

THE MURDER OF ROBERT HAMILL

Section 1 Introduction and Terms of Reference

1. On Monday 16th May 2005, I was appointed as the Independent Police Expert for the Robert Hamill Inquiry. My appointment as an expert was based on my role within Kent Police where I served from 4th March 1974 to 7th March 2004. I retired as a Detective Superintendent having spent a number of years as a Senior Investigating Officer for murder investigations and other serious crimes. Upon my retirement I was appointed as a Senior Investigating Officer trainer. In brief this involved the training of Senior Officers from across the United Kingdom in the investigation of murders from initial attendance through to final conclusion. Details of my experience are outlined in Appendix A.

1.1 Upon appointment as Police Expert my terms of reference were outlined as follows:-

1.2 To report on the adequacy of resources supplied to the Royal Ulster Constabulary in April 1997, specifically indicating:-

- What level of risk of violence the RUC should have been prepared for
- What provision was made
- In my expert opinion whether a reasonably diligent Police force could have met that risk of violence with those resources.

1.3 To give an opinion on whether the police investigation initially into the Grievous Bodily Harm offence (GBH), and then the murder were conducted with due diligence, specifically indicating:

- What steps were taken to investigate the GBH and murder of Robert Hamill and to bring the perpetrators to justice?
- In my expert opinion was a reasonably diligent Police force bound to take more or different steps from those taken, indicating what the relevant steps should have been and the reasons for my conclusions.

1.4 In considering 1.3 above to also consider

- Whether the investigation into the acts and omissions of Reserve Constable Atkinson was conducted with due diligence given that all the investigations relating to the death of Robert Hamill were intimately linked

1.5 My terms of reference were later extended to include

- To inquire into the death of Robert Hamill with a view to determining whether any wrongful act or omission by or within the Royal Ulster

Constabulary facilitated his death or obstructed the investigation of it, or whether attempts were made to do so; whether any such act or omission was intentional or negligent; whether the investigation of his death was carried out with due diligence.

1.6 It is my understanding that in respect of this extended terms of reference, my role as an expert is not to determine but to report in such a way as to assist the Inquiry in reaching its own determination.

1.7 It should be noted that I have produced this report only on the material I have read. In due course I will have the benefit of listening to the oral evidence of witnesses who give evidence before the Inquiry. It is possible that upon hearing that evidence I may reach different conclusions or amend certain aspects of the report.

Section 2 Methodology

2.1 In preparing my report I have:

- Examined all material on the H.O.L.M.E.S. database. (Home Office Large Major Enquiry System).
- Read all material supplied by the Director of Public Prosecutions Office in Belfast following the prosecution of Reserve Constable Atkinson and others.
- Gathered all information with regard to resources available on the night of 26th April 1997.
- Visited the scene(s) of the assault leading to the murder of Mr Robert Hamill
- Met with appointed liaison officers in Belfast for the purpose of gathering material in order to complete my report.
- Met with Detective Chief Inspector K, P.S.N.I. to discuss the Policing issues in 1997. (Police Service of Northern Ireland).
- Met with Mr Mullen from P.O.N.I. (Police Ombudsman for Northern Ireland) to discuss the role of the I.C.P.C. in 1997. (Independent Commission for Police Complaints).
- Met with Mr Mahaffey from P.O.N.I.

2.2 In preparing my report I have considered and commented upon the:

- Intelligence available to anticipate or otherwise, public disorder at a recognised flashpoint on the 26th April 1997.
- Initial response of the 4 officers deployed on the 26th April 1997 for public order duties.
- Overall police response to the disorder.
- Role of the supervisors on duty that night and other key personnel.
- Crime scene assessment and then management of the crime scene.
- Police fast track actions undertaken that night.
- Initial CID response that night.
- GBH investigation.
- Management of the murder investigation and the structure in place. This will include the use and content of the relevant policy file.
- Witness strategy.
- Arrest/suspect strategy.
- Search strategy in relation to the suspects.
- Forensic strategy.
- Interview strategy.
- Communication strategy both internal and external.
- Management and effectiveness of the investigation into alleged misconduct by Reserve Constable Atkinson.
- Report of DCS McBurney.
- The interview of DCS McBurney by Mr Mahaffey the SIO, (Senior Investigating Officer) from the office of PONI

- The interview of DI Irwin.
- Overall effectiveness of the murder investigation.

I then outline my final conclusions.

2.3 In preparing my report I have been mindful of the unique position the RUC found themselves in 1997. Whilst many Police forces across the United Kingdom have to confront violence in towns and cities, and the subsequent investigation, none do so with the backdrop of sectarian divide as confronted by the RUC.

2.4 I have also endeavoured to avoid judging yesterday's actions against today's standards. For instance the RUC would not have had the benefit of the Murder Investigation Manual (MIM) in 1997. The MIM was subsequently introduced as a written guide for what was considered best practice in the investigation of murders. Similarly I have not relied upon documents or policies introduced since 1997, for example Force Order 23/2001 which deals with Major Crime Investigation.

2.5 I have used the term 'Loyalists' and 'Nationalists' to describe the parts of the community divided by religion. I have also referred to Catholics and Protestants within the report. That is not to suggest any political allegiance on the part of either group but for ease of reference.

2.6 I have referred to a large number of documents which have been copied and prepared as Appendices for ease of reference. Where I have quoted from them I have reproduced the text exactly as it appears in the document referred to.

2.7 The Appendices comprise 106 documents and each page is individually numbered in bold in the bottom right hand corner. Other documents referred to by number only have been served as relevant material.

2.8 Finally, I have read a number of the transcripts of interviews undertaken by the legal team working on behalf of the Robert Hamill Inquiry. I have not commented upon them as they are not being used in evidential form. However if a witness is called upon to give evidence at the Inquiry it may be necessary for me to produce an addendum to my report.

Section 3 The intelligence available to anticipate or otherwise, public disorder at a recognised flashpoint on the 26th April 1997

3.1 It is recognised in Northern Ireland that there was a sharp inter-communal divide in Portadown in 1997. The junction of Thomas Street and Market Street, Portadown has been described as a ‘flashpoint’ at weekends, the reason being that it forms a crossroads where members of the Catholic and Protestant communities encounter each other when returning home from their evening entertainment.

3.2 St. Patrick’s Hall in Thomas Street was frequented by Catholics and Protestants frequented Portadown Rugby Club and the Coach Inn at Banbridge. Residents from the Loyalist estates would be bussed into Banbridge and returned to Bridge Street, Portadown in the early hours of the morning.

3.3 Many would then make their way home along the High Street and into Market Street often stopping at late night fast-food restaurants for refreshments. Members of the Catholic community would frequently use taxis to return home in order to avoid the junction of Thomas Street and Market Street.

3.4 Appendix 1 (57565 – 57573) provides a synopsis of public order incidents that took place in Portadown from 4th January 1997 to 31st August 1997. The type and number of incidents was not unusual compared to any other town in the United Kingdom.

3.5 As a consequence of this the RUC traditionally retained officers on duty from the late turn shift to supplement the night duty officers. Their role was to police within the barriers in Portadown, to provide high profile policing and a fast response to any disturbances. They would pay particular attention to known trouble spots and would remain on duty until the town had quietened down and the night hopefully passed peacefully. This is common practice throughout the rest of GB and NI and is based on intelligence both to forthcoming events and previous occurrences at known trouble spots.

3.6 Constable Neill was interviewed by DI Irwin and DCS McBurney on the 8th September 1997. Constable Neill outlines how he was briefed by Sergeant **P89** for public order duties (Appendix 2) (9392 - 9393). He states there were public order problems at Woodhouse Street, West Street. Constable Neill was asked

“You’re referring to problems what type of problems?”

“Just ordinary Saturday night, the drunks coming out and people coming back from the Coach, people coming back from the Coach in Banbridge, they probably get off the bus at the bottom of the town at Boss Hoggs and go to Kentucky Fried and Boss Hoggs where you can have problems.”

“Did that include sectarianism?”

“Sometimes, well sometimes it does but not, mainly it’s just the drunks”

“Right”

“Most of the sectarian stuff that would go on would be at Woodhouse Street, Thomas Street where you have people coming up from St Pat’s going down Woodhouse Street”.

3.7 Constable Neill went on to say that there would sometimes be trouble at that location but not every Saturday night.

3.8 Officers stationed at Portadown were aware of the dangers of disorder and sectarian attacks in the town centre.

3.9 On the evening of the 26th/27th April 1997 there was no increased social activity in Portadown drawing unusually large numbers from either side of the community.

3.10 On 26th April 1997 the night duty policing figures, including those working on from late turn, were as follows.

1 x Inspector
1 x Sergeant
1 x Constable (Communications officer)
1 x Constable (Station office duty)
3 x Constables (Station security)
2 x Constables Call sign JD 70
3 x Constables Call sign JD 80
2 x Constables Call sign JB 70
4 x Constables Call sign JD 81

3.11 JB 70 was deployed to the area known as The Birches. JD 81 was the Land Rover containing the 4 officers deployed to the town centre. The duty sheet is outlined at Appendix 3 (50426 – 50427).

3.12 At the time of the assault one Mobile Support Unit (MSU) was on duty comprising 2 Sergeants and 12 Constables. The role of the MSU was to lend support to area policing for pre planned and spontaneous incidents. For example, if a march was going to take place which was likely to descend into violence then Mobile Support Units could be deployed from across the province to police that march.

3.13 There were 2 MSUs allocated to the then J Division, which covered Portadown, Lurgan and Banbridge. At the time of the attack on Robert Hamill one MSU was on duty. The MSU had completed an earlier 16.00 hours – 23.00 hours tour of duty. From 23.30 hours 26th April – 03.30 hours 27th April 1997 they were deployed on public order duties.

3.14 In the absence of pre-planned events the patrol would police the entire division deploying to incidents as they occurred. At the time of the assault on Robert Hamill and **D**, the MSU was deployed in Banbridge town centre. Following the attack on Robert Hamill and **D** and in response to the urgent request for assistance, the MSU deployed to Portadown where they were briefed

by Inspector McCrum. By the time they had arrived in Portadown the disturbances were under control and the MSU was used in more of a support role and as a deterrent to further disorder. Once satisfied they were no longer needed the MSU were stood down.

3.15 There was no documentation regarding the specific briefing given to the late turn patrols by Sergeant P89 . In reality being detailed public order duty would be sufficient as the officers had regularly carried out public order duty in the past and would know what was required of them.

3.16 In the absence of specific intelligence I would not expect a detailed briefing to have been given. My own experience is that officers are deployed into town centres without specific briefing but being aware that a high profile presence is required to prevent public disorder. Should disorder break out it is their role to deal with that as effectively as possible

Conclusion

3.17 It is my opinion that the resources supplied to the RUC for policing public order incidents were sufficient in 1997. There was no intelligence to show the attack on Robert Hamill and D was planned in advance. It is my view the attack was a spontaneous event. In the absence of such intelligence, and with the knowledge of previous incidents within Portadown, it was in my view reasonable to deploy only the 4 officers to public order duties within the barriers. In this instance the 4 officers were not sufficient in number to prevent the attack on Robert Hamill. This is not a contradiction in reporting the adequacy of resources to be supplied to the RUC as sufficient. The issue of where resources are deployed is another matter. The fact is that once reinforcements arrived the situation was quickly brought under control.

3.18 I believe that had the RUC been aware that a sectarian attack was likely on the night of 26th/27th April 1997 they would have deployed the required number of MSUs to Portadown in order to prevent such an attack.

3.19 The deployment of similar numbers in the past was sufficient to keep the peace. Policing cannot be based on the worst case scenario but must be based on intelligence and historic factors which should influence policing methods.

3.20 It is a circular discussion to consider what would have happened if 12 officers had been deployed in Portadown town centre. One could then ask; what if 100 Loyalists attacked Robert Hamill.

Section 4 The actions of the 4 officers in initial attendance.

4.1 There were 4 officers in initial attendance namely

Constable Alan Neill
Reserve Constable Robert Atkinson
Reserve Constable Denise Cornett
Reserve Constable P40

4.2 Constable Neill was the driver of the police Land Rover deployed to the centre of Portadown. He was the senior constable of the 4 officers. He made 3 statements over the course of the investigation (Appendices 4, 5 and 6 10943 - 10946, 9671, 17247 – 17250 respectively).

4.3 In summary, he reported that at about 00.40 on the 27th April 1997 he was parked in Market Street when he saw a crowd of about 50 people coming up the High Street towards the junction of Market Street, Woodhouse Street and Thomas Street. He stated they were on the Thomas Street side of the High Street and described how some of these had walked past the junction.

4.4 Constable Neill stated he was about to drive along towards Boss Hoggs when a person, later identified as Mr Mallon, approached the police vehicle and said to Constable Cornett

“There’s a crowd coming down Thomas Street from St Pats”

4.5 In my opinion this should have immediately alerted both Constable Neill and Constable Cornett to the danger of immediate public disorder. They should have known from their own local knowledge that the crowd seen coming down the High Street were likely to be Loyalists and the crowd coming along Thomas Street were likely to be Nationalists. Despite this warning neither took any action. In a later discipline interview, Constable Neill stated that he looked over towards Thomas Street but did not see anybody.

4.6 Constable Neill then got into conversation with a male known as Stacey Bridgett and a second unknown male, later identified as Dean Forbes. It is possible it was at this time that the attack on Robert Hamill was taking place. I make that observation because suddenly the police vehicle door was opened and Constable Neill was dragged from the vehicle by a male who shouted:

“You sat there and watched that happen”

4.7 Constable Neill stated that he was unaware of what this man was talking about. He then saw a number of fights break out and at one point he pulled a man over towards Woodhouse Street. Someone then punched this man in the face. He later became aware of two men lying injured on the street. Constable Neill then described a confused sequence of events.

4.8 Crucially, he described a man who kicked at Robert Hamill. He described this person as in his late 20’s, with a round face, goatee beard and very short dark hair.

He describes him as wearing a soft casual waistcoat. This person was later identified as Marc Hobson.

4.9 Constable Neill then described how other officers arrived and pushed the crowd back. He identified Rory Robinson as being in the crowd and saw Stacey Bridgett again but this time with blood coming from his nose. Constable Neill described how at one point he helped Constable A take Wayne Lunt to the police vehicle.

4.10 Constable Neill's second statement dealt with the identification of Marc Hobson. His third statement clarifies the witnessing of Hobson kicking out at Robert Hamill.

4.11 In his third statement (dated 19th June 2001) he described how he saw Allister Hanvey at the scene but did not witness him involved in any of the assaults.

4.12 Significantly Constable Neill described Allister Hanvey as wearing a tracksuit type top.

4.13 Later in my report I identify a significant failure in the police investigation, namely the failure to debrief officers who had attended the scene of the assault. It is my belief that had the officers in initial attendance been properly debriefed then significant evidence may have been forthcoming. For example the third statement of Constable Neill that was taken 4 years after the assault further evidences the clothing worn by Allister Hanvey on the night in question.

4.14 Reserve Constable Cornett made 1 statement (Appendix 7) (9678 – 9680).

In summary she reported being the front seat passenger when she was approached by a man, (Mr Mallon) who said to her

'My friends are coming down Thomas Street'

4.15 She then described how 2 other people approached her position and engaged in conversation. She was unable to name these two. She then recalled Constable Neill's door being opened and Constable Neill being pulled from the vehicle.

4.16 On leaving the vehicle she saw a number of fights and recalled 2 men lying on the road having been assaulted. She returned to the police vehicle and summoned both the ambulance and assistance. There is a transcription of that communication (Appendix 8) (6589 – 6598).

4.17 Reserve Constable Cornett described checking on the condition of one of the injured men (Mr Hamill) and eventually upon arrival of other police personnel, assisted in pushing the Loyalist crowd back along West Street.

4.18 Reserve Constable Cornett appeared to have taken a passive role in this incident and concentrated more on summoning assistance. It may be the case that Constable Cornett was tasked with remaining with the police vehicle. According

to the officers they were overwhelmed and were limited in what they could have done until assistance arrived. Reserve Constable Cornett does not appear to have heeded the warning provided by Mr Mallon. Although the comment was made to her about friends coming down from Thomas Street this neither alerted her to the danger of a confrontation nor prompted her into any form of action.

4.19 Reserve Constable Atkinson made 1 statement, (Appendix 9) (9683 – 9685).

4.20 In summary, Reserve Constable Atkinson described how he was part of the patrol parked up at Market Street/Woodhouse Street junction. He described seeing groups of 3 or 4 men walking up from Bridge Street area. He identified them as patrons from either Portadown Rugby Club or the Coach Inn. He initially reported the demeanour of the groups as being good humoured and relatively quiet.

4.21 Reserve Constable Atkinson described how he saw someone “*mouth*” something to the police patrol but stated he did not know what was said. He saw 2 men approach this man and words were exchanged. He recalled Constable Cornett telling these 2 men to “*clear off home*”.

4.22 Reserve Constable Atkinson described hearing a commotion at the back of the police patrol and then seeing Constable Neill being pulled from the vehicle. On alighting from the vehicle, he described a lot of shouting between a Nationalist crowd, which had come down Thomas Street, and a Loyalist crowd who were on their way home. He estimated the Loyalist crowd to number 50 and the Nationalists between 10 to 12 in number.

4.23 Reserve Constable Atkinson described a number of scuffles breaking out and he assisted Constable Neill to extricate a person who was being attacked by 4 or 5 youths.

4.24 Reserve Constable Atkinson saw 2 men injured on the ground and assisted in protecting them from the Loyalists whilst Constable Neill checked on their welfare. At one point he assisted Constable Neill to remove someone to the police vehicle and he then became involved in a violent confrontation with a third party. Whilst struggling with this person he caught a glance of 3 people jumping on the head of one of these people. He went back over to assist the injured man and whilst struggling with the crowd struck a person with his baton whom he believed was named Rory Robinson. He saw Constable A removing a person, whom he knew as Wayne Lunt, to the police vehicle.

4.25 Reserve Constable Atkinson stated that it took about 10 to 15 minutes for the ambulance to arrive and eventually, with the assistance of other officers, he dispersed the crowd.

4.26 Reserve Constable Atkinson was perhaps the most active officer initially at the scene. I am mindful that there are others who would dispute how resolute the officers were. In describing events Reserve Constable Atkinson recalled assisting Constable Neill. He stated:

“I accompanied Const Neill to the landrover where I was confronted by the male person in the blueish shirt whom we had originally encountered. This person was very agitated and grabbed me by the jacket. I broke free and he tried to wrestle my baton from me. In the ensuing struggle the leather strap was broken. Whilst I was struggling with this person I could see out of the corner of my eye that 3 youths were jumping on the head of the male who was lying on the ground outside Eastwoods. I broke free and went to the injured person’s aid where I remained until assistance from other police arrived.”

4.27 If one accepts the account of Reserve Constable Atkinson as being true, there was a period of time when Reserve Constable Atkinson and Constable Neill were attempting to prevent further attacks on Robert Hamill and **D**. By removing a person to the police vehicle, however, both injured parties were left totally unprotected. In describing events as he does Reserve Constable Atkinson does not provide any description of those involved in assaulting the injured parties.

4.28 Reserve Constable **P40** made 1 statement, (Appendix 10) (9686 – 9687). Reserve Constable **P40** described being on public order duty in the town centre. He described talking to a person whom he knew as Stacey. He went on to say that a man informed Reserve Constable Cornett that his friends were coming from St Patrick’s Hall towards the town centre.

4.29 Reserve Constable **P40** then noticed a crowd numbering approximately 30 walking from the direction of Wellworths towards Church Street. He heard shouting coming from the direction of Thomas Street and he informed Constable Neill. Constable Neill was later to say he did not hear this comment.

4.30 Reserve Constable **P40** described the driver’s door being opened and Constable Neill being pulled from the vehicle. He described how several fights were taking place and how he restrained a person who came running from Woodhouse Street. He suspected this person was a Nationalist. The officer then saw two men lying in the road adjacent to Thomas Street. He recalled a man acting aggressively who had to be moved back several times. He described this man as 5’9’ tall, stocky build, short dark hair and a goatee beard. He concluded by reporting the removal of the crowd and standing down from duty at 03.30 hours.

4.31 According to the evidence of Constable **P40** he busied himself with restraining a Nationalist from getting involved. He also failed to heed the significance of the comment made by Mr Mallon.

4.32 The account of the officers has been both supported and contradicted by a number of different people.

4.33 It is possible that the assault on both Mr Hamill and Mr **D** was underway prior to the officers leaving the Land Rover. I base this on the evidence of those, including the police officers, who reported Constable Neill being pulled from the vehicle and challenged as to why the officers had sat by and done nothing.

4.34 All of the officers in the vehicle said they did not see Robert Hamill or **D** on the ground upon alighting from the police vehicle.

4.35 Reserve Constables Cornett and **P40** and Constable Neill described how a person approached the police vehicle and advised them that there were people coming down from St Patrick's Hall. The officers, through their experience and knowledge of Portadown, should have been aware that the people referred to were probably from the Nationalist community. Constable Neill was aware of approximately 50 people walking up the High Street towards the officers' position.

4.36 Despite this, no action was taken to look across or monitor Thomas Street. (As previously reported Constable Neill in a later discipline interview stated he did look across to Thomas Street but did not see anybody). Whilst I accept the position of the vehicle made it difficult to view Thomas Street, the vehicle could have been moved or an officer could have alighted from the vehicle. Neither was done and the significance of Mr Mallon's comments appears to have been lost on the officers.

4.37 The question as to whether the officers should have been allowed to go off duty prior to making statements will be dealt with under the role of the supervisors and fast-track actions.

4.38 The officers were later recalled to duty when it was known that the injuries sustained by Robert Hamill were serious, the statements however were inadequate. They lacked detail, and there was a conspicuous lack of names of the parties involved in the attack or in the locality. DCI **P39** had been called out and was on duty when these officers were recalled yet no effort was made to debrief them.

4.39 Later accounts described the attack on Robert Hamill and **D**, together with the disorder, as a riot. The statements of the officers in attendance did not reflect that. The statements talk of what can only be described as almost skirmishes taking place and upon the arrival of assistance the crowd was dispersed.

4.40 Sergeant **P89** later provided a statement, (Appendix 11) (11084 – 11085), where he states Reserve Constable Atkinson advised him to watch out for Allister Hanvey as he was an expert in martial arts. The name Allister Hanvey did not appear in the statement of Reserve Constable Atkinson nor did it appear in his pocket note book.

Conclusion

4.41 In my opinion the officers failed to realise the significance of the warning given by Mr Mallon. Prompt action on their part may not have prevented the fatal attack on Robert Hamill but an alert should have been given. This would have at least concentrated the police in observing the attack area which may have proved evidentially important from a witness point of view.

4.42 In my opinion the officers should have taken action to monitor Thomas Street in anticipation of a fight breaking out. That was the purpose of their

patrol. They were on duty at a recognised flashpoint and I believe the officers should have been more vigilant.

4.43 Despite the clear warning provided to them, an almost casual conversation took place between the officers and Stacey Bridgett with no attempt made to determine what, if anything, was occurring in Thomas Street.

4.44 There is a clear divide amongst the eye witnesses as to when the 4 officers intervened.

4.45 In reviewing the actions of the officers there are a number of options when considering their alleged failure to protect Robert Hamill.

4.46 The first scenario is that the officers were correct in their accounts and were unaware of a fight taking place until they had alighted from the vehicle. The officers suggested there were ‘skirmishes’ and name calling taking place before it escalated into a fight. The officers maintained nobody was on the ground when they left the vehicle and therefore acted reasonably.

4.47 The second scenario is that the officers were inattentive and Robert Hamill had already been attacked prior to leaving the vehicle hence the member of the public dragging Constable Neill from the vehicle and saying: *“You sat there and watched that happen.”*

4.48 The third scenario is that the officers may have been aware that an assault was taking place and deliberately remained in the vehicle thus failing to act promptly in protecting Robert Hamill.

4.49 From the material I have read, it is not possible to determine which of these options is correct. I do not accept the assertion from some members of the public that the officers remained in the vehicle until the arrival of an ambulance. There is evidence from too many people describing officers being at the scene prior to the ambulance arriving.

