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**The Death of Robert Hamill**

**Note by Anthony Langdon**

1 Part I of this note comments on the facts surrounding Robert Hamill's murder and the handling of the case by the police and other public bodies, while Part II considers the main issues that are relevant to the idea of a public inquiry into the case. I have summarised my conclusions at paragraphs 53-63 and 86-90.

**Part I: Analysis and comment**

**Background**

2 In Portadown in the early hours of 27 April 1997 Robert Hamill, a Catholic aged 25, was set upon, knocked unconscious and trampled by a crowd of Protestant youths. A police patrol vehicle was parked about 20 yards from the scene. The patrol crew were led by a Constable Neill, who was the only regular police officer in the party; the others were Reserve Constables Atkinson and P40 and Woman Reserve Constable Cornett. At some point the crew dismounted from the vehicle to control the crowd, but there has been intense speculation about precisely what they did and when they did it.

3 Hamill suffered brain injury in the attack; he never regained consciousness and he died in hospital on 8 May 1997. Even before his death his sister Diane Hamill, acting through the late [REDACTED] had complained to the ICPC alleging that certain police officers had witnessed the assault on her brother and had not intervened as quickly as possible. [REDACTED]

4 The behaviour of the police at the scene of the crime is only part of the story. Within three days of Robert's death the police did arrest six suspects and charge them with murder, but the charges against five of them had to be dropped when the key witnesses retracted their statements. One of these statements had additionally asserted that one of the prime suspects had said that Reserve Constable Atkinson (who had been one of the patrol crew) had telephoned his house after the affray and advised him to destroy his clothing. A telephone call from Atkinson's house to the suspect's was indeed made at the time in question, but Atkinson explained it by an innocent story that was backed by his wife and by friends.

5 The sixth defendant, Hobson, was tried by a Diplock court in February and March 1999, when he was acquitted of murder but convicted of affray and sentenced to four years imprisonment. Although the trial judge, Lord Justice McCollum, made some remarks that were helpful to the RUC he made several criticisms too, and he also made it clear that he had considerable doubts about the evidence that had been given by Constable Neill.

6 In June the Coroner decided not to hold an inquest on Hamill because the key witnesses feared to give evidence, and he told the Hamill family solicitors a great deal about the withdrawn statements, including the allegation against Reserve Constable Atkinson. [REDACTED]

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[REDACTED] A detailed log of the sequence of events is at Annex 1.

7 Matters currently stand as follows.

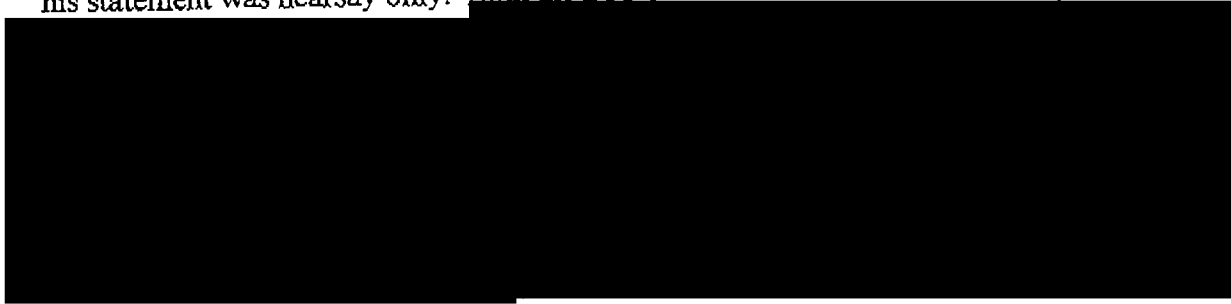
a The RUC are considering the ICPC's recommendation that a disciplinary charge of neglect of duty should be brought against Neill for stopping the vehicle in a position that prevented the crew from observing the place where Hamill was attacked.

b The allegation that Atkinson colluded with one of the prime suspects to destroy evidence is again being investigated by the RUC, who have some new leads. The fact of this new investigation was conveyed by the Chief Constable to Diane Hamill's solicitor Barra McGrory on 4 August. Mr McGrory said that the family would respect confidentiality.

8 The two issues at 7a and b above are separate, but there is clearly some read-across between them. If Atkinson's subsequent collusion were established, then the police officers' accounts of their behaviour in the incident would need to be re-appraised, at least to the extent that great doubt would be cast on Atkinson's claimed inability to identify the people he saw jumping on Hamill.

**Witness A and Witness B**

9 The main evidence against the murder suspects and the original (albeit hearsay) evidence against Atkinson is contained in a statement by the young woman Witness A that she subsequently withdrew after schemes by the RUC to find her a career away from Portadown had collapsed. Additionally Witness B (who was a male lesser participant in the disturbance in which Hamill was killed) identified some suspects, but then backed down and claimed that his statement was hearsay only. Both the DPP and the Coroner decided that they could not



**The ICPC**

10 Diane Hamill's original complaint and the contemporary RUC press releases about the incident were the only things within the ICPC's remit; the Commission has not concerned itself with the general adequacy of the murder investigation. For the purpose of its inquiry the ICPC first instituted a 'supervised investigation' by the police for the purpose of satisfying itself that adequate police investigations had been performed in respect of the criminal aspects of the complaint against police officers. The documentation for that investigation consisted of the police papers for the murder investigation plus further interviews with the police officers involved plus further (unimportant) statements from the 2 members of the public who were the only ones to respond to the ICPC's appeal for witnesses. After the Hobson trial the papers were automatically returned to the ICPC to consider recommending disciplinary action.



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forwarded certain statements made to her that alleged that the police stayed in the landrover throughout the attack and long afterwards. The makers of these statements refused to be interviewed by the police, though one or more of them appeared on a documentary on the case by UTV in December 1997.

