policy book, or what that one that she set up on her own?

MAYNARD MCBURNEY: The ... I wasn't so happy about a policy book from the very outset.

MICHAEL STEPHENS: Why was that, then?

MAYNARD MCBURNEY: Because having arrived at the murder, or -- case, and commencing an investigation, and hence to (inaudible), really pretty quickly, you have one witness coming in, you have two witnesses coming in, you have three witnesses coming in, and good intelligence, for the want of a better word, coming in, right? Now, that -- and all that that intelligence really was to us, a godsend. We could not afford to ... let it out into the open as it were. We had been told that one Reserve Constable had disclosed knowledge, outside of the inquiry. And, as I say, I said previously, that I wasn't paranoid, but I certainly became ultra careful, because I wasn't going to have it said, from my point of view that, in charge of the inquiry, intelligence was being leaked. And I can't be specific as to when we were told, but I told them, "Look—policy books—“and this, I mean, people don't realise but to take a decision like that, you have to know what you're doing. You have to know that there is something wrong. You're

doing it for a specific reason. And you expect authority to take note of that. They have to take note of that. Not to would be insane. People don't do it for kicks. There had to be some reason for doing it.

Consequently, that was the direction I'd taken. But there was nothing at this moment in time, and, (several inaudible words). Now, the one -- the one point that I did include, or tell her to include in the policy file was ... and this is maybe disjointed -- was when I met the ICPC --the Independent Commission for Police Complaints-- because they were having -- I know, at least from one of them, who was part of it, that he was there, essentially, to supervise the inactivity by the police, and that really was his area and when I started to explain about the murder and the other issues, "Look. We are here. This is our dealing, as it were. We intend covering this aspect." And I had to argue quite forcibly that, "No. You may be here to do that, but there are many other aspects to this inquiry which must be addressed. We have a murder, and you can't have one without the other."

I also, I think -- I'm not quite sure if it's included in any of his notes. I couldn't find it. I also think we discussed the suitability of the location for the investigation. But also we couldn't move one aspect, have it here, and move another one there and another one there. (several inaudible words). My view was, very simply, look, as I've said to you, cover the murder. Do it properly, and you've the rest at your fingertips. Thank you very much.

MICHAEL STEPHENS: Was there a need then, to actually -- I'll just cover this point in here, just butt in here-- Was there a need to actually deal with the complaint against the police while you still had the murder investigation ongoing?

MAYNARD MCBURNEY: No, there wasn't. I have to admit, that would not be the view of independent commission police complaints, nor may it well be the view of many other people because, as I said, I was actually saying, "Look, if the murder is properly investigated, it will incorporate all those other things. It will incorporate the inactivity because you'll get the witnesses to the murder who, essentially, would be giving you all the facts and issues pertaining to the inactivity."

MICHAEL STEPHENS: Can I take you back, as far as the policy book is concerned?

MAYNARD MCBURNEY: As far as the ...?

MICHAEL STEPHENS: Policy file is

MAYNARD MCBURNEY: (several inaudible words).

MICHAEL STEPHENS: Can I just pause a minute. We stopped the recording to move rooms because of the noise level, and hopefully this is a better room, as far as that's concerned. Before we start, are you happy, Mr Murphy, that you made your point?

RICHARD MURPHY: Yes. Well, yes. I made it off the tape, but it doesn't --

MICHAEL STEPHENS: It doesn't affect the recording, as far as that's concerned.

MICHAEL STEPHENS: I want to go back to the policy book as such. You said that you didn't --

MAYNARD MCBURNEY: The tape is on again?

MICHAEL STEPHENS: We're on again now, sorry -- that you weren't happy that **P39** had actually started a policy file. Had you seen that policy file before it was served on Mr Murphy?

MAYNARD MCBURNEY: I had seen it... I was aware of it, I can tell you this. But I told her, "You must include that meeting with ... there were the ICPC members. It is imperative that you record it in full." Because at that time it was the only way that I could see anyone coming back at us towards the inquiry, in other words, passing adverse comment. And that's why I directed her.

MICHAEL STEPHENS: Okay.

MAYNARD MCBURNEY: But after that, I assumed that the policy book would be dispensed with.

MICHAEL STEPHENS: Let's just talk about the DCI herself because having spoken to her in similar circumstances that I'm talking to you today, I got the impression that her experience as an investigator was somewhat limited. Would that be a statement you would agree with, or was it --

MAYNARD MCBURNEY: Well, from my point of view, the Detective Chief Inspector was a facility, and all facilities, regardless of what they are, you have to use to the best of your ability, and to the best of their ability, and that was being done.

MICHAEL STEPHENS: Right. Well, when I asked her the question about completing a policy file, she said that was the first one that she'd actually done.

MAYNARD MCBURNEY: Well that may well have -- may well be.

MICHAEL STEPHENS: Right. But why, if you were concerned about the policy file, didn't you complete a sensitive one which was actually kept separate?

MAYNARD MCBURNEY: Well you refer to these sensitive, or this sensitive file. What is this sensitive file? Please explain it to me.

MICHAEL STEPHENS: As such, it would be a policy file which you would only keep to yourself or share with your deputy as the method that you used to actually record what your policy was during the inquiries.

MAYNARD MCBURNEY: So you felt that really what I should do here is spend my time writing. Now, I'm not being unkind, because you're well aware of the fact that in the greatest majority of cases that there is a pens man who would record everything that is covered. I had not that facility. I certainly was not going to sit writing all day because for me to cover what was in my head would have necessitated that. For me to have covered every direction that I gave would have necessitated me writing all the time, and I knew that. And if you take a look at the whole of the inquiry and what was happening and the way that I wanted to keep it tight, you will realise that.

MICHAEL STEPHENS: I understand what you're saying as far as that was concerned, but at that stage practice within the RUC, probably, as the same as elsewhere in England and Wales, was to actually run a policy file or, if necessary, a sensitive policy file on certain issues which were issues of a sensitive nature such as information which you didn't wish to keep.

MAYNARD MCBURNEY: From my point of view at that time the only thing that I could visualise to get me into this at a later stage was the decision that I took not to investigate the inactivity of the police the way in which I was directed to by the member of the police complaints. All the rest -- all the other bits and pieces that were coming to the fore were ordinary aspects of intelligence that you would deal with in any inquiry anywhere.

MICHAEL STEPHENS: Right. Okay. Just one last question as far as policy files as concerned, then. Did you, as the norm, used to use policy files or instruct your SIOs, whether the DCIs or Detective Superintendents, to use policy files?

MAYNARD MCBURNEY: Everybody used policy files. Sorry, everybody who was in charge as an SIO ensured that a policy file was kept, whether it was me or anyone else. That was the norm. To deviate from that, then there had to be reasons.

MICHAEL STEPHENS: And those were the reasons you gave?

MAYNARD MCBURNEY: And those were the reasons I gave. I wasn't for writing everything that was coming in with regard to intelligence in this particular murder case or the inactivity or, indeed, the Reserve Constable Atkinson aspect, assisting offenders. How could I put all that in a policy book if that was going to be possibly read or whatever? Because there's no way that you can keep anything secret in a police station. I don't care where you put it, you know, safes whatever. It's not -- I mean ... it's really impractical, and I honestly believe that.

MICHAEL STEPHENS: Well I could understand that if you were saying that it was going to be recorded under HOLMES, that a policy was taken and put on to HOLMES.

MAYNARD MCBURNEY: That's what was happening.

MICHAEL STEPHENS: But as regard a sensitive policy file, you could have made an entry, "This will not be entered onto HOLMES, and it will be kept in manuscript, and I will retain the policy file or **P39** will retain the policy file".

MAYNARD MCBURNEY: I do not subscribe to that point of view because -- and I don't care where you're at, or, indeed, I think -- right, I'll tell you. On one occasion I listened to where this actual inquiry should be taken to, to keep it 'under wraps' as it were, right?

MICHAEL STEPHENS: Are you talking about the murder?

MAYNARD MCBURNEY: I'm talking about this Inquiry here, okay?

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: Where was it decided to take it? Can you -- do you know Mr Murphy? Well, I'll tell you. It was decided to take it to Sea Park which is away on the other side of Belfast, Carrickfergus. You check this up, and you'll find it's correct. For what reason? Security. That's where the -- many of the other inquiries were carried out because it was regarded as totally secure until somebody tried to burn it, I think. I don't know who did it. I must (several inaudible words).

MICHAEL STEPHENS: Sorry, what was that? I didn't quite catch that.

RICHARD MURPHY: Somebody set it on fire.

MAYNARD MCBURNEY: This was the Stevens Inquiry, okay. But those were the extremes, and it was on paper that if someone like me wanted to read this documentation, then I would travel from Armagh to Carrickfergus, some 60, 70 miles, just to see it. Of course, that was all shot down. But those were the sort of extremes that were taken. Is that right, Mr Murphy?

RICHARD MURPHY: Yes.

MAYNARD MCBURNEY: And people -- you see, you may well be working in England, London, well, the south of England.

MICHAEL STEPHENS: The Southwest. Yes, all right.

MAYNARD MCBURNEY: Right. With us, it's all parochial. You go to one place, you're working with your name, you come to the other, and it's the other name. In a police station, it's similar, in this country.

MICHAEL STEPHENS: Okay. What -- sorry, did you want to say something just now?

JOY HOPKINSON: As far as you were concerned, Maynard, what did you see as the purpose of a policy book, or a policy file?

MAYNARD MCBURNEY: I'm not laughing at the question at all. What I'm laughing at is ... the reason for HOLMES, in general, the Home Office Large Enquiry System -- the reason for a policy book is very simple. It's so that someone like me, or a Senior Investigating Officer, can be tied down to a decision that has been given, or more importantly a decision that has not been given, or a direction that has not been given. It emanated from the Yorkshire Ripper crimes, where it was established that the police had not - correct me, please - followed on certain aspects of an inquiry that they should have. It was much too large an inquiry to encapsulate all that was happening throughout those inquiries. Consequently, you had the HOLMES system, which held everything. You could have hits in whichever part of that inquiry, whether it was one murder, serial or otherwise. And you got that --

(snaps fingers three times)

-- like that there. In fact, I think I refer to that at some stage here, with regard to Jameson who was like a hit, when we see the name and it's like that's it. Take it. Let's take a look, or whatever. However, question I still haven't answered is the policy book. The policy book was then part and parcel of that HOLMES system, whereby you answered the questions pertaining to that particular inquiry. Is that correct?

MICHAEL STEPHENS: That's the reason that policy books were made.

MAYNARD MCBURNEY: There was another reason, for to make people responsible for what they did. Let me tell you, I kept policy books from A to Z. There had to be some reason there that I believed it wasn't necessary. Or, not that it wasn't necessary; that it was going to be a hindrance.

JOY HOPKINSON: And you thought, on the facts of this particular case at that stage, a policy book --

MAYNARD MCBURNEY: Was a hindrance. Yes. Quite simple.

JOY HOPKINSON: And it would be a hindrance because it could fall into the wrong hands?

MAYNARD MCBURNEY: Maybe not necessarily because it could fall into the wrong hands, but people could read it and, yes, I suppose it could have been in that way, but people could read it if it was sitting about, and the chances are at some stage it would be sitting about and people could read it. People would know exactly who was talking. People would know

exactly what the position was. People could then 'read the book', as it were, and -- I don't mean read the policy book. They could read what's in the perisher's mind and also they could read what was in my mind. They could read the way ahead because to me, it was blatantly obvious the course of action I should take, from the outset.

MICHAEL STEPHENS: Can I just ask you, Maynard, as far as that's concerned, had you had policy books taken to trial where a PII application had failed or ...?

MAYNARD MCBURNEY: No, no, no.

MICHAEL STEPHENS: No?

MAYNARD MCBURNEY: Policy books, in many respects, at a trial were ... no, no. I had never had any problem with policy books, no.

MICHAEL STEPHENS: So, that wasn't a -- you weren't concerned about it going that way, then?

MAYNARD MCBURNEY: Not at all. This had come out of the frame.

MICHAEL STEPHENS: So, you're saying it was purely because you needed to keep things very tight, and you didn't wish to record and that someone later would be able to see what your thinking was about certain issues affecting the whole spectrum of the inquiry?

MAYNARD MCBURNEY: That's correct.

MICHAEL STEPHENS: Right. Okay. Is there anything else you wanted to cover on the policy file?

JOY HOPKINSON: I may need to come back to it later.

MAYNARD MCBURNEY: That's okay. But hopefully I'll have answered it by that time.

JOY HOPKINSON: The only thing I would ask, Maynard, is that -- I can understand you're trying to keep a tight ship. You said you'd used policy books in the past?

MAYNARD MCBURNEY: Yes.

JOY HOPKINSON: Can you recall if there are any other investigations where you had decided that policy books should not be used? How often did that happen? Was that very rare?

MAYNARD MCBURNEY: I can't ... think if that had happened to me -- no, it didn't happen before. That's the point that I'm trying to make to you is that you don't take those decisions lightly.

JOY HOPKINSON: So, what was it about this particular case that you felt was so sensitive that you could not record any of your decisions or your decision-making or your strategies? Because—pardon me for asking this-- it's my understanding, from looking at some of the issues in Northern Ireland in some of my interviews, it's very clear that it was very volatile times, very clear that there was a lot of intelligence about

a number of things. So, why was it in this case you felt you really could not have a policy book?

MAYNARD MCBURNEY: Here we had, number 1, a fight, possibly, that emanated into a row with several people, again, emanating in what? A riot? Fracas? Call it what you like, okay? You then have the allegation that police do not do their duty, okay? Initially, probably I thought, "Okay. The police might have a problem". However, when I investigated, I was left in no doubt that that was not the case that they shouldn't. However, that's for another day. We also in the middle of that -- as I say, that - the murder - coming next, because he died. And then we had all the allegations. Over and above that, what did we have? We also had a police Reserve Constable alleged to have made a phone call to an individual or individuals saying, "Look. Get rid of your clothing. Get rid of this. Get rid of that." Okay? Now, no great problem across the board, until the intelligence starts coming in. But then you say to yourself, "Who's investigating this?" And who was investigating it? Local police, because there's no way that we could have got outside teams in to have investigated all that. No way.

MICHAEL STEPHENS: So, you're saying that they were --

MAYNARD MCBURNEY: It had to be men from within the station, and had to be men from within -- okay, the Department, but we wanted men from within the station, number 2. Now, under those circumstances, how do you turn around and put everything that's in your head on paper? When you're trying to run a show, keep an open policy. Everybody's going to come and talk to you. Do this, that and the other. And, on the

other hand, have it all on paper and if somebody takes it, sees it and says: "That person. Him. He's trying to fix our Dougie at the same time get us out to do this, that and the other". No. To me, it's quite plain, it's quite simple.

MICHAEL STEPHENS: Right. Well, I can understand what you're saying. I may not agree with what you're saying, but then that's not my ...

RICHARD MURPHY: As well as that, Mike wasn't facing the situation you were facing.

MAYNARD MCBURNEY: No way. Not as far as I know that.

RICHARD MURPHY: But basically what you're saying is that it would not have been clear about being 100% secure. But also you're operating in a situation where you're trying to encourage uniform personnel to come and talk to an inquiry and bring in intelligence. And if that was all written down --

MAYNARD MCBURNEY: It doesn't make sense to me. In fact, really, I would have thought that any person in this country, or I think you people are -- I don't mean that, okay?

MICHAEL STEPHENS: No. All right.

MAYNARD MCBURNEY: But any person in this country would have understood that sort of thing. They would have understood, and possibly even would have looked on it -- it's not as if you're about to, to sabotage the effort, or

anything like that, that's not what you're meant to do. You're meant to clear the crime, and that's the sole purpose.

MICHAEL STEPHENS: Right. Okay.

JOY HOPKINSON: You touched on about resources, that you didn't have enough resources to use people outside of the local station. Could you tell me more about the resources you had available for this murder investigation and then also for the misconduct allegation?

MAYNARD MCBURNEY: I ... they were all the same individuals. The same people were investigating the same crimes because, as I've said, you start with the murder. And in investigating the murder, you were also investigating the inactivity by police. One led into the other. Therefore the same people were doing the same inquiry. That's the end of that then. Number 2, resources: as I've already answered and was questioned about, there were many other issues, serious crimes that were being investigated in the region. For me to have taken men from those investigations would have been wrong. I ... as far as I was concerned, an individual, I voiced the opinion that it wasn't such a good idea to put someone like me in charge because it added some considerable pressure working in the area, living there, and all the rest of it. I would have thought that all the others were in the same position. However, that is part and parcel of the job we take on, and you have to accept it.

MICHAEL STEPHENS: Sorry, you were expressing that view about the complaint, were you? Or was it a good idea --

MAYNARD MCBURNEY: No, no, the complaint, the complaint.

MICHAEL STEPHENS: Yes. Well, the one thing that the policy file tells us, as far as that's concerned, regarding resources, that,

“The team of detectives carrying out the investigation of the GBH will now be increased by a further five detectives.”

Presumably that was from outside Portadown itself?

MAYNARD MCBURNEY: I ... I cannot answer that. It's not that I cannot answer it I ... cannot remember where they came from. You tell me who they were...

(laughing)

MICHAEL STEPHENS: I'm just reading what it says there, as a policy entry.

JOY HOPKINSON: Would it be fair to say that the majority of officers that were dealing with the murder investigation and the misconduct --

MAYNARD MCBURNEY: Were all -- were all from the Region.

JOY HOPKINSON: They were all from Portadown? Or, do you -- what do you mean by the Region? Do you mean Portadown, Lurgan and Craigavon, or ...?

MAYNARD MCBURNEY: Yes, yes, that's correct.

MICHAEL STEPHENS: And, as far as that's concerned, you mentioned earlier that you were directed from the Chief Constable's Office to take on the complaint. In the policy files, it is recorded as "ACC Hall". Would that have been correct? Would he have been the officer to have appointed you?

MAYNARD MCBURNEY: No, I don't think so.

MICHAEL STEPHENS: No? Was it the Chief Constable himself?

MAYNARD MCBURNEY: I think it's from the Chief Constable's office.

RICHARD MURPHY: But it might be helpful if you explained the chain of command at (overspeaking).

MAYNARD MCBURNEY: The chain of command is probably Headquarters to ACC and down that way.

MICHAEL STEPHENS: So the ACC Hall, what was he then?

MAYNARD MCBURNEY: He was the Assistant Chief Constable of that Region, those four divisions. But he was the uniform authority, the senior uniform authority.

MICHAEL STEPHENS: And your ACC Crime was ...?

MAYNARD MCBURNEY: My ACC Crime was an ACC based in Belfast at Headquarters.

RICHARD MURPHY: Yes, Mr White, I think it was.

MICHAEL STEPHENS: Right. So, your chain of command was through Mr White to the Chief Constable, was it?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: But you think on this occasion, regarding the actual complaint that came from the Chief Constable's Office to you?

MAYNARD MCBURNEY: I ... I think it did. Sorry. It's hard to say, but ... I don't remember something like that there. What ... it's not the sort of thing you put a great deal of emphasis on...

RICHARD MURPHY: The call in any case wouldn't have come from the Chief Constable; it would have come from the Chief Constable's staff officer.

MAYNARD MCBURNEY: Somebody like Sillery or some of those guys there.

MICHAEL STEPHENS: Are you talking about Chief Superintendent Sillery, who was in charge of the Command Secretariat?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Okay. All right. That was really just the process. I don't really want to dwell on that, as far as that's concerned. But one of the things you did, because they had a MIRIAM system running there for the GBH, you converted it into a HOLMES route?

MAYNARD MCBURNEY: Moved it to Armagh.

MICHAEL STEPHENS: Was that because that's where the Armagh was -- the HOLMES Unit, or was it that you wanted to get it out of Portadown Police Station?

MAYNARD MCBURNEY: I really wanted to get it out of Portadown. It was ... to be really rather than starting to bring it towards Portadown.

MICHAEL STEPHENS: As far as HOLMES is concerned, perhaps you could help the Inquiry with this: How long had the RUC been using HOLMES? It had been through the 1990s? Was it a regular occurrence at ...?

MAYNARD MCBURNEY: Ah, HOLMES was used for years prior to that. I don't think I could be specific because I can't honestly tell you--

MICHAEL STEPHENS: But you used it (overspeaking)?

MAYNARD MCBURNEY: Oh, I've used it, yes. HOLMES was used for a long, long time before that there, in Northern Ireland.

MICHAEL STEPHENS: Right. Now we already talked about, and one of the questions I was going to ask you was about the twin roles in running the two inquiries. Were you happy to run the two together?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: You didn't have any problems with that?

MAYNARD MCBURNEY: No, absolutely not. In fact, it was the most practical way to do it.

MICHAEL STEPHENS: So, as far as that was concerned, would it have been the norm for an SIO to run a complaint investigation at the same time, at that particular time?

MAYNARD MCBURNEY: Well, let me put -- let me return your question. Would it be the norm to have a person murdered and then a police -- an allegation of police inactivity? I mean, which is first?

MICHAEL STEPHENS: I see. Okay. As far as your time, for the first part of that inquiry, were you committed to this 100% of your time? I take account of what you said earlier.

MAYNARD MCBURNEY: Oh. Totally 100% of my time was took to this one.

JOY HOPKINSON: Because you had a position here where you had twin roles, in effect, of the misconduct allegations; then you had the murder investigation. And I know you said they all sort of formed one. You couldn't do one without looking at the other. But did you ever find yourself in a situation, for example, where you may have needed to focus on the misconduct allegations so you would rely upon DCI **P39** and DI Irwin to keep the murder investigation running and work on the murder investigation on the ground whilst you focused on the misconduct allegations? Or was it all one team sharing all the responsibilities?

MAYNARD MCBURNEY: The truth of that is it was all the one team.

MICHAEL STEPHENS: But, prior to your involvement, they had arrested three men:

Bridgett, Forbes and a lad called Briggs, on 6 May. They were released. And were you able, in the first couple of days, to get up to speed with what had gone before, or had you an overview of what had happened previously, as far as that was concerned?

MAYNARD MCBURNEY: Before ...?

MICHAEL STEPHENS: Before the death of Robert Hamill?

MAYNARD MCBURNEY: No, I hadn't. Before 8 May was out ... that night I went over for 6.00pm, probably 6.00pm, or whatever it was. But before that day was out, I had a knowledge and I mean a good knowledge, of the inquiry from the outset to where it was at that moment in time. And, indeed, where we were going with regard to witnesses that had featured.

MICHAEL STEPHENS: Now the question I asked is really about the arrest of Briggs, Bridgett and Stacey on 6 May. From your reading of the evidence, was there sufficient to have arrested those people earlier, to retain forensic evidence or have gathered evidence in any other way?

MAYNARD MCBURNEY: I was satisfied with the inquiry at that time, and the attempts that were made to achieve results. You must remember at what stage do you arrest? Do you arrest before you have intelligence, or do you arrest in the hope that you're going to glean forensic evidence and not unless you have some view or idea that you're going to succeed,

then, in my opinion, it probably -- it might be better to wait. But that is something that the SIO decided. They decided that, "Oh, here we are, we must arrest". From my point of view, why not arrest them? Why not see if you could shake the tree, as it were? Because this is what the arrests were done, to find out what they could get, because knowledge was slow, not really the people talking to me. I have to make a move at some stage.

MICHAEL STEPHENS: Okay. Certainly, on 8 May was a busy day because, on that day, you had information which you received from Andrea McKee via the Reserve Constable McCaw.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Were you there when that information came in?

MAYNARD MCBURNEY: To the best of my knowledge ... I was certainly advised of it, yes.

MICHAEL STEPHENS: And did you instruct Irwin to go out to meet with McKee?

MAYNARD MCBURNEY: I did, yes. Yes.

MICHAEL STEPHENS: And did he brief you when he came back from that meeting?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: When him and McAteer saw Andrea McKee?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Now, this goes back to what you were telling the officers as far as record was concerned. Did you tell the officers not to make records of what they had been told?

MAYNARD MCBURNEY: I told them that we would have to be very, very careful with regard to what we had received and the intelligence we'd got, because we really hadn't achieved anything on that particular night other than found witnesses, and I said, "Look, if this is going to continue, then we have to be very, very tight-lipped about the whole thing". I said to them, "I can't say that and I'm not going to say it", but I certainly advised them to be very, very careful about what was said and done to bring it to the attention of anyone what had happened.

MICHAEL STEPHENS: All right. Certainly as a result of Andrea McKee's information, Tracey Clarke was brought in and she made a statement in which she named people who were involved in the fight, including her boyfriend, Allister Hanvey.

MAYNARD MCBURNEY: That is correct, yes.

MICHAEL STEPHENS: She also told you that Hanvey had been warned by Atkinson to dispose of his clothing, as you referred to earlier. Now, what was the view of the interviewing officers of Clarke? What did they think of her as a witness at that stage?

MAYNARD MCBURNEY: I'm just wondering, because I have written down really what I thought. It's on this here, my views on Tracey Clarke. I'm not quite sure if you want to hear ...

MICHAEL STEPHENS: Well, take it now and we can ask you questions on that as you go.

MAYNARD MCBURNEY:

"When I was told by the late Detective Inspector about Tracey Clarke, I was told she had been alleged to have seen the assault and it involved an Allister Harvey."

I remember distinctly that -- explaining to the Detective Inspector, 'Look, if that's the case, now we go. Not tomorrow, now'. We had taken a witness statement, we establish the facts and if not, then we glean what intelligence we can, and we take it from there. When she was interviewed, Tracey Clarke, she was vague, she did not really say anything. That was it. When she was spoken to, DC McAteer believed she had more to tell when I spoke to him. I was not happy about the intelligence and when they explained the facts, I directed that Andrea McKee was spoken to by Detective Inspector Irwin and Detective Constable McAteer, to determine exactly what she knows about Tracey Clarke. I'm now going back to -- I'll read it out.

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: "Recalled to gain intelligence. Andrea McKee flatly refused to come near the police station. She was scared of someone seeing her and talking. If that happened, her life would not be worth living. If she wasn't protected, she would be the victim of punishment beating or worse, or would be intimidated out of the area. Did we know the type of people we were dealing with? They were mixed up with all types of organisations."

Now, that was her view coming from the officers who interviewed her. “It was agreed that the Reserve Constable McCaw, Detective Constable McAteer and Detective Inspector Irwin and Andrea McKee to meet at the Seagoe cemetery.”