4.50 I believe the officers were negligent in their duty. The routine of public order duties may lend itself to that but I believe greater attention should have been given to monitoring the junction, particularly in light of the warning provided by Mr Mallon.

Section 5 The overall response of the Police in dealing with the disorder

5.1 In addition to the 4 officers in initial attendance, the following officers attended the scene in response to the call for assistance.

Inspector McCrum
Sergeant P89
Reserve Constable Silcock.
Constable Adams
Constable Orr
Constable A
Constable Cooke
Reserve Constable Warnock
Reserve Constable Murphy
Reserve Constable Burrows

5.2 In addition members of the MSU attended but arrived once the attack had taken place and remained there for a short period of time in a support capacity. The majority of the officers who attended the scene had little of significance to report. Constable A is an exception and will be the subject of a later section of this report.

5.3 The RUC were well-versed in their response to public disorder. Their response would be dependent upon the situation they faced and in the event of widespread disorder or planned events where such disorder was anticipated then contingency plans were in place to deal with such events.

5.4 It is not my intention to outline or expose the contingency plans for dealing with planned events where public disorder is anticipated as this in my view is a sensitive document and not one which should not be released into the public domain. Furthermore, it is my belief that the public disorder in Portadown town centre was spontaneous and unplanned. However, it is necessary to refer to extracts from the General Order in place at the time. Under Chapter 1 General Conditions and Principles, (Appendix 12) (44990 – 44992), paragraph 1.5 reads as follows:

“The objectives of the police must be clearly defined at briefings and all personnel should be kept informed of developments. The extent of attainment of police objectives should be the subject of thorough debriefing.”

5.5 As a general principle, officers deployed on patrol should be adequately briefed whether it is for public order duties or routine patrol. I have no doubt that the four officers deployed would have been briefed. Even in the absence of a briefing I believe the officers by routine of duty would have known what was required of them.

5.6 Even without the guidance from the General Order regarding thorough debriefing, any unusual police activity should be debriefed. This certainly applied to the disturbances in Portadown town centre.

Paragraph 1.6 reads:

“At the scene of any disturbance it is the immediate responsibility of the senior police officer present to take all lawful measures within his power for the restoration of law and order as quickly as possible.”

5.7 Looking at the actions of Inspector McCrum he did quickly bring the situation under control by rapid deployment of staff.

Paragraph 1.7 reads:

“In the event of a public disorder situation it is imperative that the initiative should be quickly seized and held and it is to this end that the measures set out in this manual are specially designed. Disorder spreads quickly and any success gained by the rioters at the expense of authority or any apparent reluctance on the part of the police to deal quickly with the disturbance will only encourage the forces of disorder”.

5.8 The four officers, as previously reported, were overwhelmed, which allowed the Loyalists almost free reign until the arrival of reinforcements. Once the reinforcements arrived the initiative was quickly seized and the situation brought under control.

Paragraph 1.11 when dealing with manpower resources reads:

“In keeping with the concept of minimum force, adequate resources will be deployed in advance with the intention of preventing a breach of the peace. Additional manpower will be deployed in the most favourable positions to deal with the escalation of violence.”

Paragraph 1.12 reads:

“Mobile support units are readily available to augment local resources as and when necessary.”

5.9 Whilst paragraphs 1.11 and 1.12 may apply more to planned events, they do apply to spontaneous disorder at anticipated venues such as occurred in Portadown. That is why public order patrols were routinely deployed to that location. My view on adequate resourcing was dealt with under section 3 of my report.

5.10 This same General Order deals with the policy regarding the use of riot guns. Officers were finally deployed with riot guns but they were not fired. Consequently I do not intend dealing with that policy in any detail. My only comment is that the issue and deployment were in line with policy.

5.11 Appendix 13 (44279 – 44282) deals with police use of firearms and in particular warning shots. The officers did not fire warning shots to prevent or stop the attack on Robert Hamill.

Paragraph 7 (page 44281) deals with the then prevailing policy on warning shots which reads:

“Warning shots. When a verbal warning may not be heard in time or prevailing circumstances do not permit such action, a warning shot may be fired. This shot must be aimed and fired in a safe direction.”

5.12 It should be noted that this policy has now been replaced by General Order 61/2001 which deals with human rights and police use of firearms. The later General Order advised that police officers should not normally fire warning shots due to the inherent dangers associated with doing so.

5.13 I do not believe the officers were in a position to fire a warning shot to deter the attack on Robert Hamill. This was a serious public order situation and one would have to question what effect, if any, warning shots may have had. On the papers I have read there is evidence that a number of people in the town centre were intoxicated, which would not have helped the situation.

5.14 Inspector McCrum, in his statement (Appendix 14 (9217), reports arriving in the town centre following the urgent request for assistance and seeing 30 – 40 youths congregating in the town centre. He also saw a further group of 3 - 4 youths in the vicinity of Thomas Street. After being briefed, he directed the officers to move the larger group into West Street. He directed officers to keep the 2 groups apart and described the town centre as then remaining quiet. I will refer to this statement when dealing with the actions of supervisors.

5.15 Sergeant P89 in his statement (Appendix 15 (9213 -9214), described how whilst en route to the scene of the assault he was informed of serious public disorder having erupted. Consequently, he authorised Reserve Constable Warnock to draw a baton gun for deployment into the town centre. Sergeant P89 took a second baton gun to the scene for issue to an authorised officer.

5.16 Sergeant P89 described being passed by an ambulance en route to the scene and on arrival stated that the situation was quickly brought under control. He did not consider it necessary to issue the second baton gun.

5.17 Reserve Constable Silcock, in his statement (Appendices 16 and 17) (9220 – 9221) and 9222), described arriving at the scene and seeing 2 men lying in the road. He described one of these men having difficulty breathing. The Constable removed glass from around this person’s head. The Constable described how there were a large number of youths in the vicinity who were aggressive both verbally and physically.

5.18 On several occasions the officer pushed some of these away who were trying to assault the 2 injured men. Reserve Constable Silcock then dealt with the issue involving ‘Stacey’ which is dealt with at paragraph 12.25 of my report.

5.19 Constable Murphy in his statement (Appendix 18) (9231 – 9232), described how he arrived at the scene witnessing a group of people, predominantly male,

numbering approximately 40 to 50. He also saw 2 people lying in the road. He described assisting other officers to keep the Nationalists and Loyalists apart.

5.20 The officer stated that after what seemed a long time the ambulance arrived and during this time a number of smaller fights were taking place all around. He concluded by stating that the Loyalists were pushed into West Street.

5.21 Constable Cooke, in his statement (Appendix 19) (9225 -9227), described arriving at the scene and seeing 2 injured people lying in the street with a crowd of about 30 – 40 in number standing about 10 feet in front of the injured people with police officers attempting to keep these from attacking the 2 on the ground.

5.22 The officer described a violent scene where these people kept trying to get to the 2 injured men. The officer described how, with other officers, he pushed those people into West Street.

5.23 The officer then named a number of different people whom he recognised. This could have been very useful to the investigation team had this officer, along with others, been properly debriefed.

5.24 Constable Warnock in his statement (Appendix 20) (9229 -9230) described arriving at the scene and assisting Constable A with Wayne Lunt. He then returned to the police station to draw a Heckler and Koch baton gun with ammunition. On returning to the scene he stated it was still disorderly with officers trying to push the crowd into West Street. Having pushed the crowd into West Street, the officer said that the crowd dispersed and the area had gone quiet.

5.25 Constable Orr in his statement (Appendix 21) (9233 – 9234), described arriving at the scene with Constable A. He assisted officers pushing a crowd back towards Church Street. He numbered these as 50 strong. As he was doing this he saw 2 injured people lying in the road.

5.26 The officer described how this large crowd kept rushing the police lines to get to the opposing ‘faction’ which was to the rear of the police line. Details of this so described faction are not provided by the officer. The officer then described Inspector McCrum arriving and instructing the officers to move the crowd into West Street which they did.

5.27 Of significance is the comment by Constable Orr that at 05.30 he instructed the town cleaner to avoid the junction of Market Street, Thomas Street and Woodhouse Street. This is the first indication of any officer taking steps to protect the scene which will be dealt with later in this report.

5.28 The disorder and attack on Mr Hamill were in my view spontaneous and the RUC responded with sufficient staff under the direction of Inspector McCrum to disperse the crowd and prevent a continuance of the disorder. Regrettably, this was too late to prevent the assault on Mr Hamill.

Conclusion

5.29 I have already commented on the initial response where the officers were overwhelmed. In looking at the overall response once assistance arrived, the situation was brought under control and the crowd eventually dispersed. The RUC officers engaged in clearing the streets were clearly under threat and had difficulty in dispersing the crowd. The arrival of the MSU clearly had a positive effect on the crowd. The officers engaged in dispersing the crowd, in my view, acted resolutely and professionally.

5.30 However once the crowd was dispersed that appears to be the end of the matter. The officers then went about their business. When considering the scale of disorder and the attack on Robert Hamill and D, I would have expected some further police action to follow. That is not a criticism of the Constables but it is a criticism of the supervisors, who did nothing further. That is the subject of comment below.

Section 6 The role of the supervisors on duty that night and other key personnel

6.1 Police Inspector McCrum was the senior officer on duty overnight on 26th / 27th April 1997. He provided 2 statements (Appendices 22 and 23) (728 and 11301). Appendix 24 (9960 – 9961) refers to his pocket note book and Appendix 25 (12365 – 12367) refers to his journal entry. Inspector McCrum had supervisory responsibility for the Division.

6.2 I have briefly outlined the contents of Inspector McCrum's statement at paragraph 5.14 above. My first observation regarding this statement is that, despite it being dated 7th May 1997, when it was known that Robert Hamill had been seriously assaulted it is so vague and lacking in detail as to render it worthless.

6.3 One has to consider whether that disregard to detail was indicative of the policing style of Inspector McCrum which in my opinion led to a number of omissions on the night of 26th /27th April 1997. Those omissions led to missed investigative opportunities, which contributed to the failure of the murder investigation.

6.4 In dealing with the pocket note book entry of Inspector McCrum it is to be noted that, quite properly, this is similar in content to the statement provided.

6.5 It adds detail in that he reported two men had been assaulted by a group of Protestant youths and had been taken to hospital. Following the dispersal of the crowd Inspector McCrum commenced supervision of Lurgan and Banbridge sub divisions in company with Constable Adams.

6.6 Apart from directing Sergeant **P89** to ascertain the injuries sustained by the 2 injured parties Inspector McCrum did nothing in respect of the assaults. The disturbance in the town centre was later to be described by various officers as a riot and it is therefore surprising that once the crowd was dispersed Inspector McCrum directed no further police action.

6.7 Upon returning to Portadown sub division the Inspector made contact with the Craigavon Area Hospital (CAH). He was informed that one of the two injured parties had sustained a serious head injury and was being transferred to the Neurological Department at the Royal Victoria Hospital (RVH), Belfast.

6.8 As a consequence of this, he arranged for the call out of the night duty CID on call officer namely Detective Constable Keys. Inspector McCrum's pocket note book recorded:

“Instructed Con Cook 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...”

“...Directed Con Cooke and Con Orr's mobiles to go to CAH and obtain the clothing of the two IP's.”

6.9 Constable Cooke was interviewed under caution on 1st October 2001, (Appendix 26) (10506 – 10516) for a number of alleged disciplinary matters including failing to draw up a list of people positively identified at the scene and failing to attend the hospital to secure the victims' clothing. He denied this (10513).

6.10 My observation is that the appropriate officer to co-ordinate and debrief officers in order to identify suspects in the first instance was Inspector McCrum. It was his responsibility as the senior officer on duty to bring all strands together and hand over to the investigation team.

6.11 If Inspector McCrum is correct in that he ordered Constable Cooke to draw up a list of people at the scene and to collect the clothing from the victims there is no evidence to show that he ensured that those instructions had been carried out. One would have to question why an officer if so directed would fail to obey a lawful order thus leaving him open to discipline proceedings.

6.12 Debriefing of serious incidents is a long held police practice necessary to ensure further steps are correctly identified and carried out. The Intelligence, Information, Method, Administration and Communication (IIRMAC) deals with debriefings (Appendix 27) (10834), which states:

“Effective debriefing at the end of an operation is just as important as the briefing before it. It can be described as being in three different stages:

- a) By supervisory officers at the scene of the incident whilst the details are still fresh in the mind.*
- b) Immediately after the event and before dispersal of personnel engaged in the operation.*
- c) A post incident enquiry may be held. Any necessary amendments, alterations or adjustments considered necessary for future events should be discussed.”*

6.13 Paragraph 20.7 of the Police Manual on Public Order states the same in regard to debriefing.

Chapter 3 of Beat and Patrol Duties, (Appendix 28) (10836 – 10837), in force in April 1997 stated:

“De-briefing

“9...Prior to terminating duty constables will be debriefed by their supervising sergeants/inspectors. All incidents and occurrences, particularly those of an unusual nature, will be discussed and records will be completed”.

The public disorder incident should have been the subject of a detailed debrief.

6.14. On learning of the condition of Robert Hamill, Inspector McCrum requested the return to duty of the late turn officers who had since booked off. He terminated his duty at 08.15. It should be noted that the 4 officers in initial attendance were now on duty and Inspector McCrum could have led on the debriefing. I accept this would have led to Inspector McCrum working extended hours but as the senior officer on duty overnight I believe he had a responsibility to debrief officers or at least ensure that was done.

6.15 I acknowledge that DCI P39, the Senior CID Investigator, had been called out by then. It is possible Inspector McCrum expected DCI P39 to lead on a debrief, however even if that were the case there is no evidence within the papers to indicate Inspector McCrum had taken any steps following the attack to debrief any police officer.

6.16 On 30th August 2001 Inspector McCrum was interviewed under caution by Superintendent Kennedy and Chief Inspector Jackson, (Appendix 29) (10376 – 10389) refers. At page 10379 of the transcript of that interview reads as follows:

“At three o’clock, before they terminated duty, were they debriefed by yourself, by the Sergeant or was it a case that at 3am somebody gave them the order to stand down and they went home?”

Inspector McCrum replied:

“I certainly didn’t debrief them. Emm the Sergeant may have debriefed them but I didn’t debrief them at that point”

6.17 Inspector McCrum pointed out that he did not debrief the officers at that time as he was unaware of the seriousness of the assault. It was not until after the officers had gone off duty that he learnt of the serious injury sustained by Robert Hamill. I do question why he failed to debrief officers even informally at the scene when considering the scale of the disorder that the RUC had just dealt with.

6.18 Having called out DC Keys, Inspector McCrum believed that the responsibility for debriefing the officers now fell to the CID. I do not agree with that. DC Keys would have an important part to play in collating information at the debriefing but in my view it was not the responsibility of the Constable to lead on such a debriefing.

6.19 I believe that Inspector McCrum had a duty to supervise and to ensure that the officers under his command were properly debriefed.

6.20 The importance of a properly conducted debrief cannot be over emphasised. It is the ideal opportunity to piece together exactly what has taken place. It is an opportunity to identify suspects, witnesses, gaps in evidence, additional lines of enquiry and any other investigative requirements necessary to progress the enquiry.

6.21 It is my experience that failure to properly debrief an event, such as the assault on Robert Hamill, will undermine the enquiry.

6.22 The journal entry (Appendix 25) of Inspector McCrum is as per his pocket note book (Appendix 24). It should be noted that the journal entry and pocket book entry concluded by stating:

“Briefed Chief Insp McMullen, Ch/Supt McCreesh and Supt [REDACTED]”

6.23 Each police area has policy for upward referral of serious incidents. They are protocols to keep on-call senior managers aware of significant events and are not seen as merely a mechanism for the passing of responsibility.

6.24 In my view Inspector McCrum supervised this assault in a superficial manner. By his account Inspector McCrum ordered certain actions to be undertaken but took no active steps to ensure those instructions were dealt with. Despite knowing the gravity of the assault the officers were acting almost independently without clear direction from Inspector McCrum.

6.25 Most disturbing of all is that he failed to ensure the scene was preserved for forensic examination. He established that the injuries sustained by Mr Hamill were serious at 04.00 hours 27th April 1997, which brought about a number of actions, but the scene was not preserved until 07.25 hours on the instigation of DCI **P39** and DC Keys.

6.26 Assaults of this nature occur all too frequently in towns and cities across the United Kingdom and it is entirely unrealistic to expect all assault scenes to be preserved. In this case I would not have expected the RUC to immediately identify, secure and protect the scene; however once it is suspected or known that a person has sustained serious injuries then scene preservation is a priority action. There can be no excuse or mitigating circumstances for not doing so.

6.27 I have personally seen many occasions when a CID officer junior in rank has been called out by a senior uniform officer who has then abdicated their responsibility, leaving everything to the CID officer. I do not accuse Inspector McCrum of that but I do feel there was a tendency to leave matters to DC Keys, for example the crime scene management referred to below.

6.28 Whilst DC Keys may be a skilled investigator, it is my view that Inspector McCrum as the most senior officer on duty had continued responsibility to supervise the initial investigation. I accept that once a lead SIO is appointed, in this case DCI **P39**, then the responsibility moves to that lead SIO once that SIO is fully briefed.

6.29 There is no evidence to suggest that Inspector McCrum took an active style of leadership. Once the town centre had returned to something approaching normality Inspector McCrum continued his patrol of the division. I have found nothing within the papers to indicate a pressing need to leave Portadown other than routine patrol. Casual questioning of officers at that scene should have elicited how serious this assault was. Reserve Constable Atkinson in his statement 27th April 1997 described 3 people jumping on the head of one of the victims.

6.30 In this case I would have expected the following actions to have been undertaken:

1. Scene preservation.
2. The debriefing of all officers who attended that scene in an effort to determine exactly what had occurred, the identification of fast track actions, the gathering of intelligence to identify suspects and once completed the urgent arrest strategy to secure possible forensic evidence.
3. Recovery of the injured parties clothing. Consideration should also have been given to the seizure of the paramedics clothing for forensic examination.
4. CCTV capture. If unable to complete due to the hour then arrangements needed to be put in place later that day.
5. The briefing of DC Keys, the on call Detective called out to commence the investigation. This should have included a scene visit. Whilst DC Keys did receive some form of briefing that was clearly insufficient as he clearly had difficulties in pulling all of the strands together.
6. Whilst it is correct to say the expertise of the CID should be summoned to continue the investigation a CID officer of appropriate authority should have been called out.
7. The call out procedure for the RUC at the time of this incident is summarised as follows. Each policing area had a night duty call out regime of either a constable or sergeant. By routine this officer would ordinarily have completed a late turn shift finishing at 22.00 hours or 23.00 hours returning for duty the following day. He or she could then call out a higher ranking officer depending on the nature of the incident. In the event of serious assaults resulting in life threatening injuries the expectation is that the area Detective Inspector or Detective Chief Inspector would be called out. In the event of a murder being reported then the Detective Chief Superintendent or one of the two Detective Superintendents covering the South Region from Gough Barracks would have been called out.
8. In my opinion the minimum call out for the assault on Robert Hamill should have been the Detective Inspector. Instead it was left to DC Keys to attend to try and determine what had occurred and then independently make the decision to call out DCI **P39**. I do accept it is not unusual for Forces to call out the on call DC to a serious incident relying upon him or her to call out others in the chain of command; however the seriousness of the assault in this instance should have prompted the call out of a senior detective.
9. I am mindful that the RUC would have been dealing with a number of serious incidents at that time but that does not negate the need to respond

appropriately. The failure to call out the DI or DCI when it was realised how serious the assault on Robert Hamill was is in my view evidence of how the incident was being taken lightly.

10. Best practice in the event of serious crime is for the senior CID officer to be called out and for him or her to be party to the debrief of all officers who attended that scene and had anything of evidential value to contribute. Depending on the expertise of the senior uniform officer present then the senior CID officer will either lead on that debrief or take the appropriate notes in order to progress the investigation.
11. In this case I believe DCI **P39** should have been called out immediately upon realisation that this assault had resulted in a serious head injury to Robert Hamill. If that had occurred then she could have either led the debriefing or at least been present. The debriefing could have led to the identification of suspects leading to the arrest strategy. I do accept that at the end of a busy shift the RUC were not physically capable of conducting instant multiple arrests. However the purpose and benefit of having a senior CID officer lead on the investigation from the earliest opportunity is he or she has the authority to summon as many staff on duty as are required to diligently follow up on arrests and forensic recovery.
12. In this case this did not occur and in my opinion the enquiry was allowed to drift without real direction. That is not intended to imply criticism of the constables engaged on the investigation but is aimed at Inspector McCrum and DCI **P39**.

6.31 It is to be noted that following a thematic inspection by the HMIC (Her Majesty's Inspectorate of Constabulary) of the PSNI in 2002/2003 (Appendix 30) (45230 – 45231) on the investigation of murder they observed

“HMIC found evidence of uniformed duty inspectors taking limited responsibility at scenes and being content to leave CID in charge of the scene with uniformed constables to continue the scene log. This lack of direction has led to unmanaged scene entry and inconsistent log completion. These circumstances offer opportunities for the integrity of the scene to be challenged.”

6.32 Police Sergeant **P89** provided 3 statements.

The first is dated 7th May 1997, (Appendix 31 (9213 – 9214), the second is dated 15th May 1997, (Appendix 32) (9215 – 9216) and the third is dated 28th December 2000, (Appendix 33) (11084 – 11085).

6.33 The first statement was almost a copy of Inspector McCrum's. It was one page in length and provided no detail. I make the same observation as I did with Inspector McCrum; the statement was so vague and lacking in detail that it was evidentially worthless.

6.34 The second statement dated 15th May 1997 dealt with the briefing of the officers held on from the late turn for public order duties 26th/27th April 1997. There was nothing to indicate exactly what he briefed the officers to do, but as previously stated those engaged on public order duties would be aware of what their role was.

6.35 Of significance is statement three dated 28th December 2000 when Sergeant P89 was asked to recall any dealings he had with Reserve Constable Atkinson on the 26th/27th April 1997. Sergeant P89 recalled one particular individual who was very hostile. He recalled Reserve Constable Atkinson advising him to be careful with this individual as he was an expert or black belt in martial arts. Reserve Constable Atkinson said this person's name was Hanvey. The detail contained in the third statement would have been of use to the investigation team in 1997.

6.36 There is no evidence to suggest Sergeant P89 took any positive action to determine what had taken place and whilst he was under the command of Inspector McCrum, part of his responsibilities was to supervise those under his command. I do acknowledge that following the assault Sergeant P89 was engaged at the police station supervising a breath test procedure following a traffic accident.

Conclusion

6.37 The scene of the assault has been described as chaotic, with many people involved. This was a crime scene which needed an officer to take immediate ownership to ensure the initial stages of the crime investigation were completed. I would have expected the senior officer on duty to initiate the actions as outlined in paragraph 6.30 of my report. Failure to take control from the outset will always have a negative impact on the future investigation.

6.38 It is my opinion that the attack on Robert Hamill was initially viewed and treated as just another Saturday night 'punch up'. In my experience it is understandable how officers react in that way. However once it is discovered that an assaulted person has sustained serious injuries then in my view that changes from a 'punch up' to a major crime investigation.

6.39 Inspector McCrum, as the senior officer on duty that night, failed to take control. He passed responsibility to DC Keys, an officer who in my view was placed in a very difficult position.

6.40 I am mindful that it is easy to criticise officers in the cold light of day but in my view Inspector McCrum acted with almost indifference to what had taken place in Portadown town centre. Looking at the previous incidents of disorder the scale of the fighting on the night of 26th/27th April 1997 was significant.

6.41 I do acknowledge the professional manner in which Inspector McCrum and Sergeant P89 dealt with the dispersal of a hostile crowd. The RUC

were heavily outnumbered and that situation could have developed into an all out assault on the police. Due to Inspector McCrum's actions and the manner in which the RUC conducted themselves the situation was resolved without further incident.

6.42 Inspector McCrum does not accept responsibility for any alleged failings on his part; he maintains that he worked to his best ability to ensure that the initial assault was dealt with properly. I do not agree.