12 It may be helpful if I say something here about my impressions of the ICPC handling of this supervised investigation, which was but one among some 400 on its books at the time. At the outset the supervising member of the Commission was Mr [redacted] a well-known solicitor, respected by both communities. Mr [redacted] attended police interviews and reconstructions, but his minutes on the file are mostly confined to brief compliments to the thoroughness of the case officer Mr Greg Mullan. Those compliments seem well deserved, as Mr Mullan assiduously correlated all the available statements etc and I could not really see anything at all to fault in his analyses. Mr [redacted] died in March 1998 and was succeeded as supervising member by Mr [redacted] who took a very close interest in the question of the RUC press releases, on which he minuted clearly and cogently. More recently, consideration of the discipline aspects has required 2 different members to be involved - Miss [redacted], who evidently took a harsh view of the whole case and claimed to have spent 5 days studying the papers, and Mr [redacted]. Miss [redacted] did, in fact, wish to include a recommendation for a disciplinary charge in respect of failure to supply first aid, though she was dissuaded from that. I think that her inability to find any other additional grounds for charges is an added reassurance that the existing material does not, in fact, contain unsuspected surprises. I do think, however, that Mr [redacted]'s minuting would look very cursory if the ICPC books were opened to the public and that the way in which the Commission handled the conspiracy allegation against Atkinson could also be made to look vulnerable. I will return to the last point when I discuss the Atkinson dimension generally.

**The allegations**

13 We must now go through the main points one by one. Some are detailed and complex, but I will deal with others quite briskly.

**(a) The fatal affray**

14 I think that just about everything in this paragraph is common ground among all the parties. The police patrol led by Constable Neill was tasked to keep public order in the centre of Portadown, with particular reference to an area around Magowan Buildings and Woodhouse Street, which is a short distance from the murder site at the junction of Thomas Street and Market Street. The latter was a well-known flashpoint for sectarian trouble at the weekends because the Catholics returning from St Patrick's Hall in Thomas Street crossed the path of Protestant coach parties returning down Market Street from their own drinking expeditions. The police landrover driven by Neill was initially parked in a place to observe that junction as small groups of Protestants drifted down Market Street but Neill thought that things were quiet where he was and he began to move off to explore the scene elsewhere. A Catholic, Thomas Mallon, waved down the crew and told them that his friends were coming down Thomas Street but Neill drove the landrover a little further away from the flashpoint junction, turned the landrover somewhat across the street and stopped, with the occupants' view of the junction restricted to whatever they could see through the observation slits in the side of the vehicle. The reason why he made these moves was that the known Protestant

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troublemaker Stacey Bridgett, carrying a bottle of cider, and his friend Dean Forbes had squared up to Mallon in a threatening way, and the patrol moved closer to this incident in order to stop it developing. They succeeded in this. Mallon (congratulating himself on having had a lucky escape from Bridgett) made his way home down Woodhouse Street opposite Thomas Street, and Bridgett and Forbes (who were both among the 6 people later charged with Hamill's murder) came to the passenger side of the landrover, chatting up the woman reserve Cornett in the passenger seat and having an inconsequential conversation with Neill. The street seems to have been fairly noisy with shouting that was normal at that time of night and the landrover engine was kept running.

15 This may be the best place to mention the large amounts of beer or cider that the young people on both sides of the sectarian divide had been drinking. Practically everyone on the streets by that time of night must have been quite drunk. The pathological report on Hamill shows that he was 'moderately intoxicated'.

16 According to the police officers in the landrover the next thing that happened was that a man (who must have been either Colin Prunty or Colin Hull) began to pull Neill out of the landrover shouting things like 'You watched that happening and you did nothing'. The officers got out and Neill, Atkinson and Cornett have remained adamant that there were no bodies on the ground at that point. The statements of the fourth member of the crew Reserve Constable P40 are generally vaguer, though he was clear that he heard aggressive shouting as he opened the door of the vehicle. Neill and Atkinson say that when they got out they saw a crowd of 40 to 50 Protestants confronting a group of 8 to 12 Nationalists; there was taunting and cat-calling going on, and almost immediately a number of fights broke out. They intervened to stop the fighting and Cornett called for reinforcements at 1.45:37. Within a couple of minutes the police did see two bodies on the ground and Cornett called for an ambulance at 1.48. At the Hobson trial Neill gave evidence that he thought he could remember seeing Hamill and another man running towards each other (presumably in the first moments after Neill had got out of the landrover).

17 Within the next ten minutes various police reinforcements arrived, riot guns were issued though not used, and the ambulance arrived at 1.58. From the arrival of the first reinforcements there are several police reports giving a clear picture that the police on the spot were energetically trying to press the Protestants away from the injured men, though it seems clear that some of the Protestants were still trying to get past the police and take a kick at Hamill, whose breathing was rasping and difficult. Neill and Atkinson give a confused account of a number of running fights and of their using their batons against Protestants. At one point Atkinson saw out of the corner of his eye three men jumping on Hamill, at another Neill saw Hobson aim a kick at him. Inspector McCrum, who came from the nearby police station and took charge, found about 30 Protestants and only 3 or 4 Catholics, with continuing disorder and police being assaulted. He implemented a plan to keep Catholics and Protestants apart and to herd the Protestants up to West Street, and this seems to have been accomplished without further trouble over the next 45 minutes. By 3.0 the area was deserted.

18 The attack on Hamill and his friend D must have taken place at some time between about 1.40 and Cornett's radio call for an ambulance at 1.48. The two men, entering Market Street from Thomas Street, had undoubtedly been attacked by a crowd of Protestants and kicked while they were on the ground. The attack

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seems to have been quite short, though savage. The Hamill party are adamant that the junction was quiet before the attack, and that a crowd of 30 or so aggressors suddenly came 'out of nowhere'. They make different estimates of how long it was after the attack until the police came out of the landrover, but they are all quite clear that no police reached the crowd until the attack was over.

