

Event: Robert Hamill Inquiry
Date: 8 January 2007
Interviewer: Michael Stephens
Interviewee: Maynard McBurney
Also Present: [REDACTED], [REDACTED] Solicitors

MICHAEL STEPHENS: This is an interview being conducted at [REDACTED] Solicitors in Belfast and it's an interview of Mr Maynard McBurney on 8 January 2007. I am Michael Stephens on behalf of the Robert Hamill Inquiry and this Inquiry is being conducted under the identical circumstances as to an interview conducted with yourself, Mr McBurney, in May 2006. Are you happy to let this interview to continue under those circumstances?

MAYNARD MCBURNEY: I am, yes.

MICHAEL STEPHENS: It is an interview not under caution but the DPP has given this undertaking and which has been previously read out. Are you happy with that?

[REDACTED]: Yes. And I should say for the record that Mr [REDACTED] is accompanied by [REDACTED] of [REDACTED] Solicitors.

MICHAEL STEPHENS: Thank you very much. Well, if you'll both have that in mind then I would like to ask you some questions which arose out of your interview with the Hamill Inquiry on 4 May 2006 regarding your meetings with the DPP and your report to the DPP regarding the complaint against police. On 12 May and 13 May you met with the DPP. You previously explained that the initial meeting was a normal occurrence to brief the DPP on the case following charges being made against the six offenders. Would the DPP have been provided with any papers at that particular stage?

MAYNARD MCBURNEY: I cannot remember.

MICHAEL STEPHENS: Look, we provided you with a note which is page 31613, which is headed up for the deputy director and is a file note from the DPP's office with the deputy director's insignia on it --

██████████: Just on that point there, and it's something that Mr McBurney and I have discussed in the meantime, that neither of us can remember definitively who the deputy director was back then. We think it was Mr ██████████ and that Mr Junkin came afterwards.

MAYNARD MCBURNEY: I'm almost certain that it was ██████████ and Mr Junkin possibly at that stage had been advised that he was replacing Mr ██████████ as deputy director.

MICHAEL STEPHENS: If you look at the second page, it's PP'd by ██████████.

MAYNARD MCBURNEY: ██████████, yeah.

MICHAEL STEPHENS: And it's copied to Mr Junkin.

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: That should indicate that he may well have been there.

MAYNARD MCBURNEY: Well, if he was at -- yeah. During that time, yeah.

MICHAEL STEPHENS: ██████████ being ...?

[REDACTED]: I think a secretary within the -- one of the -- one of the senior secretaries; secretary to the director or the deputy director. And just on the procedural aspects of the question you've asked Mr McBurney, I take it, Mr McBurney, one of the considerations that would have been discussed in the course of those meetings is the whole question of bail? Am I right in saying --

MAYNARD MCBURNEY: Yes, bail was discussed too. Yeah. But off the top of my head, to the best of my knowledge, bail had been -- was -- wasn't a consideration, totally --

[REDACTED]: I ask that for this reason: that in a normal course of affairs procedurally bail would have been dealt with and handled in court by the DPP and for that reason is it not probable that some preliminary advice at least would have been submitted to the DPP before you went for ... I mean, I know you can't say as --

MAYNARD MCBURNEY: That may well have been; I don't know.

MICHAEL STEPHENS: As far as the note -- file note's concerned, is it a fair -- is it a fair assessment on what took place?

MAYNARD MCBURNEY: It's a fair assessment of what took place. Yeah.

MICHAEL STEPHENS: Okay. Now on 13 May, you had a meeting -- which is the following day, you had a meeting with Mr Kitson and Mr Junkin?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: And as far as that's concerned, can you recall what you briefed Mr Kitson about in relation to Atkinson? Now I see you're looking at page 31603 which is a handwritten note, I believe by Mr Kitson.

MAYNARD MCBURNEY: I would be happy enough to accept what he has said there.

MICHAEL STEPHENS: Well, if you look at the page 31603, he's put down, "McBurney, P39, [REDACTED]", who I presume is Detective Superintendent [REDACTED]?

MAYNARD MCBURNEY: That's correct.

MICHAEL STEPHENS: Junkin and himself.

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: "Meeting at 4.00pm on 13 May". And the issues, he's put, "(1) medical evidence, (2) evidence and extent of it", and he's bulleted that: the availability; I presume that's intelligence, and the reliability.

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: Bail is an issue here, Mr [REDACTED], on this particular meeting.

[REDACTED]: Yeah.

MICHAEL STEPHENS: And 4.3 is Reserve Constable Atkinson. Now you're referring to your notebook?

MAYNARD MCBURNEY: I'm referring to my notebook, yeah. And my notebook states,

"Belfast log courts meeting, DPP, Mr Junkin, etc. Full disclosure made. Background to (a) incident itself, (b) Hamill's death, (c) post-mortem, (d) pathologist re. interview professor -- [well, it doesn't say Professor Crane(?) but that's what it is] and endeavour to ascertain cause of death. See bail; (f) background of witnesses' reliability, staying the course, intimidation and allegations; 4.00pm to 5.00pm. Interview Professor Crane".

MICHAEL STEPHENS: You paused over when you said "allegations"; the allegations is in regard to what?

[REDACTED]: That -- those allegations ... the allegations, I think, are the allegations against the police. I don't know.

MICHAEL STEPHENS: Against the police as opposed to allegations against Atkinson?

[REDACTED]: Yes, I think so. Yeah.

MICHAEL STEPHENS: All right.

[REDACTED]: And I notice that that hasn't been highlighted in yellow or with little highlighters; is there a reason for that?

MAYNARD MCBURNEY: No, probably just done (overspeaking)

MICHAEL STEPHENS: Well, look at the whole page. There's one there.

[REDACTED]: Yeah. Okay.

MICHAEL STEPHENS: I would -- from the -- sorry, we're looking at the notebook of
Mr McBurney, and the whole page is going to be photocopied.

MAYNARD MCBURNEY: Yeah. Okay. Very good.