6.43 Inspector McCrum had overall responsibility for dealing with the disorder and deployment of resources. However in failing to deal with the consequences of that disorder, namely the serious assault on Mr Robert Hamill, investigative opportunities were lost.

Section 7 The role of Constable A

7.1 The initial actions of Constable A were outlined in the statement made on 27th April 1997, (Appendix 34) (11040 – 11042). A copy of A's pocket note book is at Appendix 35 (9980 – 9983). Constable A made a further statement dated 24th June 1997, (Appendix 36) (719 – 720).

7.2 Constable A outlined being in the crew with Constable Orr when they responded to an assistance call from the officers in the town centre. Whilst en route Constable A saw a man wearing white jeans, white trainers, a white sweat top with dark grey stripes on the sleeves and a white peaked cap. This person had a red white and blue scarf around his face.

7.3 Constable A saw that this person was holding a bottle. Constable A alighted from the police vehicle to speak to him and he made off.

7.4 On arrival at the scene proper, Constable A observed two men laying in the road, the officer again observed the man wearing the scarf and detained him. Following a struggle in which Constable A was assaulted; Constable A placed him in the back of the Landrover and ascertained his name and address. Constable A identified this person as Wayne Lunt. Having confirmed the identity of Wayne Lunt and released him to be dealt with at a later date.

7.5 Constable A returned to assist other officers and identified three other people. The first was Stacey Bridgett who was described as wearing a cream shirt with a fine brown stripe and a pair of light coloured jeans. Constable A also recognised Dean Forbes who he/she described as wearing a light coloured checked shirt with light coloured jeans. The third person is not relevant to this report. It was noted that Stacey Bridgett had blood coming from his nose.

7.6 Crucially, Constable A failed to record in the first statement or the pocket note book being approached by a man, who said:

“What the fuck did you let him go for, he was one of the ones that did it”

This man was referring to Wayne Lunt who had just been released by the officer.

7.7 Constable A understood this remark to be a reference to Robert Hamill and D being assaulted; (Appendix 36) (719). The man who approached Constable A I believe was Colin Prunty who made a witness statement on the 8th May 1997, (Appendix 37) (9101 – 9104). In his statement Mr Prunty stated he approached a Constable and asked if the officer had taken his, (Wayne Lunt's) name as he was one of those kicking Robert Hamill.

7.8 I note Constable A stated the man who approached was wearing light coloured trousers, blue shirt and tie whereas Mr Prunty stated he was wearing a dark blue shirt and a pair of black trousers. I believe Constable A may be mistaken, on reading the papers there does not appear to be anybody else who could have approached the officer as described above.

7.9 I accept Constable A was in a hostile situation but the officer does not appear to have made any attempt to obtain this crucial witness' name and address.

7.10 Significantly, Constable A did not bring this important information to the attention of the investigation team until 19th May 1997 when the officer submitted a message form, (Appendix 38) (48734).

7.11 As a consequence of the officers failure to bring this to the attention of the investigation team Constable A was interviewed under caution by Superintendent Kennedy on 20th November 2001 for alleged neglect of duty, (Appendix 39) (10443 – 10470).

7.12 Constable A described events as outlined in the statement the officer had made. Constable A stated that having detained Wayne Lunt the gravity of the public order situation necessitated his release in order for him to be dealt with later. Constable A explained that to arrest and take Wayne Lunt to the police station would have involved two further constables which in view of the limited police personnel in attendance would seriously weaken the police presence (Appendix 39 (10453 – 10454).

7.13 In policing terms I believe this was absolutely the right course of action provided the initiative was seized back by the police at the earliest opportunity i.e. the later arrest of Wayne Lunt when resources allowed.

7.14 The statement of Maureen McCoy, a witness to the assault on Robert Hamill, gave a slightly different account to that of Constable A (Appendix 40) (9106 – 9110). She describes in detail how she assisted Robert Hamill whilst lying injured and his eventual removal by ambulance. She stated she saw a person (Wayne Lunt) in the back of the Land Rover. She then heard an officer tell this person to get out. Once released Maureen McCoy asked the police officer why the officer had released the person, she got no response. The statement of Maureen McCoy indicates that the fight was over, which if correct would suggest Wayne Lunt could have been detained.

7.15 I am of the view that in the circumstances Constable A was correct to release Wayne Lunt provided later police action occurred.

7.16 With regard to the failure of Constable A to enter the dealings with Mr Prunty, who identified Wayne Lunt as an offender, in either the officer's note book or statement dated 27th April 1997 Constable A offered no real explanation other than the sheer trauma of the night.

7.17 Constable A maintained this was not information which he/she was seeking to suppress but merely an oversight, (Appendix 39) 10464).

7.18 Constable A cited the fact that a second person in company with Mr Prunty was civil and asked for his/her name which he/she provided as evidence that this information was not deliberately suppressed, (Appendix 36) (719).

7.19 Constable A acknowledged that no file or report or paperwork for Wayne Lunt was submitted for Wayne Lunt to be dealt with for assault on police. His/her explanation for not doing so was that it was only a couple of kicks to the ankle and shin and in light of the overall situation was minor and not worth following up. Constable A describes this type of assault as an everyday occurrence when dealing with public disorder.

7.20 Whilst some may question this, it is my experience that once the 'heat of battle' has ceased, incidents such as this are seen by some as not worth following up.

Conclusion

7.21 I believe Constable A took an active part in quelling the disturbance. The officer did not hesitate in assisting other officers at the scene. The officer later left the scene to deal with a road traffic collision and the arrest of the driver. Following that the officer was then involved in the crime scene preservation at the scene of the assault on Robert Hamill

7.22 The statement and pocket book of Constable A failed to include the detail of the member of the public who gave information suggesting Wayne Lunt was involved in the assault. That in my view was a serious neglect of duty. Had Wayne Lunt been identified at an early stage he should then have been arrested.

7.23 It is possible that if the officers had been properly debriefed then Constable A may have provided the information concerning Wayne Lunt. Had the officer failed to do so then it is possible other officers may have raised the actions of Constable A when dealing with Wayne Lunt. That is not intended to mitigate for the failure of Constable A but to further evidence the need for a disciplined debrief.

7.24 Based upon the papers I have read I believe the failure to identify the significance of the remarks made regarding Wayne Lunt was a serious neglect of duty on the part of Constable A. That information should have been provided immediately and efforts to arrest Wayne Lunt should have been undertaken at the earliest opportunity. The failure to raise Wayne Lunt was, in my view, a significant lapse in the investigation.

Section 8 The role of Detective Constable Keys

8.1 Detective Constable Keys was the on-call detective officer for 26th/27th April 1997. He was called out at 05.00 hours on Sunday 27th April 1997 and was briefed by Inspector McCrum.

8.2 DC Keys accompanied Constable Cooke to the scene of the assault and attempted to identify the extent of the crime scene cordons that were required. I have already dealt with who I believe had the responsibility for crime scene management.

8.3 In my opinion DC Keys was placed in a very difficult position. He was confronted with a crime scene, the parameters of which were unclear. The initial 4 officers had retired from duty and were being recalled. DC Keys did not have an officer who could give him a detailed account of what had taken place. I do accept that in this early stage of the investigation it was a confused picture; however the least the detective should have expected was a briefing as thorough as it could have been. The only way that could have occurred is if a disciplined debrief of officers had already taken place.

8.4 DC Keys returned to the police station and requested statements from the officers that had been at the scene. It is my opinion that DC Keys as a Constable was not in a position to direct officers to a briefing, the best he could do was to ensure officers made statements prior to going off duty.

8.5 DC Keys, upon realising the seriousness of the assault, called out DCI **P39**. He briefed DCI **P39** and in company with her arranged for the scene of the assault to be cordoned off. He then made an attempt to recover the clothing of **D**. He arranged for **E** to attend the police station to provide a witness statement.

8.6 DC Keys then briefed Constable Ardis, the SOCO, and Mr [REDACTED] the photographer. He then managed the crime scene and directed the forensic strategy with regard to the seizure of exhibits and photographs required. The officer ensured DCI **P39** was kept apprised of the progress of the investigation.

8.7 DC Keys has been the subject of a discipline interview where it is suggested that he failed to secure the scene at an early stage. I do not agree with this. Having been called out some 4 hours after the assault he attended the scene where he was briefed by Constable Cooke. He should have been briefed by an officer with detailed knowledge of events in order to make an informed decision. It is possible nobody had a detailed knowledge because the incident had not been debriefed.

8.8 It is not my intention to report further on the actions of DC Keys as I wish to deal with initial actions during this part of my report, however there is nothing within the papers that I have read that leads me to believe any act or omission on the part of the officer led to the failure to successfully prosecute any person for the murder of Robert Hamill. To the contrary the papers I have read depict an experienced detective who acted in the best interests of the investigation.

Conclusion

8.9 Having been called out to deal with a difficult investigation it is my opinion that DC Keys did all he could possibly do in progressing the investigation. It was not the responsibility of DC Keys to secure the crime scene, however having been called out he endeavoured to do so. DC Keys was joined by DCI P39 at 07.25 hours on 27th April and at that time the responsibility for directing the enquiry was that of DCI P39.

Section 9 The role of Detective Chief Inspector P39

9.1 DCI P39 was the senior CID officer on call. She was called out by DC Keys to take command and lead on the investigation into the serious assault of Robert Hamill and D. In my opinion she failed to do so.

9.2 The first thing of note is that DCI P39 did not make a statement in relation to the investigation, nor are there copies of her pocket book or journal entries available to identify what actions she undertook. On reading the papers it is difficult to determine exactly what DCI P39 did.

9.3 DCI P39 was called out and briefed by Inspector McCrum. She attended the scene with DC Keys and appears to have taken a passive role from that point onwards.

9.4 In my opinion DCI P39 should have carried out the following actions, some of which are covered within my report under fast-track actions:

1. DCI P39 should have managed the crime scene once the scene had been cordoned off. That should have included the forensic strategy of that scene directing Constable Ardis as to the exhibits that were required. Instead that responsibility was passed to Detective Constable Keys.
2. Thereafter, DCI P39 should have met with Constable Ardis to determine the forensic strategy in relation to the submission of exhibits to the FSANI.
3. In my opinion DCI P39 should have commenced a policy file in relation to the assault. (Outlined at paragraph 13.4 is my understanding of what a policy file is). I acknowledge DCI P39 commenced the policy file following the death of Robert Hamill. Those entries identify DCS McBurney as the decision maker. That is appropriate as DCS McBurney was the appointed SIO following the death of Robert Hamill with DCI P39 the appointed deputy. The absence of a policy file in relation to the assault precludes an analysis of the thought process of DCI P39 or the rationale for certain decisions, or just as importantly the rationale as to why certain actions were not carried out.
4. DCI P39 should have debriefed all officers who had attended the scene of the assault. Whilst that may have proved problematic it is such an essential part of the investigation that every effort should have been made to do so, even if that was at a later date. If it were only possible to debrief at a later date that should have been as soon as it was possible. In this case this was particularly important as Inspector McCrum had failed to do so. It is to be noted that the 4 officers who were initially deployed for public order duties had been recalled to duty when DCI P39 was at the police station. It appears that no attempt was made to debrief the officers in order to progress the investigation.

5. DCI **P39** should have called out additional staff or assigned additional staff to progress the investigation. DC McDowell was assigned to the case and assisted DC Keys. I do accept that there is always pressure on any investigation with regard to resources but in the case where a serious assault has occurred then the priority must be to task an appropriate number of staff to ensure the investigation progresses.
6. DCI **P39** should have ensured the clothing of both Robert Hamill and **D** were seized at the earliest opportunity. I acknowledge DC Keys was later to seize the clothing of **D**.
7. DCI **P39** should have considered the seizure of the paramedics' clothing. The clothing could have provided forensic evidence. I acknowledge that in the event of a serious assault that is not always common police practice.
8. DCI **P39** should have determined the CCTV strategy (Closed circuit television). DC Keys dealt with the seizure of CCTV and it may be he was directed to do so. In the absence of a policy file it is not possible to determine what strategy, if any, was considered. This is particularly relevant when considering concerns were later raised by the family of Robert Hamill with regard to possible CCTV capture.
9. DCI **P39** should have determined a suspect strategy. There was early opportunity on 27th April 1997 to identify Stacey Bridgett as a suspect. The reading of the statements provided by Constables Silcock and Cooke (referred to on pages 42 and 43 of my report) clearly indicate the possible involvement of Stacey Bridgett in the assault.
10. DCI **P39**, as the SIO for the assault, should have determined the press strategy. Had she done so the subsequent controversy over the press releases may have been avoided (following the assault on Robert Hamill his family made a complaint to the RUC about the content of the press releases which are referred to within section 14 of my report).
11. DCI **P39** should have retained responsibility for the supervision and investigation of the assault investigation. By default DI Irwin appears to be leading on the investigation from the 28th April 1997 despite him dealing with a serious assault in Banbridge. Shortly after reporting for duty on 28th April 1997 DI Irwin travelled to Banbridge to supervise the investigation of that assault.

Conclusion

9.5 In my opinion DCI P39 failed to investigate or direct the investigation in any meaningful way. There is no evidence of active leadership and as a consequence the investigation was allowed to drift. Opportunities were lost from the start of the investigation due to the inaction of DCI P39. There is a

notable absence of documentation completed by DCI P39 in relation to the investigation.

9.6 I note from her personnel record there appears to be a lack of investigative experience on the part of DCI P39. This is further evidenced by the fact that DCS McBurney's apparent reluctance to engage DCI P39 in the murder investigation, instead relying on the experience of DI Irwin. In my opinion DCI P39 almost became sidelined during the murder investigation. That is further evidenced that following DCI P39 going on annual leave in May 1997 she appears to have taken little or no further part in the investigation. If DCI P39's apparent lack of action was due to inexperience in dealing with major crime then she should not have been left to manage the investigation.

9.7 During my police service I have seen inexperienced detective officers appointed to lead on major crime investigations. In my opinion that is both unfair on the officer and on the family of the victim. Responsibility for such appointments must rest with the senior management of the particular force.

9.8 It is to be noted that during the interview of DCS McBurney by Mr Mahaffey, referred to later in my report, he remained in contact and briefed on the progress of the assault investigation. Whilst it is common police practice for a senior officer such as DCS McBurney, to keep a 'watching brief' there is no indication within the papers of any direction or advice given to DCI P39.

Section 10 Crime Scene Assessment and Management

10.1 General Order 12/94 dated 5th July 1994 deals with Scenes of Crime Preservation and Examination

10.2 The GO was divided into 8 sections:

- Introduction
- Preservation of a Scene.
- Duties at a Scene.
- Scene Examination.
- Order of Priority of Support Services.
- Statements of Evidence.
- Supervision of Prisoners/ Suspect.
- Other Relevant Instructions.

Set out below are extracts from various pages from the above GO and can be found at (Appendix 41) (10768-10774).

10.3 Paragraph 1 Introduction stated:

“Sophisticated scientific and fingerprint examination and comparison techniques are available to investigators to realise maximum evidential value from forensic examinations of scenes of crime. However, the value of any forensic connection of a suspect to the scene of an offence can be lost in the absence of basic scene preservation procedures. Scene preservation is a significant factor in any criminal investigation. All members must recognise their responsibility to acknowledge, adhere to and implement the ethos of scene preservation”.

10.4 Paragraph 2 sub section 4 Preservation of a Scene stated:

“Except for the purposes of preserving life or preventing further injury, scenes must only be entered by persons under the direct control of the (Senior) Investigating Officer (S)IO. These persons will always have a function to fulfil for the (S)IO. No unauthorised persons may be allowed to enter.”

10.5 Paragraph 3 sub section 2 Duties at a Scene stated:

“The primary duty of the first police officer on arrival at a scene involving casualties must be directed towards the preservation of life. This duty must be immediately followed by the necessity to preserve the scene to enable correct scene interpretation and identification and collection of all available evidence”

10.6 Paragraph 4 sub-section 1 Scene Examination stated:

“The (S)IO has responsibility for having the scene properly examined. In liaison with support personnel and other relevant agency personnel thorough and systematic examination of scenes must be carried out to obtain as much evidence and information as possible.”

10.7 The above paragraphs make it clear that that all officers have a responsibility for crime scene preservation. The reality in this case is that the attending officers were dealing with widespread public disorder. It is understandable that the officers were more concerned with quelling the disturbances. However once the immediate threat to life had passed, and in this case once the town centre returned to something near normality, then there was a need to consider crime scene preservation.

10.8 As previously reported at paragraph 6.26 of my report, fights in town centres occur in almost every town throughout the UK, although arguably not with the ferocity as experienced here. It is unreasonable to expect scenes of fights to be routinely secured for forensic examination.

10.9 I am also of the view that officers were not immediately aware of the extent of the injuries to Robert Hamill.

10.10 However I do believe the immediate casual debrief by either Inspector McCrum or Sergeant **P89** at the scene should have raised fears particularly when one considers that Reserve Constable Atkinson went on to report seeing out of the corner of his eye three people jumping on Robert Hamill's head.

10.11 In the circumstances I believe it was entirely reasonable for the officers not to secure the scene immediately following the assault on Robert Hamill and **D**.

10.12 Whilst I accept the reasons why the area was not cordoned off initially there was no excuse for failing to do so once the condition of Mr Hamill was known. The person with that responsibility was Inspector McCrum and in his absence Sergeant **P89**.

10.13 Criticism has been levelled at a number of Constables for failing to identify, secure and protect the scene in Portadown town centre. I believe that is harsh. Firstly, those officers were dealing with serious public disorder and were in no position to secure the scene. Once the disorder was contained they could correctly await direction from the attendant supervisors to determine the scene parameters.

10.14 If the officers were at a crime scene on their own then I would expect them to secure that scene but when in the company of supervisors it is the responsibility of those supervisors to direct what police activity is required.

10.15 The first reference found to protecting the scene was in the statement of Constable Orr who at 05.30 on 27th April 1997 instructed the street cleaner to avoid the junction of Thomas Street and Woodhouse Street.

10.16 DC Keys briefed DCI **P39** at the scene of the assault and it was only at this time that the scene was cordoned off. The crime scene log was opened by Constable **A** at 07.25 hours on the 27th April 1997.

10.17 DCI **P39**, as the appointed SIO, took no responsibility for the crime scene leaving DC Keys to manage that scene. Whilst DC Keys was more than capable in that regard, I would expect to see the SIO determining the crime scene forensic

strategy. The Policy referred to above clearly identifies the pivotal role the SIO has in managing and dealing with crime scenes.

10.18 Inspector McCrum was asked about scene preservation in his discipline interview (Appendix 42) (10372 of pages 10361 – 10375)

'At this point in time did you take any action to ensure that the scene of the alleged incident was taped off and being preserved for examination. I'm talking now 4am or shortly thereafter once you had the information from the hospital?'

Inspector McCrum replied:

'Yes well on arrival of, of the Detective on call-out, that was one of the priorities and on the basis of the fact that now we had been made aware that this was a serious assault, it was prudent, in fact it was vital that the scene be protected as quickly as possible in order to protect any evidence that would be at the scene'

10.19 Inspector McCrum acknowledged that the protection of the scene was vital. Despite this he was prepared to call out the DC, await his arrival and then direct him to preserve a scene he had not been to. Inspector McCrum was then only a short walk from the scene and could have attended the town centre in order to supervise the preservation of that scene. He did not do so.

10.20 DC Keys returned to the scene at 10.00 that morning where he briefed Constable Ardis the SOCO and directed what exhibits he wanted recovered from the scene. He also directed Mr ████████ a RUC photographer to take certain scene photographs. The actions undertaken by Constable Ardis will be dealt with under forensic strategy.

10.21 Constables A and Orr first cordoned off the scene at 07.25 that morning. Constable A handed over the log to Constable ████████ who at 11.15 hours that day opened the scene to the public. It is good police practice, prior to the release of the crime scene, for the SIO to walk through that scene with the SOCO or Crime Scene Investigator to satisfy themselves that the crime scene has been dealt with as he or she has directed. In this way the responsibility for the scene remains with the SIO. DCI P39 did not do this.

10.22 The two officers with responsibility for protecting the scene were both Inspector McCrum and Sergeant P89 . In my view it is not acceptable for a supervisor to merely task someone with securing the scene. There is an expectation that the supervisor should co-ordinate police activity to ensure the scene is properly protected. In this way the supervisor is accepting responsibility and accountability for an essential part of the investigation.

Conclusion

10.23 The protection of a crime scene is a basic police principle and this was a fundamental failing on the part of the RUC. Whilst the officers could be justified in not securing the scene initially, once it was learnt that Robert Hamill had been seriously assaulted I believe the failure to protect that scene

was inexcusable. I am of the view that the crime scene should have been secured by Inspector McCrum following his telephone call to Craigavon Area Hospital through which he learnt of the condition of Robert Hamill. Inspector McCrum should have directed staff and DC Keys should have had the benefit of a full briefing upon his arrival. Instead of which DC Keys was left to try and establish what had taken place in order to make an informed decision about the cordoning of the crime scene.

10.24 Upon the arrival of DCI P39, she should have taken responsibility for that scene. Within the papers I have read there is no indication that DCI P39 took any action with regard to the scene. DCI P39 appears to have left the responsibility for managing the scene to DC Keys.

10.25 It is not possible to determine what forensic evidence, if any, was lost. This will be expanded upon in the forensic strategy.

Section 11 Police fast-track actions overnight

11.1 The fast-track actions conducted overnight 26th/27th April 1997 consisted of the call out of a detective officer, the recall to duty of those officers who had attended the scene, and the belated crime scene protection. An attempt was also made to secure the clothing belonging to the victims. No one took control of this investigation from the outset.

11.2 In my opinion the following should have been conducted. This should be read in conjunction with paragraph 6.30 of my report.

1. The call out of the area Detective Inspector or area Detective Chief Inspector to assume immediate responsibility for the investigation. By calling out an officer of rank he or she clearly has the authority to call out other specialist resources. In this instance those resources may have included crime scene investigators, search coordinators or even additional resources for the enquiry team. I acknowledge DCI **P39** was eventually called out but I believe she should have been called as soon as Mr Hamill's condition was known to be serious.
2. A policy file should have been commenced. The policy file will provide focus and direction to the investigation.
3. The scene protection should have been put in place as soon as the extent of the injuries was known.
4. The seizure of the victims' clothing, which was not done in this case.
5. The debriefing of all officers who had attended the scene primarily to identify suspected offenders.
6. CCTV capture or early identification of premises where CCTV may be found.
7. A detailed debrief would probably have elicited the information from Constable **A** concerning Wayne Lunt. Undoubtedly other names would have emerged from such a debrief which should have led to fast track actions with regard to suspect/arrest strategy.
8. The creation of an intelligence cell to research named suspects or people identified at the scene which may have led to them being approached as witnesses. Intelligence cells in their current form were not in being in 1997. However prior to 1997 in any serious incident an officer or officers would always have been appointed to undertake research.

Conclusion

11.3 The fast track actions were inadequate. Had an officer taken ownership at an early stage and identified other fast track actions then further investigative opportunities may have arisen. As a result of failing to debrief

officers at the start of the investigation it is my belief that the GBH investigation was flawed to such an extent that it was always going to be difficult to recover the position.

11.4 The purpose of fast track actions in assaults such as this is to secure and preserve crime scenes, identify exactly what it is the police are dealing with and the identification of witnesses and suspects. This in turn should lead to further fast track actions leading to the detention of suspects thus securing further forensic evidence which in turn may prove or disprove their involvement. In reality it is the initial senior officer who determines the fast track actions who then hands over to the senior investigator appointed to lead on the enquiry. In this case, nobody took responsibility for ensuring that effective fast-track actions were undertaken.

11.5 The failure to identify meaningful fast track actions was in my view a serious failing on the part of firstly Inspector McCrum and secondly DCI P39. The initial period following the commission of a major crime is often the most productive. Fast track actions will frequently capture forensic evidence, witness and suspect evidence and a host of other investigative opportunities. If the SIO fails to identify and carry out fast track actions then clearly early identification of investigative opportunities diminishes as each hour passes.