19 In addition to the Hamill party's account that the attackers 'came out of nowhere' and the police officers' story of confronting groups exploding into violence there are several statements from witnesses, not called at the Hobson trial, about scuffling or fighting at the Thomas Street junction before the main attack took place. One of these statements has a man wearing a leather coat (as Hamill was wearing) running down Thomas Street and punching a Protestant in the face, and the (self-confessedly drunk) victim of that assault confirms that he was indeed punched.

20 The actions of the patrol crew are fairly clear for the earlier and later periods of the incident but there are questions and inconsistencies about the middle period. It will be simplest to take these periods separately.

### **Initial period; positioning the landrover etc**

21 Lord Justice McCollum singled out for criticism two of the police actions described in paragraph 14, that is, the ignoring of Mallon's warning and the placing of the landrover in an even more disadvantageous observation position. It is precisely these actions on which the ICPC base their current recommendation that Neill should be suspended and charged with neglect of duty. It is obvious with hindsight that Neill's action in moving away from the flashpoint area and having a chat with Bridgett and Forbes had disastrous consequences, but his story is that the street seemed peaceful enough until violence flared. However bad Neill's lapse of judgement in allowing Bridgett to distract him, there is no evidence whatsoever of deliberate planning by the police. If Neill does face a disciplinary charge I imagine that his defence will be eloquent on the oversimplification of our reconstructions focusing solely on the Thomas Street junction, how many calls there are on the attention of a patrolling officer, and how the fatal flashpoint site is not the only such point in Portadown (indeed, Neill was originally briefed to watch a different nearby place). It might also be that Neill would have access to all the statements taken in the investigation, in which case he could present his actions in a more favourable light than that in which they appeared at the Hobson trial.

22 There is a very small point that I may as well mention here for completeness. Neill has said that his intention was to 'drive around by the centre of town' or some such phrase, and the campaigners have castigated him for apparently preparing to leave the flashpoint area altogether. DCS McBurney explained to me that what Neill in fact meant was that after Mallon had warned him he intended to drive back to the flashpoint junction by turning round the block, which would have taken him only 30 seconds or so, but that he was then distracted by Bridgett. I accept that.

### **The later period**

23 The patrol's own story is that as soon as they were alerted they dived into the mêlée and tried to separate the factions and pull out the outnumbered Catholics. There is absolutely no doubt that very soon after the reinforcements arrived that is exactly what was happening. A powerful piece of support for the police is the evidence of Colin Prunty who was with the

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Hamill party and himself 'ploughed' into the crowd of attackers; he says that after the attack was over 2 police officers appeared and broke the crowd up. On the other hand Witness A says that she saw police at the back of the crowd and doing very little to stop what was happening as various Protestants were attacking Hamill.

24 A distinction can be drawn between Neill and Atkinson, who seem to have been active; Cornett, who seems to have been quite terrified and to have stayed in or near the landrover; and P40, who may have kept to the fringes. P40 has now retired from the police service, and cannot be made subject to any disciplinary recommendations that the ICPC might otherwise have contemplated, while Cornett is currently negotiating retirement on medical grounds. I believe that the weight of the evidence is that Neill and Atkinson, at all events, did get involved in controlling the disorder very soon after they were alerted to it. I know from their file that this is the conclusion that the ICPC reached, in both the criminal and disciplinary phases of their investigation. The Hobson trial judge commented that 'it appears that once the police officers did intervene they acted resolutely'.

**The immediate period of the murder**

25 The manifest difficulty with the police officers' story is that common sense seems to dictate that the man who began to pull Neill out of the landrover, shouting that 'you watched that happening and you did nothing' must surely have been referring to the attack on Hamill. In that case the police must be lying, or badly mistaken, when they say that there were no bodies on the ground when they got out of the landrover and that violence did not explode until shortly after their emergence. This is one of the strongest points in the CAJ report. Defence counsel in the Hobson trial made a lot of sarcastic play with the issue at Neill's expense, and Neill was left lamely speculating that the man who rushed up to the landrover must have been motivated by some other incident of which he (Neill) was unaware.

26 Lord Justice McCollum

[REDACTED] He began by saying that to resolve the issues necessary for the trial it was immaterial whether the Hamill party were correct in their evidence of an unprovoked attack, or whether police witnesses were correct in suggesting that some kind of confrontation took place before any serious injuries were sustained. Nevertheless, he felt that he had to comment on this and other related points and he later said that he was 'unable to resolve the question whether the police officers remained in the landrover during the attack', although he was 'satisfied that the officers came across the road shortly after the attack'. He then went on to say that the latter conclusion raised a reasonable doubt 'whether Constable Neill was being truthful when he described the scene as he looked across the street after dismounting' and he commented that if Neill's evidence were untruthful 'the purpose of it is obviously to protect his own and his fellow officers' position in the face of criticisms that have been publicly made against them'.

27 Just for completeness it may be worth noting that the judge balanced the above harsh comments with some observations that were [REDACTED] more welcome to the police. In particular he recognised that when the police officers intervened they acted resolutely to protect the Catholics. He also speculated - in what seems to me to have been an unsupported manner - that once the landrover had taken its final position it would have been impossible in any event for the officers to have dismounted in time to prevent a sudden short attack.

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28 Colin Hull and Dermott McNeice in their untested statements to [REDACTED] of 15 and 19 May have the police inside the landrover until the ambulance arrives, and I think that these are the only statements that go so far in supporting the basis of the complaint made by Diane Hamill on 6 May. In my opinion there is an overwhelming weight of evidence that the patrol had exited the landrover well before the ambulance arrived.