MICHAEL STEPHENS: Okay. Now, we referred to Atkinson, and as far as Atkinson, can
you recall what you briefed Mr Kitson about Atkinson; what the
allegations were against him?

MAYNARD MCBURNEY: I cannot honestly say. Is it included in these notes?

MICHAEL STEPHENS: Well, in the -- in the note there at page 31608, if you look at --

MAYNARD MCBURNEY: Yeah, I've got it here.

MICHAEL STEPHENS: You've got that one there, have you?

MAYNARD MCBURNEY: For Atkinson.

MICHAEL STEPHENS: And Kitson's written, "Atkinson subject to further investigation".

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: What did that mean?

MAYNARD MCBURNEY: I cannot tell you specifically but quite obviously I'd, I think, told Mr Kitson very briefly of what had transpired with regard to Atkinson. That was an allegation that he had said something.

MICHAEL STEPHENS: Right. Did you at that stage tell him that Andrea McKee had been the source of the information initially?

MAYNARD MCBURNEY: Does it say in these notes about that?

MICHAEL STEPHENS: No, it -- no, it doesn't.

██████████: I think the note is very cryptic relating to Atkinson.

MICHAEL STEPHENS: It is and that's why I'm asking the question more than anything else.

MAYNARD MCBURNEY: I have a feeling -- I have a feeling that it probably would have and I mean --

MICHAEL STEPHENS: You would have?

MAYNARD MCBURNEY: I think I would but that's a -- that's a more natural thing to do to convey that to him.

MICHAEL STEPHENS: Maybe look at the note 31603. Have you got the page number?

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: All right. Which refer -- Mr Kitson has written, "Have told police".

MAYNARD MCBURNEY: Okay.

MICHAEL STEPHENS: 31603.

(35 seconds of silence)

Sorry, it's page number 31607, under -- if you look at that. So it's 31607.

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: And he has written -- Kitson has written, "Have told police". So there's some suggestion there that you -- that obviously you told him where that information came from?

MAYNARD MCBURNEY: Yeah, I have a feeling I probably would have.

██████████: Have to keep your voice up.

MAYNARD MCBURNEY: I have a feeling I probably would have but at this stage I cannot specifically say "yes" or "no".

MICHAEL STEPHENS: Right. Did you explain to the DPP at that stage what your strategy was regarding Atkinson, because if -- they've recorded, "Subject to further investigation"?

MAYNARD MCBURNEY: I wouldn't have thought I did. Pretty easy to say that I did but I can't say that I would have.

MICHAEL STEPHENS: Right. Okay. And as regards why Atkinson wasn't involved in the murder investigation, would you have said to them --

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: You wouldn't have said that to the DPP?

MAYNARD MCBURNEY: No, I don't think so. I don't -- I have to refer to -- I can't say that I would have. I don't know.

MICHAEL STEPHENS: Okay. Now, moving on to your report which is submitted on 22 December.

██████████: I think it's the last date there or the last few pages.

MICHAEL STEPHENS: Yeah. Pages 60551 and 60552.

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: You include in that report reference to the allegation against Robert Atkinson.

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: And the questions is, why did you not include a reference to Andrea McKee giving information about Atkinson and that she'd been present with a Tracey Clarke and had made her statement -- when she made her statement, which outlined the allegation? And that Michael McKee had driven Tracey to the police station to make her statement?

MAYNARD MCBURNEY: I thought Michael Irwin did that.

██████████: Michael McKee.

MAYNARD MCBURNEY: Michael McKee. Yeah, had driven ...

MICHAEL STEPHENS: No, what I'm saying is, in the -- in your report you made no -- made no reference to Andrea being --

MAYNARD MCBURNEY: Being back?

MICHAEL STEPHENS: -- being the source of the information or taking Tracey to the police station?

██████████: Let me make one point there because you referred to it -- it's been referred to on a previous occasion.

MICHAEL STEPHENS: I'm just going to shut the window now. Just put the lights on.

MAYNARD MCBURNEY: Okay. Andrea McKee was brought to the police station by her husband, Michael, right?

MICHAEL STEPHENS: Yeah.

MAYNARD MCBURNEY: But he did not know that his wife had blown the gaff initially on the whole set-up and never knew --

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: -- to the best of my ability -- to the best of my knowledge that that's what she'd done. Now, the allegation is in somebody else's report that McKee and her husband obviously knew because they were conspirators together. But it's been read in the wrong context.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: It was one of the things that I discussed with Michael Irwin. Isn't that amazing that here we are, his wife who, number one, comes to the police and tells them this whole story, right? And then is dropped to this police station. It's actually her husband who actually ensures that his niece comes to the police station to be interviewed by police, right? But he didn't know that she had initially blown, as I say, the gaff. Now, that was indicative to us from the very outset, that the two didn't just necessarily see eye to eye. Do you understand?

MICHAEL STEPHENS: I understand that fully. But what I'm -- the question really is, with that -- what you've articulated there, you didn't explain that in your report to the DPP as part of the -- a part of the background to the Atkinson and McKee saga?

MAYNARD MCBURNEY: No. But essentially all that there was really all conjecture and it was not going to make any difference to the evidence. I was here to report evidence to the DPP. I was here to report fact that was going to produce evidence. And that was not evidence in my opinion in the whole thing.

MICHAEL STEPHENS: So the reason why you didn't point out that Andrea McKee's alibi statement was at odds with what she had told Michael Irwin on the -- McAteer on 8 May was because ...?

MAYNARD MCBURNEY: That was not evidence at that stage with regard to that case.

MICHAEL STEPHENS: Okay.

MAYNARD MCBURNEY: In my opinion.

MICHAEL STEPHENS: Mm.

MAYNARD MCBURNEY: Consequently.

MICHAEL STEPHENS: Well, if -- the question was framed around, in your report you give the background to the allegation --

MAYNARD MCBURNEY: I only give the facts.