Section 12 Initial CID response and investigation into GBH offence

12.1. Chapter 4 of the Police Manual dated November 1992 (Appendix 43) (10775 and 10776) deals with Detection of Crime.

12.2 The introduction states:

“When a crime has been committed, the police investigation should be started immediately with a view to collecting and preserving all available evidence which may lead to the detection and eventual successful prosecution of the culprit”

The introduction also states:

“All police from whatever branch or department have a duty to make any contribution, within their power, to the investigation of crime generally and to report without delay any information which they may have that could lead to the detection of the culprit.”

12.3 Whilst the manual is dated November 1992, it was and remains a clear statement of the duty placed upon all officers. In this case, it was not followed by certain individual members of the RUC. I will return to this in my conclusions.

12.4 Detective Constable Keys was called out to deal with this assault. The practice of many police forces would be to enter the enquiries conducted on the crime report. However, it was not the practice to do so in the RUC. I have been informed that a supervisor may issue instructions for certain actions to be conducted and, depending on the supervisor, those instructions may or may not be recorded in document form, they may be in the form of a pocket note book entry, loose leaf paper or an action book. As a consequence of this there was no clear audit trail as to what actions were initially carried out.

12.5 I have already commented on the failure of DCI **P39** to lead on this investigation. The lack of paperwork precludes me from determining what actions were directed by DCI **P39**. From other source documents referred to throughout this report there were significant shortcomings in the initial investigation which leads to my conclusion that few actions were directed by DCI **P39**.

12.6 It is to be noted that once DI Irwin was briefed on Monday 28th April 1997 certain actions were recorded for DC Keys and other officers to follow.

12.7 DC Keys did not provide a statement on exactly what he did on being called out from home by Inspector McCrum. It is from other source material that his actions have been identified. DC Keys in his pocket note book outlined his initial actions, (Appendix 44) (53455 – 53458). I have referred to his actions at Section 8 of my report, paragraphs 8.1 – 8.8.

12.8 The entry for 29th April merely indicated attendance at a briefing.

12.9 The journal entry of DCI **K** (Appendix 45) (11150 -11153), provided greater detail of DC Keys actions. He remembered being called out by Inspector McCrum

and attending the scene with Constable Cooke for briefing purposes. He then returned to the station and called out DCI P39. He called her out because of the serious injuries sustained by Robert Hamill.

12.10 DC Keys believed that DCI P39 had attended the station at approximately 07.15 hours that morning and he recalled taking her to the scene and cordoning off the scene.

12.11 On the 28th April 1997, DI Irwin chaired a briefing. In my opinion it is unclear from that who was leading this investigation. On paper it appears to have been DCI P39 but in practice it appears to have been DI Irwin. Again, that may be indicative of the lack of experience of DCI P39.

12.12 It was apparent that on reporting for duty on 28th May 1997, DI Irwin immediately directed events regarding the attack on Robert Hamill.

12.13 The pocket note book for DI Irwin, (Appendix 46) (54785 – 54787), for the 28th April recorded:

“815 am CID duty, P’Down. Briefed by D/C/Insp P39

“9 am Conference reference weekend events

“Briefing reference immediate enquiries regarding serious assault P’Down town centre.

“Directions given ref investigation”

12.14 Of note is that on the 28th April 1997, the day after the assault, DC Keys was dealing with a burglary suspect and DI Irwin had responsibility for a serious assault in Banbridge. It is the nature of policing that officers will have responsibility for more than one investigation but I would question how this impacted on the investigation into the GBH.

12.15 Action 36, (Appendix 47) (47174) recorded

‘Obtain details of possible suspects from descriptions in police statements’

The action was dated 29th April 1997 and the accompanying notes raised Mark Briggs Stacey Bridgett and Dean Forbes as suspects. All three were arrested on 6th May 1997. This indicated that the investigation was progressing and officers were seeking to identify the offenders.

12.16 The journal entry of DI Irwin, (Appendix 48) (54788 – 54789) outlined his duties as follows:

28th April Robert Hamill enquiry
29th April Robert Hamill enquiry
30th April Actions Robert Hamill
1st May Worked on Robert Hamill

2/5 RRD 20/4 (Re-rostered rest day)
3/5 RD
4/5 RD
5/5 PH off (Public holiday)

12.17 Whilst DI Irwin was clearly entitled to time off, in his absence there was no evidence of intrusive supervision. DI Irwin was entitled to say DCI **P39** was the SIO but by DI Irwin taking on more and more of the initial actions it would seem DCI **P39** was content to take a back seat.

12.18 Of note is the fact that the warrant for Stacey Bridgett and others was sworn out on the 3rd May 1997 but not executed until the 6th May 1997 when DI Irwin returned to work.

The journal entry above reads:

6th/5/97 8am 12 CID Duty P'Down. Travelled to Lurgan ref arrests regarding serious assault 27th/4/92

12.19 There was nothing in the papers I have examined that indicated urgency or indeed a clear strategy in dealing with the serious assault on Mr Robert Hamill. This could be as a result of learning that Mr Hamill's condition was then described as serious but stable. Officers later appeared surprised to learn of the death of Mr Hamill.

12.20 DI Irwin was shown on various documents as the investigating officer but in my opinion DC Keys was the officer investigating the GBH offence together with other officers. It should be noted that DC Keys was off duty from 1st May 1997 to 5th May 1997.

12.21 Detective Sergeant Bradley, a supervisor, was actively engaged on the investigation as evidenced by the obtaining of search warrants on the 3rd May 1997 and the statement taken from Allister Hanvey on 7th May 1997.

12.22 My experience of this type of investigation is that supervisors often take an interest in the progress of the investigation as opposed to running the enquiry themselves. That is not intended as a criticism but a reflection of policing.

12.23 DC Keys outlined his actions on the 27th April 1997, (Appendix 44) (53455 – 53458). His pocket note book entry recorded him attending the scene, directing SOCO Ardis and making enquiries with the hospital. He was also engaged in the reading of statements.

12.24 The statements obtained on the 27th April 1997 provided an early opportunity of identifying Stacey Bridgett as one of the suspects.

12.25 Reserve Constable Silcock (Appendix 49) (9220 – 9221) said:

'one of the rowdy youths was pointed out to me by a woman wearing a white top, who

alleged that this youth had jumped on the head of one of the injured men. This youth was wearing a grey charcoal top. He also had blood coming from his nose. A member of this crowd called to this person, calling him Stacey. He responded to this name'

12.26 Constable Cooke (Appendix 50) (9225 – 9227) said:

'I recognised the following persons at the front of the crowd, Stacey Bridgett from..... His nose was bleeding'

12.27 Other officers referred to seeing Stacey Bridgett with blood on his face. Even if the link between the statements of Constables Silcock and Cooke was not made, evidence that Stacey Bridgett was present at the scene with blood on his face should have indicated that he had been involved in some kind of fracas.

12.28 I believe Stacey Bridgett should have been identified as a suspect and action taken to arrest him at the earliest opportunity.

Conclusion

12.29 I am of the view that no one took hold of this investigation at an early stage and opportunities were lost with regard to early arrests and possible forensic recovery.

12.30 In my opinion the officer with responsibility for ensuring the initial CID investigation was professional and conducted thoroughly was that of DCI P39. I have already reported on the conduct of DCI P39 and it is not my intention to repeat that here.

12.31 The investigation into the GBH offence was hampered by the failure of either DCI P39 or DI Irwin to commence a policy file which would have provided the direction and focus this investigation needed. Whilst DI Irwin could argue that the responsibility for commencing the policy file rested with DCI P39 he increasingly engaged himself in the investigation as evidenced by the number of actions he sent out. The policy file would have provided clarity as to who was in charge, what exactly it was they were dealing with, the numerous strategies that should be undertaken and the objectives of that team.

12.32 Instead the investigation was allowed to drift without any real leadership. Individual detective constables were endeavouring to move the investigation forward and I have no criticism of their efforts.

12.33 It is my experience that when a senior officer is appointed to lead the investigation following a serious assault, subordinate officers will look for and await direction from that officer.

12.34 It is my opinion that when considering the initial response and later investigation of the GBH the enquiry was flawed from the very start.

12.35 As reported the crime scene was not dealt with properly, no meaningful fast track actions had been undertaken, a disciplined debrief did not take place resulting in the failure to identify suspects at an early stage. As a result the prospect of recovering forensic evidence diminished as each day passed.

12.36 Whilst there were a number of officers working on the investigation there does not appear to have been a clear structure in place to ensure a focused co-ordinated approach. I am not suggesting this should have been placed on HOLMES at that stage nor am I suggesting it warranted a full blown incident room. It did warrant leadership to ensure every investigative opportunity was exploited. It is my experience that when an investigation is flawed from the start it is extremely difficult to recover.

12.37 The quality of evidence provided by some of the officers was poor. I would expect to see positive statements and negative statements, for instance if an officer could not name people present or give descriptions then I would expect to see that in the statement. Poor quality statements give rise to more questions than answers. One could perhaps argue inexperience plays a part which on occasions it clearly does, that is the very point of having supervisors in place. It is their responsibility to direct, guide and support officers under their command. There is no evidence within these papers to show any supervisor took such a role.

12.38 I have been critical of the investigation and in making those comments I am mindful no CID office has the luxury of dealing with one investigation at a time, with unlimited resources and unlimited funds. Every policing area I have experienced has competing demands. That is why the role of the supervisor is so important; he or she needs to understand what is important to a policing area.

12.39 Serious injuries sustained by any person as a result of a sectarian attack which had already attracted widespread publicity must be considered critical to an area.

Section 13 The management of the murder investigation and structure in place, including the use and content of the policy file

13.1 In November 1991 General Order 105/91 entitled 'Major Investigation Incident Room Standardised Administrative Procedure' (MIRIAM) was issued (Appendix 51) (10789 – 10795). This order outlines the objectives of a major incident room and the functions of staff within that room. In this case, the incident room following the initial assault was a manual system but on the death of Robert Hamill it was put on HOLMES.

13.2 The General Order does not deal specifically with policy files but paragraph 2(e) states that one of the principal objectives of any Major Incident Room is:

“To act as a means of historical reference so that, in a long running enquiry, officers joining the investigation team can have easy reference to major policy decisions taken during the course of the enquiry;”

13.3 DCS McBurney commenced a policy file. It would seem that DCI **P39** made the relevant entries at the direction of DCS McBurney

A copy of the policy file is at Appendix 52 (32252 – 32272 and 32273 - 32279).

13.4 The purpose of a policy file is to give focus and direction to an investigation. It provides the SIO with the opportunity to document his or her decisions and thought processes. The policy file should drive the investigation forward providing absolute clarity to all officers engaged on the enquiry. It also allows a review team to understand the rationale behind the decisions made by the SIO. The purpose of a sensitive policy file is to record information and decisions that are sensitive by nature and one where the SIO wishes to restrict the number of people who can access that sensitive information. For example, where a person has provided information or intelligence and the general knowledge of that person's identity could put him or her at risk than all decisions regarding that person should be recorded in a sensitive policy file.

13.5 The Murder Investigation Manual (MIM) outlines what should be documented in a policy file. Even this is not a definitive list of topics. DCS McBurney did not have the benefit of the manual and I therefore do not intend to compare the policy file used in this investigation against the MIM as I do not consider this appropriate.

13.6 I have identified certain entries within the policy file and commented on those entries.

13.7 Policy decision 2 (Appendix 52) (32254) identified DCS McBurney as the SIO with DCI **P39** as Deputy SIO, DI Irwin as office manager and DS Bradley as receiver/disclosure officer.

13.8 Policy decision 4 (32255 – 32256) dealt with the decision to make multiple arrests. The entry is both brief and superficial. The reasons to arrest should be in far greater detail and sanitised if the desire is to protect certain sources.

13.9 Of significance is decision 5 (32257) timed at 11.50pm 9th May 1997 to obtain the telephone records of Allister Hanvey and Reserve Constable Atkinson. The decision was made by DCS McBurney.

13.10 Policy decision 13 (32264 – 32265) outlined the decision for DCS McBurney to continue as SIO for the murder investigation and to be in charge of the investigation into the complaint against police. The reason given was that all strands of the incident were inextricably linked.

13.11 This in my view lead to confusion as to roles and responsibilities. Immediately the complaint investigation was merged with the murder investigation. Whilst it was in accordance with RUC policy to appoint DCS McBurney to investigate both I believe a second SIO should have been appointed to investigate the complaint leaving DCS McBurney to concentrate on the murder investigation. Having been appointed to investigate both, in my view a separate policy file should have been commenced for the complaint investigation.

13.12 Policy decision 22 (32274 – 32276) dealt with the meeting held on 19th May 1997 between Mr ██████████, Mr Mullen, DCS McBurney, Superintendent Anderson, DI Irwin and DCI P39. The policy file entry recorded

“Mr McBurney briefed those present re: investigation. Mr ██████████ outlined his role: to primarily investigate the complaint – Failure of Police to do their job properly and effectively. He felt that all witnesses should be invited to speak to the investigation team.”

13.13 The same entry went on to say

“Mr ██████████ stated that he had to be conscious of any proposed venue and of the number of persons present during interviews of witnesses. These should be kept to minimum. He would be present during these interviews and would ensure that the persons were aware that the investigation was in relation to the complaint re Police, not the murder investigation and the allegation made by Witness ‘A’”

Witness ‘A’, Tracey Clarke, alleged that Reserve Constable Atkinson had telephoned Allister Hanvey on the 27th April 1997 and advised him to destroy his clothing. Furthermore Reserve Constable Atkinson was allegedly keeping Allister Hanvey updated about the progress of the investigation. Tracey Clarke had learnt this from Allister Hanvey. This is dealt with under section 20 of my report.

13.14 I have a number of observations regarding this entry. The allegation of Witness A was obviously discussed and DCS McBurney had been appointed to investigate the allegations made against Reserve Constable Atkinson. DCS McBurney was now dealing with three separate investigations, yet present at this meeting was Superintendent Anderson from Complaints and Discipline who was in my view the most appropriate officer to deal with the complaints. The question arises as to how much of a priority was the murder investigation?

13.15 The emphasis of this entry was to interview people for the purpose of the complaint rather than the murder. How Mr [REDACTED] intended to make the distinction is unclear.

13.16 For reasons that will become clear later in this report I believe DCS McBurney wanted to deal with both the complaint of inactivity and the alleged misconduct by Reserve Constable Atkinson.

13.17 This same entry went on to record that all who could give evidence should be invited for interview including the accused. At this time the following defendants were on remand charged with murder, Marc Hobson, Allister Hanvey, Wayne Lunt, Rory Robinson, Stacey Bridgett and Dean Forbes. Consideration was given to interviewing the accused as witnesses for the complaint investigation. In my opinion the defendants rights as suspects could not be properly protected if then interviewed as a witness. Were they to incriminate either themselves or others, I am unsure how this could later have been used.

13.18 I can understand how in certain circumstances a suspect could be asked to provide a witness statement, but in this particular case I believe the events were so inextricably linked that the suspects could not be considered as possible witnesses for the complaint investigation. In my view this confirms that the complaint allegation was the main focus.

13.19 Whilst the complaint allegation was important the priority for the investigation team should have been the murder enquiry. Examination of the policy file reveals this decision to be the only one with any detail.

13.20 The final entry at entry number 25 simply reads

“Handed Policy File to D/I Irwin”

The reason given being

“Going on Annual Leave”

13.21 That decision was dated 30th May 1997 and, significantly, no further decisions were recorded after that date.

13.22 The investigation was being run on HOLMES which has a number of dedicated roles. The structure of this investigation was in line with policy.

Conclusion

13.23 The use and content of the policy file in the investigation of the murder of Robert Hamill was totally inadequate. It gave no direction or focus to the investigation. The thought process behind the decisions was not set out. I acknowledge that the content and standard of policy files has improved considerably since 1997 but even taking that into account it was of such limited value as to be almost worthless. That is perhaps evidenced by the fact that it was quickly discontinued.

13.24 DCS McBurney should have been using the policy file to outline his various strategies.

13.25 I would have expected to see entries dealing with the forensic strategy, suspect and witness strategy, search strategy, communication strategy and other strategies as outlined in my report. There was also no mention of the main lines of enquiry and their parameters.

13.26 DCS McBurney could have used a sensitive policy file to deal with issues such as the covert meeting between DI Irwin, DC McAteer and Andrea McKee. Similarly the sensitive policy file could have dealt with witness protection issues in relation to Witnesses A and B and how DCS McBurney intended to adduce their evidence in court. (Witness B was Timothy Jameson who gave a witness statement identifying a number of people assaulting Robert Hamill, referred to at paragraph 14.20 of my report).

13.27 I am of the view that having taken on the complaint investigation and the alleged misconduct by Reserve Constable Atkinson then separate policy files should have been commenced for each investigation.

13.28 In the absence of detailed policy decisions it is not possible to determine what strategies were considered. Furthermore it is not possible to determine how the murder investigation was managed. Certain individual officers were appointed to certain roles; however there is nothing within the policy file or papers outlining the briefing regime, the staffing and their responsibility or any of the other disciplines associated with an incident being run on HOLMES.

13.29 I refer later in the report as to DCS McBurney's explanation for failing to run a policy file.

13.30 I do accept that 1997 was still a difficult period for policing in Northern Ireland but in my view that did not negate the need for a structured, documented approach to a murder investigation.

Section 14 The witness strategy

14.1 In dealing with the witness strategy I acknowledge the immense difficulties faced by the RUC in identifying witnesses who were willing to provide evidence. The fear and intimidation from certain quarters to ensure that people did not co-operate with the RUC can probably be only understood by those officers compelled to work in such an environment. Having said that, it would be wrong for any enquiry to assume that such non co-operation would follow and every effort must be made to achieve such vital witness evidence. I am not suggesting that the RUC assumed witnesses would not be forthcoming, but they clearly recognised the difficulties facing them.

14.2 Efforts were made to secure the witness evidence of Witness A and Witness B. In securing that evidence it is unclear how the RUC intended to adduce that in court. That area will be subject of further discussion in this report and expanded upon in regard to the effectiveness of the overall investigation.

14.3 It is not within my terms of reference to comment on the complaints levelled at the RUC regarding the contents of the various press releases but clearly in dealing with the witness strategy it is essential that reference is made to such press releases, (Appendix 53) (15068 and 15069).

14.4 The first press release was made at 06.00hours on 27th April 1997 and read

“Two youths have been detained in hospital with head injuries following a clash between rival factions in Portadown around 1.45am this morning. Police moved in to separate the groups who encountered each other at the junction of Thomas Street and Market Street. Bottles were thrown during the hostilities and police themselves came under attack by a section of the crowd. Order was restored around 3am”

14.5 No appeal for witnesses was made despite it being known at that stage that the injuries sustained by Mr Hamill were serious.

14.6 The second press release was made at 21.00 hours on 27th April 1997 and read:

“One of the youths injured is still detained in hospital. Police in Portadown are anxious to speak to anyone who was in the area of Market Street, Woodhouse Street and Thomas Street between 1am and 2am this morning and who witnessed the incident. The detectives at Portadown can be contacted on or the Crimestoppers number 0800 555111.”

14.7 The appeal was clear and concise and provides witnesses with the opportunity to contact Crimestoppers confidentially. My only concern is what provision did the RUC have in place in the event of named suspects being reported? In an ideal world the RUC should have had resources available at that time of night to conduct research, interview witnesses and carry out fast track actions and arrests if necessary. I do accept it is not always possible to have the luxury of such resources available; however there should have been a contingency

plan in place to move the investigation forward in the event of a breakthrough following a press release. I note that DC Keys terminated duty at 21.30 hours that night.

14.8 The third press release was issued on 30th April 1997 and reads:

“A Police landrover crew in Portadown town centre was alerted to a disturbance and immediately intervened to gain order and prevent assaults. The numbers involved however, were such that these Police Officers were unable to contain the situation and became themselves the subject of attack. Police reinforcement arrived and calm was restored.

“Detectives are continuing their investigations into this very serious assault and disturbance and take this opportunity to make a further appeal for witnesses to contact them at Portadown RUC station on,”

14.9 No mention was made regarding Crimestoppers and my same observations apply regarding resources available to follow up on any early witness information. Clearly the early identification of what the RUC were dealing with had been made yet there was little detail regarding the assault.

14.10 The fourth press release was issued at 13.00 hours on 7th May 1997 and read:

“Portadown Police are renewing their appeal for witnesses to a very serious assault which took place in the town centre, around 1.30am on the morning of Sunday 27 April”

“A special team was set up to investigate this incident and a number of people have been interviewed. It now appears clear that four people, two couples, who had left a social event in St. Patrick’s Hall, were set upon by a large crowd. The two men in the group of four were knocked to the ground and viciously beaten. One young man remains very ill”

“On separate occasions, during the incident, two men approached the Police. One of these men has come forward and the detectives are particularly anxious to speak to the second. They would also appeal to anyone who was in the area of Market Street, Woodhouse Street and Thomas Street between 1am and 2am on the morning of Sunday 27 April, to get in touch with the CID on Portadown, or call Crimestoppers on 0800 555111. All information will be treated with the utmost confidentiality”

14.11 This was a full and detailed press release and little more could be added. The only observation I would make is that the detail contained within the release was known almost at the start of the enquiry. One then raises the question whether this appeal should have gone out earlier?

14.12 In my experience, it is the SIO, in consultation with the police press office, who is the best person placed to deal with the content and timing of the press

release. There was no indication within the papers I have read that DCI **P39** had any input into the content of the press releases.

14.13 Officers quite correctly sought to identify witnesses by speaking to members of the public travelling on the Banbrige to Portadown bus following the function at the Coach Inn. This was carried out at the appropriate time, namely the anniversary and is recognised as good practice.

14.14 Clearly officers engaged in taking statements endeavoured to identify other potential witnesses.

14.15 The questionnaire sent out by Detective Chief Superintendent McBurney when investigating the complaint against the four officers was intended to progress the complaint enquiry. Clearly anybody identified as a potential complaint witness would obviously be of interest to the murder investigation team. Whether the tone and content of the questionnaire would elicit potential witnesses is another matter.

Conclusion

14.16 I believe there is little more the RUC could have done to identify potential witnesses. For the reasons I have outlined I believe the RUC faced immense difficulty in identifying reliable witnesses who were prepared to give evidence. A vast number of people were interviewed and clearly a number of them were unwilling to provide statements

14.17 On reading the statements I suspect that many of the people who made statements have been selective in what they have said. This could be for a number of reasons such as religious divide, not wishing to assist the RUC or simply not wishing to become involved in the enquiry.

Witness 'A' – Tracey Clarke

14.18 Tracey Clarke is one of the central figures in this investigation and provided what the enquiry team considered to be the breakthrough. She went to Portadown Police station on 9th May 1997 to make a witness statement. In that statement Tracey Clarke identified suspects and informed the RUC that Reserve Constable Atkinson had allegedly telephoned Allister Hanvey on the morning of the 27th April 1997 and advised him to destroy his clothing. Furthermore, that Reserve Constable Atkinson was allegedly keeping Allister Hanvey updated on the progress of the investigation. Tracey Clarke said she knew this because Allister Hanvey had told her. The statement was completed in the early hours of 10th May 1997, (Appendix 54 (17327 – 17330).

It was on the basis of that information together with that of Timothy Jameson (Witness B) (Appendix 55) (266 – 269), that DI Irwin planned the arrest of a number of suspects.

14.19 I have a number of observations regarding the witness strategy in relation to Tracey Clarke.

1. Firstly all details surrounding this witness and the officer's contacts with this person should have been recorded in a sensitive policy file. The SIO should then have determined who would have access to this policy file. Normally that would be restricted to the SIO, his or her deputy and DPP in the event of a prosecution.
2. Secondly I have been informed that the statement of Tracey Clarke was entered onto the HOLMES system on the 11th May 1997. Whilst the statement only identified the witness as witness A the content of that statement could easily have lead to the identification of that person. Access to the HOLMES data base at that time would have been available to any one of three teams, each team comprising one sergeant and seven personnel. Clearly the identification of witness A and the information concerning Reserve Constable Atkinson could have become known.
3. Finally, when considering how significant this witness was the content of that statement was brief and lacking in detail. I accept the witness may have been nervous in providing the statement but having decided to make that statement I would have expected to see greater detail.