29 Quite apart from the major timing question hanging over Neill's evidence, it must be said that some other aspects of his story at the Hobson trial do cause one to raise an eyebrow. In particular, defence counsel had some fun with his claim to have taken the same individual to safety in Woodhouse Street no less than 3 or 4 times. This does seem somewhat bizarre, but it is conceivable that some excitable and drunken person might have kept dashing back into the mêlée. Neill's and Atkinson's evidence conflicts in many details, but I am not sure that this goes beyond what could be expected where two people are being cross-examined about a confused fracas.

30 The judge's criticism of Neill was a distinct plus for the campaigners. On the other hand, the Hobson trial did not hear all the relevant evidence and there are several arguments, as follows, that weigh in favour of the murderous attack happening after the police officers were out of the landrover, as in the Neill account.

a The strongest single point is that forensic examination showed Bridgett's blood on Hamill's trousers. While this of itself was insufficient to found a murder charge against Bridgett, the simplest explanation is that the blood was transferred during the attack. Bridgett does not appear to have been bleeding when he was chatting at the landrover, though several people saw him bleeding from the nose or mouth later in the evening. (His own account, for what it is worth, is that he was punched in the face moments after he left the landrover after the crew had got out.) The obvious inference of all this is that Bridgett must have attacked Hamill after he had finished chatting to the patrol crew.

b More generally, the placing of Hamill's disablement before the patrol dismounted is not compatible with Witness A's identification of Bridgett and Forbes among those who were jumping on Hamill. It is simply impossible to imagine that they would have been comfortably chatting to the landrover crew only moments after carrying out a violent assault. Strictly speaking, Witness A's statement has had of course, no probative force ever since she retracted it. But the police had no reason to doubt that she had identified the right people.

c The implication of the judge's comments was that Neill was at pains to protect himself from the campaigners' assertion that he had stayed in the landrover and witnessed the assault on Hamill. But if he had wanted to increase the plausibility of his story that the attack took place after he had exited the landrover and was fighting the crowd, he would surely have tried to downplay and obfuscate whatever it was that Prunty/Hull had shouted to him, and this would have been quite easy, as both Prunty and Hull were quite drunk. Instead of that, Neill gives a vivid account of the man accusing him of sitting there and watching 'it' happen, and he stuck doggedly to that account through many interviews and cross-examination in court.

d Neill, Atkinson and Cornett gave their first statements early the following morning when the CID were brought in and they were called back from their homes. If the story of seeing no bodies at the outset was a fabrication, they must have jointly concocted it very rapidly indeed.

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e If the bodies really were on the ground when the crew exited, why did Cornett not call for an ambulance straightaway, instead of waiting for another few minutes after her first call for help?

f Neill lamely postulated at the Hobson trial that there must have been some other violent incident that had precipitated Prunty/Hull to rush up with his accusation 'you sat there and did nothing', and he suffered for this at the hands of defence counsel and, as we have seen, those of the judge. In fact, however, there was independent evidence that there had been a prior confrontation at the Thomas Street junction (see paragraph 19) but this was not called at the trial and Neill may not even have been aware of it.

31 There is room for debate about exactly how long and violent the disturbance was, though it is relevant that the Diplock court had no problem in convicting Hobson of affray. Neill and Atkinson paint a fairly lurid picture, with Catholics needing to be pulled out and protected from Protestants, and this idea of 'two factions' is one of the things to which the CAJ object. On the other hand, some accounts such as that of A (see below) imply that the situation was simply one of the police containing a threatening crowd of Protestants. Given the evidence of Prunty, for example, there can be no real doubt that some Catholics must have got involved with the Protestant crowd; the weight of evidence is that there was indeed a widespread violent fracas for some minutes after Cornett's first call at 1.45:37; but that by 1.55 or so the police seem to be succeeding in keeping the Protestants back.

32 It will help the reader to focus if at this point I summarise in my own words the RUC story of the incident, as explained to me by DCS McBurney, and set it against the campaigners' version.

a The RUC believe that there was undoubtedly a preliminary fight at the Thomas Street junction, and that Hamill was almost certainly involved. They point out that Prunty and his girlfriend were able to cross Market Street with no trouble shortly ahead of Hamill. Whatever happened it was enough for Prunty/Hull to come rushing back saying that the police should have stopped it. Thereafter, things happened in the general way that Neill described, and the fatal attack on Hamill happened very swiftly while Neill and Atkinson were robustly trying to control the crowd (and whatever Atkinson may or may not have done the next day, he did his duty bravely on the street).

b The campaigners say that Hamill and D were set upon without the slightest provocation and that if the patrol did not actually witness the attack without intervening as Diane Hamill originally alleged, then at the very least their negligence was appalling. Having ignored the fatal attack while chatting with Bridgett and Forbes, Neill makes up a nonsensical story of seeing no bodies when he exited the landrover, and invents a sectarian conflict when there was none. Thereafter for several days the RUC persist in that story through press releases.

33 The issues of whether there was a preliminary skirmish and whether the main attack took place after the crew dismounted are inter-related.

- In my opinion the evidence in statements made to the police of a preliminary confrontation is quite strong. If only because of various witnesses' timings, I think that Hamill must have been in the area of such a preliminary confrontation at the relevant time. (Furthermore, and this is simply my speculation, I think that it is inherently likelier that something happened to attract the attention of the 'dribs and drabs' of Protestants drifting down the street, rather than that a crowd of 30 suddenly appeared without warning. It just

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seems more credible to me that there was a scuffle and the little knots of Protestant youths then rushed to the scene of the action and brutally piled in with their bestial howling of 'kill the Fenian bastard' etc.)

- In my opinion the arguments, summarised in paragraph 30, in favour of the murderous attack happening after the crew had dismounted are cumulatively very strong.