MICHAEL STEPHENS: You only give the facts (overspeaking)

MAYNARD MCBURNEY: Okay. Sorry, I'm interrupting you.

MICHAEL STEPHENS: No. The question is about in your report you give a short piece regarding the allegations against Atkinson and about the alibi statements made by Mrs Atkinson, Michael and Andrea McKee.

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: All right? And the question -- first question was asked about why didn't you include the reference to Andrea McKee being present and you've given an answer to that. And why -- and the second question was, why didn't you not point out in your report that Andrea McKee's alibi statement was at odds with what she had told Michael Irwin when she came originally to the police on 8 May? Now you say, "I only told -- I've told the facts as far as evidence is concerned", and that was the evidence at that particular time.

MAYNARD MCBURNEY: Well, he denied it. I still don't think it's evidence, really.

MICHAEL STEPHENS: Okay.

██████████: In fact, if you look at the marginal note it cautions that you must give the facts it says.

MICHAEL STEPHENS: Mustn't give facts?

██████████: You must give facts in chronological order.

MICHAEL STEPHENS: Right.

██████████: Not, obviously (overspeaking)

MICHAEL STEPHENS: Well, I think we can argue that it was a fact that Andrea McKee was a source of information, right?

██████████: Yeah.

MICHAEL STEPHENS: So that, you know -- that is a fact. And the fact that she brought Tracey Clarke to the police station is a fact. Whether or not Maynard wanted to include it in his report is up for Maynard really, isn't it?

██████████: Yes.

MAYNARD MCBURNEY: But she -- well, as far as we were concerned, we were regarding her really as an informant which is what she was. And as a mute(?). Just, again, we were trying to keep her under wraps and protect her in many respects as well. Because we would have -- we needed her in the future. We really did need her. If you take a look at the overall case from A to Z, you say that the only witness there so far that was of help to us or could have been of help to us was McKee. Isn't that right?

MICHAEL STEPHENS: Andrea McKee?

MAYNARD MCBURNEY: Andrea McKee, right. Now --

██████████: In terms of breaking the conspiracy?

MAYNARD MCBURNEY: In terms of breaking the conspiracy. She was removed. Right throughout the whole case, the whole investigation, you will see, well, pretty obvious, that I tried to keep her protected so that we could use her at some stage. Now, the only question and the only problem that I had there was, would she be regarded as a credible witness? That was one of my considerations. And the only thing that I said was, "Look, it's up to me or the inquiry team to produce the facts as we get them and the -- at the end of the inquiry and that it's then up to a judge to turn around and say, 'Look, she's not a credible witness' or, 'She is'". Or if the husband also is coming along the line. That's why the husband was also very, very important. That if we got him on line then the case became a very credible case against Atkinson, right, in my opinion.

MICHAEL STEPHENS: Well, that's similar to what you said when you were interviewed by (inaudible) officers back in 2001, I think, as far as that was concerned.

MAYNARD MCBURNEY: Well, I --

MICHAEL STEPHENS: What you were saying about protecting Andrea as far as a potential witness was concerned.

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: The question was about what had you told the DPP about her as a potential witness at that stage. Presumably, you told the DPP on 13 May that she brought Tracey Clarke to the police station because that's where the Aunt (overspeaking) came in?

MAYNARD MCBURNEY: Yeah, I think I did. Yeah, I think I did.

MICHAEL STEPHENS: And probably, that's as much as you told them at that stage?

MAYNARD MCBURNEY: Yeah, but that's all she -- really, that's all the DPP would have been interested in because in those days we didn't have to tell the DPP anything about the inquiry. Our duty was to present a prima facie case before the DPP who would then say, "Look, you did right. You made a mess of it. We'd run it as you say". And the other aspect to it all (several inaudible words). The only person that was near McKee in that case was her. That's it. Because the only witness that was produced was produced because of the way that it was dealt. And as I've said many, many times before, we could have dealt with that case in the first fortnight, week, month. And the whole thing written off and there wouldn't have been (inaudible). But because I chose --

██████████: Sorry, just to interrupt you there. Can you -- for the benefit of the tape, when you say you could have -- that you could have dealt with the case, could you indicate, for the benefit of the tape, what you mean by that in terms of how you would have dealt with Atkinson?

MAYNARD MCBURNEY: There would have been no (inaudible). There would have been no prosecution because there was no evidence he was (overspeaking)

MICHAEL STEPHENS: I think [REDACTED] means what action would you have taken to get the result?

MAYNARD MCBURNEY: I'd have been through all the bits and pieces that we had. Like, I mean, any of the inquiries that were carried out subsequently were all issues that were normal.

[REDACTED]: I take it you mean that you would have arrested --

MAYNARD MCBURNEY: Yeah.

[REDACTED]: -- Atkinson under --

MAYNARD MCBURNEY: And the parties - the various parties - and taken it from there.

MICHAEL STEPHENS: Right.

[REDACTED]: And what deterred you from doing that?

MAYNARD MCBURNEY: Because as soon as we would have arrest -- had arrested Mrs McKee, her solicitor would have been there and her solicitor would have said, "Stop". As soon as we arrested McKee, Mr -- solicitor would have said, "Stop". As soon as we arrested Atkinson, solicitor would have said, "Stop". Right along the line and that's the

way it works in this country. When you arrest someone and bring them in they are entitled, as you know, to their solicitor. Right, there is no solicitor in this country here that's going to come in and let you question someone about a crime that they know that there's going to be an end-product there. They're going to say, "Look, sit tight and say nothing".

██████████: Now, just on that score can you -- for the benefit of the tape again, can you give the inquiry the benefit of your experience as to the availability of solicitors for people, not necessarily strictly speaking in Portadown in particular, whether or not they resorted to solicitors as a matter of routine?

MAYNARD MCBURNEY: Not 99% but 100%.

MICHAEL STEPHENS: All right. Okay.