Witness 'B' – Timothy Jameson

14.20 Timothy Jameson provided significant information about the assault on Robert Hamill to officers who brought this to the attention of DI Irwin. As a consequence, he was interviewed and provided a witness statement identifying a number of suspects allegedly involved in the assault on Robert Hamill. Comment will be made later in this report with regard to the police handling of, and dealing with, Timothy Jameson.

14.21 For the first time the RUC were provided with a detailed account surrounding the assault on Robert Hamill.

14.22 The statement of Witness 'B' was entered onto the HOLMES system on the 11th May 1997. The observations made in relation to Witness 'A' apply also to Witness 'B'.

14.23 The statements provided by Tracey Clarke and Timothy Jameson provided the basis for charging a number of people with the murder of Robert Hamill.

Conclusion

I believe the RUC made a determined bid to secure the evidence of Tracey Clarke and Timothy Jameson and that this was a breakthrough in the investigation. However there was no apparent strategy as to how the RUC were ever going to adduce this in evidence, as to have done so would have clearly exposed their identity. It is difficult to see how the statements could have been sanitised in order to protect their identity. From the outset neither witness was willing to reveal their identity. I do acknowledge efforts were

made to relocate witness Tracey Clarke in an attempt to secure her safety and thus encouraging her to provide evidence at court.

Section 15 The Arrest/Suspect Strategy

15.1 The following were arrested in connection with the GBH offence.

- Stacey Bridgett DoB [REDACTED]

15.2 He was arrested 07.45 hours on 6th May 1997 by DC Keys and was later interviewed by DCs Keys and P18.

15.3 He was released at 15.58 hours on 6th May 1997 to return the following day. He returned the following day and provided a blood sample. He was then released on bail to return to Lurgan on 22nd May 1997.

15.4 Stacey Bridgett was re-arrested at 07.48 hours on 10th May 1997 by PC McDowell on suspicion of murder. He was interviewed by DCs Strain and Williamson. Stacey Bridgett was charged with murder by DI Irwin at 20.13 hours on 10th May 1997.

- Dean Forbes DoB [REDACTED]

15.5 He was arrested at 07.45 on 6th May 1997 by DC P18 and later interviewed by DCs Keys and P18.

15.6 He was released at 17.00 hours to return on 8th May 1997. Dean Forbes returned on that date when he provided a blood sample. He was released from custody to return at 19.30 hours on 22nd May 1997.

15.7 Dean Forbes was re-arrested at 07.20 hours on 10th May 1997 by DC [REDACTED] on suspicion of murder. He was later interviewed by DCs Keys and [REDACTED]. Dean Forbes was charged with murder by DI Irwin at 18.53 hours 10th May 1997.

- [REDACTED] DoB [REDACTED]

15.8 [REDACTED] was arrested on 6th May 1997 by DC McAteer. He was later interviewed by DCs McAteer and Honeyford. He was later released from custody when it was evidenced that [REDACTED] was not involved in the assault. No further action was taken against [REDACTED].

15.9 When DI Irwin was interviewed by Superintendent Kennedy in relation to discipline issues he stated that DCI P39 had arranged for the arrests of the above 3 but this had to be cancelled owing to the arrest of 5 other persons for another offence. Enquiries have established that officers engaged on the initial assault enquiry were utilised in dealing with these 5 prisoners (Appendix 56) (67912 – 67914).

15.10 It is regrettable that the initial arrests had to be cancelled, however that is the nature of policing and with limited resources difficult decisions have to be

taken. In the absence of a policy file being completed for the GBH offence there was no audit trail for the rationale and decision taken by DCI P39.

15.11 The following were arrested on suspicion of murder.

- Marc Hobson DoB [REDACTED]

15.12 Marc Hobson was arrested at 08.07 hours on 10th May 1997 by DC Honeyford. He was later interviewed by DC Honeyford and DC [REDACTED]. Marc Hobson was charged with murder by DI Irwin 18.55 hours on 10th May 1997.

- Allister Hanvey DoB [REDACTED]

15.13 Allister Hanvey was arrested at 07.45 hours on 10th May 1997 by DC McAteer. He was later interviewed by DCs McCrumlish and P24. Allister Hanvey was charged with murder by DI Irwin at 18.59 hours on 10th May 1997.

- Wayne Lunt DoB [REDACTED].

15.14 Wayne Lunt was arrested at 07.45 hours on 10th May 1997 by DS Bradley and later interviewed by DS [REDACTED] and DS [REDACTED] and again by DS [REDACTED] and DC P6. Wayne Lunt was charged with murder by DI Irwin at 20.17 hours on 10th May 1997.

- Rory Robinson DoB [REDACTED]

15.15 Rory Robinson was arrested at 19.40 hours on 10th May 1997 by DC Keys. He was later interviewed by DCs Keys and [REDACTED] and again by DCs [REDACTED] and P4. Rory Robinson was charged with murder by DI Irwin at 15.40 hours on 11th May 1997.

- Andrew Allen DoB [REDACTED]

15.16 Andrew Allen was arrested at 07.07 hours on 15th May 1997 by DC Honeyford and later interviewed by DCs P5 and McCrumlish. He was further interviewed by DC [REDACTED] and Honeyford. At 21.30 hours he was released from custody to return on 12th June 1997.

15.17 Andrew Allen returned on the 12th June 1997 when, following further interview, he was released without charge. No further action was taken against Andrew Allen.

- David Woods. DoB [REDACTED]

15.18 David Woods was arrested at 18.50 hours on 15th May 1997 by DS P10. He was later interviewed by DS P10 and DC McIlmurry. Following a further interview the following day David Woods was released from custody at 11.45 hours on 16th May 1997. No further action was taken against David Woods.

15.19 There was no written policy to show the rationale for the arrests of Stacey Bridgett, Dean Forbes and [REDACTED] in relation to the GBH

However Action A36 (Appendix 57) (47174) referred to in paragraph 12.15 of my report, recorded:

“Obtain details of possible suspects from descriptions in police statements”

15.20 Action A57 (Appendix 58) (15451) recorded:

“Arrange briefs & article 10 warrants possible suspects N70 Bridgett..., N71 Forbes... Portadown N72 [REDACTED]...”

Warrants were obtained on the 3rd May 1997, three days before their eventual arrest.

15.21 Policy decision 4 (Appendix 52) (32255 – 32256) of the policy file timed 11.45pm 9th May 1997 directs the arrest of Stacey Bridgett, Wayne Lunt, Marc Hobson, Rory Robinson and Allister Hanvey. The reason recorded being:

“Having now obtained evidence in relation to suspects involved in this crime”

“Arrests/seizure of evidence/interviews to obtain further evidence in connection with the murder.”

15.22 The reasons behind the arrest are not clearly spelt out but that decision followed the information supplied by Tracey Clarke and Timothy Jameson. DCS McBurney made the decision and DCI **P39** made the entry. It is noted that in an interview with DCS McBurney by Mr Mahaffey from the Ombudsmen office DCS McBurney states that the decision as to who was to be arrested was left mainly to DI Irwin. DI Irwin was left to make the arrangements and to brief staff to affect the arrests.

15.23 Policy decision 16 of the policy file (32267 – 32268) un-timed but dated 14th May 1997 recorded:

“To arrest Andrew Allen (Fonzy).....”

“...To interview and obtain further evidence in connection with the murder”

The reason for the arrest was not spelt out but I believe followed the statement of Timothy Jameson who identified ‘Fonzy’ as a principle offender.

15.24 Policy decision 17 (32268 – 32269) of the policy file un-timed but dated 15th May 1997 recorded:

“To arrest David Woods”

“Named by Allen. To interview and obtain evidence”

Conclusion

15.25 In my opinion, there was an opportunity to arrest suspects before they were eventually arrested, particularly considering the information the investigation team had in relation to Stacey Bridgett and should have had in relation to Wayne Lunt. As previously reported, had a disciplined debrief taken place I believe the suspects could have been identified earlier. It is not possible to determine what evidence, if any, was lost as a result of that failing.

15.26 The early arrest of suspects was essential particularly considering the inherent difficulty in securing witness evidence. The earlier the arrest takes place the greater the chance of recovery of forensic evidence.

15.27 The arrest strategy was put in place following the statements of Tracey Clarke and Timothy Jameson. Having obtained that information the RUC, under the direction of DI Irwin, moved rapidly to ensure the arrests of named suspects. The arrests were carried out within hours of the information coming to light.

15.28 To mount an operation of this magnitude at short notice is always problematic. DI Irwin had to ensure appropriate resources were available, search teams available, exhibit officers available, interviewing officers available together with an outside enquiry team. Based upon the papers I have read I do not feel there was anything further DI Irwin could have done

15.29 In my opinion the officer leading the investigation and directing the initial arrest strategy was DI Irwin, DCI P39 does not appear to have taken an active role in that part of the investigation.

Section 16 The search strategy

16.1 A number of searches were conducted by RUC officers at different locations over several days.

6th May 1997

16.2 The first searches were conducted on the 6th May 1997. Detective Sergeant **P15** briefed the officers with regard to the arrest and search of Stacey Bridgett, Dean Forbes and [REDACTED]. The statement of DS **P15** (Appendix 59) (763) does not indicate that he briefed the officers with regard to particular clothing.

16.3 There is evidence from the pocket note book of DC Keys that he gave specific details to Sergeant Bingham regarding suspected clothing worn by suspects.

16.4 Stacey Bridgett was arrested at his home address by DC Keys on 6th May 1997. DC Keys had briefed Sergeant Bingham, the search team leader, that they were seeking a blue Ralph Lauren shirt, charcoal top, cream shirt with fine brown stripe and white jeans,(Appendix 60) (9708 – 9709).

16.5 The search warrant was executed and the following property was seized:

- WAS/1 Watson checked shirt.
- WAS/2 Black Calvin Klein shirt
- WAS/3 Blue check Ralph Lauren shirt
- WAS/4 Purple/yellow Ralph Lauren shirt
- WAS/5 Grey Sonneti cord trousers.
- WAS/6 One pair of cream replay jeans.
- WAS/7 One shoe.
- WAS/8 One shoe.

16.6 Dean Forbes was arrested at his home address by DC **P18** on 6th May 1997. DC **P18** had been briefed by DS **P15** and DC **P18** together with other officers executed the search warrant and the following property was seized:

- SW/1 Black Sonneti jeans.
- SW/2 Cream coloured Ralph Lauren shirt.
- SW/3 Dow Jones grey and navy check shirt.
- SW/4 Ralph Lauren blue and white check shirt.
- SW/5 Black and white Motion Picture shirt.
- SW/6 Black and white Gazebo shirt.
- SW/7 Blue and white Gazebo shirt.
- SW/8 Cream coloured NICO jeans.
- SPC/1 Blue check shirt.

16.7 It should be noted that SW/2 was seized by Constable [REDACTED] who described the item of clothing as a cream coloured Ralph Lauren shirt. Mr Marshall from the Forensic Service Agency of Northern Ireland, (FSANI) described SW/2 as Ralph Lauren cream coloured trousers (Appendix 61) (9656 -

9657). In Appendix 62 (9661 of doc at 9656 - 9666) he described SW/2 as a tan shirt.

16.8 [REDACTED] was arrested at his home address by DC Honeyford on 6th May 1997. DC Honeyford had been briefed by DS **P15** and DC Honeyford and together with other officers he executed the search warrant. No property was seized.

Conclusion

16.9 The searches conducted on the 6th May 1997 were focused and proportionate with regard to the extent of the search. There is clear evidence that the officers had been properly briefed and knew the property they were searching for. When conducting multiple searches best practice would be to prepare a documented operational order outlining the objectives, method of search and property sought. In this instance the absence of an operational order did not hinder the search.

10th May 1997

16.10 Detective Inspector Irwin briefed arrest and search teams on 10th May 1997. He briefed officers to arrest Dean Forbes and Stacey Bridgett and briefed other officers to arrest and search the home addresses of Allister Hanvey, Rory Robinson, Wayne Lunt and Marc Hobson, (Appendix 63) (9754 – 9755). Within the statement of DI Irwin there was no detail as to the clothing officers were to search for but the evidence of officers conducting the searches indicates they were briefed as to the clothing sought. For example the pocket notebook of PC [REDACTED], (Appendix 64) (51085 – 51086), clearly showed he was briefed to search for specific clothing.

16.11 The search in relation to Allister Hanvey will be dealt with separately.

16.12 Marc Hobson was arrested at his home address by DC Honeyford on 10th May 1997. The address was searched and the following property was seized:

- EH/1 Mazuno sweatshirt.
- EH/2 Nike sweatshirt.
- EH/3 Blue jeans
- EH/4 Black leather jacket.
- GW/1 Black leather jacket.
- GW/2 Pepe jeans from washing machine.
- GW/3 Nike trainers.
- GW/4 Nike grey tee shirt.

16.13 The search of Marc Hobson's home address was focused professional and proportionate.

16.14 Wayne Lunt was arrested at his home address by DS Bradley on 10th May 1997.

The address was searched and the following property was seized.

NK/1 One white grey top

NK/2 One pair white jeans

TH/1 One red white and blue scarf.

TH/2 Left Ascot trainer.

TH/3 Right Ascot trainer.

TH/4 One pair white jeans from washing line.

JH/1 One baseball cap.

16.15 Later whilst in custody the following property was seized from Wayne Lunt.

GDC/4 White jeans that Lunt had been wearing.

GDC/5 Left Puma trainer.

GDC/6 Right Puma trainer.

16.16 Rory Robinson was not located at his home address when the search warrant was executed on 10th May 1997. He was located elsewhere at 19.40 hours that day and was arrested by DC Keys. The following property was recovered from his home address following the execution of the search warrant.

CW/1 Orange checked shirt.

CW/2 White / brown striped trousers.

CW/3 Blue cotton jacket.

16.17 In my view this was a good thorough search with all rooms plus gardens being checked.

16.18 During the course of this search a second address for Rory Robinson was located. The same search team searched that property but with negative result. This location was virtually devoid of any property.

11th May 1997

16.19 A further search of Rory Robinson's home address took place on 11th May 1997 between 14.31 hours and 14.46 hours. The search was conducted by DCs Honeyford and **P7** (Appendices 66 (9774 – 9775) and 67 (848)). Both reported a number of jackets and shoes being seized. DC Honeyford informed Mrs Robinson of the type of jacket they were searching for and she informed the officers that the jacket was currently being washed at the request of her son Rory. DC Honeyford informed her he would return to collect that, which he did later that night.

16.20 It is always difficult when dealing with the seizure of clothing from a washing machine, which could be destroying forensic evidence. I have known, however, of forensic evidence being found on items of clothing which have already been washed.

15th May 1997

16.21 David Woods was arrested adjacent to the Regal Snooker Club in Portadown by DS Harkness on 15th May 1997. David Woods' home address was not searched.

16.22 Andrew Allen was arrested at his home address by DC Honeyford at 07.07 hours 15th May 1997. Whilst in custody DI Irwin seized the Adidas trainers that Andrew Allen was wearing.

16.23 At 15.55 hours that day DI Irwin authorised the searching of Allen's home address. DI Irwin briefed DS Bradley who in turn briefed DC [REDACTED] to search Allen's home address for specific clothing. This was completed.

Conclusion

16.24 The search strategy in my view was good when considering how quickly DI Irwin had to arrange for the searches to be undertaken. The search teams were provided with sufficient information allowing the officers to search for specified clothing. The strategy, however, in relation to David Woods and Andrew Allen is questionable.

16.25 In murder investigations a balance has to be made between recovery of clothing believed to have been worn by suspects and the blanket removal of all clothing owned by suspects.

16.26 The operation would have benefited from both a search co-ordinator and a documented operational order, however I do accept that between identification of the suspects on 9th/10th May 1997 and the timing of arrests DI Irwin was under considerable pressure in co-ordinating the searches. It is likely there was insufficient time to produce such an operational order

The arrest and search of Allister Hanvey's home address.

16.27 Allister Hanvey was arrested at his home address by DC McAteer on the 10th May 1997. The address was searched and the following property was seized:

MJP/1 Pair of blue jeans.

MJP/2 White and black trainers.

MJP/3 Black padded jacket.

The extent of this search was confined to what is described as bedroom 1. The search record is at Appendix 68 (51337 – 51347).

16.28 Allister Hanvey identified these clothes as his (Appendix 69) (9292).

16.29 Only one room was searched despite the fact that the senior officers directing this investigation were fully aware that Reserve Constable Atkinson had allegedly advised Allister Hanvey to destroy or burn his clothing. No attempt was

made to determine whether there was a burn site within the house or garden. Furthermore no attempt was made to search for the dark baseball jacket with grey sleeves, the significance of which is outlined below.

16.30 Sergeant Bingham was the search team leader and appointed Constable **P34** as the log keeper.

16.31 Sergeant Bingham was re interviewed on 5th February 2001 when he stated that he had no recollection of extending the search for a silver coloured jacket or recently burnt clothing, (Appendix 70) (21753).

16.32 In my opinion the witness statement of Allister Hanvey dated 7th May 1997 in which he described the clothing worn by him at the time of the assault on Robert Hamill appeared to have been taken at face value, (Appendix 71 (9190). I reached this conclusion after considering the evidence of Constable Warnock who attended that scene reporting Allister Hanvey as wearing jeans and a dark baseball jacket with greyish sleeves. Other officers had been briefed to search for specified clothing when conducting other searches yet that was not done in respect of Allister Hanvey.

16.33 During the first police interview of Allister Hanvey at 12.14 hours on 10th May 1997 the interviewing officers put to him that a police officer at the scene identified him as wearing a dark baseball jacket with greyish sleeves, (Appendix 72) (10018 – 10090) (10025 – 10027 refers). The interviewing officers were DCs McCrumlish and **P24**.

16.34 This showed that the RUC had information contradicting the account of Allister Hanvey regarding the clothing he claimed to have been wearing on the night of the attack on Robert Hamill. In putting this to Allister Hanvey during interview, in my view, confirmed that the RUC had not overlooked the description of clothing as outlined by Constable Warnock. Rather, it appeared to have been ignored and no attempt was made to locate the jacket with greyish sleeves at the home address of Allister Hanvey.

16.35 On Sunday 11th May 1997 DCI **P39** chaired a briefing and DCs McCrumlish and **P24** were tasked to obtain a search warrant for the home address of Thomas Hanvey an uncle of Allister Hanvey. Allister Hanvey had claimed in interview that he had gone to this address after the assault on Robert Hamill and had slept there until collected by his father (Kenneth) on the 27th April 1997. The officers recorded a witness statement from Mr Hanvey and then executed a search warrant looking for clothing suspected of being worn by Allister Hanvey at the time of the assault. No clothing was seized; (Appendix 73) (49881 – 49891).

16.36 On 15th November 2000 DC McCrumlish was interviewed by DCI **K** regarding the search of Thomas Hanvey's home address on 11th May 1997 (Appendix 74) (15635). DC McCrumlish recalled being briefed by DCI **P39** to search the home address of Thomas Hanvey and was tasked to look for a dark coloured jacket with grey sleeves. He also recalled being tasked to look for burnt clothing. He stated the property was a small bungalow; the rooms were searched as was the small garden. No property was seized and there was no evidence of a

burn site. DC **P24** confirmed the briefing and detail as outlined by DC McCrumlish.

16.37 On 13th May 1997 Allister Hanvey's home address and the home address of Thomas Hanvey were again searched looking for clothing worn by Allister Hanvey at the time of the assault. Again nothing was seized. The search record (Appendix 75 (50023 – 50034) indicated the extent of the search of Allister Hanvey's home address.

16.38 Constable Ritchie of the Mobile Support Unit, call sign J1, was part of that search. He made a further statement dated 30th January 2001 (Appendix 76 (17538 – 17539). He referred to the search on 13th May 1997. He recalled being briefed by DC McCrumlish specifically to search for a silver or grey jacket. He described it as a methodical search and one where nothing was found fitting that description. He stated there was no evidence of burnt clothing but if there had been, then that would have been noted. He had no recollection of the garden being searched but stated that had it been searched then that would have been recorded in the search record.

Conclusion

16.39 In my view the search strategy with regard to Allister Hanvey was negligent. One wonders why the search team was not briefed to search for the dark jacket with grey sleeves or a burn site when the search was conducted on the 10th May 1997.

16.40 DC McCrumlish was later to be briefed to interview Allister Hanvey about that jacket. The officers searching on 10th May 1997 were clearly not briefed to search for burnt clothing or burn sites or to search for a dark baseball jacket with greyish coloured arms. Had they been so briefed then they would have done so, to do otherwise would have drawn adverse comment from supervisors following that search.

16.41 The RUC had evidence that Allister Hanvey was not wearing the clothing he claimed to be wearing on the 26th/27th April 1997. Despite that, a superficial search of the home address of Allister Hanvey was conducted. Serious concern must be why that search was restricted to one room when other suspects that day were subject to a more detailed search.

16.42 It is noted that the subsequent search of Allister Hanvey's home address on the 13th May 1997 was conducted to look for a grey jacket. Similarly the searches of Thomas Hanvey's address on the 11th and 13th May 1997 were conducted to look for a dark coloured jacket with grey sleeves.

16.43 In my view the search of Allister Hanvey's home address should have been extended to prove or disprove an association between the suspect Allister Hanvey and Reserve Constable Atkinson. DCS McBurney had the witness statement of Tracey Clarke (Witness 'A'), stating that Allister Hanvey had been advised by Reserve Constable Atkinson to destroy his clothing. If that is true, it indicates a close association or allegiance between

Allister Hanvey and Reserve Constable Atkinson. In my opinion an officer would not forewarn a suspect unless that was so. Despite this no attempt was made to search for evidence of an association and therefore a good investigative opportunity was missed.

16.44 The search strategy with regard to Allister Hanvey should have been recorded in a sensitive policy file considering the significance of the evidence provided by Tracey Clarke.

Section 17 The Forensic Strategy

17.1 The forensic strategy is one of the most important strategies in any investigation.

Forensic evidence will often prove or disprove someone's involvement in an alleged crime. Apart from the integrity of the exhibit being challenged, forensic evidence is often a matter of fact.

17.2 In such a divided society as Northern Ireland with the inherent difficulty in persuading people to give evidence, the forensic issues take on greater significance.

17.3 I acknowledge that in these particular circumstances trace contact between any one of the suspects and the deceased would not 'prove' that he was responsible for the murder of Robert Hamill. Outside public crime scenes, frequently found in assault cases, are known to be some of the most difficult scenes to deal with. This equally applies to multiple suspects when caught up in such an offence.

17.4 However, forensic evidence, together with other evidence, could have been significant in this investigation.

17.5 A letter from Mr Kitson, from the Department of Public Prosecutions (DPP) to the Chief Constable (Appendix 77) (8994 - 8996) dealt with a drop of blood found on the trousers of Robert Hamill. Mr Marshall from the FSANI identified that blood stain as originating from Stacey Bridgett. (Appendix 81) (9656 – 9666). Mr Kitson was of the view that:

“This evidence at its height indicates that at some stage Bridgett was sufficiently close to Hamill that his blood dripped directly onto Hamill. There is no other evidence available to show what Bridgett was doing or had done. During interview he denied being near Mr Hamill. However, this denial taken with the forensic evidence is not sufficient to provide a reasonable prospect of his conviction for an offence relating to the death of Mr Hamill” (at 8995)

17.6 It has to be remembered that there was further evidence with regard to Stacey Bridgett. He had a nose bleed, from which it can be inferred he was in a fight. Stacey Bridgett himself said that someone punched him on the nose. (That was said when he was interviewed under caution following the attack on Robert Hamill).

17.7 Stacey Bridgett stated in interview that he had not approached Robert Hamill yet the presence of his blood on the trousers of Robert Hamill indicates he was lying. If Stacey Bridgett innocently came into contact with Robert Hamill he could have said so.

