

Director

LETTER FROM THE SECRETARY OF STATE REGARDING THE DEATH OF ROBERT HAMILL

1. I have now had an opportunity to read the correspondence which has been provided to you under cover of the letter from [REDACTED] of the 3 December.
2. I note that [REDACTED] in the second paragraph of her letter refers to providing a report on the matters raised by the Secretary of State and in paragraph 3 and additional point 1 of Diane Hamill's letter to the Secretary of State dated 21 November.
3. I note, however, that [REDACTED] suggests at paragraph 3 of her letter that the Attorney would wish to see as full a report as possible so that if it is possible to defend the system in the way which the Secretary of State envisages, the opportunity is not lost. I do not wish to comment on whether the Secretary of State's job is to defend the system. However I think it appropriate, in the first instance, to provide as full a report to you as possible on the handling of the case so far and not restrict myself to the matters specifically raised by the Secretary of State.
4. The police investigation file in relation to the death of Robert Hamill was received in this office on the 7 August 1997. Eight persons in total were reported on the file. Of those eight, six had been charged by police with an offence of murder of Robert Hamill. The file effectively dealt with the evidence against those six persons who had been charged with the murder. The other two who were reported were to all intent purposes not relevant to the enquiry and there was essentially no or insufficient evidence to be considered in relation to their possible involvement in the murder of Mr Hamill.
5. Upon receipt of the police investigation file I commenced to consider the available evidence. This was an initial scrutiny of the file and was not meant to be an indepth consideration of the relevant evidence insofar as I did note that forensic reports relating to biology (body fluids) and physical methods were not yet available. Additionally, the post mortem report and medical reports were not yet available either. Both forensic and post-mortem and medical reports were essential for proper consideration of the case. No directions could properly have been taken at that stage without consideration of this evidence. Accordingly on the 12 August I issued an interim direction indicating that directions would pend the receipt and consideration of forensic and post-mortem and medical reports.
6. By the beginning of October the forensic and medical and post-mortem reports were still not available. The remand

court at the Maze expressed considerable and continued concern about the delay in the obtaining of these reports. In the light of this continued pressure I reallocated the file to Mr Davison, Professional Officer, and asked him to proceed, insofar as it was possible, with the case, bearing in mind that the absence of forensic and medical reports would make it difficult for him to come to any concluded decision in the case. Mr Davison then commenced to read the file.

7. On the 10 October Mr Davison had occasion to telephone to D/Inspector Irwin, the investigating officer in the case. D/Inspector Irwin informed Mr Davison that since the incident at Drumcree of that year the attitude of members of the Protestant community towards members of the Catholic community had hardened and D/inspector Irwin indicated that it could not be guaranteed that some of the crucial witnesses in the case would now be willing to give evidence. D/Inspector Irwin also indicated that a further witness, a man called Colin Prunty, a member of the Catholic community, and a crucial witness in the case against one of the defendants, could only be contacted via a [REDACTED], in Lurgan. Furthermore to date [REDACTED] had not answered any police correspondence on the case in relation to the contacting of Mr Prunty.
8. In the light of this new information available to the office which was reported to me by Mr Davison, a further interim direction was issued on the 14 October. That direction indicated that consultations were to be held with four of the principal witnesses in the case, Witness A, Witness B, Colin Prunty and a Jonathan Wright. Senior Counsel, Mr Gordon Kerr QC, was briefed to consult with the witnesses and advise appropriately. Consultation took place on Friday 17 October with witness Jonathan Wright and Witness A. Further consultation took place on the 21 October with Witness B.
9. In summary, the position as a result of the consultations held with the witnesses was that Witness A would not now give evidence against any of the accused. She stated that not only did she know a number of the accused having been brought up in the same area as them but also she was now having a romantic relationship with one of the accused, a Mr Hanvey. Witness B during interview claimed now that he could not recollect anything. When the contents of his witness statement which he had made to police and signed as such, were put to him he said he had only agreed to what police had suggested to him. He indicated that he was not scared to give evidence although he had admitted that he did not wish to give evidence. He indicated that his desire not to give evidence was not affecting his inability now to remember or to recollect what had happened.

Jonathan Wright's evidence was still available and he presented as a witness capable of giving evidence.
10. In relation to Witnesses A and B the oral advices of Senior Counsel who had conducted the consultations with the

witnesses were taken. Senior Counsel advised that he was satisfied that Witnesses A and B could not be relied upon to give evidence. In relation to the accused presently charged by police Senior Counsel advised that without the evidence of Witnesses A and B there was insufficient evidence to sustain a prosecution against three of the accused (Dean Forbes, Allister Hanvey and Rory Robinson) for any offence relating to the death of Mr Hamill. The question of summoning Witness A and compelling Witness A to give evidence at court was considered. It was noted that that had not been raised at the time of consultation or subsequently with police.