MAYNARD MCBURNEY: Not one; everyone. But -- and not only in -- as a matter of human right or as a matter of public right but also communicate whether the paramilitary organisations have any influence in that, big time. They had vast, and that was it.

██████████: They had a big influence.

MICHAEL STEPHENS: Okay.

MAYNARD MCBURNEY: A vast influence.

██████████: On the provision of legal services?

MAYNARD MCBURNEY: On the provision of legal services.

MICHAEL STEPHENS: Okay. You've made the point as far as that was concerned. The only thing I just wanted to touch on was the ICPC. You've given them a full brief on 12 May when you saw Mr ██████████ -- sorry, Mr ██████████ and Mr Mullan. You'd updated them.

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: Were they aware of Andrea McKee?

██████████: What date is that?

MICHAEL STEPHENS: We're looking at 12 May.

MAYNARD MCBURNEY: 12 May?

MICHAEL STEPHENS: Where you're meeting with ... I may be misleading you on the date.

The first meeting you had with ██████████.

MAYNARD MCBURNEY: You haven't got that one there.

(16 seconds of silence)

(several inaudible words)

MICHAEL STEPHENS: Where are you -- where are you at now?

██████████: Up to 30 May. And what's the one before that? Do you know?

MICHAEL STEPHENS: If you just have a look in your journal there. See if it's in here.

██████████: No, it's the wrong journal.

(29 seconds of silence)

MICHAEL STEPHENS: I know when we were going through the book earlier there was the reference, "Meeting Mr ██████████ and Greg Mullan, ICPC, 12 May". That would have been it?

MAYNARD MCBURNEY: Yes. Up here, yeah.

"Meeting Mr Mullan, Greg Mullan, ICPC. Discussing way ahead".

And that's on the evening.

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY:

"Meeting with (several inaudible words - reading from document) and also Robert Hamill murder inquiries."

MICHAEL STEPHENS: So you haven't got a note there of exactly what you said?

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: Okay.

MAYNARD MCBURNEY: But not -- they would have a note.

MICHAEL STEPHENS: Yeah, I appreciate they would.

MAYNARD MCBURNEY: But do they say, because Mullan kept fairly --

MICHAEL STEPHENS: He kept very clear notes as far as that was concerned and not, in my recollection, that there is a note about Andrea McKee.

MAYNARD MCBURNEY: Well, I'm pretty ... well, I would imagine that he was not told because I'll tell you why. The only issue -- there were two issues discussed, main issues discussed, at the first few meetings with Mr Mullan. And that was the tripartite aspect of the investigation; the three aspects, right? Mr Mullan said, "Look, I'm not interested in those three; I'm only interested in the inquiry as far as the police are concerned".

MICHAEL STEPHENS: Yeah.

MAYNARD MCBURNEY: And the first two meetings were very, very specific discussions with regard to the murder and to the inactivity by police. Because I held the view that the murder had to receive precedence; must receive precedence. And he said, "Well, that may well do but my interest is ..." I said, "Look, I'm telling you now, Mr Mullan, sir, that I cannot go beyond the murder. I must investigate that. That must

receive precedence. I have no option. However, if the murder is investigated then the others will fall into place, if the murder is properly investigated". And he acceded to that and he accepted that. And he said, "Look, advance the case then. What are your intentions?" And I quite simply put down that I intend investigating the murder and I intend interviewing all the various witnesses. And he agreed and he says, "Well, send out documentation specifically to them. The specific documentation may not refer to the murder. It will refer to the inactivity against the police". What -- and I remember this phrase specifically, he says, "That will also facilitate your murder inquiry as well because" he says, "it might bring more people in to the murder investigation than it would ordinarily if you're not investigating the other".

And at the first week's or second meeting with Mr Mullan I remember saying too I'm aware about the policy book. I said, "Look, [REDACTED], where we're going to get caught here is by the murder investigation". Because that was one of things that caused me concern; that we must show that we are investigating the murder and it's taken from A to Z. And I told her, "Look, we're doing that but -- " And that's put in the policy book, but we dispense with her after that. And I remember telling her about the policy book. That was specific so I can't say a thing about that there. Now --

MICHAEL STEPHENS: I think you've answered where I wanted to go as far as that's concerned. But what I wanted to come back to was the -- we then go on to June 2000 when you've interviewed Andrea McKee.

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: And then you have a meeting with Kitson and [REDACTED] on
26 June.

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: Was that, at that particular time, the first time that they had the full
picture regarding Andrea McKee?

MAYNARD MCBURNEY: Well, certainly at that time I gave them a full brief from A to Z of
what my intentions were from the outset and the course that I was
going to take. And also that my intention was, having interviewed
Andrea McKee, to also interview her husband as a witness.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: As a witness. And take it from there. And they agreed but at that
time --

MICHAEL STEPHENS: Okay.

MAYNARD MCBURNEY: I haven't answered your question.

MICHAEL STEPHENS: No, I know you haven't.

MAYNARD MCBURNEY: But I'll come round to that.

MICHAEL STEPHENS: That's all right.

MAYNARD MCBURNEY: But they -- and they agreed that that -- they would be happy with that course, provided that it produced the results that I felt it would. Okay, that's it, that's my problem. Now, did I brief them fully previously? And I'd be wrong to say that I did because while I may well -- no, I did. Not to the DPP, now that I think about it, but I did discuss the case with Mr Mullan.

MICHAEL STEPHENS: Right, so that's within the first 12 months or so of the job. Did he die in 1998?

██████████: I can't --

MAYNARD MCBURNEY: I'll tell you. Stop. I know, I know, I tell you because I think it was about two weeks from there and (several inaudible words). There it is there.

MICHAEL STEPHENS: And what day we talking about?

MAYNARD MCBURNEY: That's the -- that's 9 June.

MICHAEL STEPHENS: Right, 9 June, and in your notebook you've got a pencilled note --

MAYNARD MCBURNEY: Pencilled note that with -- well, you know what it covers. It covers the meeting with -- to 3.00am in the morning after seeing with Mr Mullan.

