

Reference: _____

SUBJECT: COMPLAINT BY [REDACTED] (DECEASED) ON BEHALF OF DIANE HAMILL (ROBERT HAMILL DECEASED) INVESTIGATION INTO POLICE ACTION IN PORTADOWN ON 27 APRIL 1997

Superintendent Kennedy
Complaints & Discipline
Lisnasharragh

Following concerns identified by D/Chief Superintendent Stewart, South Region, regarding the above subject, Mr Chris Mahaffey, SIO, Police Ombudsman's office, indicated areas upon which the current investigation should now focus as follows:-

- * The scene was not properly preserved for forensic examination.
- * There was no immediate strategy, particularly in relation to Wayne Lunt.
- * There was no general arrest strategy of those identified at the time as being concerned in the disturbance.
- * No consideration was given as to the seizure of suspects' clothing for the purposes of forensic examination.
- * No attempt was made to gather debris (broken bottles, glass, etc, at the scene.
- * There was no proper debriefing of officers who had attended the disturbance.
- * Valuable forensic and identification evidence was therefore lost.

The current position regarding the alleged murder of Mr Hamill is as follows:-

Two files have been prepared and submitted to the Director of Public Prosecutions.

File One - Murder file as prepared by D/Inspector Irwin, Portadown

File Two - Allegations of Misconduct by officers of Justice at Market Street/High Street, Portadown, on 27 April 1997, as prepared by D/Chief Superintendent McBurney, under the supervision of the then Independent Commission for Police Complaints.

Whilst a total of six persons were initially charged with the alleged murder of Mr Hamill and two persons reported to the DPP to date no criminal charges have been substantiated at a Court of law.

Four 17/3s were served on the following police officers with regard to the enquiry conducted by D/Chief Superintendent McBurney.

Constable A Neill, 16143, Portadown

P40 [redacted] Portadown

R/Constable R Atkinson, R4610, Portadown

R/Constable D [redacted] nee Confitt, PW1978, Portadown

This file was forwarded to the director of Public Prosecutions who directed No Prosecution on 29 September 1999.

From examining all relevant papers it would be my understanding that details contained in both these files are under continued investigation, ie, criminal investigation.

With regard to the current matters I identify the following areas:

Form 17/3s have already been served on Inspector A G McCrum, 16742, and D/Constable D G Keys, 12543, on 18 April 2001.

The Journal entry of Inspector McCrum reads as follows: "On return to Portadown made enquiries with CAH reference the extent of injuries to the 2 males who had previously been assaulted. Informed by Doctor in ICU that one of the two, Hamill, had sustained serious head injury which may be life threatening and he was to be transferred to the Neurological Department at the RVH. Contacted call-out CID officer, D/Con Keys. Instructed Con Cooke in consultation with other Section officers who had been at the scene to draw up a list of those persons who had been positively identified at the scene -requested that all the late duty personnel who had been at the scene of the incident should return back to Portadown Station for the purposes of making immediate statement for CID. Briefed C/Insp McMullan, Ch/Supt McCreesh and Supt [redacted] Terminated duty 0815 hrs".

From papers available I am unable to establish -

What time D/Constable Keys commenced duty?

What briefing D/Constable Keys received?

Who briefed him?

What initial action he actually took.?

I am unable to establish if a list of names was drawn up

Who this list was given to?

What directions were given?

The scene appears not to have been sealed off until 7.20 am in the morning, some five hours after the alleged assault had taken place. I am unable to establish from papers available who directed this, however, there is some indication that around that time P39 [redacted] commenced duty and may have directed same.

Who was in charge of the scene and the criminal investigation of the alleged assault at this time is not clarified from papers available, however, an examination of the statement of Mr T F Fannin, Consultant Neurosurgeon, RVH, tends not to support Inspector McCrum's Journal entry regarding the initial condition of Mr Hamill. At a guess it may be the case that after Inspector McCrum terminated duty further contact was made with hospital staff.

Taking into account that a number of statements were made available or either recorded by CID on the 27 April 2001 a direction as to the course of the investigation then must have been given by supervisors who would have had details of persons allegedly involved in this assault. Questions, therefore, may need to be asked regarding any input, direction, control or command decisions given by C/Inspector McMullan, Chief Superintendent McCreesh, [REDACTED] and CID authorities then on duty.