11. Thereafter I asked investigating police to consider the issue of summoning Witness A to give evidence. It was noted that she was a compellable witness. Police later advised that there was no reasonable prospect, no matter what sanction by a court was applied, of Witness A giving evidence in court. This view was later confirmed to me by D/Superintendent Cooke from Crime Department at RUC Headquarters. Investigating police also confirmed to me that there was no other evidence available in respect of these three accused, Forbes, Hanvey and Robinson, which would implicate them directly in the attack on Mr Hamill.
12. In the absence of evidence from Witnesses A and B and without any other evidence it was concluded by me that there was no reasonable prospect of a conviction of Forbes, Hanvey and Robinson. Accordingly on the 29 October a direction issued for no prosecution of these persons and that the present police holding charge of murder preferred against them should be withdrawn at the earliest opportunity. The first available court was at Lisburn on Friday 31 October and charges against these three persons were then withdrawn on that date.
13. Further consultation took place with witness Mr Colin Prunty on Thursday 30 October. Senior Counsel and ~~Mr Davison~~ from this office attended and had conducted the consultation. Mr Prunty presented himself as an impressive and reliable witness. His evidence was to the effect that he was identifying a person, unknown to him, as being one of the persons in the group that had been kicking the deceased Robert Hamill. Mr Prunty's evidence related to this person wearing a "Ranger's" scarf and being taken away by police and put in the back of the landrover. Furthermore, he related this person with the Ranger's scarf being let out of the landrover by police. When this happened he (Prunty) went over to a police officer who was in charge of releasing this person from the landrover and remonstrated with the police officer as to why this person was being let go.

Other evidence available had indicated that this person was one of the defendants charged by police, that is to say, Wayne Lunt.

On the basis of this consultation with Mr Prunty, Senior Counsel had indicated orally that there was sufficient

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evidence to prosecute Mr Lunt for an offence relating to the death of Mr Hamill. Whether that was to be murder, manslaughter or some lesser offence would depend on the contents of the pathologist's report which at that stage was still not available to this office.

14. On the 3 November at 2.30 pm Diane Hamill and Fiona Ryan, sisters of the deceased, called to see me at my office. They had previously telephoned in the morning and asked if they could come to see me. I had agreed to this.

Fiona Ryan asked why the charges against the three accused referred to above had been withdrawn at court. I informed her in general terms of the reasons for this. I indicated to her that the evidence which had formed the basis of the police charges would no longer be available for any future prosecution. In this regard I was referring to the evidence of Witnesses A and B.

Fiona Ryan then proceeded to tell me that not all witnesses had been spoken to. I asked what she had meant by this. She then referred to a Catholic male person who had identified one of the defendants against whom the charges had been withdrawn on the 31 October as being the person he had seen kicking at Hamill and who was in the back of the police landrover. I quickly identified that the male Catholic witness that Fiona Ryan was referring to was Mr Colin Prunty.

I informed Fiona Ryan that this was not my understanding of the present evidence and that Mr Prunty had identified one of the other accused and not one of the persons who had been released. I informed Fiona Ryan and her sister that this was a matter of some importance which I would need to consider and refer back to the police.

15. In the light of this information I immediately telephoned to investigating police and requested that a further statement be taken from Mr Prunty as a matter of urgency in relation to the matters raised by Fiona Ryan.
16. A further statement was taken from Mr Prunty on the 3 November. Mr Prunty affirmed in this statement that he had seen a video of three persons as they left the courthouse when the charges had been withdrawn. Of the three males being shown on the video he recognised one as the person he had seen in the back of the landrover, who had been put there by police and that at the time of the incident he had been wearing a Ranger's scarf. He indicated that he recognised him and that he was certain that this was the person that he had seen on the night of the murder of Robert Hamill.
17. As a consequence of this additional statement further consultation was arranged with Mr Prunty. I attended that consultation with Senior Counsel, Mr Gordon Kerr QC. During consultation Mr Prunty was quite adamant that the person he was referring to was not Mr Lunt but Mr Forbes

and that was one of the persons who had been released previously. Furthermore, Mr Prunty, who was shown a photograph of Mr Lunt and Mr Forbes stated clearly and unequivocally that if asked if Lunt was the person he was referring to and whom he had seen kicking at Mr Hamill he would say no. In the light of Mr Prunty's evidence as it now stood it was concluded that there was no reasonable prospect of a conviction of Lunt for any offence relating to the death of Mr Hamill. There was some evidence from police witnesses which indicated that Lunt was in and around the area and indeed he had been taken away and put into the back of the landrover but it was not considered that that evidence on its own was sufficient to prosecute him for any offence directly relating to the murder of Mr Hamill. Further it was considered that a lesser offence of affray would even be difficult to sustain on the evidence.