Now, when I say that’s where I decided to meet her--that was what she agreed when they made contact with her. She wouldn’t come near the police station and she said look I’ll go... -- she didn’t say that, she said, “I’m not coming near the police station, that’s it”. The suggestion was put to her, “Right, then we’ll meet at the cemetery”. And that’s where they did meet. Her view was her identity would become known. Tracey Clarke would never know that it was her aunt, Andrea McKee who told the police. Her husband Michael was a brother of Tracey’s mother. The family had enough problems—mother’s leg amputated. Reserve Constable Atkinson would not hear about her involvement. Flatly refused to put anything in writing, other than to convey to police what Tracey had told her. I was briefed as to what had transpired. I assented to the fact that it was important to protect the contact. Allegedly, Tracey Clarke had told Andrea McKee that she had seen the incident and saw Allister Hanvey assault someone on the ground. Also said that she was told Reserve Constable Atkinson rang Hanvey’s the following day and told him to get rid of his clothing. Both officers were satisfied that Andrea McKee, although afraid, was nervous and nervous was telling the truth, her fear for the situation she was putting herself in was not put on and, from the police point of view, justified and right. Andrea McKee lived in a strong Loyalist enclave. Under such conditions [I

have written down here] excellent work, encouraging Andrea to advise Tracey to go to the police station and tell the truth, because that was also a very important issue. At this stage, the only problem was the confidentiality of intelligence. It would appear that we already had one breach of security and I didn't want another.

MICHAEL STEPHENS: Right. We got to that stage as far as that's concerned, then. Do you wish to go on regarding Tracey, or ...?

MAYNARD MCBURNEY: Well, I directed that she, Tracey Clarke, be spoken to again with some degree of urgency by Detective Inspector and Detective Constable McAteer.

RICHARD MURPHY: Tell me this: are all these names to contribute to the eventual report? I was led to believe that there would be some degree of ...

MICHAEL STEPHENS: As far as anonymity is concerned, that issue is still being thrashed out, as far as I'm aware.

RICHARD MURPHY: And I'll speak to you about that whenever we're finished.

MAYNARD MCBURNEY: See, I don't want to mention all these names and then --

MICHAEL STEPHENS: I think as far as the names you've mentioned, those names -- as far as this is concerned, the transcript itself will only be given to your solicitor. It's then up to the various parties regarding anonymity. If you wish to discuss any issues which you think should not be

discussed on the record, then we'll come to that, but those names we discuss here and now, as far as that's concerned.

RICHARD MURPHY: Those names are all in the public domain anyway -- The names that you are mentioning

MICHAEL STEPHENS: That's fine.

MAYNARD MCBURNEY: I was advised that Tracey Clarke was working at the travel agents, Going Places. After that she went to work at a Chinese restaurant. I said, 'Look, I don't care what time she finishes, get her into the police station, talk to her'. We went to see Mrs Clarke -- Mrs Clarke senior made arrangements to have her daughter visit the police station. Tracey Clarke came to Portadown Station late on the evening of 9 May 1997 accompanied by Andrea McKee. According to the latter, it was her husband Michael who eventually convinced Tracey because she, Tracey, was reticent to coming near a police station. Detective Constable McAteer and Detective Chief Inspector Irwin interviewed Tracey Clarke, who requested to be accompanied by Andrea McKee. Tracey's mother had also made the same request, that she be accompanied by Andrea McKee. After some time, Detective Constable McAteer advised me that although Tracey had told what she believed to be the truth, she was concerned about making a statement. I bantered with the Detective Constable for a few minutes and asked him if he was losing his touch. I asked the Detective Constable to have one last try. Seeing as it was so near and yet so far. It was imperative to the enquiry that we obtain not only intelligence, but evidence. I remained in the vicinity of the

interview room, and after some time the Detective Constable indicated that Tracey Clarke was going to make a statement. I entered the interview room, having been invited by the Detective Constable, having reassured the witness that we would do all in our power to protect her. I left the interview room. I also impressed upon her that it was imperative that she tell no one about having made a statement.

MICHAEL STEPHENS: Right. Can I ask you about that? You reassured the witness. What exactly did you offer at that stage? Was it just reassurance, or are you going to cover that?

MAYNARD MCBURNEY: At that stage, I told her, "You must not tell anyone". It comes in after that part.

MICHAEL STEPHENS: Okay, go on.

MAYNARD MCBURNEY: I decided that the Tracey Clarke was not to be typed or put in HOLMES, the importance of the breakthrough was (inaudible) I was ultra careful but not paranoid. I certainly did not want any leaks at this stage.

I had told her that we tell absolutely no one.

Once the statementing was over on the following day, I sat down with the Detective Chief Inspector and the Detective Inspector and I considered the witness protection scheme for Tracey Clarke. My view was that it was not a good idea in this instance.

Sorry, I laugh, because it's like everything else in this world. All these disagreements with authority come in on occasions such as this.

... it was not a good idea in this instance. Number 1. She was single and away from home. She would have little support from anyone other than police. And impractical to move complete family - mother, father etc. Therefore, easy to intimidate parents. With son or daughter away, parents would generally try to convince witness to come home. It takes very strong willpower to go against parents. Only saw it happen once. She was not the most sophisticated of young women. Very parochial and would miss friends. In this instance, the best means, in my opinion, of dealing with the situation is to find a natural means of moving her out of the area. She wanted to join the Navy. I attempted this course, but she failed the exam. I had made contact with different people quite quickly and had arranged for all this to take place. I endeavoured to find work for her, and did, at a hotel in Enniskillen. She would not accept this offer. Work was found for her again in Belfast, which she didn't take. Over and above this, Detective Chief Inspector and Detective Constable McAteer were detailed to maintain contact with Tracey Clarke and her family. Regardless, she openly talked about having made a statement. She told us a girl came to her and told her that if she wanted to make an affidavit retracting her evidence, she should go and see "██████████", the top terrorist in the area. End of story. Tracey Clarke did not take this course and we thought we had won the day. She later retracted her evidence.

MICHAEL STEPHENS: Okay. I was going to ask you what your strategy was in respect of handling her. You've listed the various things you did as far as --

MAYNARD MCBURNEY: You had to find a way to discuss with the person I referred to because you had to convince them that (1), this has to be done or that has to be done or whatever.

MICHAEL STEPHENS: As far as presenting her evidence was concerned; you said you didn't want her recorded, so she was referred to as Witness A, presumably?

MAYNARD MCBURNEY: Yes. Yes. Witness A, B, I think even X and Z, because I tried to cover it over that there were other witnesses.

MICHAEL STEPHENS: As far as that -- was that the normal way you would have dealt with keeping the names out of the public domain, as far as that was concerned, referring to witness A and witness B? How would that follow through, then? When you got to committal stage or when you got to DPP, how would that be dealt with then, her evidence?

MAYNARD MCBURNEY: Well, at that stage, a report would be prepared by whoever.

MICHAEL STEPHENS: Well, in this instance, Michael Irwin prepared a report separate to --

MAYNARD MCBURNEY: Yes, well, okay, right. That would be the normal procedure. Normal procedure would be, together with the papers that were submitted pertaining to the murder inquiry or whatever inquiry it would

be, the side issues of secret documentation, witnesses and that sort of thing. And that is the way it would be conveyed to the DPP.

MICHAEL STEPHENS: Right. Would the DPP then have the responsibility for redacting the statements and making certain that certain parts of the statement -- because you could identify from Tracey's statement exactly who she was.

MAYNARD MCBURNEY: It may not-- it just doesn't work as simply as that there, because she would--- it would go to the DPP. The DPP would take a look and say, "Well, we can't do this and we can't do that or we can't do the other. Now "Will this girl be moved out of the area or will this person be moved out of the area on protection?" And those matters would be covered, okay? Now, if she wasn't and there are those that have been moved out, would she still be prepared to give evidence under the circumstances? And the DPP invariably - no, not invariably - would ask to see them, find out, talk to them, determine their background and ability towards giving evidence, because you would know yourself, that person would have the strength of character to pursue a situation wherever it is and that's when that sort of thing would take place.

MICHAEL STEPHENS: So as far as that was concerned, then, just follow this through. You've given her reassurance. You've discussed with her what you would offer her and what you would provide for her.

MAYNARD MCBURNEY: Discuss with who?

MICHAEL STEPHENS: Tracey Clarke.

MAYNARD MCBURNEY: I didn't discuss with her.

MICHAEL STEPHENS: No, as far as what you were going to do with helping her. If she wished to move, what she was going to do. I thought you were offering her reassurance and what you could help with.

MAYNARD MCBURNEY: No, I told her not to refer to her statement, to give us time to decide which course of action to take with regard to her specifically, because all those issues, you either -- once she makes that statement, you either bring her into custody -- when I say custody, you either bring her into protection or send her home. To bring her into protection, in my opinion, would have been wrong. That's why I impressed upon her to tell nobody about her statement; go home as if nothing ever happened, give us the opportunity to decide what to do with you.

MICHAEL STEPHENS: When you were reading out earlier on, you said she was the one who actually disclosed that she had made a statement. When were you aware of that?

MAYNARD MCBURNEY: Oh, long, long afterwards.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: No, this is long afterwards quite some time afterwards. I couldn't be specific, but it came into the frame. I'm not going to say whether it

was weeks, months, whatever, but it certainly came into the frame long afterwards.

MICHAEL STEPHENS: Okay. Anything you want to ask on that?

JOY HOPKINSON: That's fine.

MICHAEL STEPHENS: Okay. On the same day, Reserve Constable McCaw and G then come to the police station with some more information. And certainly when you were interviewed by the ombudsman - that's referred to in page 22847 --

MAYNARD MCBURNEY: I didn't catch that--- 22--

MICHAEL STEPHENS: -- 847.

JOY HOPKINSON: What date was this interview? Wednesday, 27 March ...

MICHAEL STEPHENS: ... 27 March 2001. You've found the page there?

MAYNARD MCBURNEY: Yes, I have, yes.

MICHAEL STEPHENS: And I'm quoting from what your reply was,

"I was with the DCI, and the DI came down to the office and introduced Reserve Constable McCaw as the officer he had spoken to me about previously. I had written down here 'There may well have been another officer present, I don't know'."

Now, on that occasion, McCaw and G were coming to tell you about Jameson?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And what's your recollection of that interview, or that information?

MAYNARD MCBURNEY: I'll need to think ...

MICHAEL STEPHENS: You can quote from that if you wish.

MAYNARD MCBURNEY: I think I'll take a look at that and see if I ...

MICHAEL STEPHENS: And by the by, we're referring to a note similar to you've made notes here.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Because in there you say, "I have written down here", and it's a similar sort of thing. You prepared notes in preparation for the interview?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: So it wasn't from a journal or anything else? It was from notes you made prior to the interview?

MAYNARD MCBURNEY: That's why I referred to the fact -- look, this is from memory, that if it just didn't tie up with dates and times, that people would understand, look, it's just coming from me.

MICHAEL STEPHENS: While I've raised the subject of journal, Maynard, did you keep a journal?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And would it have had any details in it at all or was it just on/off duty? What would it have had in general?

MAYNARD MCBURNEY: It would depend on the -- what I was referring to. These entries, the greatest majority of them, I have just cut them short. This one, "16 June 1967, 8.00am, (several inaudible words - reading from documents)". I would have kept notes as such -- well that I spoke to people. I may have done -- some were quite long, some were quite short, but in essence, I would have kept notes.

MICHAEL STEPHENS: And where are your journals now?

MAYNARD MCBURNEY: My journals, I haven't got them here. No, they didn't look at them last time.

MICHAEL STEPHENS: For the record, do you have still the journals?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Covering this particular period?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Okay. And is that where you've also drawn your notes there from  
as well?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Okay. Now, as far as those two officers, McCaw and G, did you  
give them instructions not to make notes at all?

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: And as such, these are two Reserve Constables; what would you  
have expected them to have done, having received information like  
this? They came to the police station. Would they have been  
expected to put any report in or make a statement or what would they  
have been expected to do?

MAYNARD MCBURNEY: They were bringing in just ordinary intelligence. I suppose if you  
can use the term "ordinary average intelligence", but in actual fact, it  
was important from our point of view because it was highlighting  
another witness, and that was it.

MICHAEL STEPHENS: The one officer, McCaw, brought you in two fine pieces of  
witnessing. The only reason I ask that question is I just wanted to  
know what procedures they would have been expected to have done.

Would they have expected to put in a report or a statement on what they've heard?

MAYNARD MCBURNEY: No. They ... I'm only aware of Reserve Constable McCaw, possibly because he was the one who spoke and he was standing in the doorway. As well as that, he was the only officer who had been mentioned previously. I think I may have thanked him for the help he was giving us. He referred to having a bit more information. He had been talking to Timothy Jameson out at his father's home about Saturday night. Apparently, Timothy had stated that he was in Portadown on the night of the fight and saw what had happened. Reserve Constable McCaw believed that Timothy should know who was involved, although he, Reserve Constable McCaw, did not know. Prior to him leaving, I referred to the fact that if he got another opportunity to speak to Timothy, he should, with a view to gaining as much intelligence as possible about those involved. And then, that was the end of it. I had a short discussion with the detective chief, to the effect that you make your own luck. Told her, I realised that he had been on – I had heard his name before and asked, "Look, what's the score with him?" Said nothing, pro forma filled end of story. Right. Who interviewed him? Honeyford. Get him.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: Let's find out what the score is, you make your own luck.

MICHAEL STEPHENS: So Timothy Jameson's then brought in, he's interviewed. And he gave details of the offenders involved in the violence?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And what did Honeyford think of him as a -- when he'd interviewed him, as a witness, then?

MAYNARD MCBURNEY: He stated that while he did not necessarily believe all that he said -- I'm not quite sure if that's the way he put it; I don't know how he put it. But he had taken a witness statement from him.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: That's written down there, probably the last time and I don't want to go contrary to that. I'm not going to start reading that.

MICHAEL STEPHENS: But basically --

MAYNARD MCBURNEY: Basically that was it.

MICHAEL STEPHENS: Okay. From that, you had two key elements of evidence.

MAYNARD MCBURNEY: That's correct.

MICHAEL STEPHENS: And the policy file here refers to an arrest authority for 10 May, for 6 people. Now (overspeaking)

MAYNARD MCBURNEY: -- because there was another issue there, because I had considered protection for Jameson, but again my reasons for doing

nothing about it were very, very simple, because his father was a local businessman. His father was receiving police protection. His father was really against crime in general.

MICHAEL STEPHENS: How did you know that, then?

MAYNARD MCBURNEY: Well, he was a local businessman. He was background. He was always a bit volatile in many respects, but still, you might say, a decent -- yes, a decent sort of fellow, being a bit of a rogue.

MICHAEL STEPHENS: He had certain standards?

MAYNARD MCBURNEY: He had certain standards, thank you.

MICHAEL STEPHENS: So, his father --

MAYNARD MCBURNEY: His father --

MICHAEL STEPHENS: Go on, what were you going to say?

MAYNARD MCBURNEY: I said, his father was really a top Loyalist and things like that there. For other Loyalist factions to deal with him could have proved more dangerous for them. What was included in the statement was not really of the utmost importance. My decision that it was not necessary to continue witness protection in any form for Timothy Jameson.

MICHAEL STEPHENS: Jameson?

MAYNARD MCBURNEY: Jameson, rather.

MICHAEL STEPHENS: So you've had these two statements, Clarke and Jameson.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Was there any other evidence to support that at all? Did you have any other information, or was it mainly on those two witness statements?

MAYNARD MCBURNEY: It was essentially only on one. We needed the statement of Tracey Clarke to move. It was Tracey Clarke's statement really that gave us the impetus, as it were, for to, "Right, let's move, let's do it now, now's the time". We take it from there.

MICHAEL STEPHENS: Okay. And those two then become witness A and B?

MAYNARD MCBURNEY: Those two become witness A and B

MICHAEL STEPHENS: And you said earlier that they weren't to be entered on the HOLMES. Did you mean they weren't to be entered onto HOLMES with their details on them, or they weren't to be entered onto HOLMES as witness A and B?

MAYNARD MCBURNEY: My view at the time was -- I don't know what happened now when I think about it, but my view at the time was that the statements should not go onto HOLMES.

MICHAEL STEPHENS: Right. The only reason I ask that is because we did ask the PSNI to check on the HOLMES account and the HOLMES account shows that they did go on on 11 May --

MAYNARD MCBURNEY: That was after the arrests.

MICHAEL STEPHENS: Yes. So they went on 11 May, but as Witness A and Witness B.

MAYNARD MCBURNEY: Yes. But I think at the outset that they didn't go on immediately.

MICHAEL STEPHENS: Yes. So ... well, two days.

MAYNARD MCBURNEY: Okay, two days okay.

MICHAEL STEPHENS: The arrests on 10 May. Now, as far as that was concerned, who carried out the briefing for the arrest and search teams on 10 May. Were you present for that, or was it down to the DI, the DCI?

MAYNARD MCBURNEY: Well, I don't know if I can be specific about that-- but I think I spoke to, just give me a second of two now. I know now when I think about it I should have highlighted this more clearly.

MICHAEL STEPHENS: Well, I'll just pause that a minute while you're looking.

(break in audio)

We've just restarted the recording.

MAYNARD MCBURNEY: Having received the statement from Andrea Clarke, it was obvious that now was the time to move. As I said previously, you make your own luck. We had to move there and then. I made arrangements with the Detective Chief Inspector and with the Detective Inspector. I directed the Detective Inspector to prepare briefing notes for a full team in the morning, to arrange for arrests, to use outside arrest teams; in other words, to use police from outside the area. He came back and then he told us, "Look, it's too late for us to arrange police from outside the area at this time of the night. We're going to have to use local DMSUs". I said, "Not satisfactory. Stop. Take one or two. Do not advise them of the task. Bring them here. Make sure they're here, ready to carry out searches sufficient for" - I think it was maybe, did we not go for eight?

MICHAEL STEPHENS: You went to six.

MAYNARD MCBURNEY: Went for six, did we? Okay.

MICHAEL STEPHENS: Two others were later on.

MAYNARD MCBURNEY: Oh yes, yes, fine. Sufficient for six, not only sufficient search teams for six homes, but sufficient resources to interview the following day. Sufficient SOCOs (scenes of crimes officers) to do each house, scenes of crimes officers to accompany each search team, right down the line from A to Z. I then told the Detective Chief, "Look, you prepare the documentation for arrests. Prepare for suitable locations for interview". I covered all those aspects. Before I

leave the Detective Inspector, I also told him when he got all that done, right –Michael that will take you some time, but when you do that, go home, get a couple of hours' sleep, but be back here at 6.00am to brief the teams going out so that they're aware of exactly what they're looking for, exactly what forensic issues were at stake, exactly what may be of assistance or otherwise. I then, as I say, spoke to the Chief and --

MICHAEL STEPHENS: Sorry, Chief Inspector?

MAYNARD MCBURNEY: The Chief Inspector, yes. And told her, as I said, for her to prepare for the documentation for the search teams, for the arrests and all that. And arrange for stations and suitable facilities for interviews, because they were not all available in Portadown. I had to take them to Banbridge, Craigavon, around the country.

MICHAEL STEPHENS: Right. Okay. Having said that, what about -- the arrests were made, the searches were dealt with, what about briefing the interview teams? Did you do that or was that the DI that did that?

MAYNARD MCBURNEY: The DI briefed the search teams before they went out. The interview teams was a general brief on the---at what time? What day are we at?

MICHAEL STEPHENS: This would be 10 May, so I don't know what day of the week it was.

MAYNARD MCBURNEY: It must be a Friday morning, I think. Yes. Friday? I don't know.  
Say Friday.

MICHAEL STEPHENS: Okay.

MAYNARD MCBURNEY: You can correct it at some future stage. I was there. They were all there. Now, they may not all have been there at 9.00am, because, if I can remember correctly, some of the arrests, some of the searches, took longer than others. Consequently, you had people coming in in dribs and drabs, okay? And you would have had, when everyone came in, a conference that incorporated the whole party to the best of my knowledge. Everyone was told what they could be told. Right? And then they were split up. Then they were split up, and each received the documentation pertaining to their respective prisoner.

MICHAEL STEPHENS: This is what **P39** had prepared as far as documents are concerned?

MAYNARD MCBURNEY: And Michael.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: They then went to their respective locations.

MICHAEL STEPHENS: What exactly did they know about Witness A and Witness B? What were they given? Were they given statements or a copy of the statements or not?

MAYNARD MCBURNEY: The truth is, I don't think they were given anything other than "this is the intelligence that we have on these particular people".

MICHAEL STEPHENS: Right. So, you don't think they were given a copy of the statements?

MAYNARD MCBURNEY: I don't think so. As I said (several inaudible words) I don't know. That's the answer.

MICHAEL STEPHENS: What about the officers searching the house of Hanvey? Were they instructed to look for evidence, any burnt clothing or anything of that nature?

MAYNARD MCBURNEY: They were very specifically instructed, because Hanvey was one of the ones that -- when it was checked, that his clothing was not necessarily specific, but there were specific colours that came to the fore.

MICHAEL STEPHENS: And this is what Tracey had told you about what he ...?

MAYNARD MCBURNEY: This is what Tracey had told us. Now, I think even at that stage, we had made arrangements for -- what happened there is -- what they had done was they had raised action or an action had been raised to determine if these things had been bought or bought for him or what shop sold them and all that sort of thing, because, I think afterwards, the jacket could not be found in this house. But the team that put out the search of the house knew of its existence and exactly what they were looking for.

MICHAEL STEPHENS: And the point I make: were they instructed to look to see if there was any evidence of any burnt clothes or burnt -- anything burnt in the garden or anything of that nature?

MAYNARD MCBURNEY: No. And that -- SOCO -- that sort of thing is out of line as far as SOCO were concerned. That's why we sent SOCO. And that's why I've specifically said that SOCO were detailed to go to the scene. And SOCO was at that house.

MICHAEL STEPHENS: Moving on again, staying with Harvey; McIntosh and McCrumlish were the two DCs who interviewed Harvey when he was brought in. How was the issue of Atkinson to be dealt with as far as they were concerned? Was it to be introduced at all? About disposing of clothing or anything of that nature?

MAYNARD MCBURNEY: I believe that that was not put. I'm trying to think of the specific reasons it was not put. And off the cuff like that it can be difficult just to remember, but it was not put to him.

MICHAEL STEPHENS: Right. The only reason that --

MAYNARD MCBURNEY: To the best of my knowledge now, it wasn't put to him.

MICHAEL STEPHENS: The only reason I ask that is because, in the interview with Harvey, McCrumlish has -- I'm going to paraphrase what he said. "Have you been speaking to any police regarding your actions that night?" And you could read that as a question of Harvey as being pointed. Was he being talked to by police officers, as far as that was concerned?

Now, was that to be covered in interview at all? Because obviously if it was, was it going to alert Harvey to what was being said?

MAYNARD MCBURNEY: Essentially, I made a point of mentioning it to Harvey at a later stage, when I interviewed him. And I did it again for a very specific purpose.

MICHAEL STEPHENS: You mean Atkinson?

MAYNARD MCBURNEY: Atkinson, yes. I mentioned to Atkinson on the very first interview I had with him, the whole (inaudible) - just the one specific question. "Look, I want the telephone account for May from you." And that was intended to be a kind of innocuous remark, but it was also intended to make him think, because I believed at that time that he knew that we knew about Detective McCaw, and the funny thing is that whether it was whatever, only then after that, made arrangements for an alibi. It was at that alibi that I knew then we were moving in the right direction.

MICHAEL STEPHENS: I'll come back to that.

RICHARD MURPHY: Just on the whole question of the McCrumlish interview, the McCrumlish-McIntosh interview of Harvey, was it not right also that some of the uniformed officers at the scene alleged that they had seen Reserve Constable Atkinson was speaking to Harvey at the scene?

MICHAEL STEPHENS: It was, but that came out later in the investigations of K.

MAYNARD MCBURNEY: No, that's not right. No, that's not right.

MICHAEL STEPHENS: That was available

MAYNARD MCBURNEY: That was available maybe not necessarily from the outset, but certainly within a matter of hours after the interviews.

MICHAEL STEPHENS: So you've read that?

MAYNARD MCBURNEY: No, I have it here, yes, yes.

MICHAEL STEPHENS: Okay.

RICHARD MURPHY: I'm not saying that that is what inspired the McCrumlish question, I just don't know.

MAYNARD MCBURNEY: The truth is, coming back to that, I cannot remember. And there's no sense in me starting to say.

MICHAEL STEPHENS: Okay. Now, I'm going to take a break in a minute. I just wanted to cover this issue, and it's about obtaining the telephone records of Hanvey and Atkinson. Well, you were trying to establish, obviously, the authenticity of the intelligence you had at that stage?

MAYNARD MCBURNEY: That's right, yes.

MICHAEL STEPHENS: And there were two other names that were applied for. And P39 applied for. Hanvey, Atkinson --

MAYNARD MCBURNEY: John McAteer. Because it was McAteer I detailed to do it.

MICHAEL STEPHENS: Well, the report that I've seen was written up by P39.

MAYNARD MCBURNEY: Okay. Okay.

MICHAEL STEPHENS: McAteer did one, I appreciate, did one application. And in interviewing John -- sorry, is it John McAteer?

RICHARD MURPHY: John McAteer, yes.

MAYNARD MCBURNEY: -- he says, "Yes, I did apply for it", but there is another application which is under P39's name for E Hanvey, R Atkinson, Thomas Hanvey and [REDACTED]. Now, that was submitted as far as that was concerned.

RICHARD MURPHY: What's the date of that now?

MAYNARD MCBURNEY: Well you see [REDACTED] name may well have come into the frame...

MICHAEL STEPHENS: She's recorded this on 9 May, "To obtain records of incoming and outgoing telephone calls". And she submits a report on 12 May which also includes Thomas Hanvey and [REDACTED]. Obviously, for us,

██████ doesn't mean anything because there's no real papers about ██████. Where does he come from?

MAYNARD MCBURNEY: ██████ is a top... for the want of a better word. You have to be careful how you phrase these things.

MICHAEL STEPHENS: Well, I think Mr ██████ no longer with us.

MAYNARD MCBURNEY: He's away from us, isn't he?

MICHAEL STEPHENS: No, is he not deceased?

MAYNARD MCBURNEY: I think he is, yes.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: Yes. He was a local UVF hit man for want of a better word.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: Rather than use anything stronger.

MICHAEL STEPHENS: What I'm trying to establish -- in the inquiry we will obviously want to know why did his name come into the frame on 12 May?

MAYNARD MCBURNEY: I can't remember.

MICHAEL STEPHENS: I can understand Thomas Harvey, uncle of Allister, because Allister at that stage had given his movements as going to his uncle's.

MAYNARD MCBURNEY: Wait a minute, now. Wait a minute. I'll tell you. I have a feeling -- I have a feeling that when Tracey Clarke told us the story she told us that week, as far as that telephone number was concerned, of Atkinson's, we wanted to confirm that (1) the intelligence was good, that it was fact. The other names, to the best of my knowledge, came from a search that they were on-- they came from a search of one of the houses. Are you sure it didn't come from Harvey's house?