34 It is important to remember that the whole event from the postulated initial incident to Hamill's disablement would have occupied very few minutes. One point that tells against the police version is that if it was the preliminary fracas that caused Prunty/Hull to shout at Neill about police inactivity, then even this incident must have gone very badly for Hamill. It does not follow from this, however, that Hamill's body was on the ground when Neill exited the landrover. There are anomalies in either of the stories set out at paragraph 32, but on balance I conclude that there was a preliminary incident, that Hamill was not disabled until after the crew had dismounted, and that whatever happened in the early morning on 27 April 1997 is therefore likely to have been closer to the police version than to that of the campaigners. I shall comment more generally on this conclusion at the end of this part of the note.

**Constable A**

35 Constable A came up with the reinforcements. She gave evidence at the Hobson trial and was castigated by the judge and by the CAJ for not taking a note when Prunty told her that Lunt, whom she had apprehended and released, had been involved in the attack on Hamill. The DPP has since explained to the Hamill family solicitors that, unbeknown to the judge, Prunty's evidence against Lunt had indeed been followed up, and was to have been used in support of a murder charge against Lunt, but then had to be discarded because he (Prunty) got into a muddle and identified the wrong person. As regards A's decision to release Lunt, the fact is that she had not seen him do anything worse than running away and having a bottle in his hand, and at the time the pressing priority was presumably to hold back the Protestant mob from further attacking Hamill and D. Although A's action has been held up by the trial judge and by CAJ as one of the worst pieces of police incompetence in this whole affair, I am not sure that the evidence justifies such strong denunciation.

36 It is certainly true that if A had reported Prunty's advice straightaway the police might have found forensic evidence on Lunt. But I think that the failure to do this is part of the wider picture of the police attitude to evidence in the days immediately following the affray, which is the subject of the next section.

37 One feature, which speaks for A's independent-mindedness is her insistence at the Hobson trial (transcript p 378 et seq) that fighting was not going on when she arrived on the scene around 1.55 and that she was not even aware that any Nationalists were present. What she saw was simply police officers holding back a crowd that was trying to get at Hamill and D on the ground.

**b) The murder investigation**

38 Amnesty International allege that the police did not preserve the murder site and [REDACTED] has asked a question about this. The CAJ do not make a point of that, but claim that 'the failure to arrest and detain those involved in the attack on the night in question clearly led to potentially incriminating forensic evidence being lost to the prosecution' and

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that the police 'only became proactive in the case when Robert died'. The obvious point here is that, failing hard observation evidence of the crime, the only evidence that is of much use in this sort of case is forensic evidence of contact with the victim. Classically, the police are looking for bloodstains on the shoes and trousers of suspects. Even quite naive criminals, however, are likely to take some steps to destroy such evidence, so the police have to act very quickly if they are to get that kind of thing. On the other hand, it is fair to add that a riotous situation of the kind in which Hamill was killed is far more difficult to investigate than an isolated attack like the one on Stephen Lawrence.

39 What happened in this case was that once the streets had been cleared at about 3.0 all the police officers went home to bed. Two or three hours later Inspector McCrum telephoned the hospital to enquire after Hamill and was told that his injuries were life-threatening. McCrum then alerted the CID, who moved in by about 7.0, sealed the area for forensic examination and had all the officers immediately called in to the police station to make statements. Some forensic evidence (eg fingerprints on broken bottles) was discovered in the street, but it did not prove very useful.

40 The CID fairly soon had the names of a number of people who had been seen in the crowd, but none of them except Hobson had been seen doing anything to Hamill. They believed that it would be counter-productive to call any of these people in for questioning until there was something more concrete to confront them with, and they therefore set about finding witnesses, with house-to-house enquiries in the neighbourhood and following up all leads that were suggested to them. By 5/6 May they felt that they had just enough to call in several of the 6 final suspects for questioning, but this did not get anywhere. On 9 May Witness B was persuaded to incriminate some of the suspects and on 10 May Witness A, who had been brought to the police station by Andrea McKee, made her vital statement after lengthy interviewing by a very skilled detective. The suspects were then arrested within hours by a team of 30 officers, their effects were seized for examination, and they were charged with murder.

41 A key question in this is whether the police under-rated the severity of Hamill's injuries despite Inspector McCrum having been told that they were life-threatening, and whether the investigation would have moved any more quickly if it had been treated as a potential murder investigation from the beginning. Both Mr McBurney and the Chief Constable have stressed to me that Hamill's death might have been caused by oxygen starvation during the time before the ambulance arrived, and I think that this assertion simply has to be dismissed out of hand, since the pathologist was questioned in depth at the Hobson trial and was clear that Hamill died of brain injury. What I guess may lurk under this hypothesising by the police is the feeling that they may be criticised for treating a murder as though it was just an assault, and that they will be told that they should have done more to establish Hamill's condition while he was lying in hospital. So far as I can judge, the police were indeed surprised when Hamill died, but judging from the Hobson trial transcript so may have been the hospital doctors. Inspector Irwin told me that the hospital practice was to keep people with head injuries under sedation and to try to bring them into consciousness every 3 or 4 days, and that the police inquiries about Hamill's progress coincided with periods when he was under sedation in any event.

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42 My own feeling is that, on the face of it, the police do not come out of this too badly, and that they were genuinely prioritising and making progress with the investigation, albeit that they thought they were dealing with a serious assault rather than a murder. However, it is impossible to disprove the assertion that they would have got results more quickly if they had used the number of officers that would be deployed for a murder, or that they might have got solid evidence if they had tried much earlier to seize the suspects' effects for forensic tests.