17.8 In addition, Reserve Constable Silcock describes someone responding to the name 'Stacey' and his identification by a woman at the scene as being responsible for jumping on the head of one of the victims.

The forensic strategy in relation to the scene

17.9 Once the crime scene was cordoned off the forensic strategy deployed at the scene was straightforward and dealt with proficiently. DC Keys directed which exhibits he wanted SOCO Ardis to recover. The statement of PC Ardis identified what exhibits he recovered as outlined in Appendix 78 (737 – 738).

17.10 The following exhibits were recovered from the scene:

- MAA/1 Blood sample Market Street.
- MAA/2 Blood sample Market Street.
- MAA/3 Blood sample footpath Woodhouse Street side
- MAA/4 Blood sample footpath Woodhouse Street side
- MAA/5 Light pieces of broken wood.
- MAA/6 Broken pieces of wood.
- MAA/7 Broken pieces of wood.
- MAA/8 Broken bottle glass Thomas Street side of the road.
- MAA/9 Broken bottle glass Woodhouse Street side of street.
- MAA/10 Beer tin
- MAA/11 Half full wine bottle.
- MAA/12 Empty wine bottle

17.11 MAA/1 MAA/2 MMA/3 MAA/4 MMA/6 and MAA/7 were submitted to the FSANI.

17.12 MAA/5 was not submitted for examination. Whilst I have not viewed the exhibit the description leads me to believe that was the correct decision.

17.13 MAA/8, MAA/9, MAA/10, MAA/11, MAA/12 were submitted for fingerprint examination by Constable Ardis.

17.14 It is to be noted that on 16th May 1997 the fingerprint examination resulted with the fingerprints of Wayne Lunt being found on a tonic wine bottle. A pro-forma fingerprint result (Appendix 79) (12509 – 12511) was returned to the incident room outlining that the form must be returned to the fingerprint department if an evidential statement was required to prove the fingerprints. It was not surprising to identify the fingerprints of Wayne Lunt on a bottle as he had been seen by Constable A carrying a bottle.

17.15 There was no statement of evidence to show that Robert Hamill was struck with a bottle.

17.16 The identification of Wayne Lunt's fingerprints on the bottle did not prove that he assaulted Robert Hamill with that bottle, particularly considering the comments above.

17.17 I can find no evidence that the bottle was examined for DNA.

17.18 I acknowledge that the fingerprint evidence did not prove an assault with that bottle had taken place. However, had the DNA profile of Robert Hamill been

found on the same bottle showing Wayne Lunt's fingerprints, this would in my view be compelling evidence linking Wayne Lunt to the assault and subsequent death of Robert Hamill.

17.19 I have earlier commented upon the failure to secure the crime scene immediately upon realising the deteriorating condition of Robert Hamill, it is not my intention to repeat that here.

Conclusion

17.20 Comment has been made that the RUC failed to recover broken glass from the crime scene and subsequently forensic evidence was lost. I can find nothing to suggest that was true, to the contrary the exhibit list made it clear broken glass was recovered from the scene.

17.21 Apart from my observation in relation to the DNA sampling of the bottle with the fingerprints of Wayne Lunt thereon, I believe the forensic strategy in relation to the scene was good.

17.22 The actions of DC Keys and Constable Ardis have already been reported on. In my view they did all that could be asked of them in relation to the scene. The SOCO is not responsible for determining the forensic strategy for a crime scene, that is the responsibility of the SIO. In this particular case DCI P39 appears to have left that to DC Keys who in my view managed that scene with credit.

17.23 The capture of forensic evidence in outdoor crime scenes is difficult. In acknowledging the scene was unprotected for some time it is not possible to determine what evidence, if any, was lost.

The Forensic Strategy in relation to Robert Hamill and D

17.24 The following samples were taken from Robert Hamill during the course of the post mortem:

- RA/1 Head hair combings.
- RA/2 Blood sample.
- RA/3. Nail scrapings.

17.25 The following items of clothing from Robert Hamill were submitted for forensic examination:

- JMCA/1 Leather jacket.
- JMCA/2 Denim jeans.
- JMCA/3 Shirt.
- JMCA/4 Torn t shirt.
- JMCA/6 One right boot.
- JMCA/7 One left boot.

17.26 The following items of clothing from **D** were submitted for forensic examination:

- JMcD/1 One pair of denim jeans.
- JMcD/2 One striped shirt.

17.27 Of significance is that no blood sample was taken from **D**. This clearly hindered the forensic strategy; it would have been compelling evidence to identify blood from **D** on the clothing of any of the suspects. The RUC attempted to obtain a blood sample but **D** declined to provide one, therefore the RUC cannot be held responsible for this failing.

17.28 The following items of clothing from Stacey Bridgett were submitted for forensic examination:

- WAS/2 Black Calvin Klein shirt
- WAS/4 Purple/yellow Ralph Lauren shirt
- WAS/5 Grey Sonneti cord trousers.
- WAS/6 One pair of cream replay jeans.
- WAS/7 One shoe.
- WAS/8 One shoe.

17.29 The following items of clothing from Dean Forbes were submitted for forensic examination:

- SW/1 Black Sonneti jeans.
- SW/2 Cream coloured Ralph Lauren shirt. The FSANI Information Form (Appendix 80) (8187 - 8189) refers to trousers, as previously referred to.

17.30 The following items of clothing from Marc Hobson were submitted for forensic examination:

- EH/1 Grey sweater.
- EH/2 Nike sweatshirt.
- EH/3 Blue jeans.
- EH/4 Black leather jacket.
- GW/1 Black leather jacket.
- GW/2 Pepe jeans from washing machine.
- GW/3 Nike trainers.
- GW/4 Nike grey T shirt.

17.31 The following items of clothing from Wayne Lunt were submitted for forensic examination:

- NK/1 One white grey top.
- NK/2 One pair white jeans.
- TH/1 One red white and blue scarf.
- TH/2 Left Ascot trainer.
- TH/3 Right Ascot trainer.

- TH/4 One pair white jeans from washing line.
- JH/1 One baseball cap
- GDC/4 White jeans that Lunt had been wearing.
- GDC/5 Left Puma trainer
- GDC/6 Right Puma trainer.

17.32 The following items of clothing from Rory Robinson were submitted for forensic examination:

- CW/1 Orange check shirt.
- CW/2 White / brown striped trousers.
- CW/3 Blue cotton jacket.
- EH/8 Black bomber jacket.
- CID/1 Pair Ellesse boots.
- CID/2 Pair Timberland boots.
- CID/3 Pair black ankle boots.
- CID/4 Pair white guttees.
- CID/5 Pair Chevigon shoes.
- CID/6 Pair Adidas trainers.
- CID/7 Pair Ellesse boots.
- CID/8 Pair black shoes.
- CID/9 Black boot right foot.
- CID/10 Nike trainer right foot.
- CID/11 Adidas trainer left foot.
- CID/12 Black Adidas jacket.
- CID/13 Black Naf jacket.
- CID/14 Fila jacket.
- CID/15 Black jacket.
- DPE/5 & 6 Pair Timberland boots.

17.33 The following items of clothing from Allister Hanvey were submitted for forensic examination:

- MJP/1 Blue jeans.
- MJP/2 Pair Asics trainers.
- MJP/3 Black padded jacket.

17.34 All clothing submitted was forensically examined by Mr Marshall who was assisted by other colleagues. The clothing worn by Robert Hamill at the time of the assault was extensively bloodstained. Blood staining was also found on the clothes of **D**. Details of the results are contained in the statement of Mr Marshall (Appendix 81) (9656 - 9666).

17.35 A significant finding was a blood stain attributed to Stacey Bridgett on the jeans worn by Robert Hamill at the time of the assault. That is dealt with at paragraph 17.5 of my report.

17.36 Items of clothing belonging to Andrew Allen and David Woods were submitted for examination but nothing of evidential value was found.

17.37 Blood samples were taken from Stacey Bridgett, Dean Forbes, David Woods, Andrew Allen and Rory Robinson. None appears to have been taken from Allister Hanvey, Wayne Lunt and Marc Hobson. This was a flaw in the forensic strategy. However the DNA swabs provided by Allister Hanvey, Wayne Lunt and Marc Hobson whilst they had been in custody were later used for comparison purposes with a negative result.

17.38 In a murder investigation I would expect a blood sample to be taken to help prove or disprove that person's involvement in a serious arrestable offence. In this case the failure to take the blood samples did not impact upon the investigation in light of the DNA swabs provided.

Conclusion

17.39 Apart from the failure to take and submit blood samples from certain suspects the forensic strategy was in my view focused and proportionate. This is evidenced in the submission of clothing consistent with the description of clothing described by various witnesses. In most homicide investigations it is unrealistic and disproportionate to seize all clothing belonging to a suspect for a blanket submission for forensic examination.

17.40 The great difficulty when dealing with multiple offenders involved in a fight or assault is that trace contact, for example hair, blood or fibres between a suspect and a victim does not necessarily prove that that person is guilty of the assault. If there is evidence of trace contact between the victim and a suspect then with other evidence the chances of convicting that suspect increases.

Section 18 The interview strategy

18.1 I am mindful that interview strategy has improved significantly over recent years. Current best practice would be to appoint an interview co-ordinator to manage the strategy. Accredited advanced interviewers would then read themselves into an investigation and together with the co-ordinator document the strategy to be used. This would be subject to approval by the SIO. It would not be appropriate to judge the RUC interview strategy by today's standards.

18.2 It must also be accepted that the investigation was fast moving and there were only hours between the identification and arrests of the suspects. Interviewing officers would not have been able to spend considerable time in planning the interviews. Therefore the task of briefing those officers was important.

18.3 There was clear evidence that the interviewing officers were briefed, for example the Pocket note book entry of DC P37 (Appendix 82) (51316). Similarly DC P4 is briefed by DCI P39 to interview Rory Robinson (Appendix 83 (51084). A further example is DC Williamson who indicates he was briefed by DCS McBurney, DCI P39 and DI Irwin to interview Stacey Bridgett. Whilst not all interviewing officers have indicated they were briefed some form of tasking did take place. Whilst the depth and detail of the briefings are unclear I believe there is evidence to support the fact that the interviewing officers were briefed. Certainly in the case of DC McCrumlish he is clearly briefed as outlined below.

18.4 DCs McCrumlish and P24 interviewed Allister Hanvey whilst he was in custody on 10th May 1997.

18.5 On 15th November 2000 DC McCrumlish was interviewed by DCI K. He recalled being briefed by DI Irwin regarding the interview of Allister Hanvey. He recalled reading witness statements that mentioned Allister Hanvey and he recalled being made aware of a statement in which a police officer had advised Allister Hanvey to dispose of his clothing. He was asked to question Allister Hanvey about the clothing he had worn on the night of the assault and was aware of being informed about the existence of a dark jacket with grey sleeves.

18.6 DC McCrumlish concluded by saying that he was aware of a separate investigation being undertaken into allegations that a police officer had tipped off Allister Hanvey to get rid of his clothes. Bearing in mind he was aware of this on 10th May 1997 the possibility is that others were also aware. The action record print outlining the detail of the interview of DC McCrumlish is found at Appendix 84 (4510 – 4511).

18.7 The only concerns I have in relation to the interviewing of suspects is the interviewing of Allister Hanvey, (Appendix 85) (10020 - 10025).

Part of that interview reads

“.....you made a witness statement

A) *Yes that's right.*

Q) *"Now just to refresh your memory about that statement"*

A) *"Aha"*

Q) *"The first thing I'll do is read that statement to you in its entirety"*

Having read the statement the officer said:

Q) *"Is there anything you want to add to that statement or is there anything in that statement you would now say is untrue?"*

A) *"No"*

Q) *"You're happy enough with that there. You're totally happy."*

A) *"Yes"*

18.8 I question why Allister Hanvey was afforded the opportunity to refresh his memory by the officer reading a statement to him which was now strongly suspected to be false. The officers were almost inviting Allister Hanvey to confirm the truthfulness of that. I am not sure what the officers were trying to do or hoping to achieve by asking questions in the way they did.

18.9 Of real concern to me are the questions on (Appendix 86) (10084 - 10085) of the interview which in my view informed Allister Hanvey of the police knowledge of an officer allegedly telephoning the Hanvey household to advise him to get rid of his clothes.

Q) *"Since ah we've already ah asked you about have you spoken to anyone?"*

A) *"Aha"*

Q) *"About the incident and you've said other than your immediate family."*

A) *"Aha"*

Q) *"Your parents and your uncle, you haven't."*

A) *"Aha"*

Q) *"Ahm have you ever received, other than advice given by your solicitor which you're totally entitled to ah have you received any advice from any person in relation to?"*

A) *"No"*

Q) *"That night. Or your actions that night.?"*

A) "No".

Q) "Either civilian or otherwise"

A) "No"

Q) "Have you been speaking to any police about your actions that night?"

A) "No as I said the only policeman I knew there was Jim Murphy and I haven't seen him since so I haven't seen him".

18.10 In due course that answer would infer avoidance of the truth. Clearly Allister Hanvey knew Reserve Constable Atkinson through their association at the martial arts club yet he failed to mention him. One must ask if there was no conspiracy why fail to mention Reserve Constable Atkinson?

18.11 I cannot understand the logic in questioning Allister Hanvey in this way. Allister Hanvey was unlikely to reply that Reserve Constable Atkinson advised him to get rid of his clothes thus implicating himself in both the assault and a conspiracy.

18.12 I believe from this line of questioning the officers suspected Allister Hanvey had entered a conspiracy with a police officer yet he was not informed of that and cautioned prior to interview for perverting the course of justice.

18.13 In my opinion the only conclusion I can draw from this questioning is the officers were advising Allister Hanvey what they suspected, namely that a police officer had been speaking to him about events on the night of 26th/27th April 1997. In my view that should not have occurred. Clearly they would not have done this without direction from a supervisory officer.

18.14 In summary, the suspects responded as follows when questioned by police:

1. Allister Hanvey maintained his witness account. He claimed not to have been involved in the assault and at no time was he closer than 10 yards to Robert Hamill.
2. Marc Hobson said he remained by the Church until after the assault had taken place. He said he saw the fight but did not recognise any of those involved. Despite being questioned robustly he did not waiver in his account.
3. Wayne Lunt said he went into the town centre and ran off when approached by Constable A. His reason for doing so was he did not want to be arrested. He denies assaulting any person that night but agrees he was wearing a Rangers scarf and at one time was placed in the back of the landrover whilst his name and address were verified.
4. Dean Forbes said in interview that he walked into town, talked to the police personnel from the landrover, saw an officer pulled from the

vehicle and then became aware of the fight taking place. He denied being involved in the assault.

5. Stacey Bridgett said he walked into town with Dean Forbes, talked to the police personnel and when he walked round the back of the police vehicle, was punched on the nose. He denied being involved in the assault.
6. Rory Robinson stated he had been to the Coach Inn. On returning to Portadown town centre he saw a fight but did not recognise anybody.

18.15 In interviewing suspects with little witness evidence and no forensic evidence it is difficult to go much further than challenging the account given by the suspects.

Conclusion

18.16 I have already commented in relation to the interview of Allister Hanvey. In my opinion the questioning of Allister Hanvey in that way merely served to advise him that the RUC were aware of the allegation that Reserve Constable Atkinson had allegedly telephoned the home address of Allister Hanvey in order to advise him to dispose of his clothing. Why the officers should do that is unclear.

18.17 With regard to the interview of other suspects I consider the interview strategy to be appropriate and I believe the officers challenged the accounts robustly. From their line of questioning it appeared the officers believed the suspects were being untruthful but had little means of advancing the interviews.

18.18 The interviewing officers did not have forensic evidence at that time to put to the suspects, neither did they have any witness evidence that could be exposed to the suspects without revealing the identity of Witness 'A' and 'B'. In my view, there was nothing further the interviewing officers could have done.

Section 19 The Communication Strategy

19.1 It is part of the role of the SIO to manage both the internal and external communication strategy.

19.2 The internal strategy would concentrate on the briefing of staff with regard to ensuring that the investigation remained focused and that only those lines of enquiry identified by the SIO were followed. The usual method of ensuring that this is done effectively is to hold regular briefings when all can contribute. Out of those briefings would follow new lines or revised lines of enquiry. Another method would be to have a self review in which the entire enquiry team meet under the chair of the SIO and reviews the current position. In this enquiry, there was evidence of regular briefings chaired by the SIO.

19.3 There was also evidence of sensitive issues which were not shared with all, which is all part of the internal communication strategy.

19.4 The external communication strategy is about managing the media, informing the public and dealing with public perceptions. The identification of witnesses to move the investigation forward is a vital part of the strategy. The release of press statements should ideally be done in conjunction with and in agreement with the victim's family. If that is not possible due to pressure of time it is best practice to advise the family of the press release prior to publication.

19.5 In this case, the RUC were under considerable pressure following the first press release and also due to the perception within the family that the officers deployed to the town centre on the 26th April 1997 failed to protect Robert Hamill. The family of Robert Hamill do not appear to have co-operated with the RUC. Certainly within the papers I have viewed there was evidence of the family solicitor, the late [REDACTED], failing to return telephone calls and failing to reply to letters sent by the RUC. In making that observation, I am not being critical of the family or apportioning blame. I am merely recognising that the relationship between the family and the RUC had broken down.

19.6 It is not within my terms of reference to comment upon the issues raised in the complaint against the police regarding the media issues.

Conclusion

19.7 There is evidence that the briefing of staff occurred on a regular basis which allowed the investigation to move forward. The external communication strategy seemed to have failed from the start. In my view this resulted from the press releases which gave initially a misleading account. From the papers I have read it would seem the media quickly identified alleged failings on the part of the RUC and I have little doubt this impacted negatively on some members of the Catholic community and prevented some of them from engaging with the RUC.

Section 20 The Management and Effectiveness of the Investigation into the alleged misconduct of Reserve Constable Atkinson

20.1 On 8th May 1997, Reserve Constables **G** and **P20** were at the Tae Kwon Do martial arts club run by Michael McKee. They overheard Tracey Clarke talking about the fight in Portadown town centre on the 26th/27th April 1997.

20.2 Constable **P20** enquired of Andrea McKee as to the identity of Tracey Clarke. During this discussion Andrea McKee referred to the allegation that Reserve Constable Atkinson had telephoned Allister Hanvey. Constable **P20** then went to Portadown police station and reported this conversation to DI Irwin who instigated an interview with Tracey Clarke.

20.3 Tracey Clarke was first interviewed by police at her home address in the early evening of 8th May 1997. Tracey Clarke did not disclose any significant information.

20.4 As a result of this negative interview DI Irwin and DC McAteer met Andrea McKee at a covert location. Andrea McKee was too frightened to go to Portadown police station in case anyone saw her entering, hence the secret location.

20.5 Andrea McKee told DI Irwin what Tracey Clarke had told her. She informed DI Irwin that Tracey Clarke had been told by Allister Hanvey that Reserve Constable Atkinson had telephoned Allister Hanvey on the morning of 27th April 1997 and advised him to destroy his clothing.

20.6 Furthermore, it was alleged that Reserve Constable Atkinson was keeping Allister Hanvey apprised of the progress of the investigation. No record of that discussion was made by DI Irwin regarding this meeting. DCS McBurney was fully aware of this meeting and was 'driving' this part of the investigation. DCS McBurney failed to keep any record of this strategy. In my view this should have been recorded in a sensitive policy file.

20.7 If the information provided by Andrea McKee was true (that Reserve Constable Atkinson had tipped off Allister Hanvey), I believe there could only be one reason for doing so; Reserve Constable Atkinson suspected that Allister Hanvey could be forensically linked to the attack on Robert Hamill. If that were so the only natural conclusion to be drawn from this is that Reserve Constable Atkinson had witnessed, or suspected, Allister Hanvey of taking part in the attack on Robert Hamill and **D**.

20.8 Tracey Clarke was brought to Portadown police station by Andrea McKee during the late evening of 9th May 1997. A witness statement was recorded from her by DC McAteer. Tracey Clarke was apprehensive about making a statement and it was therefore agreed her details would be kept secret and she would henceforth be referred to as witness A. Tracey Clarke confirmed the account Andrea McKee had provided to DI Irwin the previous evening. Andrea McKee remained with Tracey Clarke throughout that interview (Appendix 87) (17327 – 17330).

20.9 DI Irwin and DCS McBurney were advised of the contents of that statement and, as a consequence, DI Irwin arranged the arrest of those suspects identified by Tracey Clarke.

Consequently at that point DCS McBurney had information that a police officer had deliberately set out to frustrate a criminal investigation. If that allegation was true then the actions of that officer were so serious that it would be reasonable to assume that this would be investigated thoroughly and expeditiously. In my opinion that did not prove to be the case.

20.10 A decision was taken to keep the information provided by Tracey Clarke a closely guarded secret. On 9th May 1997, DC McAteer made an urgent application for telephone subscriber checks and details of incoming and outgoing calls for Robert Atkinson's home telephone number. DCI **P39** signed the application (Appendix 88) (44919 – 44921).

20.11 The application was countersigned by DCS McBurney the following morning 10th May 1997. DCS McBurney was later interviewed by Mr Mahaffey, PONI (Appendix 89) (22811 – 22860).

It is recorded (22821):

“..... I directed it to Detective Constable McAteer to surreptitiously deal with the Atkinson, Hanvey telephone enquiry”

“What do you mean by that?”

“Well that was to, number 1 get the telephone numbers of Hanvey and of Atkinson, forward them without anyone knowing to Headquarters, so that what we could do was check if in fact the intelligence that we had received was correct. In other words, to commence the investigative aspect of that particular side of the complaint as it were, although yeah”

“Were you aware that that was done?”

“Yeah, yeah. I have no doubt it was done, because I actually signed it the following morning. It had been faxed for fax to Headquarters at 9-00am, it was the first thing I did on the Friday morning at 9-00 am I know that for a fact”

20.12 Two things of note emerged from this. Firstly DCS McBurney clearly accepted knowledge of the urgent billing request and secondly acknowledged this was the commencement of the investigation into alleged misconduct by Reserve Constable Atkinson. Despite commencing then, nothing further was done with regard to this investigation until 9th September 1997, some 4 months later. In my view the action taken on 9th September 1997 was flawed, which will be subject of later comment in this report.

20.13 The result of the billing request was dated 16th May 1997. It is unclear when that was received in the incident room. It was actually resulted on 4th

August 1997 by DI Irwin however it is clear that it was received much sooner than that. I believe the result of the billing was known by 19th May 1997 for the reasons outlined below. Urgent billing enquiries take a few days at most depending on the service provider as evidenced by the result date of 16 May 1997.

20.14 DCI **P39** was interviewed by DCI **K** and Mr Mahaffey from the Ombudsman's office at her home address on 28th February 2001, (Appendix 90 (22704 – 22708)). DCI **P39** recalled being present at a meeting attended by Mr [REDACTED] when he indicated there would be three separate investigations:

- The murder investigation.
- The alleged failure of the four officers in initial attendance to protect Robert Hamill on the 26th/27th April 1997.
- The alleged misconduct of Reserve Constable Atkinson following the information provided by Tracey Clarke that Reserve Constable Atkinson had telephoned the home address to advise Allister Hanvey to destroy his clothing.

20.15 This meeting took place on 19th May 1997 and DCI **P39** recalled the telephone billing being discussed which identified the two telephone calls made from Reserve Constable Atkinson's home address to Allister Hanvey's home address.

It had already been agreed that DCS McBurney would lead on all three investigations. This in my view was wrong.

20.16 In summary, on the 8th May 1997 Andrea McKee reported a conversation to DI Irwin that she had had with Tracey Clarke in which Tracey Clarke alleged Reserve Constable Atkinson had 'tipped off' Allister Hanvey to destroy his clothing on the morning of 27th April 1997.

20.17 This in turn was confirmed in statement form from Tracey Clarke on the evening of the 9th/10th May 1997 and urgent billing was applied for to prove or disprove the allegation made by her.

20.18 By the 19th May 1997 DCS McBurney, DCI **P39** and DI Irwin were aware from telephone billing that two telephone calls had been made from the home address of Reserve Constable Atkinson to the home address of Allister Hanvey one of them on the morning of 27th April 1997.