MICHAEL STEPHENS: It may well have done. It may well have done. But all I'm going by is what the report said.

MAYNARD MCBURNEY: Yes, now ... because the people that did the searches would have been interested in telephone numbers and once they had seen a name like [REDACTED] or something like that there, then they would have taken cognisance of it. A telephone number, particularly. It was indicative of someone having contact with a real baddie, as it were. Now, I'm not saying that's what came about. There's a recollection there that that's where it came from. I may not be right.

MICHAEL STEPHENS: Now, as far as that's concerned, can you remember how quickly you got confirmation that there had been contact between the Harvey household and the Atkinson household?

MAYNARD MCBURNEY: I honestly couldn't remember. It took quite some time.

MICHAEL STEPHENS: When you say "quite some time", you're talking days, weeks, what?

MAYNARD MCBURNEY: I have to be careful here, because with that particular one, I cannot honestly say. But I know for a fact that to get that intelligence, with regard to that telephone call, we had to go specifically --

MICHAEL STEPHENS: Now, I don't want to take you down this route too much, but the BT records show that they received the application on 16 May. So, it was on 12 May that the application was made; 16 May, BT records are looking at providing the itemised billing.

MAYNARD MCBURNEY: Yes, but the point I'm making is that to the best of my knowledge, we had to send someone to headquarters to speed up the procedure. We weren't receiving the attention that we thought we should receive under the circumstances. And if I remember correctly, when I started to ask a couple of questions, I said, "Bugger this for a lark, let's have a bit of action", and I have a feeling that -- did you come across anybody that went down to headquarters or to --

MICHAEL STEPHENS: I can't recall seeing that, and I've not interviewed anybody who did that, but I can understand that you may have had problems getting some results.

MAYNARD MCBURNEY: We did.

MICHAEL STEPHENS: The only thing I say is that certainly the BT records show that on 16 May, now whether or not you'd given them a gee-up and that's when they actually started to do the itemised billing ...

MAYNARD MCBURNEY: In fact, there was someone at headquarters; I can't remember his name now.

MICHAEL STEPHENS: Liaison officer or something, was it?

MAYNARD MCBURNEY: Who liaised specifically with telecommunications for that sort of thing, for that purpose and in the end, someone went down and saw them, because, yes, yes...

MICHAEL STEPHENS: Okay.

MAYNARD MCBURNEY: That's all from memory, you must remember, and this is going back ten years. You're hitting me with things that it's not easy just to pull off the top of your head.

MICHAEL STEPHENS: No, okay. The other issue I ask was, did you then get proof of contact between the two households? Of the telephone call that had been made between the Atkinson --

MAYNARD MCBURNEY: I cannot remember, but obviously we probably would have, yes.

MICHAEL STEPHENS: Right. Obviously, as far as that was concerned, did you start procedure to try and get that turned into evidence at all or was it just left as intelligence?

MAYNARD MCBURNEY: No, that was just intelligence at that stage.

MICHAEL STEPHENS: The only thing -- I just want to take a break now -- as far as that was concerned, that day on 10 May, you were able to charge five of the six men that day.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Whose decision was it to charge then?

MAYNARD MCBURNEY: (inaudible)

MICHAEL STEPHENS: Right. Now, as far as that was concerned, and I probably know the answer anyway, but I'll ask you all the same, as far as charging was concerned in these sorts of cases, would that be a police decision only or would it be one where you would involve the DPP at that stage?

MAYNARD MCBURNEY: Involve the DPP.

MICHAEL STEPHENS: Sorry?

MAYNARD MCBURNEY: I think we involved the DPP. I can't remember. Actually, I think --

MICHAEL STEPHENS: You certainly had meetings with the DPP shortly after. I don't know what telephone conversations you had previously.

MAYNARD MCBURNEY: What normally happens is this. The DPP -- we would charge, and then we would go to the DPP with a view to finding out, "Are you happy enough with that?" Because the DPP would not give us

directions off the cuff, as it were, to charge or do this, that or the other. They are like many solicitors that won't give an answer without having the paper in front of them and -- that's not unkind you understand-- I laugh because I am giving them a little bit of abuse --is that correct?

RICHARD MURPHY: I couldn't possibly comment on that.

MAYNARD MCBURNEY: No, I don't mean that to be unkind. I don't really.

RICHARD MURPHY: Effectively, you had to make the decision on your own.

MAYNARD MCBURNEY: Well, yes, that's really what does happen.

MICHAEL STEPHENS: And the basis for charge was what?

MAYNARD MCBURNEY: The basis of charge was the evidence that we had.

MICHAEL STEPHENS: Of Witness A, Witness B?

MAYNARD MCBURNEY: Yes, yes. Yes, because we had no other evidence at that stage.

MICHAEL STEPHENS: Okay.

MAYNARD MCBURNEY: Anything else that turned up, turned up in forensics.

MICHAEL STEPHENS: Right. Well, I'll move on to forensic in a minute. We don't want to go down that road yet, because I'm just going to pause or just stop.

(break in audio)

MICHAEL STEPHENS: Before we stopped for a break we were just about to talk about forensics as an issue. You said you had SOCO officers who did the searches; did you have anyone within your investigation who was responsible for dealing with the FSANI or would that have been --

MAYNARD MCBURNEY: No, that automatically would have been -- I tend to think that was the office manager. No, someone was but I can't tell you who it was.

MICHAEL STEPHENS: Well, the office manager -- because Michael Irwin is shown as office manager in the policy file.

MAYNARD MCBURNEY: It doesn't incorporate that.

MICHAEL STEPHENS: But what was the office manager because it wasn't HOLMES, was it?

MAYNARD MCBURNEY: See, I tried at the outset, with regard to HOLMES -- HOLMES requires 14 officers to run it correctly, or allegedly correctly, if you are running a full scale murder involving many hits-- with us we had to run HOLMES with as little as two, three, four, five or six people because the resources were not there. And you couldn't expect to have the resources there because to keep those sort of numbers on murders that were happening continuously, it wasn't possible. Consequently, you had to have that sort of---scenario.

MICHAEL STEPHENS: Sorry, what I asked about the office manager --

MAYNARD MCBURNEY: Yes, sorry, the point I'm making is that he may well have been office manager but there were many other tasks that he would have been detailed to do as well. His job specifically was not down to that narrow band of that.

MICHAEL STEPHENS: No, but when you look at what Michael Irwin did, as far as that was concerned, he briefed people, he charged people and eventually put the file together?

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: So, he, as such, was the investigating officer, as the continuity through that and office manager didn't really cover what he was --

MAYNARD MCBURNEY: No, that's the point I'm trying to make. So, don't be tying him to specific jobs as far as HOLMES is concerned.

MICHAEL STEPHENS: And that's why the question is being asked. In black and white you see SIO, deputy SIO, office manager. As far as the forensics is concerned, did you have a strategy about how you were going to deal with forensic issues or was it a straightforward search and we recover as much as we possibly can from the scene, from the individuals concerned?

MAYNARD MCBURNEY: The strategy was very, very simple. Everyone knew when they went to respective houses what they were looking for. To the best of

my knowledge, it was determined beforehand what we believed the individuals were wearing. They would have been tasked to look for that particular clothing, check shoes and all that sort of thing. It would have all been bagged automatically and brought by the respective SOCOs to forensic.

MICHAEL STEPHENS: One of the things that you did get very early on was a DNA result which came back on Stacey Bridgett covering the blood found on the jeans of Robert Hamill. In fact, according to Mr Marshall, that was available from 12 May.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And as such -- all right, it was an early warning that you'd had a DNA hit and that the DNA hit was Stacey Bridgett's blood on the jeans. Can you recall what exactly you did with that evidence at all? Was it evidence -- because I ask the question, Stacey Bridgett doesn't seem to have been asked about that or further interviewed about that?

MAYNARD MCBURNEY: There are several aspects to that. Initially, to the best of my knowledge, Michael entered the frame, was there a pattern there? Now, when that was checked there was no pattern, to the best of my knowledge.

MICHAEL STEPHENS: When you say "pattern" you mean blood pattern?

MAYNARD MCBURNEY: Blood pattern. Did it drip on or whatever, all that sort of stuff.

Now, to me, I think that was a covered, in fact I'm certain it was covered.

MICHAEL STEPHENS: The only thing I would say as far as that's concerned, Marshall didn't give a statement until 24 October 1997, albeit he advised either yourself or Michael Irwin that there was a DNA hit. The statement didn't come through until the 24 October.

MAYNARD MCBURNEY: We knew that; we knew that quite early on.

MICHAEL STEPHENS: Right, about the blood?

MAYNARD MCBURNEY: About the blood.

MICHAEL STEPHENS: Right. The question I ask as far as that's concerned - and it's what I asked Michael Irwin - did you do anything regarding trying to find out about blood spattering? How it could have got onto the jeans? To see if it had been dropped direct on to the jeans or was it a blood splatter that had been sent --

MAYNARD MCBURNEY: No, the short answer to that is no, and the reason for that is very simple. When material has been brought down to forensics, forensic would say, "Look, that's the position", end of story. Or they would say, "Look, we can enhance that if it is taken to England". Now, if they said, "Look that can be enhanced or taken further by taking it to England" or taking it to wherever, then they would initiate that course

of action and it would have been taken by one of our officers, right, specifically.

MICHAEL STEPHENS: So, you were reliant on the Forensic Science Service in Northern Ireland to actually come in and say, "You need to go elsewhere for this to actually develop it any further"?

MAYNARD MCBURNEY: Yes, that's the way it worked. I mean, it's not as if it was -- it's not as if it was new technology, for want of a better word. I mean, that's what was done because sometimes in particular tapes, photographs, issues such as that -- I'm trying to think off the top of my cuff. We have taken stuff across to England to have it enhanced. But on the initiation of forensics.

MICHAEL STEPHENS: Bridgett was never questioned about his blood being found on the jeans of Robert Hamill. He'd been asked previously if he had been involved in the fighting - did he get near Hamill? Did he kick him and all those sorts of things? But there is no evidence that he was additionally questioned after he had been charged, about the blood on the jeans. Do you know why that wasn't done?

MAYNARD MCBURNEY: No. I'm sorry, again I'm trying to think and that's why I've slowed down. There is nothing specific that comes to my mind at this moment in time because I cannot honestly remember.

MICHAEL STEPHENS: I'm aware that as far as Marshall was concerned, he was questioned later by the DPP's office about the blood splatter and how

it could have got onto the jeans and those sorts of things, when it was presented as evidence to the DPP.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Did you do anything at all outside of the Forensic Science Service in Northern Ireland to get any other advice elsewhere from blood spattering or anything else?

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: The other forensic issue I wanted to talk about was Wayne Lunt. Wayne Lunt's finger impressions were found on a wine- tonic bottle recovered at the scene. Do you recall that at all? Part of the scene searched by the SOCO, Mr Ardis, recovered about 14 items and amongst those were some broken bottles and bottles and on one of those bottles was a finger impression which was attributable to Wayne Lunt.

MAYNARD MCBURNEY: Yes, not to my knowledge but there was still -- there was still something in it. I think there was still wine or something in it, was that right?

MICHAEL STEPHENS: Well, I don't know about that.

MAYNARD MCBURNEY: Because it wasn't a broken bottle; it was not a broken bottle?

MICHAEL STEPHENS: No, I said there were some broken bottles and bottles.

MAYNARD MCBURNEY: Yes, it was a full bottle. It's hard to tell ... I don't know. I don't know. I don't know.

MICHAEL STEPHENS: No, okay. Similarly with him, that evidence wasn't put to him at a further interview following charge.

MAYNARD MCBURNEY: Yes, following charge. Right, and that's when the evidence -- that's after the evidence was -- of Tracey Clarke was -- she said no I'm not giving evidence --

MICHAEL STEPHENS: No. As far as that went, he was charged on 10 May. The fingerprint evidence came together a couple of months later, as far as that was concerned.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And I have also evidence from Constable **A** about Wayne Lunt being placed in the back of the vehicle because she had not initially given that evidence about that. She made a second statement about that.

MAYNARD MCBURNEY: Wayne Lunt? That was known from the very outset was it not and the fact that she'd arrested him?

MICHAEL STEPHENS: But she hadn't made that information in her statement.

MAYNARD MCBURNEY: She may not have made it in her statement but certainly, it was known and it was acknowledged and the grounds for -- and indeed she was asked why she hadn't arrested him and kept him there but it was -- when we examined it, it was understandable why she took him in and let him go at that time. It wasn't an arrestable offence for starters. She had the name, she had the address, she knew who he was. The only reason that he was not charged, to the best of my knowledge, is the solicitor.

RICHARD MURPHY: It wasn't Richard Monteith?

MAYNARD MCBURNEY: No, no.

RICHARD MURPHY: It was one of those solicitors in Portadown?

MAYNARD MCBURNEY: Yes. No, I'll tell you-- it was the solicitor acted -- that was acting for ...

RICHARD MURPHY: [REDACTED]

MAYNARD MCBURNEY: No—what do you call her that died?

RICHARD MURPHY: Was it [REDACTED]

MAYNARD MCBURNEY: [REDACTED], that's who it was, now I come to think about it. It was [REDACTED] who brought in ... Prunty or one of that crowd - and they said, "Look, you've got the wrong man because the man that it should

have been is the man in a Rangers t-shirt", or something dopey like that there.

MICHAEL STEPHENS: Right, can I just stop you there? Wayne Lunt was initially charged as one of the six on 10 May?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: What you're referring to was, after October in fact, in October 1997 when the file was with the DPP. Mr Prunty and his evidence were he sees someone on the television and he comes in --

MAYNARD MCBURNEY: Yes, that's right.

MICHAEL STEPHENS: And he comes in there.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: I didn't want to go that far in advance. This bit I wanted really to concentrate on was the finger impressions on the wine bottle, as far as that was concerned. We know from what **A** said that she'd seen Lunt with a bottle in his hand. I just wanted to know why, in fact, he hadn't been questioned about that bottle?

MAYNARD MCBURNEY: I can't answer that.

MICHAEL STEPHENS: Or if, in fact, anything further had been done with that bottle to see if, in fact, it had been used on the assault?

MAYNARD MCBURNEY: I don't know, but the bottle's sitting there, yes. I can understand the reason for asking and all the rest of it, but I can't answer that, no.

RICHARD MURPHY: But procedurally, would it have been normal to re-interview someone after charge where papers have gone through the DPP albeit after the fact?

MAYNARD MCBURNEY: I have a feeling that under the circumstances you'd need to find out how things were going and the DPP would have eventually given a direction on it and that would have been covered at that particular stage.

JOY HOPKINSON: So, it would have been the case for that, in respect of this bloodstain and the fingerprints on the tonic bottle that would have been a matter for the DPP if they wished to follow that up?

MAYNARD MCBURNEY: That's correct, yes.

MICHAEL STEPHENS: And they would have directed you?

MAYNARD MCBURNEY: Yes, they would have directed us to pursue it. And I think too that it may well have been because of the circumstances and what transpired, that was the reason that it wasn't followed up eventually.

MICHAEL STEPHENS: Right. I could probably understand that with the fingerprint but the blood was available within a couple of days. Well, if that was the method you used - you waited for the DPP --

MAYNARD MCBURNEY: But the blood -- these boys were charged and away at that stage.

These boys were charged --

MICHAEL STEPHENS: So, you would have had to go to prison to further interview them?

MAYNARD MCBURNEY: Yes. These people were charged and away at that stage.

MICHAEL STEPHENS: Okay. Now, we talked about the DPP and as such the DPP became involved. Certainly on 12 May you had a meeting with the Deputy Director of the DPP and it's one of the papers which I served yesterday. There is a reference there to Superintendent Hook, and I presume that's Superintendent Cooke, is it, or was there a Hook as well?

MAYNARD MCBURNEY: There was a Hook --

MICHAEL STEPHENS: There was a Hook?

MAYNARD MCBURNEY: Broomfield Hook died recently.

RICHARD MURPHY: The one that you served on us, Mike, refers to a meeting on 13 May, is that the one?

MICHAEL STEPHENS: Sorry? To be sure on that, there's 12 May and there's one for 13 May, as well.

MAYNARD MCBURNEY: I really can't (inaudible).

MICHAEL STEPHENS: Yes, you were certainly there both days.

JOY HOPKINSON: On 12 May. I'm referring to a file note that's page 31613 and it starts with the DPP emblem at the top.

MICHAEL STEPHENS: That's all that. Did you not get a copy?

(overspeaking)

MICHAEL STEPHENS: It is in the original bundle, I think, as far as that's concerned. I may have misled you there.

JOY HOPKINSON: Do you want me to show you where in the bundle? I can have a quick --

RICHARD MURPHY: If you can open it up.

MICHAEL STEPHENS: The file note and it's got the Deputy Director's crest on the top of it.

MAYNARD MCBURNEY: Yes, I've got it here and it's towards the end of my bundle.

MICHAEL STEPHENS: Is it [REDACTED] was the Deputy Director?

MAYNARD MCBURNEY: No, ---Junkin?

MICHAEL STEPHENS: Someone -- oh yes, Mr Junkin? was actually PP for ...

JOY HOPKINSON: Now, hold on, when was the meeting with the ...?

MICHAEL STEPHENS: For the present --

JOY HOPKINSON: If you sit down Mr Maynard, I'll ...

MICHAEL STEPHENS: For the purposes of the record we are just looking through the papers.

(13 seconds of silence)

It's after that I think.

JOY HOPKINSON: (several inaudible words)

MICHAEL STEPHENS: There you are, got it.

RICHARD MURPHY: It's [REDACTED] I think.

MICHAEL STEPHENS: There it is (several inaudible words)

RICHARD MURPHY: If you look beyond that, Mike, you'll see that in fact the Inquiry was kind enough previously to disclose to us the content of a file note on behalf of Mr Kitson dated on 13 May 1997.

MICHAEL STEPHENS: I'll just let you briefly have a look at that one, Maynard, as far as that's concerned. Superintendent Hook was he Crime Branch, was he?

MAYNARD MCBURNEY: Yes.

(13 seconds of silence)

Sorry -- yes, okay.

RICHARD MURPHY: That letter, it says cc Mr Junkin at the bottom of that ... but I think that Mr Junkin the Deputy Director in 1997.

RICHARD MURPHY: He was.

MAYNARD MCBURNEY: Yes he'd just come on-

MICHAEL STEPHENS: But it's been pp'd by someone anyway.

MAYNARD MCBURNEY: But he'd just been appointed.

RICHARD MURPHY: Mr Magill had been Deputy Director up until then.

MICHAEL STEPHENS: But as far as that's concerned, 12 May, they've been charged on 10 May. The purpose of the meeting ...?

MAYNARD MCBURNEY: The purpose of the meeting was, the fact is I truthfully can't remember, but it's obvious that it would have been to update the DPP on those charged and the nature of the case and to advise them generally.

MICHAEL STEPHENS: So, that would have been a standard meeting?

MAYNARD MCBURNEY: That would have been a standard meeting.

MICHAEL STEPHENS: And would it normally have been with the Deputy Director or would it have been -- or was it because of the political nature of the --

MAYNARD MCBURNEY: I have a feeling that it would have been because of the political nature of the incident. It would normally have been a deputy. I have been before both the director and the deputy many times and it's nothing new, but ordinarily you would go before maybe some of the deputies.

MICHAEL STEPHENS: Yes, or an Assistant director --

MAYNARD MCBURNEY: Assistant directors.

MICHAEL STEPHENS: Now, you outlined in that you've given him an overview of the case, as far as that's concerned?

MAYNARD MCBURNEY: That's correct.

MICHAEL STEPHENS: You've also outlined the views of Dr Crane, who is the pathologist?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And the allegations about the police not acting quickly enough, as far as that's concerned?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Did you talk to him at all about Atkinson on this occasion? It is not recorded in the note here.

MAYNARD MCBURNEY: I think that he would have to have been told there about both witnesses. He certainly would have been told about witnesses A and B.

MICHAEL STEPHENS: Yes. And you were able, at that stage, to tell him about Stacey Bridgett and the fact that Bridgett's blood had turned up on the jeans?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: So, you had that with you on 12 May?

MAYNARD MCBURNEY: Yes. Well, I can't remember that but obviously it's there.

MICHAEL STEPHENS: You know, I commented how quickly you had the turnaround, in all honesty.

MAYNARD MCBURNEY: Well, I really --

MICHAEL STEPHENS: But Bridgett had been arrested on 6 May so his stuff was in?

MAYNARD MCBURNEY: His stuff was already there, yes.

MICHAEL STEPHENS: Already there. Now, on 13 May, you had another meeting and I think the top note is not very -- they did cross that out, I'm glad to see.

RICHARD MURPHY: Both Mr Kitson and the heading is slightly wrong only slightly wrong but I think that Mike, on behalf of the Inquiry, has corrected ...

MICHAEL STEPHENS: Now then, this is a -- Mr Junkin is present for this meeting as is Raymond Kitson, the Assistant Director, and I presume Mr Harvey again is from the Crime Branch, is he?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: So, it's yourself and **P39** who attend that meeting and one of the things I was talking about there, you had full and obviously detailed -- regarding the witnesses.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And you informed them that there has been no intimidation and the fact that they were standing by their evidence at that stage?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Now, you already told me that, in fact, your liaison officers were **P39** and John McAteer for Tracey, but as far as Jameson was concerned, he was being left because you had no real concerns about him.

MAYNARD MCBURNEY: There was no -- I had no concerns about him -- he was either going to get out or he wasn't.

MICHAEL STEPHENS: Yes. So, what the record is there is your brief to both Mr Junkin and Mr Kitson, as far as that's concerned?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Did you discuss the disclosure statements as far as the witnesses, how you were going to deal with them, at that stage, with DPP?

MAYNARD MCBURNEY: How do you mean? They would know. How would they know?

MICHAEL STEPHENS: Well, as far as that was -- did you identify that you were dealing with witness A and B?

MAYNARD MCBURNEY: Oh, yes.

MICHAEL STEPHENS: Albeit, they have recorded their details there.

MAYNARD MCBURNEY: Yes, they would have known -- they would have known that they were -- under the circumstances, I mean, let's face it, they would have known the circumstances with regard to Portadown that you wouldn't be the young people A-Z asking you to do this that or the other. And on top of that, after that, hopefully, we would have had something in place to have looked after or protected Tracey Clarke; that was the intent.

But ordinarily they would know to be very careful with regard to who they named and all the rest of it. It doesn't change -- what date did that come out? What date did that come out to us?

MICHAEL STEPHENS: I don't know because this is papers forwarded to us by the DPP and it's dated by Kitson on 19 May and it's a record of the consultation on 13 May.

MAYNARD MCBURNEY: Yes, well, I have a feeling you'll find that by those names they're all in there. That didn't come down to us. That's an internal direction.

MICHAEL STEPHENS: Right, okay. So, it stays within the --

MAYNARD MCBURNEY: So, it stays within the DPP.

MICHAEL STEPHENS: Or would have a copy gone to Crime Branch?

MAYNARD MCBURNEY: I can't remember now I don't know.

MICHAEL STEPHENS: All right, okay. You made reference in that meeting to the pathologist's evidence and, as far as that was concerned, you were looking at when the pathologist's findings were being finalised. On 15 May, again, Raymond Kitson makes a note, and it is page 19068, it should follow on, I think, as far as that's concerned.

RICHARD MURPHY: You're turning now to the next note, that's it. Yes.

MICHAEL STEPHENS: Yes, all right. And there it records the information you give to Raymond Kitson, that you'd been to see Professor Crane.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Now, can you recall what Crane actually said to you about the post mortem, as far as that's concerned?

MAYNARD MCBURNEY: I had arranged to meet Professor Crane early on whatever morning it was. I was accompanied by the Detective Inspector. We went into his office at the hospital, and I must say, he treated us rather well, he produced coffee and all the rest of it and he then produced a full skull head. He removed the cranium and he explained to us -- he said, "Look that is the bone that was broken in this man's nose" and he says, "The funny thing is, that is the only damage caused". And he says, "I honestly don't know why or how this man died with such a miniscule injury, but it must have contributed to his death".

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: Because I was under direction at this stage. And he says, "Well, not unless his brain was starved from oxygen. He says it may well have been how he was held or whatever". But I says "Well, how could that have been?" He says, "Well, if the body was cradled with the head back, that would have starved -- the blood that was there would have starved the brain from oxygen". He says, "That, in conjunction with the amount of drink, because he was heavily

intoxicated". And that was it. Now in consequence of that, because I remember saying that's a very odd sort of thing, all this here; it just doesn't make sense because what I couldn't figure out was the chief inspector had told me that initially he was in the hospital, he was in intensive care and then the next thing she says, "He's in an open ward", okay? And I couldn't -- well, that's very odd if that's the case then. How could he have been taken out to an open ward if it was lack of oxygen to the brain that killed him? And then I went to the detective -- yes, I went to the Detective Inspector. Now, who was the Detective Inspector that I went to? Who was the Detective Inspector that did the post mortem?

RICHARD MURPHY: Pass, I don't know, I can't remember.

MAYNARD MCBURNEY: Well, I went to that Detective Inspector and I said, "Look, were you at that inquest, that autopsy -- post mortem?" He says, "Yes". I said, "What happened?" He said, "Well, it was just an ordinary post mortem". I said, "Were there any injuries visible to the body, the face, the head? Were there kicks bruises, whatever?" He said, "No, no, no, not -- not that I could see". He said, "But the funny thing is, the hospital rang a couple of times when I was there; they seemed to be in a panic". "How do you mean, a panic?" He says, "Well, they wanted to know what had killed this man or what the pathologist was saying had killed him". He says, "That seems a bit odd to me, you know, there is something wrong someplace, but I haven't got that". Then he said, "I said nothing because to Professor Crane you don't ask too many questions".

MICHAEL STEPHENS: Can I just ask you this question then? Professor Crane told you about the fracture to the nose or a broken nose?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And was there any internal bleeding or any haemorrhaging of the brain? Any show of any acceleration or anything like that?

MAYNARD MCBURNEY: You must remember I didn't ask those questions because to Professor Crane it's not like sitting here. Professor Crane is Professor and he is very -- and I don't mean this unkindly to him because he's a gentleman, but you don't ask too many questions. I was happy with what he told me. So much so that I explained to the DPP. I also -- well, I may not have gone as far -- I don't know just how much I did explain to the DPP but certainly I explained a lot to them, obviously. But I was sufficiently concerned that I went back -- [REDACTED], was the Detective Inspector that I spoke to.