MICHAEL STEPHENS: This is where you're having a reconstruction --

MAYNARD MCBURNEY: Reconstruction. And I've written here as -- at some stage,

“Satisfied with murder investigation. Witnesses generally the problem. Police ‘iffy’. Not satisfied they haven’t something to answer. Atkinson, can see problems facing investigation. Practical; not his concern”.

And that --

MICHAEL STEPHENS: Now, to what -- who are you --

MAYNARD MCBURNEY: That is a discussion that I had with Mr Mullan.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: I'm not saying that I gave him the full facts with regard to the three issues but we -- it was a long night.

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: And we had discussions throughout the night, walking up and down the road, about things from A to Z. Now, I can't prove that I gave him the full facts, you understand? But that note is indicative that there was a discussion.

MICHAEL STEPHENS: All right. With -- what --

██████████: Mike, just before you go on, and it's just for the benefit of the tape, the word that Mr McBurney used just now when he was reading the

pencilled note was "iffy", I-F-F-Y. Just in case that the typist doesn't pick it up because he said it out loud, I couldn't --

MICHAEL STEPHENS: Meaning dubious?

██████████: Dubious.

MAYNARD MCBURNEY: Dubious, that's right.

MICHAEL STEPHENS: Andrea made a statement on 29 October 1997 which was a false statement?

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: When did DPP and ICPC learn of that, was that in June 2000?

MAYNARD MCBURNEY: That was -- okay, number one, that was a deliberate act as far as I am concerned.

MICHAEL STEPHENS: Yeah, we've previously dealt with -- we've previously talked about that.

MAYNARD MCBURNEY: So, I'll accept that from A to Z that I can't say that I told the DPP because I don't know if I did or not. And I'm not going to say I did or I didn't because I honestly don't know, end of story.

MICHAEL STEPHENS: Mm hmm. And ICPC?

MAYNARD MCBURNEY: I would have thought -- I didn't -- no, I don't think I did really. Well,
I don't --

MICHAEL STEPHENS: So the meeting in June 2000 then; 26 June 2000 --

MAYNARD MCBURNEY: Would I have told them then?

MICHAEL STEPHENS: You'd have told them then, after you'd taken the statement from
her?

MAYNARD MCBURNEY: See that's just debatable enough.

MICHAEL STEPHENS: By that stage the whole story was in front of you then, wasn't it?

MAYNARD MCBURNEY: Well, at that stage I'd have been telling them as I felt it, off the top
of my head, from A to Z, what the position was. Surely in the DPP's
notes, if I did it would be included in his recollection, would it?

MICHAEL STEPHENS: All right. It may well be and I certainly, not off the top of my head, I
can't remember.

MAYNARD MCBURNEY: Well, I can't remember and I'm not going to say that I did.

MICHAEL STEPHENS: No, all right. But that was probably -- that would probably have
been the first occasion though?

MAYNARD MCBURNEY: That would have been the first occasion that it would have been
feasible or sensible for me to start disclosing things like that.

MICHAEL STEPHENS: Okay. All right. And it's certainly at that stage you were looking at Andrea as being, really, a more nervous witness if she was telling the truth?

MAYNARD MCBURNEY: Yeah.

██████████: And just -- I'm sorry to usurp your function there, Mike, but in relation to that, did the DPP when they became aware of the situation, give you any direction or any advice as to whether Andrea should be -- Andrea McKee, should be used as a witness --

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: -- interviewed as witness or whether she should be interviewed as accused person.

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: And I think that is -- that is recorded in all honesty. It's recorded certainly by Mr Kitson.

██████████: Yeah.

MICHAEL STEPHENS: When he says that you were seeking advice and he wasn't able to give you advice at that stage.

MAYNARD MCBURNEY: Yeah, but -- yes, and that's quite right but the nod was, "Look, it's produced, we would --"

██████████: If it produces a result. But in accordance with the then practice, would it be a fair summary to say that the DPP in those set of circumstances was content to leave it to your professional --

MAYNARD MCBURNEY: That's right. That's right.

MICHAEL STEPHENS: Okay. That's as much as I wanted to ask you about that. There was just the issue I want to clarify in regard -- line management regarding ACC Crime. And when we were going through the books I did allude to that just earlier on. As far as ACC Crime was concerned, you reported to him for what purpose?

MAYNARD MCBURNEY: I reported to him for his knowledge, as it were. For just a briefing.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: Not to receive instruction or direction or whatever.

MICHAEL STEPHENS: He had any involvement in crime investigation?

MAYNARD MCBURNEY: If you ask specifically he would have given his advice and what he felt was right or wrong. But, generally speaking, he did not have any -- take any part in the investigations.

MICHAEL STEPHENS: Would it be fair to say that the role of ACC Crime in Crime Branch was more to do with prosecution and liaising with DPP?

MAYNARD MCBURNEY: Prosecution, manpower, covering all aspects of criminal investigation work, forensic, all those issues. Not necessarily investigative.

MICHAEL STEPHENS: Right.

██████████: Sorry, he has described his role -- ACC Crime at that time has described his role to this inquiry as being primarily one of quality assuring the work that was being done; would that -- would you --

MAYNARD MCBURNEY: That's right. Yeah. That's -- yeah, because ...

MICHAEL STEPHENS: All right. Now, with regard to ACC Crime I know we looked in your notebook and the diary -- sorry, your journal; did you speak to ACC crime about Andrea McKee and visiting her in Wrexham prior to making the visit? Could I --

MAYNARD MCBURNEY: I had to speak to someone.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: Asking permission to travel to Wales.

MICHAEL STEPHENS: Right. So, firstly, you had to get permission to travel?

MAYNARD MCBURNEY: I had to get permission to travel.

MICHAEL STEPHENS: And fly and hire a vehicle?

MAYNARD MCBURNEY: Fly and hire a vehicle.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: Now, I can't say that I got that direction from him, from Anderson;
from whomever, but I got it.