**(c) Atkinson**

43 On 10 May Witness A alleged that Hanvey had told her that Atkinson had telephoned to advise him to destroy his clothes and that he was constantly passing on advice about the progress of the police investigation. Atkinson was not interviewed about this until 9 September, when he was first asked to produce the record of his telephone billing. The matter was not then pursued until 9 October, when Atkinson produced the story (see Annex 1) which the police were unable to disprove despite their scepticism

44 A good deal of time seems to have been spent by the police in unsuccessfully trying to prove that Hanvey had, in fact, got rid of clothing. Mr McBurney stressed to me that there would have been no point in simply confronting Atkinson with the allegation and obtaining his telephone billing records at the outset. He pointed out that the evidence of billing records cannot be destroyed and that, once again, good police work meant building up a case before the main suspect was confronted. In this particular case he had been disappointed that it had not been possible to nail Atkinson, since the latter's story had not rung true. But he had noted that Mr and Mrs McKee did not seem a well-matched couple and he had said at the time to Inspector Irwin 'They have got away from us for now, Michael, but once this couple separate - as they will do - we will take them by the throat'. The McKees did, in fact, separate, and Mr McBurney planned to reopen his inquiries under cover of the inquest. When the inquest was aborted, he decided that he had to act proactively, and Mrs McKee, who had returned to her native Wales, was interviewed there on 20 June.

45 I am not able to pronounce on whether the allegation against Atkinson was pursued with sufficient energy. Part of me feels that the telephone evidence should have been obtained and Atkinson confronted quickly, before he had time in which to organise a cover story. On the other hand, Mr McBurney's account may well represent conventional and sound detective practice. Mr McBurney's hunch, incidentally, is that it is unlikely that Atkinson himself would have telephoned the Hanvey household if only because he was not on good terms with the menfolk there. He thought that a more likely scenario was that he told his wife all about the riot and that she - a gossipy woman - picked up the phone and warned her friend Mrs Hanvey.

46 There is one more point in all this. When the police were preparing to interview Atkinson for the second time the ICPC decided, and minuted their file, that the collusion allegation was 'outside its remit'. Mr Mullan explained to me that this tactical decision, with which the late Mr [REDACTED] was strongly identified, may have been poorly expressed on the file. The thinking behind it was that the allegation would be bound to come back to the ICPC in due course (as it did) and that the immediate priority was to dispose of the Diane Hamill complaint so that the papers could go to the DPP. I think that this rationale is quite understandable, but I also believe that the ICPC could have argued that there was a read-

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across between the collusion allegation and the complaint, as described in paragraph 8. I cannot usefully speculate on the difference that might have been made if the ICPC had pressed the police to give more urgency to the Atkinson investigation, [REDACTED]

**(d) Press releases**

47 The Hamill campaign has consistently made a lot of the changes in the RUC press releases, which are set out in the CAJ report. The essential point is that 'a clash between rival factions' in the first release changes to a statement in the fourth release that 'two couples....were set upon by a large crowd'. The CAJ believe that the first releases represent a misleading account of events, whilst the fourth acknowledges that there was no confrontation before the fatal attack. The attack on Hamill coming without any kind of preliminary provocation is, of course, a feature that would strengthen the parallel that CAJ argue between this case and the Lawrence murder.

48 The RUC basically say that their concern was to get something out immediately in order to appeal for witnesses and that the change in the third release was out of a scrupulous regard not to cause offence. They offered to brief their press officers to be careful to consider the wording of releases so as to reduce the risk of misinterpretations and the ICPC accepted that as fair and appropriate.

49 This is, no doubt, a feature that could have been handled more sensitively, but I myself cannot see it as a deep failure, or as persuasive evidence of a particular mind-set. I think that there was fighting between two rival factions, even if one faction was vastly larger and vastly more culpable than the other. It would have been better to say from the start that the conflict involved a large crowd of Loyalists and a small group of Nationalists. Nevertheless, the police were obviously correct to make it clear that this was an incident across the sectarian divide, and I do not think it is too naive to believe them when they say that their immediate purpose was to get witnesses rather than to apportion blame.

**(e) The DPP**

50 The CAJ report asks all sorts of questions about why the DPP did not pass on various information to the victim's family earlier. I do not think that this assertion is central and I have not tried to get the DPP's comment on it.

51 The point that does occur to me about the DPP's decisions, rather, is why none of the suspects except Hobson was charged with affray when it became clear that Witness A's evidence would not be available to support murder charges. This was a deliberate decision by the DPP and it may have been based on a straightforward appraisal of the evidence. On the other hand, police officers identified a number of people doing various things in the crowd, and I am a bit surprised that lesser charges could not be proved against any of them except Hobson. We could only pursue this by asking the DPP's people, and I am very disinclined to appear to be questioning their prosecuting decisions.

**(f) The video**

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52 Just for completeness, Inspector Irwin assured me that there is absolutely nothing in CAJ's assertions about withheld video evidence. Nobody ever told Diane Hamill that there was a tape that showed the landrover in its original position. What she was told was that this camera was empty at the time, but that this was all that it would have shown had it been working.

**Conclusions to Part I**

53 Views about what happened on 27 April 1997 could hardly be more polarised. The chairman of the ICPC, for example believes that the Hamill family were done a dreadful wrong for which the police are in some sense to blame, and that some way should be found to expose the police attitudes that he believes to be illustrated by this case. At the other end of the spectrum, senior police officers see Neill as a reliable, brave and decent officer who has been shamefully pilloried through no fault of his own. There is absolutely no middle ground here.

54 It is important to remember that what I have called, for convenience, the 'RUC story' is simply the view of events that is taken by senior RUC officers. The only version on the public record is the partial one that was aired in the Hobson trial and which ended in the judge's criticisms of Neill. Equally, the campaigners have not presented their own alternative version of events; they simply criticise the police story.

55 The very idea of a person being killed so close to a police patrol, the general success of the Hamill campaign in putting across their interpretation, Lord Justice McCollum's criticisms of the police in the Hobson trial, the serious questions hanging over Atkinson, and the police's trying to tell me that Hamill may have died because of something other than his injuries all predisposed me at the outset to think that this was a pretty bad business.