MICHAEL STEPHENS: So, as far as Detective Inspector [REDACTED] was concerned, what was he at that stage? Was he scenes of crime or was he --

MAYNARD MCBURNEY: No, he was a Detective Inspector but --

MICHAEL STEPHENS: In J division

MAYNARD MCBURNEY: No, in J division, yes. He was a Detective Inspector in Lurgan But the direction, as far as I'm concerned, is that when you have a murder, a Detective Inspector must be at the post mortem because it

is his responsibility to determine cause of death. There are many other issues there that come into the frame, what type of weapon involved, how he was shot, where he was shot, all those sort of things that just might give somebody a quick yard when it comes to investigation.

MICHAEL STEPHENS: So, you would send a DI to ask the questions of the pathologist of cause of death and the various issues surrounding the death and the post mortem, to give you a heads up before you actually had a post mortem report?

MAYNARD MCBURNEY: That's right. Well, you have to because it was months afterward before you got a post mortem report.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: That's not -- I mean, that's normal.

MICHAEL STEPHENS: So, looking at the note by Raymond Kitson then, as far as that's concerned, 19068, it follows the cause of death was the head injury but that in itself should not have caused death. Other contributory factors such as alcohol consumed by the deceased --

MAYNARD MCBURNEY: Yes, he mentioned septicaemia too.

MICHAEL STEPHENS: So, well, I was just going to come to that because you covered the other issues about starvation --

MAYNARD MCBURNEY: Well, I'd forgotten that.

MICHAEL STEPHENS: So, septicaemia was only a possibility and further --

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: And as far as that was concerned, did Professor Crane eventually come up with anything which would assist you as far as a murder is also concerned?

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: So, you still ended up with a situation --

MAYNARD MCBURNEY: No. Well, I read his report and I read his autopsy report. I can't remember exactly what was in it but, to the best of my knowledge, there was something there about sufficient kicking or something like that there, wasn't there? I don't know, I can't remember.

MICHAEL STEPHENS: Right. Well, that's the easiest way to cover that because I'm not going to go through Professor Crane's report. It's just that the initial phases are what the DPP had, as far as the investigation was concerned.

MAYNARD MCBURNEY: That's right, yes.

MICHAEL STEPHENS: As far as that was concerned, with that the DPP was still happy to continue with the charges that were put forward?

MAYNARD MCBURNEY: Yes. In fact ... yes, in fact, I think I asked several times about a medical report from the hospital. Now, did I never receive one? Is there any -- is there a report in these files -- in these papers?

MICHAEL STEPHENS: Well, certainly that file's got nothing to do with the medical evidence other than a few managerial... certainly the statements are available.

JOY HOPKINSON: You can see some of the reports --

MAYNARD MCBURNEY: But is there a medical ...?

JOY HOPKINSON: I'm not certain if it was a medical report. Actually, I think we may have, Maynard. We received stuff from the hospital but both hospitals because he was in Craigavon and then he went to Royal Victoria. So, I think we have received some reports from the hospital exactly which medical reports I can't tell you --

MAYNARD MCBURNEY: Because -- it just goes to show you, okay, you can omit issues, because at that time, when I think about it, there was one aspect that I wanted to see.

MICHAEL STEPHENS: The hospital medical report?

MAYNARD MCBURNEY: The hospital medical -- that's for another day. I mean, that makes no difference now.

MICHAEL STEPHENS: I think that's the area which the Inquiry will cover with the hospital and Professor Crane, as far as that's concerned.

JOY HOPKINSON: Is it the hospital report from the Royal Victoria or was it from also the first hospital, Craigavon?

MAYNARD MCBURNEY: Well, I think -- certainly I was only interested in the RVH. --but possibly the first report would have to be considered too; the first hospital rather than the, that would have to be considered too.

MICHAEL STEPHENS: Now, when we talked earlier you referred to eight arrests. In fact, the seventh and eighth persons - Andrew Allen and David Woods - were arrested on the 15 May.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Now, did that come about because of the evidence that you gathered subsequent to the initial arrests?

MAYNARD MCBURNEY: I can't remember. We didn't go for those two on the first occasion; we didn't go for those two on the first occasion. I think the continuing or pursuing the evidence that we eventually decided, yes, we must go for those two as well. But I'm fuzzy now; I can't remember that really.

MICHAEL STEPHENS: Now, on 30 May P39 went on annual leave. I know that because it's recorded in the policy file. I don't think that was really a policy decision but she went on annual leave and she says she gave the file to Michael Irwin.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: There is no more policy thereafter. Did **P39** stay with the Inquiry when she returned from London because she subsequently went off to --

MAYNARD MCBURNEY: No, no, no. What happened was I knew from early on at -- okay I need to explain the different aspects. I was aware because she had told me from the very outset that she had received direction from headquarters that she would be attending promotion boards on a specific date. I was also aware because papers had been sent to me, to crime branch, that she would be doing that, and when she brought them to my attention I realised, okay, yes, you'll be away and I'll find out what dates and I said right don't fuss. It was at lunch, accompanied by other issues that caused me to bring Michael Irwin and -- into the scene because, strictly speaking, the chief, he could have said, "Well, she might live in the area but nobody would have known her to a great extent. Michael would have known from A-Z and I suppose if I'm telling the truth there he wasn't actually terribly happy with having to investigate issues against the police that he was serving with. But I needed a person there that should something happen that I would go away, detailed elsewhere, who was going to have control of the Inquiry, know what was happening, was indeed local from the point of view that I said to you much earlier on, crime unit, their responsibility, they had to do it. They couldn't hide; they couldn't evade. But he, having served with me, I would have thought, for some time, would know that if I said, "Do this or do that or do the

other” it wasn’t done lightly. He’d have known, right look he’s doing it for some good reason, let it sit he’ll explain it. And I might have explained it but I don’t know why. I certainly, anything that I asked him to do I made a point. While democracy was on one side I was a bit – but the point I’m trying to make was that I was democratic in that regard. I made sure that people knew exactly what I was doing when it came to doing something that they were a wee bit iffy about. And he would have known, “If I don’t do this he’ll cover me”. He’ll take whatever responsibility is there and that’s the end of it.

JOY HOPKINSON: Is that in respect of the misconduct investigation or in respect of the murder?

MAYNARD MCBURNEY: No, that is in respect of the ... any investigation or whatever and it was intended there to cover why the policy book was not followed up because he would have known my view on it and he would have said, “Right, if he says it I’m happy”.

MICHAEL STEPHENS: Michael Irwin submitted the file to the DPP on 22 July. Did you have any input to that file or was that Michael’s responsibility to put that file together?

MAYNARD MCBURNEY: I didn’t have a great deal to do with the file to the best of my knowledge. I may have been associated with the last few paragraphs of the summary.

MICHAEL STEPHENS: Well, what you've told me already, by that stage you would seem to have been involved in two murders in Lurgan. A police officer was shot in Lurgan and --

MAYNARD MCBURNEY: Yes, that's why I'm saying that he did it; he did it.

MICHAEL STEPHENS: And after the submission of file Michael was the point of contact, was he, between the DPP and crime branch?

MAYNARD MCBURNEY: That's correct.

MICHAEL STEPHENS: And what supervisory role would you have had in that thereafter?

MAYNARD MCBURNEY: Well, after that I can't remember whether or not -- we hadn't dealt with the -- had we dealt with the DPP? ... we'd dealt with the murder at that stage.

MICHAEL STEPHENS: I'm focusing just on the murder at the moment, Maynard.

MAYNARD MCBURNEY: Okay, right. Well, at that stage Michael would have, to the best of my knowledge, taken responsibility for all those sort of issues and I would have been happy with that. He was the man on the spot. He was -- he really, essentially, he was the man that I'm referring to as continuity from start to finish and he was there and he knew what was going on. And that's what would happen in any station.

MICHAEL STEPHENS: Right. So, as far as consultations with DPP with the witnesses and counsel, that was done by --

MAYNARD MCBURNEY: It was done by him.

MICHAEL STEPHENS: Right. What about the decision of the DPP to drop the charges against five of the original six charged with murder? Was that an issue that you became involved in at any stage or was that with Michael and the crime branch?

MAYNARD MCBURNEY: No, I must have been involved in that in some way, but Michael, to the best of my knowledge, did -- yes, Michael did that. I'm almost certain Michael dealt with all that.

MICHAEL STEPHENS: So, as far as that was concerned, presumably, the DPP and counsel made the decision on that?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Were you involved in the loop at all there on the decision process? Were you asked for your view about that?

MAYNARD MCBURNEY: I think that someone made contact with me or I got papers and ... was it not ... Jameson had said on the papers? He retracted his statement: "Those people put that in my mouth", is that right? So, those people -- that Honeyford the detective put that in my mouth. He wrote that down, okay, and I must have read it.

MICHAEL STEPHENS: It probably would have been sent to you for your views, I would have thought.

MAYNARD MCBURNEY: Well, they were sent for my views -- well the papers were sent for.

MICHAEL STEPHENS: No, I mean that comment about that.

MAYNARD MCBURNEY: No, no, it wasn't sent for my views. But it would have come to me ordinarily so that I would see the direction of the DPP. Now that I think about it, yes I did think about it the last time because I remember -- I remember taking a look at it and saying, "Oh, crikey, I wonder is that regarded as a complaint" I remember saying no, because it was a complaint then it would be coming down for me to investigate and I remember saying -- checking actually, is that my responsibility to do that? Is it headquarters responsibility or is it the DPP's responsibility? And I remember now, funnily enough, that you came into the frame and said, "Yes, I can tell you now specifically that it is the DPP's duty to highlight that particular issue because it happened on such-and-such an instance.

MICHAEL STEPHENS: And he's referring to you, Mr Murphy?

RICHARD MURPHY: Yes, yes, and I'm aware of other instances where that allegation was made and the DPP then wrote formally drew it to the attention of the Chief Constable and asked for it to be investigated.

MICHAEL STEPHENS: Right. And that didn't occur on this occasion?

RICHARD MURPHY: No.

MICHAEL STEPHENS: Moving through the murder investigation. Marc Hobson, the only one to actually stand trial for murder, was acquitted of murder but convicted of affray. Was there any new evidence introduced at trial to assist you with the murder investigation at all?

MAYNARD MCBURNEY: I can't remember.

MICHAEL STEPHENS: After the trial did you have any meeting with Michael Irwin to discuss the trial? I just wondered what the state of the investigation was after Hobson been acquitted and convicted of an affray. Was the file left open? Was it a live investigation, as such, still?

MAYNARD MCBURNEY: To all intents and purposes we did what we believed was necessary. We had produced people before the court and for different reasons the evidence was insufficient and they were not convicted. However, we were satisfied that the right people had been before the court and we were also satisfied that the chance of other evidence becoming available was highly unlikely. Consequently, the file would have been returned to Portadown and unless something came out of the other interviews with those that we were still interviewing then it remained closed, but it did; it was there for continuation.

MICHAEL STEPHENS: Now, the Coroner comes into the equation in 1999. Did you instruct Michael Irwin to actually contact the Coroner?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And what was his brief as far as that was concerned?

MAYNARD MCBURNEY: You see, you asked me that question as a one-off but, in actual fact, that comes in to the whole frame of the investigation because initially with the ombudsman, they can ask questions back and forth and there's no, in my opinion, continuity of the actual trend that's in your mind; your policy that's in your mind. What did you intend, right? And that question there comes into that frame of mind. And if you're going onto that then you have to start ...

MICHAEL STEPHENS: You're then referring to the fact of the investigation into Atkinson presumably, you're talking about, as part of the equation as regards the Coroner?

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: So, as far as that's concerned, the Coroner comes into your strategy as part of -- or at some stage, during the investigation into Atkinson?

MAYNARD MCBURNEY: Okay, I agree with you.

MICHAEL STEPHENS: Right. Are you happy to take the question regarding the Coroner at the present stage or do you want to come back to that when we're talking about Atkinson?

MAYNARD MCBURNEY: I think it would be better to come back to that when we discuss Atkinson.

MICHAEL STEPHENS: Right. Well, look, I'll come back to that because as such, I wanted to talk about the complaint investigation now.

MAYNARD MCBURNEY: About what complaint?

MICHAEL STEPHENS: The complaint against the four officers in the Land Rover, all right? We already know that you were appointed as the IO of the complaint and the fact that Mr [REDACTED] is the supervising member from the ICPC.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Now, from my records it appears you had a meeting on 12 May 1997 with Superintendent Anderson and DCI P39 and then with Mr [REDACTED] and Mr Mullen from the ICPC.

MAYNARD MCBURNEY: Okay.

MICHAEL STEPHENS: Now, it appeared you provided a pack of papers for the ICPC. Can you recall was that the evidence that you gathered to date or ...?

MAYNARD MCBURNEY: No -- yes, those were statements and documentation that we had. In fact, I think near enough the complete documentation we had in our possession at that time because it was important that the ICPC know what we were doing with regard to that particular complaint.

MICHAEL STEPHENS: Right. And did that include witness statements of A and B?

MAYNARD MCBURNEY: Yes -- uh, I don't know.

MICHAEL STEPHENS: I just wondered at what stage --

MAYNARD MCBURNEY: I don't know, but they were aware of witnesses A and B.

MICHAEL STEPHENS: And what the allegation was about Atkinson?

MAYNARD MCBURNEY: Yes, they were aware of that.

MICHAEL STEPHENS: Because earlier in the interview you referred to the fact that you quite strongly felt about the ICPC and about the fact that they didn't want to take on the allegations about Mr Atkinson.

MAYNARD MCBURNEY: No, I told them. In fact, I told the same to this Inquiry here I referred to it as a tripartite investigation to -- and I had nothing to hide there I told them the whole story from A-Z.

MICHAEL STEPHENS: As far as that was concerned, what was the reason why, because as far as the ICPC was concerned, they were supervising a complaint against four officers in a Land Rover, so what was the reason why they didn't want to supervise the complaint against Atkinson?

MAYNARD MCBURNEY: You'd have to ask them that.

MICHAEL STEPHENS: Well, is it because they weren't asked by the Chief Constable to do it or did they not have the powers to do it?

MAYNARD MCBURNEY: Oh, no, they had the powers to do it. It's because they weren't asked to do it, that's why.

MICHAEL STEPHENS: So, because it hadn't come from the chief's office or from the deputy's office --

MAYNARD MCBURNEY: Well I don't know from where whoever's office but they weren't directed to investigate it and Mr [REDACTED] is really a very amenable man. A man that you could talk to and you could throw things at. I mean, he had no bones about telling you his view. Consequently you could give him your view and you could both ...

MICHAEL STEPHENS: Right, so any exchanges you had with him you were forthright as far as that went?

MAYNARD MCBURNEY: Oh, yes, absolutely no problem. Well, I hope that's shown in documentation.

MICHAEL STEPHENS: Well, you had a chance to read it and I think it's a fair reflection of the minutes from the stuff we've had from ICPC. Are you happy with that?

RICHARD MURPHY: Oh, yes, I mean, I have no quibble with that at all. I know there's minimal mention of Atkinson in the Atkinson complaint at an earlier stage.

MAYNARD MCBURNEY: Well, that's not -- you can understand why.

RICHARD MURPHY: Absolutely.

MAYNARD MCBURNEY: But it's obvious that I did mention it because of the way it's described in the policy book.

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: You understand me?

MICHAEL STEPHENS: Yes. And as far as the policy book is concerned, there is reference here, on 10 May, detective chief superintendent as policy file 8; yourself to make contact with Mr [REDACTED] to brief him regarding the arrest and interviews. And you spoke with, I think, his secretary or something?

MAYNARD MCBURNEY: Yes.

RICHARD MURPHY: Mullan?

MICHAEL STEPHENS: Well, Geraldine it is, so, I don't think it's Greg Mullan -- and to keep the ICPC advised. Then further on, on 13 May, a meeting held with ICPC, Mr [REDACTED], Mr Mullen, yourself, Anderson and P39. And you briefed them about the incident investigation so far and where it went as far as that was concerned. And further on, on policy number 22, dated 19 May, a meeting held with ICPC, 7.00pm, Mr [REDACTED] and Mr Mullen. Again, yourself Mr Anderson, Irwin and P39 and it was Mr [REDACTED] outlining his role to primarily

investigate the complaint. They were pleased to do their job properly and effectively. And this is the one you're referring to, is it?

MAYNARD MCBURNEY: It must be, yes, and I know I'm very specific about ...

MICHAEL STEPHENS: It went on that if necessary the solicitor [REDACTED] should be written to and invited in or to a venue of their choice. You also stated that although the complainant did not witness the incident, there may be some benefit in communicating with her to assist witnesses to come forward and Mr [REDACTED] stated that he had to be conscious of any proposed venue and the number of persons present during the interview.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And then went on where you actually set out from 1-13 --

MAYNARD MCBURNEY: Was that in the policy book?

MICHAEL STEPHENS: Yes, it's the one -- have you got it in front of you?

MAYNARD MCBURNEY: It wasn't -- it was not in the (overspeaking), it's a --

MICHAEL STEPHENS: It's a policy file which you've got --

RICHARD MURPHY: I know it's a policy file but it's not the file -- it's not anything written by -- it's not anything written by **P39**.

MICHAEL STEPHENS: This is a typed copy of what P39 wrote.

RICHARD MURPHY: Is it? That's okay.

MICHAEL STEPHENS: And the fact that if you just look at it there, I think it's policy 22,  
Mr Murphy. I think this is what I would refer to as the strategy agreed  
with the ICPC.

MAYNARD MCBURNEY: Okay, right. Well, I know there was one I told her to be very  
specific. Okay, when you read it like that I suppose that's it.

MICHAEL STEPHENS: As far as that went, did you have any conflict with Mr [REDACTED]? I  
know you said he was quite amicable man --

MAYNARD MCBURNEY: Oh, no, no.

MICHAEL STEPHENS: So, any exchanges, as you said earlier, were forthright?

MAYNARD MCBURNEY: Oh, forthright. No, absolutely not; absolutely amicable.

MICHAEL STEPHENS: And as far as your own experience with dealing with complaints,  
have you dealt with complaints against police officers previously?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And had done work with the ICPC previously?

MAYNARD MCBURNEY: Oh, yes.

RICHARD MURPHY: And not only had you investigated police officers but you'd prosecuted them --

MAYNARD MCBURNEY: Prosecuted them.

MICHAEL STEPHENS: Now, there was a request in that to send letters out to the various witnesses, to either Diane Hamill or [REDACTED], as far as that was concerned.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: What was the reason behind sending them to the persons who had been charged?

MAYNARD MCBURNEY: The intent there was to do that, the solicitor may well see the significance or the importance or otherwise, of presenting their client to the police. If you had -- if I sent a letter now to an individual and they may say "Bugger that for a lark, I'm not going near those crowd" put it in the bin or whatever, and we thought there was a better chance of receiving or having success if the solicitor received the letter because then they would make contact with their client and they would be happy enough to accompany them to the police station where statements could be made, or whatever.

MICHAEL STEPHENS: Now, I understand that about the ones who were still out but what about the six who were charged? Letters were sent to them as well.

MAYNARD MCBURNEY: Wait 'til I tell you, just because ...

MICHAEL STEPHENS: Uniformity or what?

MAYNARD MCBURNEY: No, surely their solicitors would have been dealing with many,  
many other people.

MICHAEL STEPHENS: Oh, I see, that's the point you're making?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: I'm with you now. Now, we've talked -- sorry, go on.

MAYNARD MCBURNEY: You had, say, half a dozen solicitors and they dealt with the  
political aspects, you might say, both one side or the other, and if you  
sent them to those six then you covered everybody.

MICHAEL STEPHENS: Okay. Now, we talked about the ICPC and the fact they didn't want  
anything to with the Atkinson allegations. What did you do about  
that? What discussions did you have with either the ACC for the area  
or the ACC crime or the deputy? Did you have any discussions with  
them about these allegations against Atkinson?

MAYNARD MCBURNEY: Yes, I kept them briefed right from the very outset.

MICHAEL STEPHENS: Who specifically are we talking about? Who were you briefing as far  
as that's concerned?

MAYNARD MCBURNEY: Okay, a third name -- is that okay?

MICHAEL STEPHENS: Yes, go on.

MAYNARD MCBURNEY: ACC, and then McAteer, detective chief -- this is done at the end of the night. And then we've HOLMES; Detective -- sorry ACC South C and D; Anderson C and D, blue conference investigation team, 9.00am. ACC South briefed again, ninth. Detective Chief Inspector here on the ninth. Oh yes, funny enough there I spent some of my time there to arrest, CID accompanied search teams, use outside search teams, carried out ... and then -- sorry, we'll go on to the tenth which is the question you asked me, meeting Detective Chief Inspector and Inspector, full briefing, prior arrests. Conference with the investigation team and then the brief -- mainly the briefings as to evidence against each culprit-- updating Chief Constable --

MICHAEL STEPHENS: Right, we'll stop there. You updated the Chief Constable personally on that?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Was that the normal way you dealt with things?

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: When I say I updated with the Chief Constable, the Chief Constable rang the office and asked for me, wanting to know what was going on, and so the present state of the inquiry.

MICHAEL STEPHENS: So, the Chief had that hands-on approach to it as well?

MAYNARD MCBURNEY: Yes. After that, ACC South updated continuously ---this is all the one way now.

MICHAEL STEPHENS: Right. So, on 10 May, then - I just want to clarify this situation - on 10 May, the Chief Constable was aware that you had evidence or you had a statement about Atkinson, the Reserve Constable?

MAYNARD MCBURNEY: Let me finish this first. Continuous liaison with Detective Chief ... Again, in the afternoon, updating the Chief Constable; again, in the afternoon, updating ACC South and then the discussions with the Detective (several inaudible words), oh yes. That must be the notes there that you referred to. Discussions with the Detective Inspector regarding further arrests. The question you asked me, was the Chief Constable and ACC aware of Atkinson?

MICHAEL STEPHENS: Yes, and I want to know what advice you got from them, really.

MAYNARD MCBURNEY: Oh. The ... I'm not sure just exactly what I would have told ... because I was happy enough with what I was doing and the course I was taking.

MICHAEL STEPHENS: The reason I asked the question about the ACC, and the Chief and that sort of thing; obviously, you'd given them a brief; the Chief has spoken to you and you say, "What's going on? Tell me what's happening?"

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Because of the ... because he's obviously got the political overtones of that coming in from [REDACTED], who'd made the complaint, presumably.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And, you give him a brief and I just wanted to know, really, what he ... his thoughts were. If --

MAYNARD MCBURNEY: He was happy to wait for my views.

MICHAEL STEPHENS: Right. But, as such, he would have been told everything that you had at that stage, whether it was the murder, the complaint that the ICPC were dealing with, and the issues regarding the Reserve Constable.

MAYNARD MCBURNEY: I cannot be certain about that. We were ... I was in possession of all that evidence--or not evidence--but that knowledge at the time. I cannot be certain exactly what I said to him or, indeed the ACC --

MICHAEL STEPHENS: But, you wouldn't have kept that sort of thing from the Chief Constable, presumably?

MAYNARD MCBURNEY: Um ... he may just have asked about arrests - how many have we arrested? What were the chances of success ... what were the chances of success; advise me when you have him charged or if you can charge him or what the score is ...

RICHARD MURPHY: Maybe I can just shorten that a wee bit, I don't know what you told him, obviously, but it's clear but by 22 June ... sorry. I'm giving the wrong date.

MICHAEL STEPHENS: You're about three years in front of yourself.

MAYNARD MCBURNEY: He certainly would have been ... would have had knowledge at a later stage, within days of it. I'm not going to say now that I told him exactly over the phone what had transpired. The ACC would have been in the same position. He may have been slightly different because I would have had personal contact with him, within a short period --

MICHAEL STEPHENS: Is this ACC South or Crime?

MAYNARD MCBURNEY: No, ACC South.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: I would have been in contact with him, eye to eye, as it were.

MICHAEL STEPHENS: Face to face.

MAYNARD MCBURNEY: Face to face, would have been. It's simpler to have explained it, rather than over the phone. So, I'm not being evasive because I don't honestly know and couldn't specifically state exactly what I told the Chief Constable, nor, indeed, could I say that as far as ACC is concerned.

MICHAEL STEPHENS: But, what you've told the inquiry there is, from the initial stages, the Chief Constable was aware of certain phases of the inquiry because he'd asked you that question, but you also then went back and briefed him following the arrests and everything else that day.

MAYNARD MCBURNEY: That was later on, with regard to the (overspeaking)

MICHAEL STEPHENS: The murder.

MAYNARD MCBURNEY: -- and the murder and things like that, yes.

MICHAEL STEPHENS: But, you were in regular contact with the ACC South thereafter?

MAYNARD MCBURNEY: Yes, yes.

MICHAEL STEPHENS: The only other thing I wanted to cover as far as that was concerned was Atkinson's alleged criminality, as such. Was that recorded as an internal investigation from the outset? Because you've talked about the tri-partite start of the investigation that you were dealing with, with

the murder, the ICPC internal complaint; well the complaint was obviously recorded. What about Atkinson's issue?

MAYNARD MCBURNEY: Atkinson's issue, really, was quite simple. We had confirmed that the witness, the informant - call him what you like - was telling, what we believe, to be the truth. We had the following morning, the ninth; commenced ... I don't think you could refer to it as an investigation but we commenced checking on the telephones, again, on the ... two days later, there were other telephones we checked, okay? On the ... on the 9th, I think it was, of ... Okay, I'll tell you what I've written down here:

"From the outset, (and obviously this is abridged) it was obvious that the murder inquiry received precedence; properly investigated then the remaining inquiries would fall into place. It was imperative therefore, the attendant work ratio was to ensure success. At this early stage, I believe that the police concerned with inactivity could have a problem. I later changed my mind on this aspect. I believed at the outset, that Tracey Clarke was telling the truth about Reserve Constable Atkinson. I had very clear views on this particular inquiry of assisting offenders. Regardless of what circumstantial evidence was available, it would be difficult to prove. All factual evidence was essential. Around that time, I advised both officers that we would dispense with the normal policy book. Obviously I had not taken the decision lightly and would have expected both of the men to have a grasp of feeling for the situation when it was fully explained. It was explained that we had already had one breach of security; rumour and innuendo would be the order of the day and, at this stage, internal murder and intimidation was rife between the Loyalist paramilitaries. Reserve Constable Atkinson was interviewed on 9 September 1997 solely on the inactivity by police. The only question put to him not concerning the allegation was a request that he produce his telephone account for the period May 1997. I wanted the original as evidence and it was asked for, as an innocuous side issue, I wanted to see what would happen, if anything. I believe he knew we were aware of the situation. It made a difference, it did make a difference—he arranged an alibi. Reserve Constable Atkinson was re-interviewed on 9 October 1997 in the presence of a solicitor, Mr Sean Hagan in relation to the offence of assisting offenders. He maintained that the telephone calls were made by his friends, the McKees, to the Hanveys. Eleanor Atkinson was interviewed on the same date and confirmed that Michael and Andrea McKee were at their home on the date in question and had

made telephone calls. Michael McKee was also interviewed and confirmed the possible conspiracy. Andrea McKee (see pages 6 and 7, particularly 9).”