20.19 In my opinion the result of the billing request corroborated the account of Tracey Clarke. Clearly she could not have guessed that such a call had been made, she had to have been informed of such a telephone call.

20.20 Despite this, no action was taken until 9th September 1997 when Reserve Constable Atkinson was interviewed as a voluntary attendee. He was cautioned and advised he was being interviewed in relation to criminal neglect of duty, assisting offenders and withholding information about an arrestable offence.

20.21 During the course of this interview reference was made to the telephone call allegedly made by Reserve Constable Atkinson (Appendix 91) (9476 – 9509 and 9510 - 9540).

20.22 Page 9530 (of document at 9510 – 9540) of the interview of Reserve Constable Atkinson by DCS McBurney reads:

Q) *“Yeah. But there is an allegation that you did make contact.”*

Reserve Constable Atkinson replied:

“Well I”

Q) *“With Hanvey”.*

A) *“No I didn’t sir”*

Q) *“And over and above that that you may also have told him to dispose of clothing or whatever”*

A) *“Definitely not, I didn’t, no, that’s the last thing I would”*

Q) *“Ehm”.*

A) *“I find that when I come to night Mr Hagan said there was some sort of allegation and I’m dumbfounded”*

Q) *“Ehm. Well there is an allegation and it’s up to us to investigate it”.*

A) *“Well I understand that”*

Q) *“And indeed to pursue it”.*

A) *“Yes”*

Q) *“Do you understand?”*

A) *“I understand that sir”*

Q) *“And in that regard what about you obviously say you didn’t call with them”*

A) *“No I definitely didn’t”*

Q) *“Did he call with you?”*

A) *“No”*

Q) *“What about the telephone?”*

A) *"No well I didn't definitely contact him by telephone, the only contact I have had with him as I say is I think probably it was July I wouldn't be sure of the date but I'm sure it wouldn't be hard to find out..... and he called in his capacity as an Electric Board".*

Reserve Constable Atkinson was asked (9532):

Q) *"Ok well then would you mind if we looked at your telephone account, could you produce that for us?"*

A) *"I probably could sir..."*

Q) *"...Ah just so that we can take a look at it, we can take a look to see if there were any telephone calls or anything like that made and we can assess from there then what the position is and at some subsequent stage then it it's necessary we can go back to speak to you."*

A) *"Aha"*

Q) *"You understand?"*

A) *"Well I have nothing to hide sir you know."*

Q) *"No no no I no I, don't get me wrong, I accept that, but if allegations have been made, or suggestions have been made or someone has said it then there's an obligation on us"*

A) *"Oh I understand."*

Q) *"To pursue that".*

20.23 In my view, there can be no credible excuse for conducting that part of the interview so passively without introducing the evidence that DCS McBurney had in his possession. That is particularly so when I consider the second interview conducted on the 9th October 1997 (Appendix 92) (9541 – 9558). DCS McBurney and DI Irwin chose not to question him regarding the telephone billing despite introducing that subject.

20.24 There is no logical reason why Reserve Constable Atkinson should be asked to produce his telephone billing; that would only show what DCS McBurney already had in his possession.

20.25 In my view it was not acceptable for a senior police officer to inform a suspect that he knew the suspect had done nothing wrong when that senior officer had evidence in his possession that indicated that the suspect may well have committed a criminal offence.

20.26 When interviewed by Mr Mahaffey DCS McBurney stated the interview of Reserve Constable Atkinson on the 9th September 1997 was not to deal with the allegation that Reserve Constable Atkinson had allegedly advised Allister Hanvey

to destroy his clothing. (Paragraph 22.20 of my report refers). If that was so one has to ask why Reserve Constable Atkinson was cautioned for assisting offenders and questioned about the alleged telephone calls.

20.27 In my opinion the first interview merely served to forewarn Reserve Constable Atkinson that the investigation team were looking at his telephone billing in order for him to have time and opportunity to explain away his actions. I can find no other logical reason for introducing that subject if it was not intended to pursue that.

20.28 Reserve Constable Atkinson in due course obtained the telephone billing for his home telephone and he would therefore have to account for the 2 telephone calls made from his home address to the home address of Allister Hanvey.

20.29 Reserve Constable Atkinson was again interviewed on the 9th October 1997 when he stated that since the first interview he had learnt from his wife that on the 26th April 1997 Michael and Andrea McKee had, unknown to him, slept over at his house and it was in fact Michael McKee that had made the telephone call to Allister Hanvey's house.

20.30 That telephone call allegedly took place following his return from work that night, being recalled to duty and once more returning home whereupon his wife asked why he had been called out. Reserve Constable Atkinson said he then went to bed. Michael McKee allegedly made a call to the home address of Allister Hanvey to inquire into the safety of his niece, who at that time was going out with Allister Hanvey. The second telephone call was allegedly made by Eleanor Atkinson to ask about some equipment for her daughter.

20.31 Following that interview Eleanor Atkinson and Michael McKee duly provided witness statements to DCS McBurney and DI Irwin supporting the account provided by Robert Atkinson.

20.32 DCS McBurney did not challenge Michael McKee as to the truthfulness of that statement.

20.33 I believe DCS McBurney knew Michael McKee was fabricating evidence. I base this partly on the later interview of DCS McBurney by Mr Mahaffey (Appendix 89) (see document 22811 – 22860 at 22835 and 22836):

“I gave the DPP, Mr Kitson the background of investigations, the findings of the investigations so far, the reasons and rationale for the investigation, the reasons for recording a witness statement from Andrea McKee. I explained her help, her intelligence relating to the overall investigation and the fact that it was invaluable. I also explained, Mr Kitson, yes was not prepared nor did he have the authority to determine the question of immunity, of immunity in advance from prosecution of Michael McKee, because I also told him that Michael McKee, essentially, although a conspirator, was not the worst individual in the pack, he was one of the people that had facilitated and helped us to produce the witness Andrea not Andrea, Tracey Clarke to the police initially to interview her”

20.34 If that was correct it would follow that Michael McKee would have known of the information that Tracey Clarke was to give, yet some months later he made a statement in contradiction to his earlier knowledge.

20.35 In his statement Michael McKee said that he had asked Kenneth Hanvey whether his niece was at Kenneth Hanvey's house. Kenneth Hanvey replied that she wasn't at the house. That hardly accords with a 1 minute 35 second telephone call that was shown to have been made at 08.37 hours on 27th April 1997 from the home address of Reserve Constable Atkinson.

20.36 DCS McBurney and DI Irwin would have been aware of the length of that call but nowhere was the contradiction in the account of Michael McKee challenged or pointed out in report form.

20.37 In my opinion DCS McBurney and DI Irwin suspected the account of Michael McKee to be untruthful and yet the statement was accepted at face value. Furthermore the possibility of Michael McKee knowing the content of Tracey Clarke's original evidence, thus calling into question the integrity of his statement, was never highlighted in any of the papers I have read.

20.38 On 29th October 1997 DI Irwin took a witness statement from Andrea McKee in the presence of a solicitor Mr Hagan. Andrea McKee supported the account of her husband and the Atkinsons. This went totally unchallenged by DI Irwin who was fully aware that Andrea McKee had been present when Tracey Clarke had made her statement. The taking of that statement from Andrea McKee without challenge is in my view extremely significant and is therefore dealt with in detail within this report.

20.39 If there was any semblance of truth in the account provided by Andrea McKee on 29th October 1997 she would have challenged Tracey Clarke's account on the 9th May 1997 correcting her as to the origin of that telephone call.

20.40 It was Andrea McKee who had met and told DI Irwin what Tracey Clarke knew and it was her information that prompted DCS McBurney to order the interview of Tracey Clarke. Andrea McKee was therefore fully aware that Tracey Clarke had told the police that Reserve Constable Atkinson had allegedly telephoned the home of Allister Hanvey on the morning of the 27th April 1997 to advise Allister Hanvey to destroy his clothing. Yet some months later Andrea McKee provided a statement to DI Irwin, knowing that DI Irwin was aware of the contradicting evidence.

20.41 DCS McBurney was aware that DI Irwin was to take this statement and had advised DI Irwin how to proceed.

20.42 I believe both DCS McBurney and DI Irwin knew Andrea McKee was fabricating evidence when providing the statement on 29th October 1997. I base that conclusion on the following:

1. DCS McBurney and DI Irwin knew (and acknowledged in later interviews) that Andrea McKee had placed herself in great danger by

revealing what Tracey Clarke had told her. The question that then arises is; why would Andrea McKee put herself in danger if her account was untrue? The account given by Andrea McKee was confirmed by Tracey Clarke who was accepted as a witness of truth. DCS McBurney authorised the charging of offenders on the strength of the evidence provided by Tracey Clarke and Timothy Jameson. DCS McBurney, in his interview with Mr Mahaffey (referred to later in this report) said he would have charged the suspects on just the statement of Tracey Clarke. In my opinion this confirms how Tracey Clarke was viewed as a truthful witness.

2. Both DCS McBurney and DI Irwin knew that Andrea McKee was present when Tracey Clarke made her statement. In the report compiled by DCS McBurney in December 1997 and submitted to the DPP and ICPC, no mention was made of Andrea McKee being present at the time Tracey Clarke made that statement. Had it been mentioned, the stark contradiction in the evidence later given by Andrea McKee would have had to be explained. In my view the contradiction in evidence could not be satisfactorily explained.
3. During his interview by Mr Mahaffey (Appendix 89) (22832), DCS McBurney said he directed DI Irwin not to challenge Andrea McKee on the 29th October 1997 as he felt:

“A one to one situation was in my opinion the only way forward...”

He went on to say:

“... Tracey Clarke’s evidence was hearsay to impressed previously or even at this stage would in my opinion be fruitless, at this time they were all friends, conspirators together” (sic)

In my view, this indicated that DCS McBurney viewed Andrea McKee as a conspirator and was therefore providing false evidence in her account of 29th October 1997. Throughout his interview DCS McBurney said his strategy was to await the opportune time to tackle Andrea McKee who he considered to be a vulnerable witness. There would be no need to do this had he not suspected her of lying.

4. DI Irwin met Andrea McKee on 8th May 1997 at Seagoe. DI Irwin in his interview by Mr Mahaffey, described Andrea McKee as petrified, fearing for her life and property. Again in my view this confirmed the truthfulness of the account of Andrea McKee. DCS McBurney in his interview said (Appendix 89) (22819):

“ Allegedly Tracey Clarke had told Andrea Mckee that she had seen the incident and saw Allister Hanvey assault someone on the ground, also said she was told Reserve Constable Atkinson rang Hanvey’s the following day and told him to get rid of his clothing. Both officers were satisfied that Andrea McKee although afraid and nervous was telling the truth, her fear

for the situation she was in was not put on from a police point of view, it was justified and real”.

DCS McBurney was referring to DI Irwin and DC McAteer. In my opinion this indicates DI Irwin believed Andrea McKee to be telling the truth in his meeting on 8th May 1997 yet some five months later Andrea McKee gave a totally different account.

5. When DI Irwin was interviewed by Mr Mahaffey DI Irwin said he was concerned about interviewing Andrea McKee on the 29th October 1997 (22715 – 22759 and 22760 – 22810). This was as a consequence of the information Andrea McKee had initially provided in relation to Tracey Clarke (22786). DI Irwin sought guidance from DCS McBurney as he felt Andrea McKee would provide conflicting evidence, supporting the account of her husband and Eleanor Atkinson. Had DI Irwin not suspected Andrea McKee was about to provide false evidence there would have been no need to seek advice from DCS McBurney. DI Irwin explained that during the interview with Andrea McKee he tried to make her feel uncomfortable and pointed out the declaration at the top of the statement. There was no need to have done that if DI Irwin believed that to be a statement of truth.
6. DI Irwin explained in his interview with Mr Mahaffey that he briefed DCS McBurney on 3rd November 1997. DI Irwin said he was given no further instructions. When asked by Mr Mahaffey what DI Irwin’s views were at that time he responded

“Well put it this way he’s an experienced detective and on hindsight looking back now probably, he was right and I was wrong, I would probably have carried, got an investigation team and carried out the enquiries regarding what had come out of the interview, his view on it at that stage was, you have to learn to know when to jump to catch these individuals, time and patience is an art and knowing when to move is.”

In my opinion this showed how DI Irwin suspected the statement of Andrea McKee to be false and the whole alibi evidence needed to be investigated.

20.43 In summary, Andrea McKee appears to have made a false statement in order to help provide a false alibi for Reserve Constable Atkinson. She would in due course plead guilty to conspiracy to pervert the course of justice in relation to that statement. DI Irwin when taking that statement suspected it to be false yet failed to challenge Andrea McKee. DCS McBurney allowed that false statement to be taken by DI Irwin. Having taken that statement it was later presented as a statement of truth to the DPP and ICPC without mention of his knowledge of the veracity of the statement.

20.44 In my opinion the same applied to the statement of Michael McKee. His statement was presented as a statement of truth to the DPP and ICPC, which in turn would assist in clearing Reserve Constable Atkinson of any wrongdoing.

Similarly Michael McKee later pleaded guilty to conspiracy to pervert the course of justice.

20.45 If DCS McBurney and DI Irwin knew or suspected the statements of Andrea McKee and Michael McKee to be false then in my view to tender them as statements of truth is wrong and something that should not have occurred. If DCS McBurney and DI Irwin put forward the statements of Andrea and Michael McKee knowing or suspecting them to be false, and failed to point that out to the ICPC and DPP, then I believe there are a limited number of options to explain their conduct:

- That was an oversight on the part of the officers.
- The omission was deliberate and all part of the grand strategy of DCS McBurney, namely to bide his time and wait for an opportunity. (DCS McBurney's explanation for not taking any action is dealt with under section 22 of my report)
- The omission was deliberate and intended to protect Reserve Constable Atkinson.

20.46 I do not believe that officers as experienced as DCS McBurney and DI Irwin could fail to identify something so fundamental to the investigation. In my opinion that was not an oversight on the part of the officers.

20.47 I do not believe there was a grand strategy on the part of DCS McBurney. Had there been one DCS McBurney could have outlined that within his report. Mention of that strategy within his report would have lent credence to his later explanation.

20.48 I therefore conclude that the omission on the part of DCS McBurney and DI Irwin was deliberate. I believe the actions of DCS McBurney and DI Irwin were intended to protect Reserve Constable Atkinson. Why DCS McBurney should do so is unclear. One possible explanation is DCS McBurney was attempting to protect the reputation of the RUC.

20.49 Detective Inspector Irwin should have arrested Andrea McKee on suspicion of perverting the course of justice. Had he done so I do not believe Andrea McKee could have maintained her fictitious account when confronted with the reality of the situation, namely her presence when Tracey Clarke gave the account of Reserve Constable Atkinson telephoning Allister Hanvey to tell him to destroy his clothes.

20.50 That was an ill-thought-out conspiracy by the Atkinsons and McKees and in my view one that could have been discredited quite easily by DCS McBurney.

20.51 In my opinion, the following actions should have been undertaken following the allegations made by Tracey Clarke.

1. An independent SIO should immediately have been appointed with an investigation team drawn from officers stationed other than at Portadown. This could have been undertaken by Complaints and Discipline. This

would have ensured the independence of the investigation and would have provided transparency to the integrity of the investigation.

2. When the telephone billing for Reserve Constable Atkinson's home address was checked 2 telephone calls to the Hanvey's home address were found which tended to corroborate the version of events as outlined by Tracey Clarke. At that point Reserve Constable Atkinson should have been arrested on suspicion of attempting to pervert the course of justice. Allister Hanvey should similarly have been arrested and produced from prison for interview. The allegation that a police officer was attempting to frustrate a murder investigation by alerting one of the suspects was so serious an allegation that anything less than immediate action in my view could not be justified.
3. The home address of both Reserve Constable Atkinson and Allister Hanvey should have been searched in an attempt to show an association between the two parties. That association could have been documentary, photographic or financial. The home address of Allister Hanvey should also have been searched for evidence of burning or other destruction of clothing.
4. Had Reserve Constable Atkinson been arrested at an early stage I do not believe he would have been able to furnish a fabricated account regarding the telephone call. (Andrea McKee was uncertain as to when the conspiracy was hatched but believed it was after Reserve Constable Atkinson had been interviewed in September 1997).
5. Attempts should have been made to 'prove' the jacket as described by Tracey Clarke had existed. Early enquiries at the shop Paranoid would in all likelihood have provided such evidence. I base that on the following reasons, namely the distinctive type of jacket and the cost together with the manner in which it was purchased, namely by instalments.

20.52 If Reserve Constable Atkinson had been arrested at an early stage and had provided the account which he eventually put forward in October 1997 then the following people should have been interviewed.

- Eleanor Atkinson, Kenneth and Elizabeth Hanvey and Michael and Andrea McKee. Had they supported the account of Reserve Constable Atkinson then consideration should have been given to arresting all of them on suspicion of attempting to pervert the course of justice. I believe there was reasonable suspicion to justify such action.

20.53 When the account provided by Reserve Constable Atkinson was given on 9th September 1997, in which he denied making any telephone call to the Hanvey home address, DCS McBurney had reasonable evidence to suspect his account to be untrue. He had the account of Tracey Clarke, the telephone billing showing two telephone calls from the home of Reserve Constable Atkinson to the Hanvey home and, evidence that Allister Hanvey had lied about his movements. (See

paragraph 21.32). This would then have called into question the integrity of the evidence of Thomas Hanvey, Kenneth Hanvey and Elizabeth Hanvey.

20.54 Had the above been arrested, the following should have been undertaken:

1. House searches to prove an association between them.
2. Urgent requests for billing of home telephone and mobile numbers of all parties. Had this been done it would have been found that a telephone call was made from the McKee's home address to a cab company at 01.30 hours 27th April 1997 suggesting one or both of the McKee's were at home and were therefore lying. Urgent enquiry with that company would in all likelihood have proved successful with greater chance of people recalling recent events. DCI **K** in 2001 attempted to do just this but the passage of time did not assist him in those enquiries.
3. Urgent financial investigation checks into all parties. That may have provided evidence that certain parties were elsewhere from where they claimed to be. In the case of Allister Hanvey that appeared to be the case. Certainly his cash point card was used in Portadown at 08.45 hours 27th April 1997 thus apparently placing him elsewhere other than at his uncle's, as was claimed.
4. The testing of Andrea McKee's account could have been undertaken. In her statement provided in October 1997 she said she was able to provide her husband with Hanvey's telephone number from memory due to ringing him a number of times in connection with the club. Could telephone billing prove or disprove that? I have found nothing within the papers to suggest that DCS McBurney applied for the billing of Michael and Andrea McKee. Andrea McKee could have been asked to recall from memory the telephone number she allegedly provided to her husband. It is unclear from her statement whether the number was given from memory or from a diary or other documentation.
5. House to house enquiries could have been conducted to prove or disprove the account provided by the relevant parties. Whilst acknowledging difficulties faced by the RUC in dealing with certain sections of the community that does not provide reason not to follow up on an appropriate line of enquiry.

20.55 My conclusions are dealt with following comment in relation to the report submitted by DCS McBurney and the interviews of DCS McBurney and DI Irwin by Mr Mahaffey. (See page 114).

Section 21 The Report of DCS McBurney

21.1 Of concern to me is the report of DCS McBurney following his investigation of the 4 officers accused of inactivity at the scene of the assault on Robert Hamill and the alleged perverting the course of justice by Reserve Constable Atkinson (Appendix 93) (60499 – 60568).

21.2 Pages 60551- 60552 read:

“132...police had also established telephone contact between the Atkinson and Hanvey homes which again supported the allegation of Witness A.

“133 When interviewed about this particular aspect Robert Atkinson emphatically denied the allegation and in consequence was asked to produce his telephone account for that particular period. The subsequent interview revealed contact on 2 occasions namely 27 April 1997 and 2 May 1997 between the Atkinson and Hanvey homes. Again Robert Atkinson denied knowledge of the phone calls and suggested that his wife was in a position to answer the queries.”

“134 Following the interview of Robert Atkinson on 9 October 1997, his wife, Eleanor, was interviewed with regard to the telephone calls in question. She related that Michael McKee, a family friend who stayed at their home occasionally at weekends, had made the telephone call. She accepted having made the phone call on the 2 May 1997 which was a request to the Hanvey family for Tae Kwon Do equipment.”

“135 Immediately after this interview Michael McKee was interviewed and a witness statement recorded in which he accepts having made the phone call on 27th April 1997 and gives his reasons for doing so. At a later stage a witness statement was recorded from Michael McKee’s wife Andrea, which also supported his version of events. The parents of Allister Hanvey, Trevor and Elizabeth were interviewed and although they declined to make written statements confirmed having received for the reasons stated the 2 telephone calls in question. The interview also revealed considerable animosity towards Robert Atkinson by Trevor Hanvey to his duties as a police officer. Having found no evidence other than the telephone billing to substantiate the allegation of witness A one can remain sceptical but there is absolutely no other evidence to substantiate the allegation by witness A. I therefore recommend ‘No Prosecution’”

21.3 DCS McBurney said he had no evidence to substantiate the allegation made by Tracey Clarke. That was not true.

21.4 DCS McBurney had the written statement of Tracey Clarke implicating her boyfriend Allister Hanvey in the murder of Robert Hamill. Why would Tracey Clarke implicate her boyfriend if that were untrue? While Tracey Clarke’s relationship with Allister Hanvey was described as on/off, within her statement she implicated others. This in my view gave credence to her account. If she was doing it only to spite Allister Hanvey, then in my opinion it is more likely she would have implicated only him.

21.5 Within that statement was evidence of Allister Hanvey entering a conspiracy with Reserve Constable Atkinson. The billing corroborated her account. She could not have randomly fabricated that account guessing that such a telephone call had been made.

21.6 DCS McBurney had the statement of Constable Warnock who stated that he had recognised Allister Hanvey at the scene of the assault and was wearing “*jeans and a dark coloured baseball type jacket with greyish coloured sleeves*” (Appendix 20 pages 9229 – 9230).

21.7 DCS McBurney had the statement of Jonathan Wright, who had seen Allister Hanvey at the scene of the assault, which said that Hanvey had been wearing “*light blue jeans, track suit top, grey in colour, with a zip up the front of it. The top had orange stripes on both arms which went down to the elbows*” (9137 – 9140).

21.8 Furthermore, had DCS McBurney investigated this aspect thoroughly he would also have learnt that Allister Hanvey owned the sort of jacket described by Jonathan Wright. In November 2000, DCS McBurney had been removed from the enquiry and DCI **K** revisited this aspect of the investigation. He learnt from Irene Clarke that her daughter Tracey Clarke had bought Allister Hanvey a jacket from the shop Paranoid for £175, the cost being paid by instalments. ██████████ Clarke said that her daughter told her that Allister Hanvey had said that Reserve Constable Atkinson had advised him (Allister Hanvey) to burn his clothing (14896 – 14900). James Murray, the partner of ██████████ Clarke, corroborated the account of ██████████ Clarke (17338 – 17341).

21.9 The significance of the above statements was the placing of a certain jacket in the possession of Allister Hanvey which subsequently could not be found. Furthermore, Allister Hanvey had denied owning such a jacket, why do so if the possession and subsequent disposal were for innocent reasons?

21.10 As outlined within my conclusions at paragraph 23.33, despite suspecting that Andrea McKee was lying when she provided her statement on 29th October 1997 no mention or hint towards that was made within the report of DCS McBurney to the DPP and ICPC.

21.11 Instead a casual mention of her providing a statement was made which in my view could only be intended to mislead the reader.

21.12 I believe as far as DCS McBurney was concerned that was the end of the matter, hence such insignificant attention given to it. Had DCS McBurney wished to he could have exposed Andrea McKee within the papers and the only conclusion I can reach for him not doing so was to avoid that information becoming known. I believe the same can be said for the statement of Michael McKee. No question was raised within the report about any suspicion regarding the truthfulness of that statement.