MICHAEL STEPHENS: And would it have been through headquarters as opposed to
ACC Hall?

MAYNARD MCBURNEY: It wouldn't have been through Hall, I know that.

MICHAEL STEPHENS: So it would have been headquarters?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Right. So did you discuss it at all with ACC Hall before travelling?

MAYNARD MCBURNEY: I can't recall or not. I can't recall having discussions.

MICHAEL STEPHENS: You've certainly got a record of discussing with ACC Crime when
you came back?

MAYNARD MCBURNEY: That's right, yeah.

MICHAEL STEPHENS: But, in fairness to you, Mr [REDACTED], we've been through the book looking for that particular area and can't find it.

[REDACTED]: That's right.

MICHAEL STEPHENS: We can't find a note of that in the notebooks or in the journals, so --

[REDACTED]: I don't think -- I don't think it would have been a big issue in the sense that it would necessarily have needed a face-to-face meeting.

MAYNARD MCBURNEY: No, it wouldn't have made a bit of difference because having none of them there, I would have been alone anyway.

MICHAEL STEPHENS: There's plenty of notes made by Mr McBurney himself giving permission for others to travel; to do some of the other things.

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: But unfortunately there's nothing in there seeking advice or seeking the ACC's written opinion.

[REDACTED]: Yeah.

MICHAEL STEPHENS: Now, there are some points which I just wanted to raise from your notebooks and journals, and if I go through them by date sequence perhaps we can refer to them and you can actually give me a specific. And the first one's 20 May. It's a note you've made in your journal

and your notebook; references speaking to [REDACTED]; getting Tracey Clarke out of the country into the navy. Now can you be specific; is that exactly what your note is referring to?

MAYNARD MCBURNEY: The exact note is,

"[REDACTED]; Tracey Clarke priority list. He will telephone Friday. Check with the department for clearance pending(?)".

That there -- [REDACTED] was a superintendent in C and D. However, it was not C and D that I was ringing him in connection with. It was the fact that he was a reserve officer in the Royal Navy and had close association with navy personnel. When Tracey Clarke -- it was decided that Tracey Clark had to be moved out of the area. It was discussed generally as to whether or not we could move her out officially under these -- under a scheme. However, the problems were such, mother, father, relatives living close, that intimidation probably would be very common and we wouldn't gain a great deal. And I eventually decided that the best way to do it would be ascertain from her exactly if she felt there was anything she'd like to do and during discussions with her it transpired that she would like -- she intimated that she would like to join the Royal Navy. And as a consequence of that Mullan come into the frame and we attempted to have her recruited into the Royal Navy. The reference there, the E Department, is to clear bedding and that sort of thing.

MICHAEL STEPHENS: E for -- sorry. E Department being what?

MAYNARD MCBURNEY: E Department being special branch.

MICHAEL STEPHENS: Okay.

MAYNARD MCBURNEY: And as far as the DPP, you can see we attempted to have it dealt with fairly quickly because that was on a Tuesday and he intimated that he would make contact again on Friday and that they'd know how things stood. He obviously did. She did the exam for the join the navy and was -- she didn't pass and consequently the whole thing was then left in abeyance. When I say that's the navy aspect.

MICHAEL STEPHENS: Yeah.

MAYNARD MCBURNEY: We were then faced with another problem; she still must get out of the area. And I decided, right, find out exactly are there any positions that would suit her any place in the country; in other words, any place in Northern Ireland. And we --

MICHAEL STEPHENS: I think you did give us where you tried to place her --

MAYNARD MCBURNEY: Get her the job and --

MICHAEL STEPHENS: -- previously. You've covered that in the previous --

MAYNARD MCBURNEY: Okay.

MICHAEL STEPHENS: The only thing I did want to raise with you, and as an aside you made to me previously --

MAYNARD MCBURNEY: Yes, I've got (overspeaking)

MICHAEL STEPHENS: -- regarding P39 and your instructions to P39.

MAYNARD MCBURNEY: Yeah. Now, with regard to P39, one of the problems was taping Tracey Clarke on line, as it were.

██████████: On site, I think.

MAYNARD MCBURNEY: On site. On site. And I had said to Detective Constable McAteer and to her, "Look, it's imperative that we keep this lady on course. Now, as of today" and this was within hours of the statement and all the rest of it. "You will stick to her like a limpet and ensure that she's looked after and ensure that we have no problems with outsiders coming in, intimidation or whatever." And that was to both McAteer and P39. And I said, "Regardless of what the position is, you stick -- you look after the family and you look after her. If that involves taking her to women's shop, you do it". And that was the way it was dealt with. I don't think I'd said that previously.

MICHAEL STEPHENS: No, you didn't.

MAYNARD MCBURNEY: But that was one of the reasons that P39 was not specifically involved in a lot of the inquiries. Because that was her task and she was detailed specifically for that. And the other person was McAteer. And you couldn't -- and from my point of view, McAteer was the person -- I think I'll have to elaborate here too. Any murder investigation, any inquiry like that there, it is the people closest to

those concerned that will hear the titbits and the bits that are being discussed throughout the country. It was therefore imperative that you put somebody close to the family that had the ability to talk, that had the ability to chat beyond whatever, and glean whatever they were finding out through tittle-tattle from locals. And that was the reason that you'll find I had McAteer. And I said to you, all the -- all the inquiries where you put them close to the family. Because if there was anything to be gleaned you can rest assured it was like a ferret, it was produced.

MICHAEL STEPHENS: Okay.

MAYNARD MCBURNEY: (inaudible), that was the reason he was there and that's with regard to [REDACTED] and she was there, I think, for some considerable time. I can't give you dates and things. I can't --

MICHAEL STEPHENS: Well, unfortunately, I don't think she can either because she's disposed of her journal which -- one of the sisters.

MAYNARD MCBURNEY: Well, I don't know about that but I can assure you that was up until at least -- that was up until the -- she pulled out.