MICHAEL STEPHENS: Again, you are referring to your notes, as far as the record is concerned?

MAYNARD MCBURNEY: Yes. Yes,

“Unknown to me at the time, it was the manner in which we had dealt with and treated Andrea McKee initially, that Atkinson was unaware of her involvement with the police and used her and her husband as an alibi witness. Furthermore, it was also indicative of her state of mind and her relationship to her husband, knowing how she had been involved with the police, yet agreeing to alibi Atkinson, I knew we could utilise this to our advantage but timing was a problem.”

Sorry?

MICHAEL STEPHENS: No, it's all right. I'm just making a note of that. Now, there are a couple of points there I want to come back to, as far that's concerned, particularly Andrea McKee. Andrea McKee is obviously, you know, is an essential part of this case against Atkinson all the way through, as far as I can see.

MAYNARD MCBURNEY: Yes. I too hold that but not only is she essential, but her husband is essential too.

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: And, I've said that for many years.

MICHAEL STEPHENS: Yes. Because, both of them were actually privy to the same information.

MAYNARD MCBURNEY: That's right. (overspeaking)

MICHAEL STEPHENS: And, still went ahead and made alibi statements.

MAYNARD MCBURNEY: That's right, and we needed that. You needed those two people for ... to prosecute a charge in this case and, in my mind, it was blatantly obvious.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: But, nobody seems to agree with me.

MICHAEL STEPHENS: Oh. Let me come back to that, Maynard, as far as that's concerned. There are a couple of issues I wanted to take ... you've given me a full answer there of a couple of pages but there were a couple of things I wanted to check as I went through it, as far as that's concerned.

MAYNARD MCBURNEY: Okay.

JOY HOPKINSON: Can I -- sorry, just clarify this matter? In respect of the Atkinson situation, you say you kept the Chief Constable informed and the ACC South but you're not certain when (overspeaking)

MAYNARD MCBURNEY: No, no. I didn't say that now.

JOY HOPKINSON: Okay.

MAYNARD MCBURNEY: No, I didn't say that.

JOY HOPKINSON: Perhaps you could clarify that?

MAYNARD MCBURNEY: What I said was that the Chief Constable rang me twice on the 10th and I advised him of what was happening.

JOY HOPKINSON: With the murder investigation?

MAYNARD MCBURNEY: With regard to the murder investigation.

JOY HOPKINSON: Right.

MAYNARD MCBURNEY: I cannot be specific with regard to the other issues; the other investigation.

JOY HOPKINSON: Right, okay.

MAYNARD MCBURNEY: I also said that, with regard to the Assistant Chief Constable, that he was also aware on that same day of the arrest and charges. I did not say that he was aware of the aspect against the police officer Atkinson, but he would have been, very shortly after that.

JOY HOPKINSON: Okay. So, firstly, do you recall when the Chief Constable and the ICC became aware of the situation?

MAYNARD MCBURNEY: ACC.

JOY HOPKINSON: ACC, pardon me, became aware of the situation with Atkinson?

MAYNARD MCBURNEY: I'd be telling lies if I said I knew but it certainly wasn't a week later or ... it was within a very short period of time.

JOY HOPKINSON: Okay. And, up until that stage, in respect of Atkinson, you'd have made the decisions as to how you were going to treat Atkinson and the course of actions you adopted?

MAYNARD MCBURNEY: Yes.

JOY HOPKINSON: Okay, then, when they did become aware some time later, quite soon after perhaps 10 May, can you recall what was said in that conversation? Can you recall -- you told him about Atkinson with the Chief Constable. Can you recall what you told the Chief Constable about Atkinson?

MAYNARD MCBURNEY: Well, I didn't actually speak to the Chief Constable regarding that.

JOY HOPKINSON: So, you didn't speak to the Chief Constable about Atkinson?

MAYNARD MCBURNEY: I said the Chief Constable knew about it because I had briefed ACC Crime and the ACC South.

JOY HOPKINSON: Ah. So, the Chief Constable found out about the situation with Atkinson because you had briefed the ACC South and the ICPC?

MAYNARD MCBURNEY: That's correct.

JOY HOPKINSON: Right. That would explain --

MAYNARD MCBURNEY: The ICPC themselves would have brought it to the attention of the Chief Constable, I would have thought.

RICHARD MURPHY: And, I think you also said, ACC Crime, which is the other avenue going up.

MICHAEL STEPHENS: Avenue going up, sorry.

JOY HOPKINSON: So, the ACC - pardon me for being ignorant - I just wanted to clarify it. There's ACC Crime, ACC South and ICPC?

MAYNARD MCBURNEY: That's right, yes.

JOY HOPKINSON: So, you've got these three?

MAYNARD MCBURNEY: Yes. Two police, who then commission the independent organisation similar to the ombudsman, looking after police complaints or, rather, investigating or facilitating police complaints.

JOY HOPKINSON: So, the chain you would have gone through was, you would have told the ACC Crime, ACC South and ICPC about the situation with Atkinson and then they would have gone to the Chief Constable?

MAYNARD MCBURNEY: Yes, that's right.

JOY HOPKINSON: So, it wouldn't have been you going to the Chief Constable directly to discuss these matters?

MAYNARD MCBURNEY: No.

JOY HOPKINSON: When they did go to the Chief Constable, can you recall or did the Chief Constable ever come back to you or send any information via the other agencies saying, "Well, this is my feeling on the Atkinson position" or, "I'm happy for Mr McBurney to continue with the path he's adopted"? Did you hear anything back from the Chief Constable about this Atkinson situation?

MAYNARD MCBURNEY: I don't honestly know.

MICHAEL STEPHENS: That was really the same question as if with ACC Crime or ACC South. Were they content with what you were doing?

MAYNARD MCBURNEY: No. They were happy enough, I do have to say, that they would have been happy enough with my recommendation.

JOY HOPKINSON: Right, thank you.

MICHAEL STEPHENS: I mentioned Superintendent Anderson previously. Now, he was from the Complaints and Discipline because he was -- he attended some of the meetings with ICPC with yourself. What role did he play as far as the investigation of the complaint against the four officers were concerned?

MAYNARD MCBURNEY: None.

MICHAEL STEPHENS: Just a liaison, was he?

MAYNARD MCBURNEY: Liaison with C & D. In fact, stop because I have a feeling that his role would have been coming in C & D, Complaints and Discipline, it would have been coming in under that frame. The whole question of suspension and that sort of ...

MICHAEL STEPHENS: So, the issue of Atkinson as well would have been discussed with Anderson for C & D and the discussion involved whether to suspend Atkinson regarding the allegations?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Now, continuing with the complaint against the four officers. I want to get this bit out of the way first before we go on any further, as far as that is concerned. In the policy that you noted down, **P39** noted down, was communication with the witnesses, and that was done as far as that was concerned, did you get any response to these letters that were sent?

MAYNARD MCBURNEY: Sorry?

MICHAEL STEPHENS: There was a request from the ICPC to send letters out.

MAYNARD MCBURNEY: Oh, yes.

MICHAEL STEPHENS: Did you get any response?

MAYNARD MCBURNEY: We did, yes. Not a very successful response but we got a response. A few came in but very, very few.

MICHAEL STEPHENS: Right, and did that help you at all with the murder as well or was it just ...?

MAYNARD MCBURNEY: Um ... to the best of my knowledge, there probably only was one that was of interest to us; Woods.

MICHAEL STEPHENS: David Woods was a ...

MAYNARD MCBURNEY: No. This is a girl.

MICHAEL STEPHENS: Oh, right. Carol-Ann Woods?

JOY HOPKINSON: Carol-Ann Woods?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Who is the sister of David.

MAYNARD MCBURNEY: Who is the sister of Woods, that's right. That's right. She ... I'll have to think about this. I think, what happened was we sent for ... he came in first, the brother, was that her brother (overspeaking)

MICHAEL STEPHENS: David Woods came in on the 15th with Andrew Allen; he was arrested.

MAYNARD MCBURNEY: Yes. And, I think, in consequence of that, then we followed it up on, what did you call her?

MICHAEL STEPHENS: Carol-Ann Woods.

MAYNARD MCBURNEY: Carol Ann Woods. Because I, in fact, I have a feeling that I took Mr [REDACTED] to that house and we went upstairs into the flat and we looked out the window to see if -- because we were slightly ... we just asked her if she'd like to confirm factually what you're told. We went into the flat, we looked out the window and we could clearly see the location that they were referring to.

MICHAEL STEPHENS: And, they were referring to the two corners of (overspeaking).

MAYNARD MCBURNEY: They were not referring to the two corners. They were only referring to one corner on the opposite side of the street to the location of their home or their flat.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: If you're sitting here it's like looking over there.

MICHAEL STEPHENS: So, you are indicating you could ... from ... you mean, diagonally across the room, you could see ...

MAYNARD MCBURNEY: You could see the location at which they were alleging that this assault had taken place.

MICHAEL STEPHENS: Right. So, they had a good view from there.

MAYNARD MCBURNEY: They had, yes. Well, a good view, no more than from about 75 yards, 50 yards.

MICHAEL STEPHENS: As much as that?

MAYNARD MCBURNEY: Oh, yes.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: 75 yards is not very far.

MICHAEL STEPHENS: Well, yes. Looking at the maps in Thomas Street and everywhere else there, it's quite well confined there, isn't it?

MAYNARD MCBURNEY: Well, it may not be as much as that. I'm not saying that do you understand me.

MICHAEL STEPHENS: I was only raising that, thinking it might have been a bit too far. It's not an issue as far as I'm concerned.

MAYNARD MCBURNEY: Right.

MICHAEL STEPHENS: We do know that Anderson, Superintendent Anderson, wrote to Diane Hamill and this is in reference to correspondence from America which came in, in which it was stated that witnesses would not come forward because the police station was an unsuitable venue. Now, was this being raised by [REDACTED], or was it being raised by other members?

MAYNARD MCBURNEY: It was being raised by someone like the CAJ or some crowd in America that associate with ... this sort of thing. No, no. It was an individual?

MICHAEL STEPHENS: Yes. It was an individual raised --

MAYNARD MCBURNEY: I think it was an individual raised it, that had read these things and had raised it. But I don't know about that.

MICHAEL STEPHENS: Did you offer other venues in case people wanted to come forward?

MAYNARD MCBURNEY: Yes. We were prepared to go to their offices where, I mean, that was part and parcel of it. We were happy enough to go to the respective solicitors' offices.

MICHAEL STEPHENS: You mentioned about having to use all local offices. Did the ICPC have a problem with that? Using local offices for the complaint investigation?

MAYNARD MCBURNEY: No. No, but I think it was discussed and it was accepted that we would remain in location in Portadown with ... well, it was totally impractical to think that we could move three separate inquiries to three separate locations. Mr [REDACTED] agreed and it was also agreed that the same officers, essentially, would be involved in the investigation.

MICHAEL STEPHENS: Of the complaint investigation?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Now, you interviewed all the four officers who were in the Land Rover with DI Irwin.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And, also, Mr [REDACTED] was involved in those as well.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Did you discuss the interview with Mr [REDACTED] beforehand? Did you have an equal share in the preparation of that or did you just prepare that?

MAYNARD MCBURNEY: No, no. We ... we had ... we had discussions; we had discussions beforehand about the pros and cons of doing things and how it should be done and all that sort of stuff, but we essentially agreed on the course to be taken and that was it.

MICHAEL STEPHENS: Right. And, as far as the simulation exercise that you carried out with the Land Rover, did that assist you at all?

MAYNARD MCBURNEY: It really ... it really didn't assist a great deal, other than from what we believed at the outset, that it would be difficult under the circumstances to hear what was going on and that was it.

MICHAEL STEPHENS: Hear and see or hear ...?

MAYNARD MCBURNEY: No. I think it was both hear and see. It was both hear and see.

MICHAEL STEPHENS: You did it on two occasions, didn't you?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: On one occasion, Mr [REDACTED] was there

MAYNARD MCBURNEY: Three occasions.

MICHAEL STEPHENS: Three occasions?

MAYNARD MCBURNEY: No. We had --

MICHAEL STEPHENS: On two different dates, you had --

MAYNARD MCBURNEY: Oh, yes, yes, yes, but while there we moved it ... the vehicle was moved on three separate occasions.

MICHAEL STEPHENS: Oh, yes. You went through the moving of the vehicle but I was referring, sorry, I was referring to on two different dates.

MAYNARD MCBURNEY: Yes. That's right

MICHAEL STEPHENS: You did one where you had the two officers present.

MAYNARD MCBURNEY: Yes and then again.

MICHAEL STEPHENS: Then, you had it again, where you had someone to gauge the noise levels and that sort of thing?

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: But other than that, you didn't get very much, other than the fact that, limited vision and limited hearing?

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: From within the vehicle.

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: I really wanted to just go through a couple of issues that you put in your complaint file report that you put through. One of the ones that I couldn't quite understand was about Stacey Bridgett. Now, in your complaint file, you refer to Stacey Bridgett was not injured when the police officers were speaking to him at the side of the Land Rover. If you recall, Bridgett and Forbes were ... came to the vehicle and ...

MAYNARD MCBURNEY: Yes, yes. And, they were ... the police officers were speaking to them, bantering with them. There was a man, Hull possibly, who had been speaking to them and alleged that they might have been slightly abusive and the police, they turned round; diffused the situation; the man walked on home; walked on down Woodhouse Street, I think.

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: Sorry?

MICHAEL STEPHENS: Well, the issue I was talking about was that Stacey Bridgett was not injured when the police officers were pulled from the Land Rover, yet his blood was found on the jeans on Robert Hamill.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: How did this assist in disproving the allegation that Hamill and D were on the floor when ... about the police getting out of the vehicle? The reason is, you mentioned Bridgett's blood being on Hamill at some stage and he wasn't injured at the time.

MAYNARD MCBURNEY: I'm not just quite sure of the significance of that now. Explain that to me?

MICHAEL STEPHENS: In your --

MAYNARD MCBURNEY: What exactly are you saying?

MICHAEL STEPHENS: In your complaint file report to the DPP.

MAYNARD MCBURNEY: In my complaint file?

MICHAEL STEPHENS: In your complaint file.

MAYNARD MCBURNEY: Yes?

MICHAEL STEPHENS: All right? You made the point that Stacey Bridgett was not injured when the police officers were pulled from the Land Rover, yet his blood was found on the jeans of Robert Hamill.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: How did that assist with disproving the allegation that Hamill and D were on the floor prior to the police getting out of the Land Rover? That was the point I was asking. Did it assist you at all?

MAYNARD MCBURNEY: No. I think it was to point out that those two were, at this stage, speaking to police, right?

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: While, at the same time, there was an allegation by people that there was fighting going on over there, okay? And, I'm not sure; I think, what was happening on the night at the time is, how did those people move so quickly from there to there to get to **D**? What they obviously did and it was obvious, in my opinion then, that while they were sitting there, was there a fight ongoing or was there not? Because, I mean, who can tell?

MICHAEL STEPHENS: Right. Certainly the accounts of witnesses at the scene are, to an extent, conflicting. What did you think was the truthful account, as far as what had occurred from your investigation, when you were then interviewing the four officers for this neglect of duty?

MAYNARD MCBURNEY: Yes. You see, I'm going to waste your time here, now, because I feel quite strongly about this aspect.

MICHAEL STEPHENS: Well, that's what we want to hear.

MAYNARD MCBURNEY: Because, initially, I thought, okay, the police could have a problem here, but at that stage, that was immediately and when I had time to reflect and think, and sort it out ... I then changed my mind completely, because what I did was I lay in bed and I started to think like this ... because I wrote it down here ... I put myself in their position and I went through my experience and ... I remember when I was 19 years of age, I was transferred to a place called Randalstown and the sergeant said to me, "Go there for me", the sergeant said,

“McBurney, 10pm there was a row in such and such a pub. Go to it”.

I remember going at a reasonable speed on my feet to this pub in the centre of the village, right? And, I walked in and there was this massive man standing there as I walked through the door and at the bottom end, nothing but his friends and he says, “You black bastard” he says, “What are you fucking here for, are you here to put me fucking out?” I was just ... I was scared. Really, gut scared. I said, “What I came in here for a drink” and I walked past him (inaudible) and I walked past him to the bar and I had a drink. I didn’t have a drink, obviously, I shouted the barman a drink. He said, “What do you want (inaudible)?” and he says, “What’s wrong with you, friend?” He says, “I’ve been trying to get a drink here all night, he won’t serve me”. I said, “Bar man give him a drink” and the barman wouldn’t do it, you see, and my eyes were out of my head trying to convince him to sell a drink for this guy. I said, “Sell him a drink” and as soon as I went across to take the drink I said, “Friend” I said, “Why don’t you give him a drink?” He said, “I’ll tell you I would give you a drink but I’m not giving him a fucking drink. I’ll tell you what I’ll do and at that he caught by the shirt, by the coat and he took me out and when he got to the front door, he says, “I suppose you’re under arrest now” well I discussed that there. Now, I started there; I went to ... you could deal with one individual and then went to family rows. You could deal with family rows and you could deal with two people if you’re lucky without a great deal of thought, provided you’re prepared to talk to them; provided you have that facility to talk to them; but if you go to a riot... I can tell you this, I was there, both in 1964 in the Divis Street riots where I sat in Land Rovers, pigs, being stoned, Molotov cocktails and on one occasion when a grenade came

through the window of the vehicle, struck the driver, and we were on fire. Now, fear, you've got to see and got to know. I know. Then, went to Derry 1969/1970, right? Now, those were issues that I then said, "Now, what would you have done at the scene?" because, you say to yourself, "Right, what was the duty of the police?" You go out and you stop, send men out to bad corners and you say, "Stand there and be seen; prevent these persons from killing themselves" right? If somebody comes round that corner and kills themselves, do you say to the superintendent or the policeman, "Wait 'til I tell you; you should have been out on the road slowing them down. You should have been out on the road with another ten police further down the road, okay?" Just forget about that there for the time being. And, they were right down the line because, as I said, a constable can deal with one individual. He can't deal with all of those. Police were doing exactly as I would do it under the circumstances. One dealing with talking to the crowd antagonises and will cause trouble. Be seen; prevention is the key; keep the crowd happy, as these people were doing; let them all keep on the move; would another 5, 10, 15 or 20 men prevent a fracas? Should senior officers attend to this aspect? Not feasible. At Woods' flat, Carol-Ann Woods heard shouting and on looking out the window saw someone strike her brother, starting a fight, shouting and banging on doors and starting a fight in Thomas Street. We know that for a fact. What actually caused the fracas that night, many questions unanswered. Many people came down the road. Nothing happened to them. More people came down the road that night. Nothing happened to them. Why would he highlight that others were coming down the road behind him, not unless he was aware of the facts unknown to the police. Were the other people

drunk rowdy etc.? You could ask, of course, why police did not ask them this question. How can we blame police for not taking a course of action if they didn't know the problem? Now, I've another thing written down there to the day that I must just understand, just for a second. Who did you take that from? Now, I also covered ... action not in possession of the facts, sorry. How can we blame police for not taking a course of action if they are not in possession of the facts? That's to the suggestion that police should have called out reinforcements, when (inaudible) person said take sides and the driver was allegedly pulled from the Land Rover. It was only at this stage that **P40**, Reserve Constable **P40**, who turns round and says that he realised there was a fracas across the road. At this stage, police took immediate action. I might suggest, having been there, that it takes more courage to attempt to curb a riot at this stage than to be actually there when it starts, just commencing. People of all persuasions, not involved, said "Police did excellent work in helping to stop the riot". I also checked it from a legal point of view to prosecute a charge: there are no stated cases. In fact, there's only one stated case with regard to inactivity by police, where the policeman stood, actually, across the road from a town hall and saw what was going on and walked the other way, but that's not the case here. Once the police allegedly were made aware of what was going on, they took immediate action, and got involved and did excellent work.

MICHAEL STEPHENS: But, can I just ask you these points, as far as that is concerned?

The notes that you have made there, did you, at any stage, resolve the issue about when the two men were on the ground? Was it prior

to the officers getting out of the vehicle or was it after they got out of the vehicle?

MAYNARD MCBURNEY: No. Right, if you want to go down that line, let's think about it again. The first thing we have, what we believe we have, was shouting, yelling; we then have ... we then have the Woods scenario; the Woods scenario, where this lad, Woods, allegedly is standing at the corner; we have two people who, again allegedly, come down the road. This was ... I don't think that these sort of things were mentioned before but, allegedly, comes down the road, one, with regard to abusive remarks and then the next thing he is struck; he is struck by another person wearing, allegedly, the same description of clothes as the deceased. Now, a fracas ensues, well a fight ensues first. Now, should that fight have ensued there and then - because people don't automatically get stuck into something unless they know what it's about - there has to be that distance between them; the distance between them breaking and (inaudible) right? Now, what happened then? I'm not saying that's fact. I'm merely saying that there are many, many issues to the whole thing. So, if the fight started, allegedly, you have people who don't know what's going on, and then the next thing is, people begin to realise, oh, crikey, this is what's happened. A man has been standing at the corner; he's been struck, there's been a fight and then everybody gets involved. Now, why am I saying that? Why? Because the only one who seems to take the full brunt of aggression. Why not the others? This is supposed to be a sectarian row which involved them, who were they? Nobody says boo to them. Nobody says boo to the others. Look what happens to our friend?

MICHAEL STEPHENS: Well, and D as well?

MAYNARD MCBURNEY: Well, yes, yes, but leaving the two who, essentially, I have a feeling, who become the aggressor, you know, they actually started a fight.

MICHAEL STEPHENS: The initial aggression?

MAYNARD MCBURNEY: That's right. So, again, he really doesn't come into the frame either, because he received really no injury whatever but there seems to have been a very, very determined attack, for the want of a better word, on Hamill. I don't know why to put in that form that it was one of them. With the rationale that I looked at initially with regard to the whole row, what started it? How did it start? Because, these were a crowd that are three-quarters are coming from a dance; they've had their night; they're really quite sober-- how would you put it -- they've had an opportunity of sobering, I'd say, if they'd had a drink or whatever and there are many reasons. If you look at that there, shoot me down and ask me no questions...

MICHAEL STEPHENS: But, I don't want to go any further with that, other than to say, did you find any evidence to suggest the original complaint made by the Hamill family that the officers had, in any way, not performed the duties that they should have done?

MAYNARD MCBURNEY: No, no.

MICHAEL STEPHENS: The only other thing I wanted to ask you about, did you find it surprising that Atkinson, a man born and raised in Portadown, was not able to identify anyone in his first statement?

MAYNARD MCBURNEY: Well, I'll tell you what, I'll have another look at what I've written down here, because it says here that ... I find all these things, in retrospect, interesting ... when ... I've gone to quite a few shootings and I've gone to quite a few shootings involving military personnel and people like that there. Once there is a traumatic event or occurrence, you do not interfere then, for many reasons. Now, here we are, and there are in today's society, the standards which are introduced with regard to health and safety regulations, would you be correct in sending or expecting three police and one woman to run in, run into a crowd of 30 or 40 people? Think about it. I'm not saying right or wrong. I'm merely asking that question. Health and safety standards; would that be expected? I'm not saying it is. I'm saying it's the duty of police to do that, at that time, but notwithstanding that, the same also applied in those days as does today. Those health standards were so then.

MICHAEL STEPHENS: I understand where you're going with that. What I was saying about Atkinson was, what (overspeaking)

MAYNARD MCBURNEY: (overspeaking) yes, yes, I'm coming round to it. Coming round the corner.

MICHAEL STEPHENS: Okay.

MAYNARD MCBURNEY: Today, those same officers would immediately have been treated as traumatic; it would have been treated as a traumatic incident. One would not know when we could have recorded a witness statement from them. Has anyone at all considered the effect that this traumatic incident had on them? I'm not making excuses; I'm coming back to your point. I'm merely saying that all those issues come into the frame.

MICHAEL STEPHENS: As far as that's concerned, I understand what you're saying about the officers were subject to trauma, as being involved in a riot situation and everything else. The other side of that coin is, did you consider if Atkinson did it actually to protect people, as opposed to the fact that he didn't give this information because he was in trauma?

MAYNARD MCBURNEY: Well, I was told that it had happened and confirmed, I believed that it had occurred. The reason for it was unclear; he should not have done it.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: And, that was it. He did it; he was wrong and that's it, as far as I was concerned.

MICHAEL STEPHENS: The other aspect I want to talk about with that was, certainly, with your own review of the three investigations, you obviously had the benefit of looking at the police officers from two sides, almost. You're looking at this complaint but you're also looking at the fact that you

were gathering evidence from these same officers to assist you with your murder.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Did you think there was a lack of debriefing, scene preservation or forensic issues, which didn't assist your murder investigation at that stage?

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: So, it wasn't an issue for you when you were carrying out the investigation?

MAYNARD MCBURNEY: It certainly was not an issue. I thought that the ... Detective Chief did very good work in bringing them back to have them interviewed and the manner in which he did that there. I could also probably understand the Inspector's point of view, when he let them go home because of what had happened; however that's between them.

MICHAEL STEPHENS: Okay. You submitted your report to the DPP about that complaint investigation in December 1997, right?

MAYNARD MCBURNEY: Okay.

MICHAEL STEPHENS: Did you do that or was it through the C & D?

MAYNARD MCBURNEY: No. I didn't do it, as such. What I did was I got involved in describing, for the want of a better word, some of it, but it was Detective Inspector Irwin that did the files.

MICHAEL STEPHENS: So, far as the report itself, did you write the report and he put the rest of the papers together, or ...?

MAYNARD MCBURNEY: I think I was involved in the summary.

MICHAEL STEPHENS: Right and not the --

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: -- the summary and the conclusion?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Those were yours?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: You refer to it previously and certainly Prunty comes to the fore, because he is seen by Kitson and Kerr at some stage during a consultation and you refer to,

“Colin Prunty has outlined the good work carried out by the police who'd been in the Land Rover when they became aware of the situation. The police are not in a position to confirm this statement although they know it to be fact.”

Presumably, that came from counsel and the DPP, did it, as a result of that ... that information?

MAYNARD MCBURNEY: It must have done. I can't remember. It must have done.

MICHAEL STEPHENS: Because, certainly, Prunty has not said that elsewhere.

MAYNARD MCBURNEY: No, I know. Well, that must have come from the DPP.

MICHAEL STEPHENS: Right. And, certainly, during the simulation exercises, there was a man who approaches DI Irwin at some stage, a guy called [REDACTED].

MAYNARD MCBURNEY: We had spoken to him previously.

MICHAEL STEPHENS: You had?