56 One does not lightly disagree with a Lord Justice of Appeal who has had the inestimable advantage of seeing and hearing those witnesses who appeared before him, but I have concluded that several of Lord Justice McCollum's comments should be treated with caution. The fact is that the court trying Hobson only heard a small selection of the evidence and most of the points listed in paragraph 30 did not figure in the trial at all. The story of the Hamill party and the story of the police were both given for the prosecution, so that the two could not be properly tested against each other, and no supporting evidence was presented about the possible preliminary incident. The result of all this was that Neill was left floundering and appeared to be fantasising when in fact there was material that could have buttressed his story.

57 For the detailed reasons rehearsed above, I believe that the totality of evidence points to a preliminary skirmish (contrary to the assertions of the Hamill campaigners) and to Hamill being disabled after the patrol crew had dismounted (which is against the findings of Lord Justice McCollum). Exactly how quickly the crew then intervened is another matter. The police version has Neill and Atkinson trying to control the crowd when Hamill received the fatal injuries. That may well be right, but a hostile questioner would still want to know how a man could be killed so close to an officer (Neill) without his seeing anything of it, while another officer (Atkinson) did see the attack but cannot recognise any of the participants, despite himself living in the heart of the Portadown Protestant community. And if we are to put any weight on Witness A's identification of Bridgett as one of the murderers,

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) then it would be illogical to dismiss her assertion that the police were not doing much to stop what was happening.

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59 The evidence that would, on the face of it, go furthest to support Diane Hamill's complaint is in the statements by Hull and McNeice that were taken by [REDACTED] a few days after Hamill's death. These statements have the police in the landrover throughout the attack, and staying there until the ambulance arrived. This is contradicted by so much other evidence that I am absolutely clear that the statements cannot be believed. Hull and McNeice have refused to be interviewed by the police.

60 My impression is that the general handling of the original investigation was competent, and nothing can dislodge the fact that 6 suspects were charged soon after Hamill's death. But liaison with the hospital may have been imperfect and it is quite possible that the police could have got a gloomier assessment of Hamill's health if they had pressed for it. In that case the police would probably have been able to justify deploying more resources, though I do not think it necessarily follows that the investigation would then have been more successful. I am not able to say whether it might have been practicable for the police to seize the suspects' personal effects at an earlier point, or what evidence might have realistically been found had they done so.

61 I was rather surprised that Atkinson was not confronted with the collusion allegation for 5 months, though that may simply reflect my lack of knowledge about police work. The senior officer in charge of the case can explain his approach clearly and confidently and would make a strong witness. The ICPC's decision to detach itself from this phase of the investigation, however, was unfortunately minuted on their internal file, and the decision itself may be debatable.

62 I have not pursued the CAJ complaints about the DPP, which do not strike me as very telling. If there were an external inquiry, however, it might just possibly get interested in why it was that the DPP did not bring lesser charges against any of the rioters except Hobson.

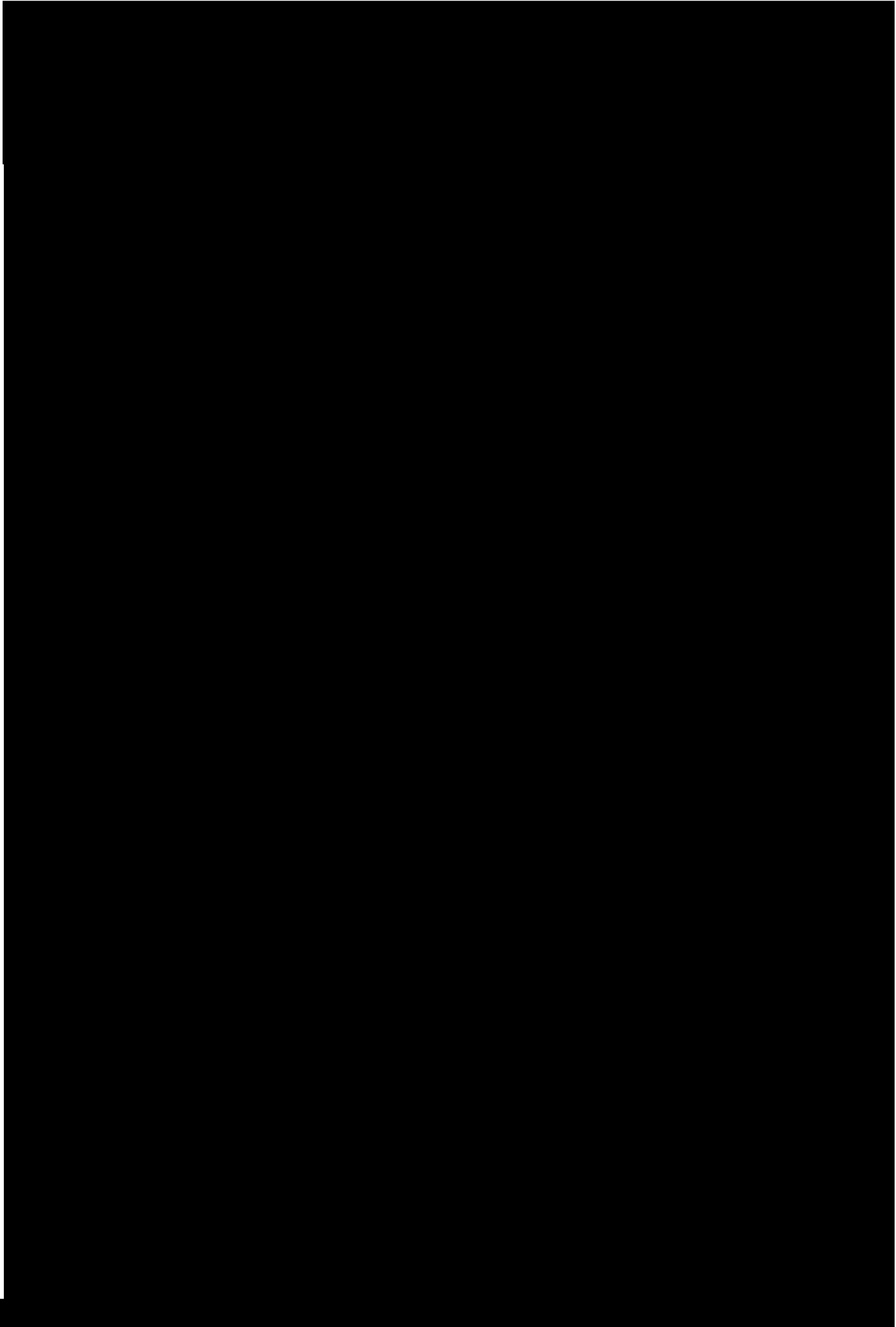
63 The alleged deficiencies of the RUC press releases do not appear to me to be very significant.