MICHAEL STEPHENS: Right. Okay. Now, can we move on to the -- 15 July 1997, and this is in reference to a shooting and a murder at Lurgan. And I know it's not connected with the Hamill Inquiry but you made a comment to me off record which I think we ought to discuss here. And it's a notebook entry to suspend a double murder investigation which you'd handled since 16 June. Have you got the -- 15 June?

MAYNARD MCBURNEY: I thought 15 July.

██████████: 15 June?

MICHAEL STEPHENS: July.

MAYNARD MCBURNEY: Oh, 15 July.

MICHAEL STEPHENS: The double murder had been running --

MAYNARD MCBURNEY: Yeah, I've got it here. Where did I put that? It's like everything else; when you go to read it you can find (inaudible).

(11 seconds of silence)

Are you sure that's the right date?

██████████: There's the -- there's the reference to (overspeaking)

MAYNARD MCBURNEY: That's not --

MICHAEL STEPHENS: You had a specific reference to (overspeaking)

MAYNARD MCBURNEY: I had a specific reference here but it's ...

MICHAEL STEPHENS: Shooting murder at Lurgan.

MAYNARD MCBURNEY: Yeah, that's 6.55am.

MICHAEL STEPHENS: What's on the opposite -- what's on the other side there?

██████████: Have we given you the wrong date? It would have --

MAYNARD MCBURNEY: I think it's the wrong date. Just give me a minute or two to read this. There it is. Okay, that's it there.

(overspeaking)

The date is 17 July.

MICHAEL STEPHENS: Right. Sorry.

MAYNARD MCBURNEY: That there. And then,

"4.15pm conference with investigation team re. ██████████ murder. The ██████████ (?) murder having been suspended."

MICHAEL STEPHENS: So you'd actually suspended an ongoing investigation, and the reason for that being?

MAYNARD MCBURNEY: Resources.

MICHAEL STEPHENS: You had insufficient resources to man --

MAYNARD MCBURNEY: That's correct. Not on both murders. I (inaudible) at one stage --

██████████: The murder which had been committed was the murder of a young girl at ██████████ in Aghalee?

MAYNARD MCBURNEY: That's correct.

██████████: And the murder which had to be suspended was the double murder of two policemen in Lurgan?

MAYNARD MCBURNEY: Yes. Well, yeah. But you see that's nothing.

MICHAEL STEPHENS: No, I wanted to bring it out because it's in your notebook comment and I brought it to Mr ██████████'s attention as far as that's concerned because of -- we've actually drawn attention to it as we've gone through it; going through your notebook and your journals, haven't we?

MAYNARD MCBURNEY: Yeah.

██████████: And the murder in Aghalee was subsequently successfully cleared, am I right in saying?

MAYNARD MCBURNEY: That's correct, yeah.

MICHAEL STEPHENS: Can I move -- can I move --

MAYNARD MCBURNEY: (overspeaking) that particular one - the ██████████ (?) charge - was quite happy to fix my career at some stage.

██████████: He's the gentleman who'd send you his best wishes (overspeaking)

MAYNARD MCBURNEY: He sent the best wishes from (overspeaking)

MICHAEL STEPHENS: Can we go on to the 29 July? 29 July: it's a notebook entry re.
DCI ██████████ and directions of ACC Hall?

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: And what does that allude to?

MAYNARD MCBURNEY:

“Meeting taken with Chief Inspector ██████████ (?) from C and D.
Then Portadown Re. Hamill file and directions of ACC Hall re.
Atkinson investigation.”

MICHAEL STEPHENS: Can you recall --

MAYNARD MCBURNEY: I can't recall what those -- what that was pertaining to.

MICHAEL STEPHENS: Well, if you'd written directions of ACC Hall, is he telling you to do
something, or is he agreeing with what you're doing, or what? What
exactly is that about?

MAYNARD MCBURNEY: I don't know. I honestly don't know. You must remember that
there is a document written in 1997.

MICHAEL STEPHENS: Well, I appreciate that.

MAYNARD MCBURNEY: And this is 2007 and to prove (several inaudible words) like that there, that was an aide memoir for me at the time and over and above that, it really doesn't help me. But from this point of view, I may well turn around and say well, "Yeah, I told him this that or the other".

MICHAEL STEPHENS: Yeah.

MAYNARD MCBURNEY: But I can't tell you what it was because I don't know.

MICHAEL STEPHENS: Okay.

██████████: On balance, it's probably unlikely that it would have been any kind of directions to do with how the investigation (overspeaking)

MAYNARD MCBURNEY: No, it wouldn't. It wouldn't because he wouldn't have known. No, I don't mean that unkindly.

██████████: But it wasn't his role?

MAYNARD MCBURNEY: No, it wasn't his role.

MICHAEL STEPHENS: So what would he direct you on then?

MAYNARD MCBURNEY: I don't know what it was.

██████████: It may have had something to do with the publicity surrounding it or something of that kind, or in relation with the family, or ...?

MICHAEL STEPHENS: And [REDACTED]? Because I understand --

MAYNARD MCBURNEY: He'd never been C and D, you see.

MICHAEL STEPHENS: Yes, is that C and D? But Anderson was the man who was your liaison, wasn't he? Was [REDACTED] working to him?

MAYNARD MCBURNEY: [REDACTED] was a chief inspector in C and D. And as with C and D, it made no difference. You could have been dealing with a -- any (inaudible). It could have been a superintendent, it could have been a chief inspector, it could have been an inspector, dealing with the same thing.

MICHAEL STEPHENS: Yes.

MAYNARD MCBURNEY: And just because it was the Hamill Inquiry didn't necessarily mean that the one chief inspector or the one superintendent (several inaudible words). He could have directed another person.

MICHAEL STEPHENS: Right, same as Crime Branch?

MAYNARD MCBURNEY: Same as Crime Branch.

MICHAEL STEPHENS: Okay. 13 August 1997, I've just got a -- I haven't got a reference to what it's about. I'm just ... Have you got anything underlined for 13 August?