MAYNARD MCBURNEY: ...but fortuitous, I think might be the word, that he just happened to be going home from his work when we were out with Mr [REDACTED], and when we realised that and we were starting talking to him, I made a point of going and getting Mr [REDACTED], so that he could speak to him. And then he says, he explained to Mr [REDACTED] what had happened and gave him his views. I think, even Mr [REDACTED] asked him, would he make a statement which - you can't blame him - you couldn't blame him. You can't expect a man like [REDACTED] to make a statement under the circumstances.

MICHAEL STEPHENS: So, he ... just to capture what you're saying, [REDACTED] - you think [REDACTED] had come into the picture into the frame previously as a possible witness - from where he lived?

MAYNARD MCBURNEY: Yes. Oh, no, from where he worked.

MICHAEL STEPHENS: Oh, right.

MAYNARD MCBURNEY: You see, he actually works as the barman in the establishment that these people were all drinking in, that Hamill and outfit were drinking in.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: He knew the state of health, the whole kit and caboodle, issues such as that there, he probably learnt by sitting at the bar or ...

MICHAEL STEPHENS: So, fortuitous, you say, on that night, you actually saw him there?

MAYNARD MCBURNEY: We actually saw him there when Mr [REDACTED] was there and, again, it just happened, because we could have been in the Square out that night, fooling round in the Rover or wherever, when we ran into him. It just happened.

MICHAEL STEPHENS: I hear what you're saying about him as a witness, the fact that ... to put him in that situation.

MAYNARD MCBURNEY: You couldn't.

MICHAEL STEPHENS: Right. The other issue regarding Hanvey and searches of Hanvey's place was concerned, because one of the witnesses that you did have was a Jonathan Wright, who was with Hanvey on the night.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Now, Hanvey, when interviewed, denied wearing the clothing that was described by Wright.

MAYNARD MCBURNEY: Wright said that he did -- he was wearing it?

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: He maybe didn't say it, but he said he thought that he was wearing something fawn or ... is that right?

MICHAEL STEPHENS: Yes. Now, you obviously had that information after Hanvey had been arrested, because Wright's statement was not made until 11 May.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: So, that information was after the event, sort of thing, after Hanvey had been interviewed, anyway, and charged.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Okay.

MAYNARD MCBURNEY: Yes, but just to follow on that, because I'll tell you why. We had already searched Hanvey's and had found absolutely ... they found no clothing that was of the description that they'd already described to us. So what we did then was, it was then that I mentioned at the very outset about us going to try and determine could he have had a coat like that? Did he have a coat like that? We went through the different shops and we eventually did establish where it was bought. I think we also... sometimes you don't know what you're... I think we also established, too, that ... that it had been bought for him.

MICHAEL STEPHENS: Now—are you now-- I think, certainly K's investigation established that.

MAYNARD MCBURNEY: This was all started long before K got into it.

MICHAEL STEPHENS: I appreciate that, but the only evidence I've seen of that, is what K uncovered with regard to a firm called Paranoid.

MAYNARD MCBURNEY: No, no that's we had that at the time. That was all covered long, long before that. I may not be able to prove that, but it should be ... there should be action sheets on it.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: In fact, let me tell you, there are action sheets on the initial HOLMES system pertaining to that.

MICHAEL STEPHENS: Tracey Clarke certainly gave you that information.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And, she gave you the details of what ... the jacket she bought for  
Allister.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And, described it?

MAYNARD MCBURNEY: Yes. That's how we got it. Yes, you're quite right.

MICHAEL STEPHENS: Right. Now, the other issue regarding Thomas Hanvey, who was  
supporting Allister, the uncle who was supporting Allister Hanvey as  
to where he'd been that night.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: You refer in your report to Hanvey, but there is no reference to this  
party that went on, where there were statements by a girl called  
Pauline Newell, Lavery, Stephen Bloomer and Carville.

MAYNARD MCBURNEY: Okay. If you take a look at the report on the whole question of --  
what are they called -- by what do they call them, it's the, the Cory  
Report, if you take a look at that, you will see that he refers to the ...  
Hanvey saying that he left his uncle's house at 9am, right, and that it

seems very odd that such and such wasn't done, particularly when you consider that he used ... he, Harvey, junior, used his credit card in such and such a place at 8.45am. Now, I don't want to be unkind but, like, if somebody is telling me that fifteen minutes makes a big difference or a vast difference from a man says he left the house around 9.00am, there is something radically wrong. And to all intents and purposes, yes we believed or, rather, we were told that he stayed there all night. We checked with all those other individuals with regard to Harvey and where he stayed and I think they were all negative with the exception of ... as I say, I might be making a mistake I'm going back a long time.

MICHAEL STEPHENS: Well, certainly, those statements of Newell, Lavery, Bloomer and Carville put Harvey at Pauline McAlpine's address ...

MAYNARD MCBURNEY: Yes

MICHAEL STEPHENS: Put him there between 3am and 5am.

MAYNARD MCBURNEY: Yes, yes, but that didn't mean that he -- that doesn't mean that he didn't still go back to the uncle's house.

MICHAEL STEPHENS: Right. The issue about the ATM machine and his use of an ATM machine came into the investigation, was in the investigation carried out by K.

MAYNARD MCBURNEY: That's right, yes.

MICHAEL STEPHENS: And, also, the telephone billing from Thomas Harvey's address and the Harvey's address also came into the equation in 2000.

MAYNARD MCBURNEY: Okay.

MICHAEL STEPHENS: I hear what you're saying about Judge Cory's comments, as far as that is concerned, but those issues were not dealt with until K's investigation looked at those issues. Is that correct?

MAYNARD MCBURNEY: Okay. You could say that fairly, yes, but it wasn't... it gives the impression, that remark, that we did absolutely nothing about that particular complaint, which is not true.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: I would take exception to that sort of a suggestion, because we had that in view right from the very outset, as to how the complaint should be dealt with.

MICHAEL STEPHENS: And, you were trying to prove or disprove the allegation about Harvey, at that stage, as well, presumably?

MAYNARD MCBURNEY: I can't ... I won't...

MICHAEL STEPHENS: Right. But, certainly, as far as Thomas Harvey is concerned, what K and his team did later on when you were (overspeaking)

MAYNARD MCBURNEY: Yes. That's okay.

MICHAEL STEPHENS: Showing that, obviously, Thomas Harvey was lying at that particular stage.

MAYNARD MCBURNEY: Yes, but we knew that they were all lying from the very outset. It didn't take a genius to figure that out, you know?

MICHAEL STEPHENS: So, as far as what you were doing at that particular time, the evidence you had from Tracey Clarke and, in particular, Harvey and all those aspects of it, you were trying to actually establish and give more credence to Tracey Clarke's statement, presumably, at some stage during that investigation?

MAYNARD MCBURNEY: Correct, but then, that was with regard to the inactivity.

MICHAEL STEPHENS: Regarding Harvey, as such, and how that went on.

MAYNARD MCBURNEY: Well, I don't refer to that as the Harvey situation, I refer to that as the Atkinson investigation, because that is the Atkinson investigation.

MICHAEL STEPHENS: All right. Certainly, with regard to Atkinson, which I intend to move on to now, we have covered certain -- various parts of the questions I wanted to ask you about that, as we've gone through it, and as far as that's concerned, we have been going now for another two hours. Do you want to have a quick break?

RICHARD MURPHY: I think we should have. Maybe ...

MAYNARD MCBURNEY: Do you think we'll be going for another two hours?

MICHAEL STEPHENS: No. We'll not be going for another two hours. I said we've been going for two hours.

RICHARD MURPHY: Oh, right. No, I think that we should, maybe, before Mr McBurney dies from hunger. I think we should have a break.

MICHAEL STEPHENS: Yes.

JOY HOPKINSON: And lunch.

RICHARD MURPHY: Yes, lunch.

MICHAEL STEPHENS: I will stop the tape.

(break in audio)

MICHAEL STEPHENS: We resume the interview following a break for lunch. What I wanted to move on to was Robert Atkinson and the allegation that he was assisting an offender. Now, from the outset of this interview you've described three strands to your investigation.

MAYNARD MCBURNEY: That's correct, yes.

MICHAEL STEPHENS: And Atkinson was one of the strands as far as that was concerned?

MAYNARD MCBURNEY: That's correct.

MICHAEL STEPHENS: As such, the question I want to ask you at this stage was: did you ever consider pursuing Atkinson as part of the murder investigation, in that he was allegedly assisting an offender and therefore did you consider running him at the same time?

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: And as such, as far as that was concerned --

MAYNARD MCBURNEY: I'm not entirely satisfied with what you're saying. You're saying that for assisting the offender with regard to the murder?

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: And as far as that was concerned, the issue of suspension of Robbie Atkinson at that time, you had taken that issue as well, because you expressed a view again throughout this interview about protecting your sources of information etc; and the fact that it could be a leaking ship or whatever in Portadown. Did you consider removing Atkinson because of -- suspending him then, to get him out the way?

MAYNARD MCBURNEY: At some stage it was considered, but I think the general consensus was that he was already on the sick and that while on the sick he was causing no problem, and it was felt that it would be better to let the situation sit the way it was. I'm speaking off the top of my

head now. Should he be suspended, and it transpired that we did not achieve the success that we anticipated then there may well be a matter of (inaudible). I don't think we were ever pushed in this regard; I would have felt that that was a travesty.

MICHAEL STEPHENS: If he ended up making money out of it.

MAYNARD MCBURNEY: Yes, however, it was not my final say. It was not my ultimate say but that was -- those were my views.

MICHAEL STEPHENS: So, whose final say was it then? The next question to follow that --

MAYNARD MCBURNEY: Well, the person in charge of C & D and that sort of thing would have been the Deputy Chief Constable, and it would have been up to him through C & D. I mean C & D was involved in this investigation from the very outset, so consequently everyone knew about it and that was it.

MICHAEL STEPHENS: Okay, and as far as Robbie was concerned, or Robbie Atkinson was concerned at that stage, he went on the sick very soon after the incident?

MAYNARD MCBURNEY: That's correct.

MICHAEL STEPHENS: And remained on the sick -- and was he on the sick when you interviewed him on 9 September?

MAYNARD MCBURNEY: Yes. Again, I'd have to check that, but yes. I'd have to think about it. I'm almost certain he was.

JOY HOPKINSON: I think he was.

MIKE STEPHENS: I don't think that's --

MAYNARD MCBURNEY: I'm almost certain he was, Joy, but you see it's like everything else, I know in my own heart that he was, but sometimes I'm inclined to say, "Well crikey, was he?"

MICHAEL STEPHENS: Now, you told us earlier on that you asked him to provide you the telephone billing, and you asked him to provide the telephone billing for what reason - because you already had intelligence to show that?

MAYNARD MCBURNEY: No, on that particular occasion, I asked him for the telephone billing because initially on 9 September, we -- I -- we were only interviewing them with regard to the one crime. I then asked him about the telephone billing because I wanted -- I believed again, at that stage, that he knew -- that police knew he had made the telephone call, but I also wanted him -- that -- I wanted to see how he'd come up -- I wanted to see what would happen, right? And what did happen as a result of asking him for that then, after that, after that interview he went and spoke to the McKees.

MICHAEL STEPHENS: In the same interview on 9 September you asked him just a question about making contact with the Harveys.

MAYNARD MCBURNEY: Okay.

MICHAEL STEPHENS: Right. And I can understand the telephone but did you -- for the same thing -- what was the reason about asking about contact with the Hanveys?

MAYNARD MCBURNEY: I can't remember. Oh, yes! Yes, that was to determine exactly what he was going to say, because at that stage we had -- we knew that he was associated with a club, to the best of my knowledge, and this --

MICHAEL STEPHENS: Tae Kwan Do Club?

MAYNARD MCBURNEY: Yes, and that he was close to them.

MIKE STEPHENS: Right, so you're -- by asking Atkinson in that way, you were giving him an opportunity to put together an explanation?

MAYNARD MCBURNEY: To put together an explanation and just to see what he was going to say at that stage.

MICHAEL STEPHENS: Right, when you interviewed him again --

MAYNARD MCBURNEY: We interviewed him again on 9 October.

MICHAEL STEPHENS: And discussed the telephone account. Now on this occasion it was just yourself and Michael Irwin --

MAYNARD MCBURNEY: That's correct, yes.

MICHAEL STEPHENS: -- because ICPC weren't in play on this were they?

MAYNARD MCBURNEY: They weren't. Yes, that's right.

MICHAEL STEPHENS: And you put the allegation to him - to Atkinson - that he'd warned  
Hanvey to dispose of his clothes?

MAYNARD MCBURNEY: That's correct, yes.

MICHAEL STEPHENS: And what did you expect Atkinson to do when you put that allegation  
and telephone contact to him, then? What were you hoping to get  
from him then?

MAYNARD MCBURNEY: Well, at that stage he told us that he had spoken to the McKees  
and he'd spoken -- that they had stayed at his house and that it was  
they who made the call or received it - whatever - and more or less  
put the blame on them, as it were, for having made the telephone call  
and that issue was covered. In fact, it was after that interview that I  
distinctly said to Michael, "Run with it", because it was the first time  
that we had got an opportunity of getting into what had happened,  
because he had inadvertently involved people that we could talk to -  
the McKees.

MICHAEL STEPHENS: You then took a statement from Eleanor Atkinson that same day?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And Michael McKee?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Now, you knew that Michael McKee -- his statement was false because he'd been privy to the conversation and, from what you said earlier, had also organised Tracey Clarke to come forward to make her statement.

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: So, you had that information already there and you obviously didn't believe a word of their statements they made on 9 September, because you knew that Michael McKee was telling lies ...?

MAYNARD MCBURNEY: I knew they were telling lies. That's the point I'm making, but it was not the opportunity for us at that stage to put to Michael McKee the scenario that we knew existed - that he was there in the presence of a solicitor.

MICHAEL STEPHENS: Sean Hagan?

MAYNARD MCBURNEY: Sean Hagan, I guess who wouldn't have known the background of what was going on and what was happening.

MICHAEL STEPHENS: The only question I have with regard to that: you still had Tracey Clarke who was -- she hadn't retracted her statement at that stage

following the consultation. The consultation was 17 October, so Tracey Clarke to a certain extent -- how were you going to deal with her part in the evidence regarding Atkinson? I know it wasn't going to be introduced in evidence --

MAYNARD MCBURNEY: No, she had no evidence against these people - Tracey Clarke.

All the evidence, if you want to call it evidence, it was all hearsay --

MICHAEL STEPHENS: And what do you think --

MAYNARD MCBURNEY: Hers was hearsay, as was, initially, Atkinson's -- not Atkinson's but McKees.

MICHAEL STEPHENS: Okay, the evidence she had was what she had from Harvey?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: What Harvey had told her.

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: Now, did you know, at that stage, if Atkinson knew about Tracey Clarke, and where the evidence from her had come from? About him had come from, sorry? I understand where you're going with regard to Michael and Eleanor Atkinson but --

MAYNARD MCBURNEY: Ask that question again ...?

MICHAEL STEPHENS: Had you disclosed to Atkinson where the evidence about him had come from?

MAYNARD MCBURNEY: Oh, no.

MICHAEL STEPHENS: So, did he know from other sources?

MAYNARD MCBURNEY: Well, you see we didn't go into that. It was similar to Andrea - associate.

MICHAEL STEPHENS: So, what did you -- that interview on 9 October you achieved what?

MAYNARD MCBURNEY: On 9 October we achieved the most important aspect with regard to this offence against—of assisting offenders by Atkinson, in my opinion.

MICHAEL STEPHENS: Okay. And the delay from May till October in dealing with that was because of ...?

MAYNARD MCBURNEY: It was just because it was -- it was like any other inquiry. It just fell into place at that time.

RICHARD MURPHY: Mike, when you say the delay between May and October and you know and then --

MICHAEL STEPHENS: Putting the allegations to Atkinson at that --

MAYNARD MCBURNEY: Yes, in other words you're saying we were slow --

RICHARD MURPHY: No, I'm sure he's not saying that at all that's just a theory.

MICHAEL STEPHENS: I'll put in different words but I'm saying more or less the same thing.

The delay between May and October what --

MAYNARD MCBURNEY: Well, I have no answer, as such, for that. What I'm saying is that

we -- I was there continuously. We carried out our inquiries with regard to one issue. It was then dealt with and when we went for Atkinson and party it was only at the first opportunity, in my opinion.

MICHAEL STEPHENS: Okay, and Tracey Clarke as such, you said just now her evidence,

as such, was still there --

MAYNARD MCBURNEY: Oh, it was still there waiting.

MICHAEL STEPHENS: And you were still using her as a witness for the murder.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: On 25 November --

MAYNARD MCBURNEY: Did we go with the 10<sup>th</sup>, did we go the next week?

MICHAEL STEPHENS: 9 October.

MAYNARD MCBURNEY: Oh, yes.

MICHAEL STEPHENS: That was the second interview.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: 9 September was the first interview; 9 October was the second interview when you put the allegations to him and you took the statement then from his wife and from Michael McKee.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: On 25 November Michael Irwin visited Kenneth and Elizabeth Hanvey and questioned them regarding the phone calls. Do you remember that part of the equation, as well?

MAYNARD MCBURNEY: What date was that?

MICHAEL STEPHENS: 25 November 1997.

MAYNARD MCBURNEY: I can't remember that off the top of my head.

MICHAEL STEPHENS: Now, presumably the interview with the Hanveys was to find out their part in any telephone calls?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Did you get anything from them at all?

MAYNARD MCBURNEY: Did you say the Hanveys -- you said the Hanveys, didn't you?

MIKE STEPHENS: Yes, it was Kenneth and Elizabeth - mother and father of Allister.

MAYNARD MCBURNEY: No. That was to establish if in fact, to establish exactly what they were saying: who made the phone calls, what it was about, what was the reason for it and all that sort of thing.

MICHAEL STEPHENS: And as such, they never made any statements. Michael Irwin put a report in --

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: -- on what he found at that particular time.

JOY HOPKINSON: Was this quite a risky strategy you were applying --

MAYNARD MCBURNEY: No --

JOY HOPKINSON: -- because you have 9 September where you were saying to Atkinson, "I want your telephone billing".

MAYNARD MCBURNEY: Right.

JOY HOPKINSON: On one hand you're seeing his reaction, but on the other hand you could be alerting him to the fact, "This is the direction we're going; we've got information about you".

MAYNARD MCBURNEY: Wait till I tell you

JOY HOPKINSON: Then you've got 9 October where you put the direct accusation to him. At which point, he then brings forward a number of alibis who make statements saying, "Actually it was all to do with us, the telephone calls". And then 25 November, over a month later you then go to the Harveys to see what they're saying. Do you think over that period of time you were allowing -- there was a risk that you were allowing them to build up an alibi and cut off all avenues, to secure themselves?

MAYNARD MCBURNEY: No, absolutely no way. You see, in the first instance there, if you take on -- 9th -- first occasion --

JOY HOPKINSON: 9 September --

MAYNARD MCBURNEY: There is absolutely nothing, yet when we go back on 9 October he's made arrangements to go back to two people to get alibis - right? Now, that was big for us because it was the beginning of a plot. The wife knew what he knew, the possibilities of them facilitating or helping us at some later stage, right, because it made absolutely no difference after that what -- circumstantial evidence. You were not going to prove that case without oral evidence. You needed someone to stand up and say, "Look, this is what happened. This is the story. This is what was done". So, therefore the -- I mean let's face it, he -- Atkinson could have gone to some other two people - husband and wife - and asked them for an alibi and that may well have shot us down. That might have been different. But under the

circumstances we were at here, we had two people who we knew;  
right, we have a meal ticket here.

JOY HOPKINSON: And if you had said to Atkinson on 9 September, "We've got an itemised billing showing the telephone calls made from your house to the Hanveys on the morning of the incident", what do you think would have gone wrong there or what do you think the question would have been with that?

MAYNARD MCBURNEY: Okay. And this is in the presence of the solicitor, right. Solicitor says, "Tell you what, my boy, cut". Carry on with your questioning.

JOY HOPKINSON: So, you feared the solicitor would just say, "Don't answer that"?

MAYNARD MCBURNEY: I didn't fear it at all. I had no fear for it whatever. I knew exactly what would have happened. I just supposed a good solicitor would say, "My boy, stop"?

JOY HOPKINSON: So, that's the reason why you didn't pursue it on that occasion?

MAYNARD MCBURNEY: You see I'm not being unkind when I say things like that. Let's face it, those are the practicalities of life -- what solicitor is going to let his client turn round and start. That's exactly what did happen when faced with the tapes and so forth - faced with the allegations that they were faced with, during the interview with Detective Sgt McDowell, he said, "No comment" for quite a long period.

JOY HOPKINSON: So, if he said, “No comment” at that stage there was nothing you could have done about it?

MAYNARD MCBURNEY: No, not a thing.

JOY HOPKINSON: So, you felt there was nothing to lose by going step-by-step, get the information and see what he does?

MAYNARD MCBURNEY: I take your point. You’re quite right, but I felt there was nothing to lose, but I felt there was also absolutely everything to gain by sitting tight and having patience, because let me tell you this, it’s the patience that wins the day.

JOY HOPKINSON: Right.

MAYNARD MCBURNEY: Okay, I hope you’re done—I don’t mean that to be sharp--

JOY HOPKINSON: No, no

MICHAEL STEPHENS: I want to move on to Andrea McKee, because obviously she’s in this part of the equation anyway.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: When did you first become aware of the friendship between the Atkinsons and the McKees? You alluded to it earlier on about the Tae Kwan Do club.

MAYNARD MCBURNEY: That was known right from the very outset, to the best of my knowledge - right from the very outset.

MICHAEL STEPHENS: Okay. We talked about Eleanor Atkinson and Michael making their statements on 9 October and then Andrea makes a statement on 29 October.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: As far as that was concerned, any reason for the delay, and I'm not talking about slowness now, I'm talking about strategy wise, that she didn't make her statement at the same time?

MAYNARD MCBURNEY: Well, I have no answer to that. The only reason that I felt that it wasn't done at the time was -- she was asked to come in at the time, but she didn't appear and I felt that that was reticence on her part at coming near the station and having been asked to make a statement of alibi.

MICHAEL STEPHENS: Now, Michael Irwin was instructed by you to go and take the statement from her.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: What specific instructions did you give Michael on it to go and see Andrea? Was he to challenge her about what --

(overspeaking)

I'll start that again, then. Right, have you found what you wanted to find as far as your notes?

MAYNARD MCBURNEY: Andrea McKee was again interviewed in Mr Sean Hagan's office on 29 October 1997 by Detective Inspector Irwin. Initially, the Detective Inspector was unhappy with the situation and I explained to him why it was necessary. Then I explained the different issues, and if we were to get the Atkinsons to court, the McKees were the key. I didn't tell him that I also wanted him to cover the interview because he was one of the few detectives that had dealt with a prisoner who had turned Queen's evidence. And again, to me, that was important because I was thinking ahead that this might be essential here. At this stage, I was keeping all options open. I explained that he was aware of the true facts pertaining to her background with CID and she was aware of that. If she introduces the issue, pursue it, if not, leave it. With a witness statement from her she would make a very good witness and that is what I wanted. I wanted one situation in the presence of her solicitor, was, in my way opinion the way forward, by being prudent. We were also, from the point of view, protecting her interests, hopefully making it easier for us to talk to her at a later stage. I also felt that as a team, they -- Andrea and Michael would not last. Experience in life told me that there was a time coming when we could successfully move, and I took this bit in unknown to me at that time the manner in which we had dealt with her.

MICHAEL STEPHENS: Where are you going to now with this?

MAYNARD MCBURNEY: This is all part and parcel --

MICHAEL STEPHENS: All right.

MAYNARD MCBURNEY: I just had to read that because it was all part and parcel of it.

Unknown to me at the time, the manner in which we had dealt with her and treated her initially that Atkinson was unaware of the involvement with the police and used her and her husband as alibi witnesses. Furthermore, it was also in light of her state of mind and her relationship with her husband. Knowing how she felt, all the police here, agreeing to alibi Atkinson. I knew we could utilise this to our advantage, but timing was the problem. And then I go on to say that I was briefed later on the interview by the Detective Inspector on 3 November.

MICHAEL STEPHENS: Okay, you got the statement from Andrea on 29 October. You already had one from Michael McKee on 9 October.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Did you consider at that stage, because you knew the statements of Michael McKee and Andrea McKee were false, because these were alibi statements, did you consider arresting them and arresting the Atkinsons at that stage?

MAYNARD MCBURNEY: No. Yes. I decided against it. I decided that there was only one thing to do and that was wait on an opportunity -- wait on an opportunity to interview them under more appropriate circumstances,

for want of a better word, when it would be more beneficial to us to move.

MICHAEL STEPHENS: Right, so you considered that -- did you discuss that again with an ACC or the deputy?

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: That was your strategy?

MAYNARD MCBURNEY: I didn't have to discuss that with anyone.

JOY HOPKINSON: Sorry, it's not clear to me. You said you had considered arresting the McKees and Atkinson at that stage?

MAYNARD MCBURNEY: Yes.

JOY HOPKINSON: But you didn't because you were waiting for an opportunity that you ...?

MAYNARD MCBURNEY: Okay, supposing I had arrested them there and then? What was going to happen? You go out, you arrest them and you say, "Mr Solicitor, come in -- Mr Hagan" what happens? A statement of admission? Wait till I tell you, there wasn't a word said. There wouldn't have been.

MICHAEL STEPHENS: So, what you're saying is you weren't going to chance the fact that you would end up with a "nothing to say" interview.

MAYNARD MCBURNEY: Quite apart from that fact what evidence were we going to put during interview, evidence?

JOY HOPKINSON: And also you had the situation where Andrea McKee had clearly given this false statement.

MAYNARD MCBURNEY: Yes.

JOY HOPKINSON: She had given information to the police that was false?

MAYNARD MCBURNEY: Yes.

JOY HOPKINSON: And she'd actually gone to the extent of attending the police station with her niece before.

MAYNARD MCBURNEY: Yes.

JOY HOPKINSON: Did you think, "This isn't normal, perhaps if we can speak to her without her solicitor, make another arrangement to meet her to talk to her about this statement she's done; see what we could do"? Did you ever think of approaching her that way?

MAYNARD MCBURNEY: Yes, and the assessment that I arrived at there was very, very simple. Here they were, still living with her husband, still living in the same town, all conspirators together in what -- in a Loyalist enclave and from a practical point of view, from an operational point of view, it was not there. It wasn't sensible to do it - that's what I'm saying.

MICHAEL STEPHENS: Well, certainly in your interview with the ombudsman you replied similarly about your strategy in respect of Andrea McKee and I'll quote,

"I had to wait on the scenario developing. She was a vulnerable witness and I wanted her free from the influence of her husband and Atkinson."