18. Senior Counsel's written advices were subsequently received in relation to the case of Lunt (and the others charged by police). Senior Counsel advised that there was no reasonable prospect of a conviction of Lunt for murder and agreed that in his view even affray might be difficult.

On the 19 November 1997 a further direction issued that the police holding charge of murder preferred against Lunt should be withdrawn at the earliest opportunity.

19. On the 3 November 1997 the forensic report of Mr Lawrence Marshall of the Forensic Science Agency of Northern Ireland had been received in this office. Further consultation took place on the 12 November 1997 with the forensic scientist. Forensic examination indicated that there was one small spot of blood from (one of these persons charged by police) Stacey Bridgett which had been found on the right trouser leg of Mr Hamill. This spot of blood was about the size of about a one pence coin and was positioned about an inch from the bottom of the trouser.

Bridgett had originally been referred to by Witness A and Witness B. That evidence was no longer available. Other evidence placed Bridgett in and around the scene at the relevant time. One police officer had observed Bridgett as being in the crowd and having blood coming from his nose.

The available evidence was such to show that Bridgett was very much involved in and around the incident but the capacity in which he was involved was not or could not be established. The evidence at its height indicated that at some stage Bridgett was sufficiently close to Hamill that his blood dripped directly onto Hamill. There was no other evidence available to show what Bridgett was actually doing or had done to Hamill.

During interview by police he had denied being near Mr Hamill. This was not truthful if the forensic evidence was correct.

However, it was concluded that this denial taken with the forensic evidence was not sufficient to provide a reasonable prospect of his conviction for any offence relating to the death of Mr Hamill. Crown Counsel had also considered the case of Mr Bridgett and had advised orally to this effect. A further direction that the police holding charge against him be withdrawn at the earliest opportunity was issued on the 19 November 1997.

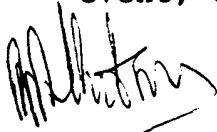
20. One of those persons charged by police remains in custody. No final decision as to prosecution of this person, Marc Hobson, has as yet been taken. Hobson was identified by Witness A as one of the group who was kicking Mr Hamill when he was on the ground. He had also been observed by Witness B as being involved in fighting with two other people. That evidence is no longer available.

There is, however, further evidence from a Constable Neill who has made a witness statement indicating that he observed this person kicking at Mr Hamill. Clarification has been sought from police as to whether Constable Neill can say that he saw a kick or an attempted kick by Hobson on Hamill. A further statement on this point has been taken from Constable Neill. Crown Counsel is presently considering that statement together with the pathologist's report which is now available. While no final decision has been made as to prosecution of Mr Hobson, it is clear that the available evidence is such that he will be prosecuted for an offence relating to the death of Mr Hamill. It is likely that that offence will be a murder. However, Senior Counsel's final advices on this point have still yet to be obtained and considered.

21. Further enquiries have also been requested of police in relation to Dean Forbes referred to above. As stated above the civilian witness Mr Colin Prunty, now ~~states~~ has alleged that the person he saw kicking Robert Hamill is, in fact, Dean Forbes. He has seen Forbes on a video recording and on a still photograph. The witness is adamant that this is the person he saw kicking Robert Hamill. Police have been asked to make further enquiries and report back as soon as possible to whether there is any possibility that the person identified by Mr Prunty as Forbes was in fact a person who had been brought by police to a landrover and who was wearing a Ranger's scarf and who was subsequently released by police from the landrover. Enquiries are still being carried out by police in this regard.

22. In regard to those five persons charged by police but in respect of whom the police charges have been withdrawn it was noted that there was or might be evidence of the commission by them of public order offences. However, regard was had to the length of time that these persons had spent in custody on remand on the original police holding charge. All had been on remand from and about the 10 May 1997 and had, as a result, spent nearly six months in custody. It was not considered that, in the circumstances,

prosecution in the Magistrates' Courts for public order offences which generally carry a maximum sentence, in any event, of six months' imprisonment was required.



R A KIPSON

9 December 1997