MAYNARD MCBURNEY: Yeah, the only thing for that is, "Portadown CID office.
Hillsborough re. [REDACTED]".

MICHAEL STEPHENS: Hillsborough re. [REDACTED]?

MAYNARD MCBURNEY: Mm.

MICHAEL STEPHENS: And that presumably is going back to Tracey Clarke, is it?

MAYNARD MCBURNEY: Yeah, it must be. Yeah. It is going back to Tracey Clarke but I
can't tell you what it's -- I haven't a clue.

MICHAEL STEPHENS: Okay. Go on to 19 August then, and this is regarding the ICPC and
Mullan..

MAYNARD MCBURNEY: What's -- the 19th?

MICHAEL STEPHENS: 19th.

MAYNARD MCBURNEY: Of?

MICHAEL STEPHENS: August.

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: And you've got a note there and what does that refer to?

MAYNARD MCBURNEY: That refers to, "ICPC re. Hamill case, Northern Ireland office, American senator, [REDACTED]". That must be -- that must pertain to queries and questions with regard to the Hamill case.

MICHAEL STEPHENS: So on 19 August you were being asked questions, presumably, from headquarters?

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: Which had come from the Secretary of State?

MAYNARD MCBURNEY: That's right.

MICHAEL STEPHENS: And from a ...?

MAYNARD MCBURNEY: American Senator who was over here.

MICHAEL STEPHENS: That had already come from the ICPC to you, had it? Which way did it come, do you know?

MAYNARD MCBURNEY: I can't tell you. I don't -- and I'm not being (overspeaking)

MICHAEL STEPHENS: No, it's (overspeaking). No.

MAYNARD MCBURNEY: I just don't know.

MICHAEL STEPHENS: You were certainly being asked --

MAYNARD MCBURNEY: I was being asked questions.

MICHAEL STEPHENS: Okay. Can I go to 4 December 1997, if you could; is that book all the way?

MAYNARD MCBURNEY: It could be.

MICHAEL STEPHENS: 4 December. All right?

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: Now, you've got a reference to Havelock House in there.

MAYNARD MCBURNEY: Yes.

MICHAEL STEPHENS: What does that refer to?

MAYNARD MCBURNEY: That refers to a direction from the Chief Constable that we should make ourselves available at Havelock House for a meeting with staff there of the UDB who would interview us with regard to the Hamill murder release.

MICHAEL STEPHENS: So the Chief Constable has given you permission for you to be interviewed?

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: And you were interviewed?

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: And that went out on the programme, did it?

MAYNARD MCBURNEY: No, no.

MICHAEL STEPHENS: You were interviewed as background to the inquiry?

MAYNARD MCBURNEY: As a background to the inquiry.

MICHAEL STEPHENS: So they didn't use your interview?

MAYNARD MCBURNEY: No.

MICHAEL STEPHENS: But they used background information regarding --

MAYNARD MCBURNEY: At some --

██████████: The investigation may well have done, Michael.

MICHAEL STEPHENS: Right.

██████████: But it wouldn't have been intended that you would have been used on air?

MAYNARD MCBURNEY: No. No. In fact, I asked them if it would be a tape but they didn't tell you. Wasting my time.

MICHAEL STEPHENS: Mm.

██████████: I'm sure you (several inaudible words).

MAYNARD MCBURNEY: There was no chance; absolutely no chance.

MICHAEL STEPHENS: Sorry, moving on to the -- I'm looking now in 1999. On 2 April 1999 when you had a meeting -- there's a note there, "Meeting with ██████████". Sorry, I've got a sticker in there somewhere which actually gives you the date.

MAYNARD MCBURNEY: Yeah. Okay. Yeah.

MICHAEL STEPHENS: Can you tell me what that was about?

MAYNARD MCBURNEY: That, again, was with regard to the Hamill Inquiries with regard to the inactivity with regard to the murder with regard to Atkinson.

MICHAEL STEPHENS: And ██████████ is an MP -- MEP?

MAYNARD MCBURNEY: An MP. In those days he was an MP for that area.

MICHAEL STEPHENS: Right. Had he approached you for that meeting or did it come from (overspeaking)

MAYNARD MCBURNEY: He approached me for that meeting through the ACC.

MICHAEL STEPHENS: Which one, sorry?

MAYNARD MCBURNEY: I have it down here as ACC ██████'s request.

MICHAEL STEPHENS: And you met with Mr ██████?

MAYNARD MCBURNEY: Yeah.

MICHAEL STEPHENS: And the outcome of that?

MAYNARD MCBURNEY: Well, to the best of my knowledge, his concerns were that the Sinn Fein, IRA, as he put it, were going to glean whatever propaganda they could from the Inquiry.

MICHAEL STEPHENS: And did you meet with Mr ██████ just the once or ...?

MAYNARD MCBURNEY: We met with him a second time.

MICHAEL STEPHENS: Right.

MAYNARD MCBURNEY: I can't recall the date off the top of my head but it's recorded some place here.

MICHAEL STEPHENS: Okay. And as far as that was concerned, what did actually -- was it a one-way street, you get -- he gave you that information or did he -- you give him information about (overspeaking)

MAYNARD MCBURNEY: There was absolutely no question of information as far as he was concerned because it meant absolutely nothing to him and it was of no use to him either, because he couldn't use it.

MICHAEL STEPHENS: Right. So it was him informing you? It wasn't (overspeaking)

MAYNARD MCBURNEY: Yeah, what he'd learned.

MICHAEL STEPHENS: Okay. Now, as far as that's concerned, those are the only points that I wanted to cover. We've covered the DPP issues and there are copious other notes there which we will have to get photocopied, but we'll talk about that after --

MAYNARD MCBURNEY: Absolutely.

MICHAEL STEPHENS: So with that in mind, the time is now -- sorry, I thought you looked at your watch then.

██████████: 5.30pm

MICHAEL STEPHENS: Thank you very much and we'll close it.