MAYNARD MCBURNEY: That's right, yes.

MICHAEL STEPHENS: That's more or less what you're saying?

MAYNARD MCBURNEY: That's more or less what I'm saying, yes.

JOY HOPKINSON: Did you have a time limit on waiting for that strategy, or were you going to sit and ...?

MICHAEL STEPHENS: I think what we're asking really is: if they ever split up what were you going to do?

MAYNARD MCBURNEY: Well, I've answered that because you asked me that question some time ago, when you asked me, right, about the inquest and the action taken by the inquest that we had to precipitate some means, or cause some means to occur that we could -- create -- for want of a better word - a situation where we could, without arrests and all the rest of it, bring something up that we could speak to them. Does that mean --

JOY HOPKINSON: So, you had sort of a two-pronged approach then? You had the inquest, which may provide another opportunity to lead into --

(overspeaking)

MAYNARD MCBURNEY: Oh, yes! There's one more thing that I forgot. I also thought that the court case may have facilitated it as well -- us as well.

JOY HOPKINSON: Court case - is that the trial?

MAYNARD MCBURNEY: That's the trial, yes. But the trial was very -- it didn't produce anything of interest for us, whatsoever.

MICHAEL STEPHENS: Because you only had one offender before the court?

MAYNARD MCBURNEY: That's right.

JOY HOPKINSON: So, Maynard, if you can put in your own words, in respect of Andrea McKee - this Atkinson issue - what strategy did you have there? What were the avenues you were considering for pursuing this matter?

MAYNARD MCBURNEY: The avenues I had for pursuing the Atkinson scenario were simple. I've already explained my views with regard to Andrea McKee, and indeed, Michael McKee and the manner in which they were involved. My intent was to wait until such times as there was an opportune time in my mind, to speak to them, and the big problem there was: when would that opportunity present itself?

I have already said that, as a husband and wife team, they did not appear to me to communicate on the levels that one would have expected. You would have expected discussion between them with regard to many things, and in our discussions with them that was not there. My assessment, rightly or wrongly, was that, as I have said, it would not last. Again, the big problem was, how long would we have to wait? I decided, rightly or wrongly, that I would wait for a period of time with a view to finding an opportunity or waiting for an opportunity to present itself. The opportunity did not present itself with regard to the court case. Consequently, I directed, for want of a better word, the Detective Inspector to go down and see the Coroner, see if we couldn't organise an inquest. Now, ordinarily, I'm not going into the pros and cons of who, why or what, but under the circumstances prevailing in this particular incident, a Coroner did not hold an inquest. However, having spoken to the Detective Inspector and explained my rationale he took it upon himself to go and speak to the Coroner and, indeed, convinced the Coroner that there should be an inquest in this particular instance. Over a period of time it was anticipated that there would be, eventually, an inquest and I had decided that one way or the other, this would be a springboard to go one way or the other, with regard to the McKees. It then transpired that the Coroner, Mr Leckey, had an agreement with Mr McGrory that there would be no inquest. But, over the course of this it also transpired that the Detective Inspector who I had been in fairly continual contact with over a long period of time with regard to this, was in position to establish from Mrs Clarke that the McKees had split up and she was living in Wales. The Detective Inspector advised me of that and I'd said to him, "Michael, we're on the ball, let's move". However, when

he came back the next time he explained to me, "Look" he says, "McKee, Michael, is in Cork living with his girlfriend and their two children". I then said to Michael "Michael, dear oh dear, nothing's simple in this world". I said to him, "Look, I'll tell you what we'll do. Do you think this guy's going to remain down there living or what do you think?" I'm not going to give you his exact words but the general consensus was that he would not stay down there because he never stayed at any place. That he would be home again within a short period of time or whenever. I said, "Michael, we have waited so long. We have played it so cool. Okay, we're again at the mercy of whatever, but we've got to wait and take it to a logical conclusion". He agreed. I said, "Michael, keep in touch with everyone until we see when, or if, this guy returns. Then immediately the time he returns - we strike". Then after a period of time, I don't know how long or whatever, but the Detective Inspector came to me and he says, "You'll not believe this", he says, "but he's back". I said, "Michael, stop. We make arrangements now to see Andrea. We go to Wales as soon as possible, to interview her -- as soon as you have made the arrangements let me know, because the day before, or a few days before, we will go and we will speak to Michael". He said, "What for?" Says I, "We'll go to Michael and we'll tell him what we're doing". I decided we'll not tell him what we're doing, as such, but what we will do is: we will ask him if he has any changes or change of mind with regard to his original statement with regard to the alibi of Atkinson? That was that. Michael then went and he made arrangements for us to travel to Wales and he came back and he says, "We're going to go on such and such a day, such and such a time", I can't remember the date or anything, I can't think, I don't know. But he said, "We're

going to Wales, such and such a day, such and such a time". I said, "Michael, that's lovely". So, I go, "Here's the first opportunity. We'll go down and see our friend in Guilford and we'll say to him, "Look". Now, what we did was -- I'm almost certain it was the day -- it might have been two days before, the day before in my mind, that we went to see Michael McKee at his home, right. Went in, I can't remember the exact words that I said to him, but it was something to the effect, "Michael how are you I'll tell you -- we were wondering if you had reassessed -- have you reassessed your views or anything with regard to the statement you made, giving an alibi to so and so? Just to give you an opportunity to say whatever you think." And I must say at this stage I can't remember whether I said to him we were going across to see Andrea or not.

MICHAEL STEPHENS: Well, you certainly made a statement about that at some stage didn't you?

MAYNARD MCBURNEY: Did I?

MICHAEL STEPHENS: Or in your notes.

MAYNARD MCBURNEY: Does it follow that line?

MICHAEL STEPHENS: It certainly follows a line of where you're going. I can't recall exactly what you said as far as what you told Michael McKee.

MAYNARD MCBURNEY: Well, I'm speaking off the top of my head, and either way it makes no difference, but the reason that I went and the reason I had gone to

Michael first I said "Michael" this is the Detective Inspector, I said "We'll shake the tree". We had softened him up for our return. Softened him up for the return and we left it at that. The following day, I'm almost certain, that we went across and interviewed her, right. Now, I had already made up my mind of the course that I was taking with her, from the very outset. I certainly wasn't going to go across to do a deal with her. I certainly wasn't going to go across to arrest her, either to bring her in to Wrexham -- was it Wrexham?

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: To bring her into Wrexham or to take her back to this jurisdiction.

My sole intent was, "Look, will she make a written statement as a witness"? Now, those -- that's what was in my head. But as soon as we went in to see her, to cut a long story short, ten seconds she more or less said, "Look, I'm sure you boys won't be interested in taking a statement from me about prosecuting police". And I said to her, "Are you prepared to make a written statement as a witness?" She says, "Yes", and at that stage --

MICHAEL STEPHENS: Just go back there. What did you say about prosecuting police, "I'm sure you boys will ..."?

MAYNARD MCBURNEY: She said we wouldn't be interested in prosecuting --

MICHAEL STEPHENS: Would not be interested?

MAYNARD MCBURNEY: Would not be interested in prosecuting police.

MICHAEL STEPHENS: Right, so that was her opening gambit.

MAYNARD MCBURNEY: Yes, near enough. So, I said -- if she hadn't said that -- or no, she had actually said she would make a statement. I said, "Michael, come with me a few minutes". I took him into a separate room and said, "Michael, here we are. We've got what we wanted. We're going to get a statement." And I said, "Michael", and my exact words I can tell you now were, "Michael, take her in there gently". Now, that's not meant as -- you understand me?

MICHAEL STEPHENS: You're not meaning the physical term - you meant --

MAYNARD MCBURNEY: No, what I'm saying to her is -- saying to him is, "Michael, you treat her gently. You go, we take a very short -- no, not a short statement, we just take the bare facts". I think I also said to him, one of the statements, I said to him, "Look, Michael I've been involved in converted terrorists over a long period of time - all sorts of things" and says I, "It's much easier to go forward than backwards". So, says I, "The first thing we do, we don't scare her, we look after her interests, we take the statement and we go home and we get the rest of it and we take it from there". Now, before I left, I said, I said, "Michael, we've got to consider protection here for this woman" and Michael says, he says, "After all this?" And what I said to Michael was, "Michael, you're 100% right. She's been tight knit from A to Z and she's not going to blow the gaffe now. She's out of the jurisdiction - she's safe and all the rest of it. Because -- and I said, "Michael, let's go home, and go and see Michael and we get our witness statement penned

and we take it from there". Right. We returned home. And coming home, it suddenly dawned on me the way it was "You've got to start involving people here" and I think the next day or a couple of days later I made arrangements to meet DPP possibly, the Independent Commission for Police Complaints, the whole kit and caboodle.

MICHAEL STEPHENS: Just to stop you there, sorry, I don't want to stop you in full flow, I must admit, but had you spoken to the chief before you went and saw her?

MAYNARD MCBURNEY: What chief?

MICHAEL STEPHENS: Chief Constable.

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: Or was it on your return. Because I knew -- you'd just gone on about --

MAYNARD MCBURNEY: No, I didn't speak to anyone. I didn't have to speak to anyone or do all those sort of things. As the person in charge of the case, as the person in charge of the area, it was my responsibility. I didn't have to ask anyone to do it.

MICHAEL STEPHENS: Well, the only reason I asked that is simply that there is a note from the DPP, which was served on you, as far as that was concerned, which actually is recorded 22 June off the top of my head.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: A briefing from the Chief Constable about this witness. It would appear that you briefed the Chief Constable and he in turn briefed the DPP.

RICHARD MURPHY: That's 22nd June 2000.

MICHAEL STEPHENS: June 2000, that's what I'm talking about now.

MAYNARD MCBURNEY: When did I -- when did I speak to her?

MICHAEL STEPHENS: You spoke to her on 20 June 2000.

MAYNARD MCBURNEY: And when did this thing with the Chief Constable come up?

MICHAEL STEPHENS: Well, it -- 22 June.

MAYNARD MCBURNEY: But that's days afterwards, two days afterwards.

MICHAEL STEPHENS: Yes. I just wanted to know when you spoke to the Chief Constable - before you went or after you went?

MAYNARD MCBURNEY: Oh, no, after I came back.

MICHAEL STEPHENS: After you came back, because you were talking about things with the DPP.

MAYNARD MCBURNEY: I didn't speak to them.

MICHAEL STEPHENS: That's why I stopped you then because you were talking about the DPP and the ICPC. I just wondered why --

RICHARD MURPHY: This is after He came back.

MAYNARD MCBURNEY: This is after I'd come back because then the whole question -- the whole question of Andrea McKee and whether or not she should be charged or not, was very complex, as far as I was concerned. Understand?

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: No one could do anything about that. What I remember, I seem to remember explaining to her, "Look," I said, because other people may not have the same view as me because I knew darn well that when people get involved, everyone has different views. Now, that is my view and that's it.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: I did not want -- and there were many reasons to say why I didn't want to go further than that. I didn't have to want to sit and talk to this woman after caution, take statements from her and then have to make a deal with her because at this stage I was getting to the stage where I knew you couldn't have got her there, you'd come to the end of the cause. So, I decided to duck it. That's the way I started out to

carry out this inquiry, that was my strategy and that's the way I was going to function.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: Okay? So, when I come back, and a couple of days afterwards, was it the 26th I saw the DPP?

MICHAEL STEPHENS: Well, I think we've got the date, and I'll go with those in a minute if you -- you said you saw them on two occasions when you came back?

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: And you saw the ICPC as well, when you came back?

MAYNARD MCBURNEY: That's right. They weren't involved in it. I thought that it was only common courtesy that they should know, having been involved initially.

MICHAEL STEPHENS: As far as that was concerned -- and I'm not pushing the Chief Constable for any other reason, just for continuity. Look you tell the Chief Constable, presumably, was that -- did you visit him or do you tell him by phone? It makes no difference but --

MAYNARD MCBURNEY: I think -- I don't know, I can't remember.

MICHAEL STEPHENS: I was just looking at the flow of that, because I just wanted to cover this issue about the ICPC who hadn't expressed an interest according to you about Atkinson previously, as being involved in the complaint then. Did the Chief Constable call them in then?

MAYNARD MCBURNEY: No. No, no there was no question of the Chief Constable calling in the ICPC or anybody else.

MICHAEL STEPHENS: To supervise it.

MAYNARD MCBURNEY: To supervise it. No, absolutely no question whatsoever about that. The only reason the ICPC were involved at that stage is because they were involved initially in the initial complaint.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: At this stage then, I felt that it was only common courtesy to advise them of this new knowledge that had come to light. Okay? And was ICPC -- was the ICPC at the first meeting with the DPP?

JOY HOPKINSON: I've got a note on file here of 26 June. Is that what we're talking about 2000, where you talk to them about Reserve Constable Atkinson.

MAYNARD MCBURNEY: Yes.

JOY HOPKINSON: And,

“A meeting, having been previously arranged, Mr [REDACTED] and Mr Greg Mullen from the ICPC, the Detective Superintendent McBurney, Detective Inspector Irwin called to consult with Mr Kitson with regard to the above person.”

MAYNARD MCBURNEY: Yes. Okay. Did I have a meeting with the DPP prior to that?

MICHAEL STEPHENS: I think you had a meeting prior to that.

MAYNARD MCBURNEY: Because it may well --

MICHAEL STEPHENS: That's the Chief Constable's note.

JOY HOPKINSON: That's the Chief Constable's note.

RICHARD MURPHY: I can't find any note of that.

MICHAEL STEPHENS: I'll just pause the tape a minute while we're thumbing through the pages. We've taken the opportunity while the recorder has been off just to have a look through the file notes of various meetings on 22 June and 26 June 2000. Now, the question I was going to ask you as far as that was concerned, Maynard was, regarding the Chief Constable, the Chief Constable had advised the DPP, it would appear, on 22 June. Did you brief the Chief Constable on your return from Wrexham?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And as a result of that, the DPP have become aware. And did you also arrange a meeting with the ICPC on 22 June?

MAYNARD MCBURNEY: That's correct.

MICHAEL STEPHENS: And the file note which has been recorded on page 14703, which was recorded by the ICPC, is a record of a meeting that you had at 10.00am on 22 June with Mr [REDACTED] and Mr Mullen at Gough Police Station?

MAYNARD MCBURNEY: That's correct.

MICHAEL STEPHENS: Where you outlined the fresh evidence presented by Andrea McKee?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And you also there discuss the issue of the officer's suspension being raised.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Or was that -- did they raise that with you? Which way around was that?

MAYNARD MCBURNEY: I think they raised that with me.

MICHAEL STEPHENS: Now, from there, you then confirm with them that in fact you were actually going to have a meeting with the DPP, and they attended that

meeting on 26 June within the offices of the DPP and that's  
page 14701.

MAYNARD MCBURNEY: Yes, just before you finish there, on 22 June, you can see other  
the issues to be followed up, with regard to the inquiry. On  
page 14703 is the confirmation from Sky Television, Naseem fight for  
clarification with Mr O'Hagan, who paid for the services rendered to  
Mr and Mrs McKee.

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: And issues such as that, that had to be followed through. There  
are quite a few issues in that there that were discussed on the 22nd.

MICHAEL STEPHENS: Now, the reason you went to the DPP was to advise them of the  
update; to get advice from them? What was it?

MAYNARD MCBURNEY: The reason I went to the DPP was simple, I wanted to confirm  
with the DPP that they would be happy with regard to Andrea McKee  
giving evidence on the fact that she'd made an after-caution  
statement and the fact that she'd made a witness statement.

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: I also went to them with the view of eliciting whether or not, or to  
what extent they would agree to me interviewing Michael McKee  
under the same conditions on his and the actual fact, in taking a  
witness statement from him. My view there was very simple: we

needed a statement from Michael McKee because to keep his ex-wife on track, we needed a statement from him, because he was still living with her. He was still living over here. The chances of him following up, we knew we could get a statement from her, but we knew we could a statement from her.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: We hadn't got it but he was that type, he would have known we'd have got a statement all right. He may not, or he may have been intimidated to such an extent that he would have withdrawn. But that gave us the open hand with regard to her, because he told her and said, "Look, both of these are going down he's not going to do this, that or the other. Are you happy enough staying?" And the psychological, logical thing is that, she might have stayed. You understand that she might have stayed on course.

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: And that's the sort of thing that went through our heads. Okay?

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: However, go to see Mr Kitson and Mr Kitson as you've seen there, he says, "Well, hmm, don't know." That's the sort of thing that would require some considerable discussion before we would contemplate that sort of action. Follow that up - forget about that for the time being. However, the other two, Mr [REDACTED] and Mullen thought that

following in that particular form, was a means of achieving the end  
and you know --

MICHAEL STEPHENS: They were supportive of what you were doing?

MAYNARD MCBURNEY: Yes, they were supportive of what I was doing.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: But the DPP, because of the legalities of the whole thing, was  
slightly iffy but he didn't tell me not to do it. He didn't tell me I should  
do it, or whatever.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: Now, I also told him on that date that circumstances were such  
that I believed that we should involve a full-time, as it were, Detective  
Chief Inspector to ensure that all the issues are tied up because prior  
to that it was piecemeal.

MICHAEL STEPHENS: So, as far as I was concerned, Michael Irwin was doing other things  
and you certainly were doing other things, I presume?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: At that particular time?

MAYNARD MCBURNEY: Yes. Yes, well you could put it like that but I also felt it was a better idea to introduce a new person.

MICHAEL STEPHENS: And this is where K comes into it?

MAYNARD MCBURNEY: This is where K comes into the frame.

MICHAEL STEPHENS: Okay.

JOY HOPKINSON: Sorry, this was something you felt would be a good idea. Did you and Mr Mullen, Mr Kitson and Mr [REDACTED], all discuss that and think it would be a good idea?

MAYNARD MCBURNEY: Bringing in the other?

JOY HOPKINSON: Bringing in the other.

MAYNARD MCBURNEY: They didn't say it one way or the other. I mean, it was just something that's up to you. I mean, you're the one, if you want to do that that's your prerogative.

MICHAEL STEPHENS: So, it was you decision and that's what you've said? You made the decision?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Right.

JOY HOPKINSON: Were you -- did you feel that you were left very much on your own to do -- make these decisions? Because you said you went to the DPP and asked them how did they feel about interviewing Andrea McKee. They were a bit iffy. Then you asked you asked them about.

MAYNARD MCBURNEY: No, no, no, you must remember that this -- that was my job, it was my responsibility to do these things. But you don't like -- how do you put it? You don't like to deliberately go out and flaunt yourself or your rationale in front of people like that. You have to give them their place as it's they who are going to deal with it in the end. I suppose it was common courtesy. It was also a means of me finding out, in a way, what they felt about my views; whether or not they'd agree to them; whether or not they would back me, and that sort of thing.

JOY HOPKINSON: Right.

MICHAEL STEPHENS: I want to just ask one question about Andrea McKee, as far as that was concerned. Did Andrea McKee tell you what Atkinson said to her when arranging the alibi? Did she know if he was aware of her role, from the conversations, at all? Did she feel safe in herself that he didn't know that she'd been involved in bringing Tracey Clarke forward? I know what you said earlier about that.

MAYNARD MCBURNEY: I truthfully can't answer that, but I think to look back, overall, you'd have to assume that he knew something about it. He may not have known her full involvement. In fact, I would not believe that she did know -- that he did know her full involvement. He knew that she accompanied Tracey, no Andrea. Tracey.

MICHAEL STEPHENS: No, you're right, Tracey.

MAYNARD MCBURNEY: Andrea accompanied Tracey.

MICHAEL STEPHENS: Yes, yes and Andrea accompanied Tracey to the police station and that she was there when her statement was made. But I wouldn't know that whether she actually told him or not, I wouldn't be entirely certain. But again, you see, you must look at it from my point of view: I don't believe that he did know.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: That's my honest opinion because if you look at it, reading the book, as it were, had he known, he wouldn't have made the alibi statement in the first instance and she did know and that's why she didn't appear in the first instance. And when you look at it, overall, I think you have to say no.

MICHAEL STEPHENS: All right. We -- as far as Raymond Kitson was concerned, and the notes he made of that, I think his note of the meeting was probably what you've just told us now. That he wished to discuss two issues: whether he was right to obtain the witness statement, rather than the caution statement.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And secondly, to seek advice on how to proceed against Michael McKee.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Which is what you have said, as far as that was concerned. And obviously, as far as that was concerned you didn't seek that advice before undertaking a trip to Wales because ...?

MAYNARD MCBURNEY: He wouldn't have given it to me. No, now that's not fair because he is a gentleman. I must say I have great regard for him and he does all in his power, or rather, he did all in his power any time I was with him, to be totally and completely fair. And there, essentially, he's just doing his job. He's doing a job that is his duty.

MICHAEL STEPHENS: Now, during the interview today you've given us a chronology of events as far as you're concerned, about how things have happened and why they've happened and where you've taken opportunity.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Now, it's been said that the flurry of activity in June 2000 was to allow the RUC to say that it was an on-going investigation: when calls were being made for the public inquiry.

MAYNARD MCBURNEY: Well, that's a load of nonsense.

MICHAEL STEPHENS: This is what's being said by others, as far as that's concerned.

MAYNARD MCBURNEY: If you have listened to what I've said and you take -- I hope it is indicative of what's happened on the file, or in the file, that is not the case.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: Because I tell you -- where was I? I've said many times here -- I've said many times here that patience is a very important issue. In essence, to achieve success, patience is the key. You may well be investigating the first, second, third, fourth murders with a view to successfully concluding the next. Consequently, you were always thinking ahead to be in a better position to pounce with more knowledge, speed, accuracy, to the next atrocity. In this regard I was familiar with what goes on in Gough with dedicated lawyers Crime which was up-dated, utilised whatever as and when necessary. Well the point I'm making is simple. You have to have patience, you have to build up. That is the way that I dealt with this case here. Because I could have jumped in at the very first instance and had the whole darn thing cleared - I don't mean the investigation cleared.

MICHAEL STEPHENS: No.

MAYNARD MCBURNEY: But it was successfully investigated as far as a -- as far as civilians were concerned. As far as you lot were concerned, possibly. But certainly as far as civilians were concerned I could have had it cleared - the whole thing mopped up. Not a thing, no evidence, end

of story. These people set them up, interviewed after caution, wrapped up, fine, end of story. No?

MICHAEL STEPHENS: No, I'm listening to what you're saying, yes.

MAYNARD MCBURNEY: Ten seconds and it would all have been over and done with. Why should I wait for that sort of period of time, if I didn't want to clear it, and yet I could have achieved this end product, within a matter of months. It doesn't make sense or stand the light of day.

RICHARD MURPHY: What you're saying is, at this stage, you could have concluded it within a very short time.

MAYNARD MCBURNEY: Yes, without any success, of course.

MICHAEL STEPHENS: Moving onto Mr K. You appointed him to be in charge of this one element of the investigation path, regarding Atkinson and how that was to be progressed [REDACTED]

MAYNARD MCBURNEY: Not at the outset---

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

MICHAEL STEPHENS: Yes. Right.

MAYNARD MCBURNEY: With the best will in the world, I have lived in that area a long, long time. I'd lived in it a long, long time under threat, and under very serious threat, from these gangsters. Now, I said to him, 'Look, I'll tell you what to do. You go and discuss this with -- that's right, sorry, because the ombudsman had taken over at that stage.

MICHAEL STEPHENS: Which is October/November time?

MAYNARD MCBURNEY: I don't know. Because I told him "look I'll tell you what to do, you go and take that to John Woods if you feel that you shouldn't be investigating it."

MICHAEL STEPHENS: Sorry, David Wood?

MAYNARD MCBURNEY: David Woods. But as far as I am concerned, it did not come into the frame with regards to the investigation. There is absolutely no reason why he couldn't carry out the investigation. He was a first-class detective.

MICHAEL STEPHENS:

[REDACTED]

MAYNARD MCBURNEY: Okay.

MICHAEL STEPHENS: Well, that's more or less what you're saying, isn't it?

MAYNARD MCBURNEY: [REDACTED]

MICHAEL STEPHENS: [REDACTED]

MAYNARD MCBURNEY:

[REDACTED]  
[REDACTED]

MICHAEL STEPHENS:

[REDACTED]  
[REDACTED]  
[REDACTED]

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: Okay. The one thing that K did was that he commenced a policy book once he started the inquiry and, as such, made extensive notes in his policy book. Did you agree with that policy book, in that instance?

MAYNARD MCBURNEY: As far as I was concerned, I hadn't been asked.

MICHAEL STEPHENS: Right. So, you didn't give him any instructions regarding --

MAYNARD MCBURNEY: Not with regard to the policy book. I never -- sometimes, on a daily basis, with regard to what was recorded. (several inaudible words) I think, for quite some time afterwards.

MICHAEL STEPHENS: And he was working in Armagh?

MAYNARD MCBURNEY: He was working in Armagh, yes.

MICHAEL STEPHENS: And, where you were based, anyway?

MAYNARD MCBURNEY: Where I was based, anyway. So I was in constant contact with him. Yes.

MICHAEL STEPHENS: Okay. So, his recording of this policy and policies, would have been after discussion with you at some stage, as how the thing was progressing?

MAYNARD MCBURNEY: I didn't say that. What I said was I was in constant contact with him with regard to what he was doing. I know Detective K - first class investigator and first class officer. For me to have sat down and listened to all that he was going to write down would have been the equivalent of me not coming home.

MICHAEL STEPHENS: Right. Okay, I've seen the policy files as far as that was concerned. I think some of those were actually disclosed to you anyway.

MAYNARD MCBURNEY: They were.

MICHAEL STEPHENS: And I don't want to go through those individual policy decisions, or anything of that nature.

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: But the one thing that Mr K -- you put it in one way, I'll put it another, his actual working style and everything else, he's certainly recorded everything in minute detail, as far as that's concerned, about the way he actually conducted it.

MAYNARD MCBURNEY: Meticulous. Is meticulous is the word?

MICHAEL STEPHENS: Meticulous (overspeaking).

MAYNARD MCBURNEY: No, he's -- that is, that I have no answer than that. You're quite right. And that's probably one of the reasons he was there - to make sure that that was done.

JOY HOPKINSON: Were you concerned about the fact that he recorded everything in his policy book? Because you'd said earlier, this is a very sensitive situation, you (overspeaking)

MAYNARD MCBURNEY: Not at this stage, at this stage the whole thing was clear - well, it wasn't clear, but not at this stage. I mean, there was absolutely no problem there, and I have no qualms whatsoever about him recording everything, at this stage. I mean, why should I?

JOY HOPKINSON: So you --

MAYNARD MCBURNEY: I mean, the whole investigation really was -- the crux had been covered -- we were in a stage in fact -- in fact, if I had had my own way, there would have been a very little time spent between the interview of Andrea McKee and her husband, because had they been with me, I would have known fairly quickly.