What debriefing took place at various stages and decisions that were taken at various times on the 27 April 1997 regarding early follow-up action to be taken?

Why the actual scene of the alleged crime was not secured by Inspector McCrum after the alleged assault needs to be addressed. Equally three Sergeants were on duty at the scene in a supervisory capacity. Their actions with regard to scene preservation, supervision, debriefing, etc, would also have to be addressed.

Leaving aside the supervisory officers, a number of Constables and Reserve Constables refer to evidential matters at the scene but appear to have taken no positive action to secure same. The question of service of 17/3s on Constables and Reserve Constables has to be considered including the future possible service on the four officers already interviewed by D/Chief Superintendent McBurney.

The witness statements of Constable A [REDACTED] may require investigation. The Constable's first statement was made on 27 April 1997 and outlined details with regard to Wayne Lunt. On the 24 June 1997 a further statement was obtained which states "Mr Lunt left the police landrover at 0205 hours. At this time I was approached by a male person approximately 5' 9" in height, he was wearing light coloured trousers, blue shirt and tie, he had short ginger/fair hair. This person started to shout at me, what the fuck did you let him go for, he was one of the one that did it. I took it that this person was referring to the two male persons who were lying motionless on the road. I now know that these persons were Robert Hamill and D [REDACTED] D [REDACTED] I tried to explain to this person my reasons for releasing Lunt". The Constable does not appear to have any notebook entry to support this second statement. In any event a question arises with regard to this information, ie, was it available to CID on 27 April 1997. If not, why not? If made available what action was taken considering that an early arrest and seizure of clothing may have obtained valuable evidence.

To progress this investigation I feel the following areas require to be addressed.

Inspector Alan George McCrum, 16742 - Form 17/3 served

Interview required to establish -

- * What action he took at the scene?
- * What action he took to secure the scene and preserve evidence?
- * What debriefing of personnel on duty took place after this incident?
- * What did he do with information made available to him?
- * Why were immediate follow-up arrests not considered or carried out?
- * Why was personnel on duty allowed to stand down before making full and complete statements?
- * Who did he brief regarding events?
- * What instructions he got from his authorities?
- * What briefing did he give to D/Constable Keys?

D/Constable Donald George Keys - Form 17/3 served

Interview required to establish -

- * Time he commenced duty?
- * What briefing he received and from whom?
- * What action he took?
- * Why the scene was not sealed off - dependent on time he commenced duty?
- * Did he consider immediate follow-up arrests?
- * What steps he took to obtain and preserve evidence?
- * Did he brief any persons in authority?
- * What directions did he receive?

Chief Inspector McMullan

Chief Superintendent McCreesh

[REDACTED] - No Form 17/3 served

Interviews required to establish -

- * What briefing they received regarding this matter?
- * What actions they directed?

- * What instructions did they give?
- * What steps they took to preserve evidence, obtain evidence, direct immediate follow-up action?

Sergeant **P89** , Portadown RUC Station - No Form 17/3 served.

He was the Duty Sergeant at Portadown on 27 April 1997 and attended this scene.

Interview required to establish -

- * What action he took at the scene to preserve evidence?
To establish why the scene was secured at an early stage?
- * According to records at 0245 hours he left the scene and went to Craigavon Area Hospital to enquire about the condition of the two men who had been assaulted. What information did he receive and what action did he take on receipt of same?
- * What level of supervision did he afford to the scene?
- * Did he debrief police personnel? If so, what information did he receive and what did he do regarding same?
- * What steps did he take regarding immediate follow-up arrests?
- * Did he brief any supervisory officer?
- * Did he receive any instructions from supervisory officers?

Sergeant [REDACTED]
Sergeant [REDACTED] J2, MSU Portadown - No Form 17/s served

Both officers attend at this scene at the request of Inspector McCrum.

Interview required to establish -

- * What briefing they received?
- * What action they took at the scene?
- * Did they take any action to secure and preserve evidence?
- * What level of debriefing occurred after the event?

Constable Alan Keith Neill, 16143 - Form 17/3 has already been served regarding file submitted by D/Chief Superintendent McBurney.

Further interview may be required to establish -

- * What action he took at the scene to secure and preserve evidence he had regarding the identity of persons at the scene allegedly involved in the assault?
- * What follow-up action did he take?
- * Why were early arrests not considered?
- * Was he debriefed regarding this matter before he terminated duty?