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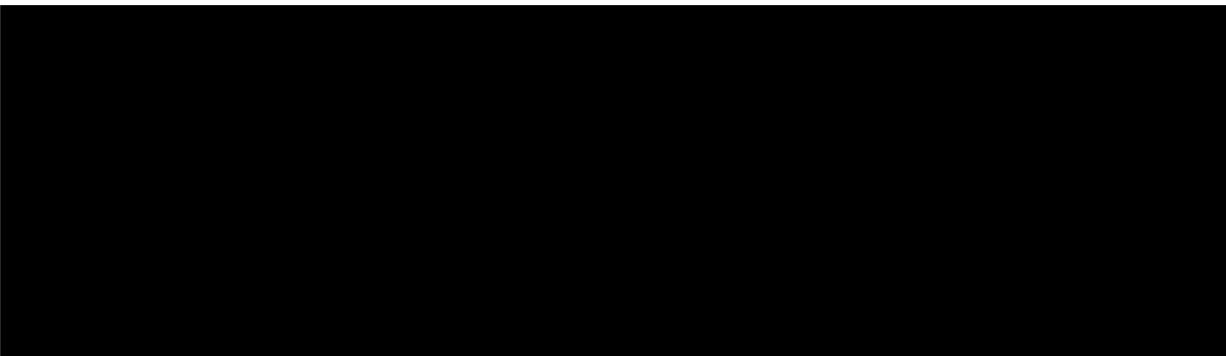
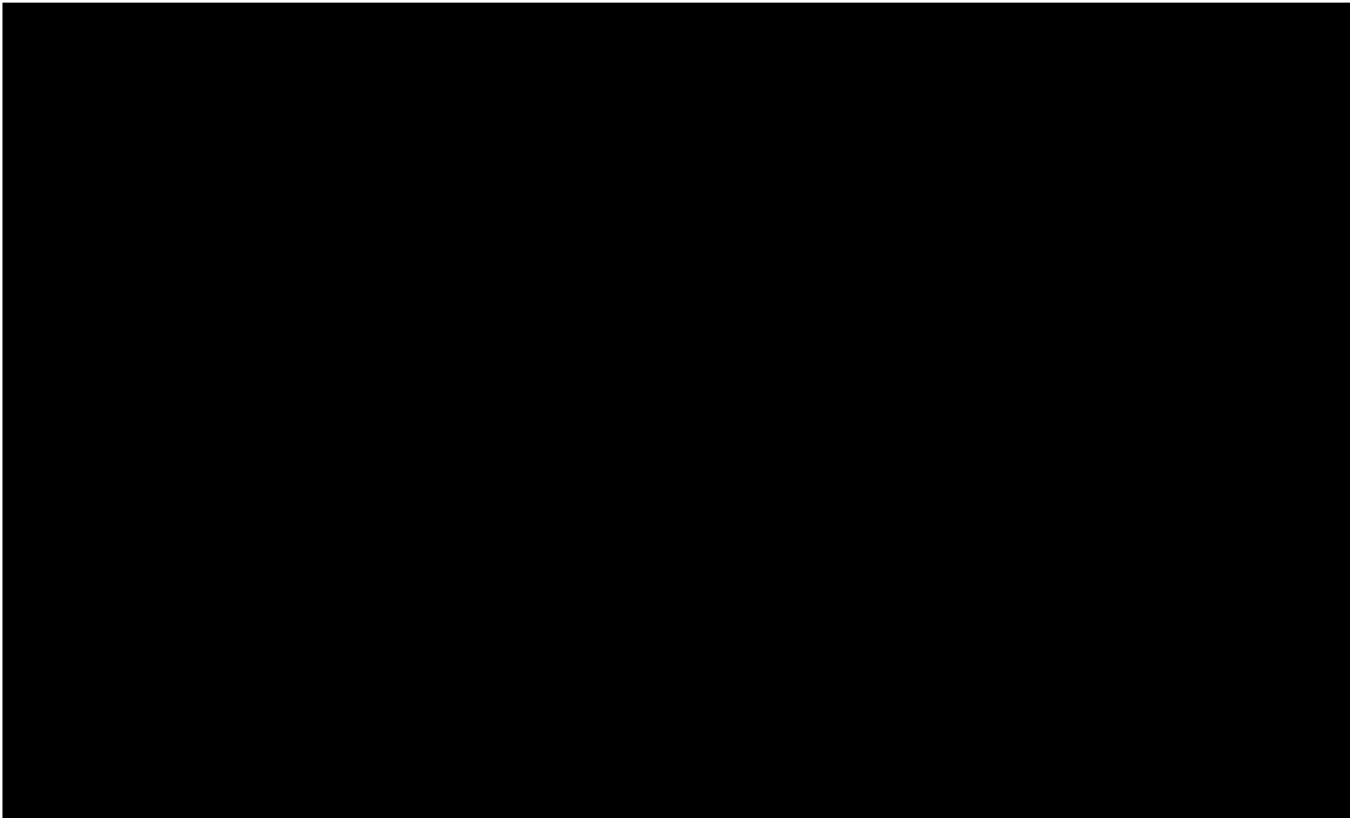


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