MICHAEL STEPHENS: What do you mean by that, not your own way, then?

MAYNARD MCBURNEY: Well, you see-- because my view was simple. My view was, we don't go out and arrest them you see. Do not go out and arrest. We bring them in, we put it to them, this, this and this; we want a witness statement off him. Okay?

MICHAEL STEPHENS: So, who are we talking about now?

MAYNARD MCBURNEY: I'm talking about Michael McKee.

MICHAEL STEPHENS: Okay, right.

MAYNARD MCBURNEY: I disagreed with arresting him because once you arrested him, the first thing he's going to ask for is a solicitor and the solicitor was going to come in and say, that's the end of it. You see that -- you know, but you understand that, and those are the facts. And that's what happens in this country.

RICHARD MURPHY: Whatever the reality was, it wasn't your call.

MAYNARD MCBURNEY: Well, the reality was that it wasn't not so much my call, because it could have been my call at that stage.

MICHAEL STEPHENS: Well, I was just saying, that's what (overspeaking) --

MAYNARD MCBURNEY: But I wasn't going to turn around at that stage -- you must remember now, here we are, we have the ICPC, we have the ombudsman, we have the DPP we have everyone possible held account to turn around and say oh, what are the police doing? Are they making a mess of this whole thing? I wasn't going to stick my neck out any more. I said, "Right, wait till I tell you (several inaudible words)".

MICHAEL STEPHENS: Okay, so the initial briefing to K was to investigate that aspect of it, and then the Ombudsman came in October/ November 2000?

MAYNARD MCBURNEY: Yes. And they took over.

MICHAEL STEPHENS: Right. Now, prior to that, about 11 October -- well, 11 October, do you remember having a meeting with Barra McGrory, the solicitor?

MAYNARD MCBURNEY: Yes, yes.

MICHAEL STEPHENS: And at -- was Michael Irwin with you, or was it ...?

MAYNARD MCBURNEY: No, it was K.

MICHAEL STEPHENS: K, fine. Now, had you met with him previously at all?

MAYNARD MCBURNEY: Who, McGrory?

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: No. That was under direction from the Chief Constable.

MICHAEL STEPHENS: Right. So, the Chief, I think, had had a meeting with him, anyway,  
hadn't he?

MAYNARD MCBURNEY: He did, yes.

MAYNARD MCBURNEY: Chief met him at about 8 o'clock in the morning.

MICHAEL STEPHENS: And as a result of that, the Chief said, I'll get you to see the SIO?

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: And you had a meeting with him and discussed it -- what, what did  
you discuss? Was it just the outline of the case, or -- obviously you  
can't remember the details --

MAYNARD MCBURNEY: No, no. Wait a minute I didn't say that. Yes, I discussed with  
Mr McGrory the investigation, with particular regard to the witness  
from Wales, and explained to him that while we were discussing it  
with him, it was obviously -- we didn't want particularly to talk about it,  
because there were other inquiries to be completed. But it now  
looked as if we would achieve some form of success, or there was a

possibility of achieving some sort of success, and that was that. A general discussion and he says, "Look," he says, I do not want you or your colleagues to be making contact with the Hamill family". That I am their -- yes, that I am now representing them, and I would prefer it if all documentation, all advice or discussion, comes through me.'

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: Now, I don't know if that's what he says, but that's what --

MICHAEL STEPHENS: We've got -- there is a record of it there, as far as that -- have you got it? Page --

RICHARD MURPHY: Yes, I have it, yes. I have it here. Effectively, he said he wanted to be the conduit of -- for any contacts with the Hamill family.

MICHAEL STEPHENS: Did you share that -- you said about the witness in Wales. Did you let him read the statement, or did you go through the statement with him, about exactly what was being said?

MAYNARD MCBURNEY: I can't remember.

MICHAEL STEPHENS: I don't know if it's in your note there. I can't -- from the top of my head, I can't remember. The only part of that meeting note refers to a letter sent by Andrea to Michael McKee, threatening to expose him.

MAYNARD MCBURNEY: Yes, that's right.

MICHAEL STEPHENS: Now I just wondered what can you remember about that?

MAYNARD MCBURNEY: Yes. Yes. Let me just think about that for a second. Yes.

Andrea McKee sent a letter to her husband -- in fact, it didn't do us much good but that's beside the point -- sent a letter to her husband, making allegations that he had been involved with some sort of -- that if he didn't do this, that or the other, then she would blow the gaff on him. That was it.

MICHAEL STEPHENS: How did that come into your knowledge? Did Michael McKee come to you with that?

MAYNARD MCBURNEY: I don't know how we got it. But I know that I knew about it.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: How it came into my possession or how it came into police possession, I don't know.

MICHAEL STEPHENS: Andrea McKee was looking to get a divorce, wasn't she?

MAYNARD MCBURNEY: She was.

MICHAEL STEPHENS: So, she was actually threatening --

MAYNARD MCBURNEY: I don't think her letter was with regard to the divorce.

MICHAEL STEPHENS: And she was threatening to send a letter to Michael Irwin about Michael McKee handling stolen goods.

MAYNARD MCBURNEY: That's right. That's right.

MICHAEL STEPHENS: Now I'm just wondering when you got into that information? Did it come from Michael McKee himself, or was it later that you had that information? Well it couldn't have been, because it's October 2000; he hadn't been dealt with then, had he?

MAYNARD MCBURNEY: I can't remember.

RICHARD MURPHY: The note from -- Mr McGrory's note; I think that's Mr McGrory's note.

MICHAEL STEPHENS: Yes, it is.

RICHARD MURPHY: It says that he -- it relates to Michael McKee and it says,

“He had recently attended with them [that's the police] and had given them a letter received from his estranged wife, now resident in Wales, demanding that he consent to a divorce by a certain date, otherwise she would inform the police of his involvement in the handling of some stolen goods at the time when they were together. This here is apparently a reference to an alternative police investigation involving stolen goods, in respect of which Mr McKee was a suspect.”

MICHAEL STEPHENS: That same page, which is 40881. Before that was,

“Mr McBurney then advised that he had further difficulty with Mrs McKee's credibility.”

Was that an issue?

MAYNARD MCBURNEY: Again, you didn't have to be a genius to figure out that. I've been with that one from A to Z, and you can see what's happened; that her credibility in the long run would come into the frame. That was not my problem. My problem was to present the case and present the evidence. It was up to the judge, in my opinion, at some future stage to say, "Look, we can't believe this woman, or we're going to believe her or we're not going to. "That was the way I looked at it.

MICHAEL STEPHENS: Okay. The ICPC were replaced by the police ombudsman and they started rolling in from October into November 2000. Did you meet with the investigating officer appointed by the ombudsman, Mr Mahaffey?

MAYNARD MCBURNEY: Yes, I did.

MICHAEL STEPHENS: And certainly as far as that's concerned, did you have regular meetings with him, or was that regular meetings with K and Mahaffey?

MAYNARD MCBURNEY: No, my regular meetings were with K. But that was, I think, before -- no, the regular meetings were with K, because after the ombudsman took over, I was not on the inquiry very long, after that.

MICHAEL STEPHENS: Now, the one thing I've -- when the ombudsman took over, there was an arrest strategy for progressing the investigation, which was put forward by K to the ombudsman. Had he discussed that with you: how to go forward?

MAYNARD MCBURNEY: I really disagreed with that strategy.

MICHAEL STEPHENS: Well, I --

MAYNARD MCBURNEY: I explained, not necessarily there, but immediately afterwards.

Immediately afterwards, I spoke to the ombudsman, on his own.

RICHARD MURPHY: Mr Mahaffey?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: What, you spoke to him?

MAYNARD MCBURNEY: I said to him, "Look", I said "As far as I'm concerned, there will be no big time operations over here. I've had patience with this case for a long, long time and from my point of view, I was having success". And I said, "Not in my time will I agree to this kind of action". I may also have said that to pursue that course you'll blow the whole thing out of the water.

MICHAEL STEPHENS: Are you talking about Michael McKee or the arrests, including Atkinson?

MAYNARD MCBURNEY: No, I was talking about the arrest of Michael McKee.

MICHAEL STEPHENS: Right. What about the arrest of Atkinson, then? Because that was then put back to you -- or put back to K at some stage, asking for the strategy to include Atkinson to be arrested.

MAYNARD MCBURNEY: I can't remember about that aspect of it. Atkinson to be arrested, again, I –

RICHARD MURPHY: Was that when Mr McBurney was still --

MICHAEL STEPHENS: Yes. It's about the beginning of December, 12 December.

RICHARD MURPHY: 12 December?

MICHAEL STEPHENS: 13 December.

MAYNARD MCBURNEY: Pardon?

MICHAEL STEPHENS: 13 December.

MAYNARD MCBURNEY: And this was discussed on the 12th?

MICHAEL STEPHENS: On the 12th.

MAYNARD MCBURNEY: Of December?

MICHAEL STEPHENS: Yes.

RICHARD MURPHY: I think the last --

MICHAEL STEPHENS: Certainly, as far as that's -- K made a report on 12 December; it's page 2902.

RICHARD MURPHY: Yes, that's of a meeting that took place where Mr McBurney was present during part of it and then left.

MICHAEL STEPHENS: That's right.

MAYNARD MCBURNEY: I did not subscribe to that course of action.

MICHAEL STEPHENS: Did Atkinson feature?

MAYNARD MCBURNEY: I don't know. I can't remember, because I wasn't (overspeaking).

MICHAEL STEPHENS: Yes, you're being specific about Michael McKee. Your view about Michael McKee is, we deal with him, bring him in, not under arrest, interview him and get a witness statement off him.

MAYNARD MCBURNEY: That's right. And then, what's the problem with interviewing him, what's the point in arresting the whole kit and caboodle because you have your evidence there?

MICHAEL STEPHENS: You've then got two witness statements.

MAYNARD MCBURNEY: Is that right?

MICHAEL STEPHENS: Is that what you're -- that's what you're saying?

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: Now, as far as that issue is concerned, you've already said to us about playing the long game, having a strategy and everything else. The one issue that we've looked at, obviously, is the fact that starting with just one offender, i.e. Atkinson, allegedly assisting an offender. It then moved subsequently into a large conspiracy with about seven people.

MAYNARD MCBURNEY: Yes, I know.

MICHAEL STEPHENS: The only reason -- the only question I ask about that was: did you think that by not acting initially, then your actions allowed this conspiracy to develop?

MAYNARD MCBURNEY: You had to have that. That had to be the idea. Because initially, there was only Atkinson involved, together with the phone call.

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: And in consequence of our interviews there it elaborated.

MICHAEL STEPHENS: (overspeaking)

MAYNARD MCBURNEY: The group involving the McKees. Right? So, the longer it went, it did, I suppose, snowball, but that really, had very little bearing on it, in the end.

MICHAEL STEPHENS: Well then, you've gone through on some occasions now why you allowed it to go on, as far as that was concerned. And that was because you were looking for evidence to support the allegation of witness A? What she was saying?

MAYNARD MCBURNEY: No. No. Witness A didn't come into the frame at all, really. I mean, she approached -- what could she -- how could she help us? The only reason we wanted those two there, the two McKees, was to prove the case against --

MICHAEL STEPHENS: Robbie Atkinson?

MAYNARD MCBURNEY: Aye.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: I mean, why should we -- okay, sorry. Andrea McKee, I mean, what had she got to do with it, really? And Tracey Clarke, what had she got to do with it? She was of no further use to us with regard to the crime against Atkinson. I mean, what was her evidence?

MICHAEL STEPHENS: What you had been told about Hanvey, and that's it, presumably. That's what -- that's the evidence wasn't it?

MAYNARD MCBURNEY: Yes well, there is no evidence there, really. You had to have, from the very outset, you had to have someone to prove the actual conspiracy, call it what you like. You needed someone to orally--

open their mouth and say, "Look, this happened, that happened, the other happened". And then prove those facts and circumstances

MICHAEL STEPHENS: Okay. Before I move on somewhere else, do you want to --  
anything you want --

JOY HOPKINSON: At the end of the day, it's just the McKees who were prosecuted.  
How did you feel about that outcome?

MAYNARD MCBURNEY: Okay.

MICHAEL STEPHENS: Well, I know you'd finished by this stage, hadn't you?

MAYNARD MCBURNEY: Yes. But here you have a woman that they attempt to use as a witness, and you go to her and you make a deal with her, because you have to make a deal with her. A deal with her about giving evidence to get Atkinson prosecuted. You can't have your cake and eat it. And then, to turn around and go to the husband and take a statement off him. The mere fact that he admitted it isn't indicative of the fact that he would have made a witness statement.

Notwithstanding that, they seem to have thrown the teddy the corner, as it were, and said, "Okay, my boy, you're going to do this or that, or give evidence-- we're prosecuting you and you're going to go to court; and we're going to make a deal with the court that you end up with two years suspended, or two years in prison". Now, where's the honour or sense in that?

RICHARD MURPHY: And I'm not sure we should go too much further down that road, because by that stage Mr McBurney is gone and --

JOY HOPKINSON: I do appreciate Mr McBurney wasn't in control of the investigation, but having been involved for a number of years, it was just us asking for his opinion, after all (overspeaking) --

RICHARD MURPHY: I don't mind you bringing it up if you are clear. But really, he's being asked at this stage to comment on circumstances where he was removed from the inquiry and by that stage, basically he's commenting on -- he doesn't really know the factors which --

MAYNARD MCBURNEY: Point taken. But, I can read the papers. And I read the papers in Portadown, and I saw the headlines from A to Z, about police putting a bug in a man's home, and the man going into the home, searching, finding it, giving it to the press. Now, those are the sort of actions that, had I been there, that again I would have had diffs' with. Because there's nobody in their right mind would have gone to a house in an area such as that there, during a search, call it what you like, and put in a bug. Neighbours, everybody, totally parochial area, the sort of thing that any -- certainly, I would suggest to you that it wasn't -- it certainly wasn't the detective chief that put that bug in there, because I doubt if he'd have agreed to it.

RICHARD MURPHY: Mr McBurney is giving us a very important disposition on his opinion on various matters relating to your investigations, but really, I think we've gone far enough to --

MAYNARD MCBURNEY: But that's not the point. The point I'm making is simple. Here I am showing patience, with a view to successfully clearing a crime and you have others coming in and saying, "You're talking crap--you know, you're -- (inaudible)".

RICHARD MURPHY: Thankfully, in this inquiry most people may well come to be asked that question --

MAYNARD MCBURNEY: I'm sorry for being strong--

JOY HOPKINSON: No, thank you for your opinion. That was essentially my question. You'd been involved in the process, this was the outcome; did you have a view? And you've given the answer, so ...

MAYNARD MCBURNEY: Very good (overspeaking)

MICHAEL STEPHENS: I think as far as Mr Murphy's concerned, he's covered the area and we'll leave that bit, as far as that's concerned. I said to you just now, I just want to move on to Timothy Jameson. We talked about Jameson before, and it's only a couple of questions regarding him, because during your interview with the ombudsman's officers, they asked you about Timothy Jameson and what Reserve Constables **G** and McCaw had told you. And this is specifically about the two officers saying that they told you, and they told Miss **P39**, about Jameson being involved in putting the boot in.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: The question is simple. Did you ever have that conversation; did they ever say that to you?

MAYNARD MCBURNEY: No. As I explained before in those papers, Jameson was introduced to me by the Detective Inspector. He stood in the doorway; he was not in the office.

RICHARD MURPHY: I don't think that's Jameson

MAYNARD MCBURNEY: McCaw, sorry, McCaw stood in the doorway. I cannot recall seeing another constable there. I'm not saying he wasn't there.

RICHARD MURPHY: Sorry, I beg your pardon. Was it McCaw or G who stood in the doorway?

JOY HOPKINSON: I believe it was --

MICHAEL STEPHENS: McCaw.

JOY HOPKINSON: -- McCaw who stood in the doorway and (overspeaking) G was elsewhere.

MAYNARD MCBURNEY: Because as soon as the Detective Inspector named him -- as soon as Detective Inspector named him, I associated him with Andrea McKee and Tracey Clarke.

MICHAEL STEPHENS: Yes. Okay. Now, as far as that was concerned, we've gone through the other allegations. I know that speaking to P39, her

recollection of her office at that time was a small office on a corridor, where there wasn't hardly any room for anybody to get in - besides anybody else. So with that in mind, G could have been in the corridor, or was he in your view or anything of that nature?

MAYNARD MCBURNEY: Sorry, I'm looking round and trying to indicate to you exactly how things were. And if that's the door there --

MICHAEL STEPHENS: The door into this room?

MAYNARD MCBURNEY: -- which is the door into this room. It's a very small area, right, and the door pushes open and I'm sitting on a chair here, by the door. And the door is opening this way here. Right?

RICHARD MURPHY: You're directly behind the door?

MAYNARD MCBURNEY: I'm directly behind the door. And she's sitting back here.

MICHAEL STEPHENS: What, facing the door?

MAYNARD MCBURNEY: Yes, facing the door.

RICHARD MURPHY: But the door's still opening?

MAYNARD MCBURNEY: Yes. Now, I sat there; I saw -- in fact, that's probably why the constable didn't come into the room, it was probably the fact there wasn't room for him, because of the desk and that. In fact, it wouldn't be big enough now that I think about it. Now, I'm not saying the other

constable wasn't there, I'm just saying I did not see him - fact. I can't -- I don't -- I can't --

MICHAEL STEPHENS: The issue for me is, if these officers, some four years later, make -- are saying that we told the DCI and the Detective Chief Superintendent, why didn't they tell you at the time?

MAYNARD MCBURNEY: Wait till I tell you -- and I ask you, what I think I asked them last time. Why hadn't they said anything before that? I mean, they didn't make a statement until -- I remember one produced to me away back in -- shortly before I retired. Is that right?

MICHAEL STEPHENS: It's certainly 2000-2001.

MAYNARD MCBURNEY: All right. So, ask yourselves any amount of questions. What precipitated that? What caused it?

RICHARD MURPHY: We don't want to get into too many issues, because Mike is putting to you the specific query about whether or not you were told and we don't want to go overboard.

MAYNARD MCBURNEY: I wasn't.

RICHARD MURPHY: Well, we don't want to go overboard about the Jameson statement, because all it amounts to is an allegation or a suggestion that he put the boot in, without us knowing who he put the boot into, or whether it was the people on the ground, or what it was. What Mike is putting to you is did you -- were you told --

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: No, okay. The only other area for me was in particular about Reserve Constable McCaw. Did you know the circumstances as to why that particular officer went off duty at any stage, on long-term illness?

MAYNARD MCBURNEY: Yes, I knew that. I don't know if I knew then, or afterwards, or before that. It must have been after that, was it? That he was struck by -- he was struck by --

RICHARD MURPHY: Maybe it would be better if you didn't say by whom he was struck, but he was struck by one of his charges. I think he was --

MICHAEL STEPHENS: I think it's a matter of public record, isn't it?

RICHARD MURPHY: Well, I'm not aware of that. I have to say --

MICHAEL STEPHENS: It certainly is (overspeaking) -- certainly the man was convicted, as far as that was concerned, of common assault.

RICHARD MURPHY: I didn't know that.

MICHAEL STEPHENS: So, as far as that was concerned, you can --

MAYNARD MCBURNEY: Okay. Jameson.

MICHAEL STEPHENS: The father?

MAYNARD MCBURNEY: The father.

MICHAEL STEPHENS: The man he was guarding?

MAYNARD MCBURNEY: The man he was guarding.

MICHAEL STEPHENS: And the only reason I'm asking this question was there at any stage that McCaw -- did Timothy Jameson know where the information came from which actually brought him into the police station in the first place? I'm just trying -- I know that McCaw was assaulted by Bobby Jameson at some stage, a long time after this event. But there's no retribution or anything in that, on McCaw, because of him giving the evidence, the information --

MAYNARD MCBURNEY: I don't know. I don't know.

MICHAEL STEPHENS: All right.

RICHARD MURPHY: Reserve Constable McCaw's health just seems to have collapsed after the assault situation.

MICHAEL STEPHENS: I'm trying to remember when it was. Was it in 1998 or 1999?

RICHARD MURPHY: Can't remember. There was some correspondence with the inquiry recently about the whole matter of when the information about -- when the fact that Reserve Constable McCaw had brought the

information in, and I think that that was disclosed to Timothy Jameson and his solicitors at some later stage.

MICHAEL STEPHENS: 2002, when he was interviewed.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: But it wasn't, as far as you're aware, knowledge in the -- within the Jameson family?

MAYNARD MCBURNEY: I don't know. I honestly -- I don't know.

MICHAEL STEPHENS: We talked just now about the fact that you were replaced as the SIO, and the date I have is 13 December, following representations by the ombudsman and Mr Wood --

MAYNARD MCBURNEY: That's right. Yes.

MICHAEL STEPHENS: -- about the handling of Andrea McKee and Timothy Jameson --

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Now, was that -- you were replaced by the chief, or ...?

MAYNARD MCBURNEY: No, I was replaced by -- first of all, I was told it was going to be -- it might have been -- What do you call the chief, then? Was it the chief superintendent, or

MICHAEL STEPHENS: No, sorry. Did the Chief Constable make that decision, that's what I was asking, to replace you?

MAYNARD MCBURNEY: He must have done.

MICHAEL STEPHENS: Right.

RICHARD MURPHY: Nobody else could have made it because--- it was Colville Stewart

MAYNARD MCBURNEY: No it wasn't. The boy that was named was the Derry man, [REDACTED]. The Chief Constable - or it came from the Chief Constable's office, that [REDACTED] would replace me. But then, afterwards, whatever happened, it was Colville Stewart that replaced me.

MICHAEL STEPHENS: Right. So Colville Stewart came in before Christmas and certainly in January 2001, he reported to the Chief Constable. And in his report, he highlighted failings in the initial management of the scene and the incident and initial investigation. Now, I've already asked you the question, did you think that there were any problems as far as you were concerned?

MAYNARD MCBURNEY: No, you would have to give me an opportunity to answer that, not necessarily for myself, but certainly -- well for myself as well and those involved. What complaints were made, or what allegations did he say that were not completed?

MICHAEL STEPHENS: As a result of -- he made a report, which he expressed concern about the actual failings of the officers at the scene, on the first

(overspeaking) -- the officers in the way they preserved the scene and the way they gathered the evidence.

MAYNARD MCBURNEY: Is this uniform officers?

MICHAEL STEPHENS: Uniform officers who were there, and the debriefing, and lack of debriefing of those officers.

MAYNARD MCBURNEY: In the station?

MICHAEL STEPHENS: And when they went off -- before they went off duty.

MAYNARD MCBURNEY: Right. You have CID coming in, you have SOCO going to the scene, number one—let's deal with--

RICHARD MURPHY: Sorry, I hate to interrupt you, but Mr McBurney is being asked to comment on a report that he hasn't seen.

MICHAEL STEPHENS: Right, I will rephrase the question, as far as that's concerned. Do you believe that your murder investigation was hampered by any poor initial response by the officers attending the scene?

MAYNARD MCBURNEY: No. No. And I've given you many reasons for that.

MICHAEL STEPHENS: Right. And I know Mr Murphy will come in again on this point; Inspector McCrum and Constable A were later admonished following an internal investigation which was done by Chief Superintendent Kennedy.

RICHARD MURPHY: Was that for the (inaudible)?

MICHAEL STEPHENS: And that was regarding debriefing and issues regarding that, and record keeping.

RICHARD MURPHY: I'll let you ask the question but, I mean, the ombudsman's report on that in the papers disclosed to us, suggested Inspector McCrum, Superintendent McCrum as he is now, refused to accept the admonishment.

MICHAEL STEPHENS: I understand what you're going to say about that, but I just wondered if in fact you had a view, whether issues there concerned you at all, from the evidence that you had of that particular time?

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: Now, before I get to the last couple of questions here, are there any areas you wish to cover before we go any further, Joy?

JOY HOPKINSON: No. No, I'm fine thank you.

MICHAEL STEPHENS: Okay. Now, as far as that's concerned, the public inquiry obviously has to examine the professionalism of the murder investigation; that's what I said to you from the outset, as the terms of reference, and our reading of the thing, as far as that's concerned - and also the investigation into Robert Atkinson. Now, an independent person may pose the question as to the investigation into Atkinson; was it

competent, was it incompetent, was there an intention to protect Robert Atkinson? Now, can you assist the inquiry, as the SIO on that investigation, as to its competency and bias? Was there any bias, in favour of Robert Atkinson?

RICHARD MURPHY: Just before we get onto this, can you switch that tape off?

MICHAEL STEPHENS: You've had the opportunity to discuss with your legal adviser. The question I asked you as far as that was concerned, it is regarding the competency of the investigation. So, as far as that's concerned, was there an intention to protect Robbie Atkinson? Was there -- are you happy with the investigation as to its competency, and any bias that may have been shown in this investigation?

MAYNARD MCBURNEY: I can assure you that from my point of view, there was absolutely no bias. From the very outset, I did all in my power, strategically and physically, for to bring this -- these crimes to a logical conclusion. And I did it in a determined way, with a degree of patience. And I suppose, from that point of view, there's not a great deal more I can say.

MICHAEL STEPHENS: And as far as the three parts of to the investigation were concerned: the murder, the complaint and Robbie Atkinson, was the murder given priority?

MAYNARD MCBURNEY: The murder was given priority.

MICHAEL STEPHENS: And as far as that's concerned, one thing did not consume the other, as far as that was concerned?

MAYNARD MCBURNEY: Absolutely not.

MICHAEL STEPHENS: And certainly in hindsight -- we don't want to go down too many hindsight routes, but do you believe that if you had successfully investigated Atkinson, then that would have assisted in any way in the prosecution of Harvey, for murder?

MAYNARD MCBURNEY: I have no doubt about it.

RICHARD MURPHY: Sorry, ask him that question again?

MICHAEL STEPHENS: In hindsight, do you believe that if you successfully investigated Atkinson, this would have assisted in the prosecution of Harvey? Or were the two things in isolation?

MAYNARD MCBURNEY: The two things were in isolation.

MICHAEL STEPHENS: Okay. Now, as far as that's concerned, are there any other matters which we've covered which you wish to draw to the attention of the public inquiry, and your learned solicitor has already said that you -- obviously, you've actually encapsulated in the last few sentences your views as far as competency and bias are concerned. Is there anything else that we've gone through today that you wish to say and get out in the open at this particular stage?

MAYNARD MCBURNEY: I don't think so.

MICHAEL STEPHENS: Joy-- do you want to cover any of those issues?

RICHARD MURPHY: I think that's -- I'm happy with that.

JOY HOPKINSON: No, that's the end of it.

MICHAEL STEPHENS: All right. With that in mind, I'll stop the recording. Thank you very  
much.