P40

R/Constable R Atkinson, R4610

R/Constable D [REDACTED] nee Confitt, PW 1978 - Form 17/3s have also been served on these officers regarding file submitted by D/Chief Superintendent McBurney. Further interviews may be required along the lines outlined in respect of Constable Neill

Constable Dean Silcock, Portadown RUC Station - No Form 17/3 served. Was on duty on the 27 April 1997. His witness statement states "He was unconscious and having difficulty breathing. I removed glass away from the area of this man's head".

The statement of Mr Thomas Francis Fannin, Consultant Neurosurgeon, RVH, states with regard to the deceased, Mr Hamill, "We were given to understand that he had been hit with a bottle and put to the ground and immediately rendered unconscious".

An interview may be required to establish -

- * What, if any, action the Constable took to secure and preserve evidence?
- * Was he debriefed and the content of the debriefing?
- * Why was follow-up arrests not considered/complied with?

Constable Gordon Cooke, Portadown RUC Station - No Form 17/3 served.

He was on duty at this scene and outlines observing "broken glass lying around where the injured persons were lying and around the police landrover". The Constable also identifies various persons at the alleged assault scene. An interview may be required to establish -

- * What action he took to secure and preserve evidence?
- * What steps were taken regarding early arrests to secure and preserve evidence?
- * Did a debriefing take place after the incident?
- * The contents of the debriefing, if it took place?

Constable James Murphy, Portadown RUC Station
A [redacted] - No Forms 17/3 served

Both officers were on duty and at the scene of this incident on 27 April 1997. Both officers dealt with the person identified as Wayne Lunt. An interview may be required to establish -

- * Why Lunt was placed in the landrover in the first instance?
- * Why was he released?
- * Why was the early arrest of Lunt not considered to secure and preserve evidence?
- * Did they brief any person in authority regarding information relayed, ie, "What the fuck did you let him go for, he was one of the ones that did it". (Statement of Constable A [redacted] refers).
- * With regard to Constable A [redacted] did she keep a written note of this conversation?
- * Did she tell CID this on 27 April 1997 when interviewed. If not, why not?

Conclusions

Concerns pertaining to what appears to be inaction on the part of certain officers at the scene of the assault on the deceased, Robert Hamill, on 27 April 1997 have been called into question.

The perceived inaction referred to centres around what was, or was not done by various police officers following the assault, ie, after Robert Hamill and others had been removed to hospital and opposing factions had dispersed. In addition concerns regarding the command, control and direction of the alleged assault investigation also appear to be evident, ie, all the facts being known what steps were taken regarding early arrests to obtain and secure vital evidence.

The area of scene preservation management at an early stage is open to question, however, at this point it should be noted that in 1997 Force instructions on the investigation of such matters were dispersed across some 15 different orders, which in instances were grossly out of date and contradictory. In addition at that time the RUC had not adopted the UK National Procedures Manual for Serious Crime.

Clearly further Form 17/3s need to be served but equally an alternative investigative approach may need to be considered for the following reasons.

- A. Two files regarding this matter have already been submitted. Criminal enquiries continue and a legal view is currently being sought regarding certain matters outlined in the file submitted by D/Chief Superintendent McBurney.

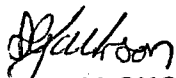

- B. The file submitted by D/Chief Superintendent McBurney covered allegations of misconduct by officers of Justice at Market Street/High Street, Portadown, on 27 April 1997 but referred to four police officers only.
- C. This current investigation identifies these four officers and other officers with regard to concerns pertaining to what appears to be inaction by Police regarding the investigation of this crime.

Considering these points and other areas identified in these papers -

- * the service of further 17/3s are required
- * considering past, present and future events the investigation needs to be proceeded along the lines of that conducted by D/Chief Superintendent McBurney, ie, that remit may need to be extended to include the criminal investigation of concerns identified by D/Chief Superintendent Stewart and the office of the Police Ombudsman.

Human Rights issues may now need to be viewed, ie, statements obtained for one investigation/purpose are now to be used for another, ie, disciplinary proceedings.

I hold the view, therefore, that legal opinion may need to be sought regarding this matter. It may be the case that this entire matter is best left with the SIO regarding the alleged murder of Mr Hamill to investigate/conclude, assisted by 'G' Department with regard to the further service of 17/3s.


D G JACKSON
Chief Inspector
Ext. 

4 May 2001