21.13 Had reference been made to the DPP or ICPC of the contradiction in Andrea McKee’s evidence then an explanation would have been expected from

DCS McBurney. I am not sure what satisfactory explanation could have been given that could justify the taking of a false statement and then passing that off as a statement of truth.

21.14 I believe DCS McBurney only acknowledged this contradiction when he was confronted by Mr Mahaffey with obvious evidence that the initial account Andrea McKee had provided to DI Irwin on the 9th May 1997 and 29th October 1997, could not sit together.

21.15 It is to be noted that on 4th August 2000 Mr [REDACTED], the solicitor then acting on behalf of the Hamill family, was briefed by Sir Ronnie Flanagan the Chief Constable of the RUC.

21.16 In notes of that briefing Mr [REDACTED] recorded what Sir Ronnie Flanagan told him; that DCS McBurney had never been happy with the alibi evidence but once the McKees had parted he travelled to Wales where Andrea McKee admitted to being part of a conspiracy to pervert the course of justice.

21.17 Describing DCS McBurney as never being happy with the alibi evidence is somewhat different from saying that DCS McBurney suspected from the outset that the alibi evidence, accepted willingly by DI Irwin, was false.

21.18 That raises the question; did the Chief Constable know his officers had acted in that way or was that held back from him?

21.19 In my opinion there can only be two options. Firstly, either DCS McBurney informed the Chief Constable that he had allowed DI Irwin to take a false witness statement effectively clearing a police officer of any wrongdoing. In doing so DCS McBurney would have had to acknowledge the statement had been presented to the DPP and ICPC as a statement of truth thus misleading both parties.

21.20 The second option was that he failed to brief the Chief Constable of his actions and suspicions in relation to Andrea McKee. If the second option was correct then the question that has to be asked is; why did DCS McBurney fail to brief his Chief Constable on that point?

22.21 The Chief Constable explained to Mr McGrory that they intended to use Mrs McKee as a witness.

21.22 I return to the report of DCS McBurney following the criminal interview of the initial 4 officers for alleged inactivity and for allegedly perverting the course of justice by Reserve Constable Atkinson.

21.23 Paragraph 19 of the report (60513) stated:

“During consultation between Mr Kitson DPP and Mr Kerr QC regarding evidence against one of the persons charged, Colin Prunty outlined the good work carried out by the Police who had been in the landrover, when they became

aware of the situation. Police are not in a position to confirm this statement although they know it to be fact”.

My question is; how did the police know this to be fact? In Colin Prunty’s witness statement he did not praise the police but was critical of an officer who detained a person identified as assaulting Robert Hamill and then releasing him. Bearing in mind DCS McBurney was investigating the police actions at the scene there was no indication within the papers of officers attempting to obtain a statement from Colin Prunty where he outlined the good work the police carried out.

21.24 Paragraph 29 of the report (60517) identified a male who approached DI Irwin and:

“... related he was disgusted at the media coverage and unfair criticism of the RUC. He outlined that originally he didn’t see any police but then 3 in a crowd of about 30 or 40 and that they were helpless in the situation... He indicated in his opinion that police had done an excellent job however, due to his own personal reasons he declined to become involved or provide a statement”

That person may well have made the above comments but there were others who were critical of initial police actions that were not referred to. These may be minor points but I believe it demonstrated the desire of DCS McBurney to reflect the RUC in a positive light.

21.25 Paragraph 39 of the report (60520) dealt with the witness Jonathan Wright. The report stated:

“He describes Hanvey as wearing light blue jeans, track suit top, grey colour with a zip up the front. The top had orange strips on both arms which went down to the elbows.”

That information became extremely significant as Jonathan Wright was only one of two people who described different clothing to that which Hanvey claimed to be wearing.

21.26 Paragraph 42 (60520) dealt with Allister Hanvey. Part of the report read:

“He describes his own clothing on the night namely black CAT jacket, dark blue Levi jeans, white and black Asics trainers”

21.27 Paragraph 54 (60525) dealt with Reserve Constable Warnock. Part of the report read:

“He outlines a number of individuals in this crowd, including Allister Hanvey who was wearing jeans with a dark coloured baseball type jacket with greyish coloured sleeves”.

21.28 Paragraph 77 (60531) dealt with the witness statements taken from Tracey Clarke and Timothy Jameson on the 9th and 10th May 1997. The report stated:

“...house searches were carried out at the home of Allister Hanvey and that of his uncle, Thomas Hanvey. Allister Hanvey was arrested on 10 May 1997 and interviewed at Lurgan RUC station. Although clothing was seized from Hanvey’s home address, nothing was found similar to the clothing as described by Jonathan Wright and in which Hanvey was named as wearing on the night of the incident. Items as described by Hanvey, in his own witness statement were recovered however, subsequent forensic tests to link these with those of the deceased proved negative. During interview Hanvey denied involvement in the attack of Robert Hamill and remained adamant that the original witness statement he had made was the truth. He denied the allegation reference wearing the clothing as outlined by Jonathan Wright.”

21.29 I believe this is misleading. DCS McBurney referred to clothing, described by Jonathan Wright, not being found. The truth in fact was that the searching officers were not briefed to search for such clothing. At the time of Allister Hanvey’s arrest no attempt was made to locate the jacket described by Constable Warnock. I acknowledge subsequent searches did attempt to locate such a jacket but the appropriate time to search for that jacket would have been at the time of the arrest.

21.30 Paragraph 79 (60531) of DCS McBurney’s report stated:

“In addition a witness statement was recorded from Thomas Hanvey who supported the fact that Allister Hanvey had slept at his address... on the night of the incident. The following morning at approximately 9.30 am – 9.45 am Allister Hanvey’s father Kenneth called at the house, shortly afterwards both left. Thomas Hanvey outlines clothing worn by Allister Hanvey which he describes as T-shirt, blue jeans, navy or black coloured quilted bomber type jacket.”

21.31 This paragraph is in my view misleading. In the absence of any further information this paragraph reads as a statement of truth and appeared to be a factual acceptance of the account provided by Allister Hanvey in relation to the clothing he wore and his movements on the night of the assault.

21.32 DCS McBurney should have known at the time of compiling the report that the account given by Thomas Hanvey was questionable yet no mention of that is made. There was evidence provided by a number of witnesses that placed Allister Hanvey elsewhere after the assault.

Outlined below is a brief synopsis of those statements:

1. Pauline Newell provided a statement dated 20th May 1997 (Appendix 94) (9128 - 9130). She went to Tracy McAlpine’s house with Kelly Lavery and Tracy McAlpine. A short time later, about 2.15 hours, Andrew Osbourne and Judith Holland arrived. Pauline Newell went to bed, woke around 05.00 hours and saw in the living room Allister Hanvey, **P46**, Fonzy, Chris Henderson and Dean Forbes. Pauline went back to bed.

2. Kelly Lavery provided a statement dated 14th May 1997 (Appendix 95) (9178 - 9179). She went to Tracy McAlpine's house after returning to Portadown about 1.15am with Tracey McAlpine. Kelly fell asleep and on waking went to the Esso service station with Tracy. She returned to the house where she once more fell asleep. Upon waking she saw Dean Forbes and Allister Hanvey and asked them to leave. It is unclear what time Allister Hanvey left the house. However, having asked them to leave Kelly Lavery said she got her things together and walked home arriving at about 09.00 am.
3. Stephen Bloomer provided a statement dated 29th May 1997 (Appendix 96 (9151 – 9152). He returned to Portadown about 01.40 hours, saw the fight and tried to get a taxi. He said couldn't do so and walked to a house. (Tracy McAlpine's address.) He arrived at the house at about 02.45 hours and saw **P46**, Stacey Bridgett, Allister Hanvey, Pauline Newell and Ian Carville. He stayed there about 15 – 30 minutes and went with Ian Carville to get a taxi. He arrived home about 03.45 hours.
4. Ian Carville provided a statement dated 19th May 1997, (Appendix 97 (9184 – 9185). He returned to Portadown about 02.00 hours with Chris Henderson. He met Stephen Bloomer, Marc Hobson and he believes Allister Hanvey. They then went to Tracey McAlpine's house. At the house he saw Pauline Newell, Shelly Liggett, Kelly Lavery, Dean Forbes, Jason Woods, **P46** and Andrew Allen. He left at about 05.30 – 05.45 hours and caught a taxi home.

21.33 None of the above witnesses gave any detail as to the clothing worn by Allister Hanvey. On reading the statements it is difficult to determine if they were asked about his clothing.

21.34 In contrast to the above statements, the statement of Thomas Hanvey dated 11th May 1997 described how he was indoors on the morning 27th April 1997 at about 03.30 – 04.00 hours when Allister Hanvey arrived at his house. He described the clothing worn by Allister Hanvey and said that Allister's father picked Allister up at about 10.00 – 10.15 hours (Appendix 98) (9193 – 9194).

21.35 Despite the stark contradiction in evidence from those putting Allister Hanvey at Tracey McAlpine's house and Thomas Hanvey putting Allister at his home address no inference or question was raised within the report of DCS McBurney. One has to ask why? I believe an officer with the experience of DCS McBurney should have identified the contradiction in evidence and included that in his report.

21.36 Whilst I have the benefit of knowing the cash point card of Allister Hanvey was used in Portadown town centre at 08.45 hours on Sunday 27th April 1997, which indicates Hanvey was not at his uncle's house, I believe the above witnesses should have raised sufficient interest to question Hanvey's account.

21.37 Paragraph 120 (60548) of DCS McBurney's report stated:

“On the otherhand having been advised by Thomas Gerard Mallon of potential trouble, should police have taken alternative or indeed more specific action by debussing or moving immediately to the potential flash point. Can this lack of initiative or perception by police be specifically or generally regarded as wilful, either by intention, negligence or recklessness either collectively or individually. Certainly in my opinion there is no evidence to substantiate this view.”

21.38 I have previously given my opinion in respect of that issue. I believe in light of the warning given by Mr Mallon action should have been taken. I have acknowledged in my conclusions that even such early intervention may not, however, have prevented the assault on Mr Hamill.

21.39 I am aware the ICPC came to the same conclusion as DCS McBurney when considering this issue. However when this was later reviewed by the Ombudsman’s office they were of the view that Constable Neil, the senior constable present, should have been disciplined and suspended by the RUC.

21.40 That was resisted by the RUC until advice from Counsel had been taken. It was the view of Counsel that there was insufficient evidence to prove beyond reasonable doubt that Constable Neill was guilty of neglect of duty. The Ombudsman then took legal advice and the same conclusion was reached.

21.41 Under the previous discipline regulations the burden of proof was the same as in criminal investigations, namely beyond reasonable doubt.

21.42 My previous conclusions regarding the actions of the officers did not deal with the issue of discipline but merely considered whether the comments of Mr Mallon should have provoked some reaction on the part of the 4 officers.

21.43 Paragraph 122 (60549) of DCS McBurney’s report stated:

“Touching on the aforementioned considerations is the suggestion that police were reticent or unable to identify or arrest the protagonists. This is a false perception as historically and from a practical point of view in instances of this nature, relatively few arrests are made at Public Order confrontations. Generally police rely on identification with a view to pursuing their investigations and police concerned in this instance were of considerable assistance in this regard”

21.44 I do not believe that is correct. The 4 officers in attendance were of little assistance in identification. Not one officer was able to give direct evidence of the identification of one of the numerous people attacking Robert Hamill and **D**. At a later stage Constable Neill was able to provide evidence that Marc Hobson kicked out towards Robert Hamill but did not see if the kick connected.

21.45 I agree that in the event of serious public disorder it is not practical to carry out multiple arrests but steps can be taken to note and gain evidence of recognition whereby later arrests could be carried out.

21.46 I have acknowledged that some officers named individuals at the scene which led to the initial arrests, unfortunately the officers did not identify anybody as carrying out the assault on Robert Hamill or D. The arrest strategy following the death of Robert Hamill was determined following the statements of both Tracey Clarke and Timothy Jameson.

21.47 Constable A, as previously reported, failed to record in his/her pocket note book or statement the information he/she had received in relation to Wayne Lunt upon releasing him from the landrover; that he was one of several people attacking Robert Hamill. DCS McBurney as SIO for the murder investigation would have been aware of that failure on the part of Constable A yet he failed to either raise that within the report or take any disciplinary action against him/her.

21.48 When investigating internal discipline issues, should the SIO come across other breaches of discipline then he or she is expected to deal with those issues. In cases of minor breaches of discipline the SIO is authorised to give informal advice. In the event of more serious breaches of discipline then the SIO should ensure discipline notices are served on the officer as soon as possible. That is in order to advise them of the investigation and allow them the opportunity to safeguard their rights i.e. securing of evidence that may be lost in the fullness of time. (Notices do not need to be served where the SIO believes notifying an officer would seriously prejudice his or her investigation. Even then discipline notices must be served when the investigation will no longer be compromised.)

21.49 DCS McBurney did not raise any discipline issues within his report nor did he seek to bring to the notice of Complaints and Discipline the neglect by Constable A or Inspector McCrum the senior officer on duty on the night of the assault.

21.50 Casual observation and review of the murder investigation revealed a number of errors within the investigation such as the blood samples previously referred to, the search strategy and the interview strategy. None of that, however, was raised as an issue in the report. I believe this should have been raised by DCS McBurney.

21.51 The report of Chief Inspector Jackson, (Appendix 99 (14543 – 14550), dated 4th May 2001 identified concerns about the previous investigation which he believed needed to be addressed.

21.52 As a consequence of the above report from Chief Inspector Jackson the Chief Constable was briefed regarding those apparent lapses and a discipline investigation was undertaken which resulted in both Constable A and Inspector McCrum being admonished.

21.53 I believe that once the failings of the earlier investigation under the direction of DCS McBurney were recognised Senior Officers of the RUC openly embraced those findings and rigorously investigated the activities of the officers engaged in the investigation.

21.54 Paragraph 124 (60549) of DCS McBurney's report stated:

“In addition to the Hamill complaint of inactivity is an allegation based on hearsay and contained in the statement of Witness A, “I remember Robbie Atkinson’s name coming up and Allister (Hanvey) said that Robbie Atkinson had been very good to him because on the Sunday morning after the incident in the town centre he rang him at about 8.00am and told him to get rid of the clothes he was wearing the previous nightHe also told me he that Robbie Atkinson was ringing him everyday to keep him up to date with the police investigation.”

21.55 Paragraph 125 (60550) stated:

“This aspect of Witness A’s statement cannot be taken lightly and in many respects has a ring of truth to it. Consequently this complaint in its entirety was taken seriously and every effort was made to prove or disprove its authenticity.”

21.56 In my view that is untrue and was intended to mislead the reader of the report. In my opinion the complaint was not taken seriously. DCS McBurney claimed that *“every effort was made”* in my opinion very little was carried out to prove or disprove a serious allegation of crime levelled against a police officer.

21.57 It should be noted the report by DCS McBurney was dated 22nd December 1997. The report concluded by stating (60552):

“I therefore recommend No Prosecution”

21.58 The wording of that report in my view suggested a closure to the investigation with a clear recommendation of no prosecution. Nowhere did DCS McBurney point out that that was only the start of his investigation, part of his strategy, part of his waiting game to prove the allegation made against Reserve Constable Atkinson. Nor did DCS McBurney infer such a strategy was in place.

21.59 If DCS McBurney had a strategy of taking no further action until the right opportunity arose I would have expected to see that outlined within the report.

21.60 I am of the opinion no such strategy existed and that is why no mention was made within the report of DCS McBurney.

21.61 I have already outlined what I believe DCS McBurney should have done but nothing of that nature was carried out.

21.62 The report by DCS McBurney was in my view selective and in part misleading. The report appeared to support Allister Hanvey’s version of events with regard to his movements and the clothing he was wearing.

21.63 It is possible DCS McBurney was assisted by DI Irwin in compiling his report. Even if that was the case DCS McBurney signed the report and as the SIO must accept responsibility for the content of that report.

Section 22 The Interview of DCS McBurney by Mr Mahaffey Senior Investigating Officer PONI

22.1 On 20th December 2000 DCS McBurney was served form OMB3A alleging his failure to properly deal with the alleged criminal behaviour of Reserve Constable Atkinson, (Appendix 100) (28058 - 28059).

22.2 In February 2001 DCS McBurney retired from the RUC. The decision to allow DCS McBurney to retire, whilst subject to discipline, was taken following discussions between Mr David Woods, Director of Investigations PONI, and Sir Ronnie Flanagan, Chief Constable of the RUC.

22.3 On 27th March 2001 DCS McBurney was interviewed as a voluntary attendee by Mr [REDACTED] and Mr Mahaffey, Senior Investigating Officers from the office of PONI. Also present was Mr [REDACTED] representing DCS McBurney, (Appendix 89) (22811 – 22860).

22.4 DCS McBurney stated that following the attack on Robert Hamill on the 26th/27th April 1997 he was made aware of the assault and satisfied himself that DCI P39 was managing the investigation. Between the 27th April 1997 and 8th May 1997 DCS McBurney liaised with DCI P39 and/or DI Irwin concerning the progress of the investigation (22812).

22.5 As the senior CID officer for the Region that would be normal police practice, namely being appraised of serious events and maintaining a brief overview of the enquiry.

22.6 DCS McBurney assumed responsibility for the investigation following the death of Robert Hamill on the 8th May 1997.

22.7 DCS McBurney was asked by Mr Mahaffey (22815 - 22817)

“..... Did you become aware and I'll use P39's phrase of a breakthrough that evening involving a potential witness?”

“Yes”

“Can you tell me what your recollection is around that?”

“I was advised by the Detective Inspector that a Constable, Reserve Constable McCaw gave information to Detective Constable McAteer regarding a Tracey Clarke, she was alleged to have seen the assaults and involved and Allister Hanvey. Now from my point of view, with discussions that I think occurred were that discuss it with Michael, imperative that we interview Tracey Clarke immediately, establish the facts, obtain statements, evidence, intelligence, whatever we could. Next.”

22.8 DCS McBurney explained how Tracey Clarke did not reveal anything of interest in the pro forma being used by officers to interview witnesses. As a consequence DCS McBurney instructed that Andrea McKee be re-interviewed as

she was the person who had provided information concerning what Tracey Clarke had witnessed.

22.9 DCS McBurney stated that Andrea McKee refused to attend Portadown police station as she feared exposure. As a consequence, DI Irwin and DC McAteer met her at Seagoe cemetery (also referred to as Kernan).

22.10 DCS McBurney acknowledged during interview that he was aware of the information being supplied by Tracey Clarke on the night of 9th/10th May 1997 concerning the murder and the alleged conduct of Reserve Constable Atkinson. As a consequence of that he left DI Irwin to make arrangements for the arrest of named suspects.

22.11 DCS McBurney was asked whether he had kept any formal record of his taskings on 9th May 1997 and subsequent dates. He said he had not done so for security reasons in order to avoid a leak of information thus endangering Tracey Clarke and also exposing the information regarding Robert Atkinson. When directly asked (22821):

“Did, did you keep any personal record? I accept that you wouldn’t want, perhaps wouldn’t want any documentation about what had happened circulating the general consumption. But did you keep a personal log of any sort?”

DCS McBurney replied:

“No I didn’t keep a personal log, for me to keep a personal log of what was happening from A to Z, I would have been writing 24 hours a day and everyone would have known what was going on...”

22.12 I do not accept this. It is the duty of the SIO to maintain a policy file. I personally have been the SIO for several complex murder investigations and on each occasion I have maintained a policy file. My experience is once the policy file is up and running it is easily maintained. I have found the policy file maintains the direction of the enquiry. If there was material or lines of enquiry that DCS McBurney wished to keep confidential then a sensitive policy file should have been maintained.

22.13 When referring to the interview under caution of Reserve Constable Atkinson on 9th September 1997 DCS McBurney observed (22829):

“The only way I can answer that is, Reserve Constable Atkinson was interviewed on the 9th September 97”

“Fine”

“In relation solely to that activity but that transpired. The only question that he was asked at that stage with regard to the telephone call was, with regard to the original telephone account for that date and I wanted possession of the account that he had in my possession, and I wanted that rightly or wrongly for court that was my intent and I wanted for court, I wanted it to prove. It was from my point of

view a noxious remark, in many respects, but I wanted to make him to think. I wanted to make him moved one way or the other I also believe, that I knew he was aware of the situation that we would probably would be investigating that particular aspect”.

This was a reference to the alleged telephone call made from Reserve Constable Atkinson’s home address on 27th April 1997.

22.14 I have a number of observations regarding this explanation.

22.15 Reserve Constable Atkinson was aware of the investigation as DCS McBurney had advised his solicitor prior to the interview on 9th September 1997.

I have already outlined part of that interview under section 20 of my report but for completion I feel it is necessary to repeat that here.

Page 9530 (of document at 9510 – 9540) of the interview of Reserve Constable Atkinson by DCS McBurney reads:

Q) *“Yeah. But there is an allegation that you did make contact.”*

Reserve Constable Atkinson replied:

“Well I”

Q) *“With Hanvey”.*

A) *“No I didn’t sir”*

Q) *“And over and above that that you may also have told him to dispose of clothing or whatever”*

A) *“Definitely not, I didn’t, no, that’s the last thing I would”*

Q) *“Ehm”.*

A) *“I find that when I come to night Mr Hagan said there was some sort of allegation and I’m dumbfounded”*

Q) *“Ehm. Well there is an allegation and it’s up to us to investigate it”.*

A) *“Well I understand that”*

Q) *“And indeed to pursue it”.*

A) *“Yes”*

Q) *“Do you understand?”*

A) *“I understand that sir”*

Q) *“And in that regard what about you obviously say you didn’t call with them”*

A) *“No I definitely didn’t”*

Q) *“Did he call with you?”*

A) *“No”*

Q) *“What about the telephone?”*

A) *“No well I didn’t definitely contact him by telephone , the only contact I have had with him as I say is I think probably it was July I wouldn’t be sure of the date but I’m sure it wouldn’t be hard to find out..... and he called in his capacity as an Electric Board”.*

22.16 At the start of the interview it was pointed out to Reserve Constable Atkinson that he was being interviewed in relation to criminal neglect of duty, assisting offenders, and withholding information about an arrestable offence.

22.17 It was not necessary for the police to have the customer’s own personal telephone bill to move the investigation forward. The purpose of obtaining billing from the service provider was so that they could provide a correctly certified extract which would be admissible in court.

22.18 I return to my previous conclusion, I believe that information was given during interview merely to forewarn Reserve Constable Atkinson of the allegation. I do not find it credible for DCS McBurney to have said that he revealed this merely to

“make him moved one way or the other”

22.19 Had DCS McBurney wanted to do that he could have challenged Reserve Constable Atkinson with the evidence that he already had in his possession, namely evidence that a telephone call was made from Reserve Constable Atkinson’s home address to Allister Hanvey’s home address

22.20 Referring to the interview of DCS McBurney, he was asked (22829 - 22830):

“Right, so you or Reserve Constable Atkinson was interviewed on the 9th September.”

A) *“Yeah”*

Q) *“97?”*

A) *“Yeah”*

Q) *“And what was the purpose of that interview?”*

A) *"The purpose of that interview was the inactivity by police, investigation of it. And at that stage we had not recommenced investigations as such into the perverting the course of justice aspect. Right, because it was on the 9th of October that we re-interviewed Atkinson in the presence of a solicitor Mr Hagan in relation to the allegation by Tracey Clarke."*

Q) *"Right"*

A) *"I see you looking at me there?"*

Q) *"No I am just trying to get the dates in my head"*

A) *"What happened was this it was very simple. Number one: my belief was that we had to as I said initially probably investigate the murder that was imperative, although the ICPC may not necessarily have agreed with that, but they did eventually. The second aspect: was the inactivity which they were investigating and supervising, the third aspect: was the perverting the course of course of justice which they quite specifically said was nothing to do with them and that was ended up my problem. So consequently those are the reasons that when he was interviewed first or rather interviewed at that stage on the 9th with Mr [REDACTED] present, that this aspect was not touched, the perverting the course of justice"*

22.21 I have a number of observations regarding this part of the interview. DCS McBurney clearly indicated that the ICPC had a different agenda to that of the RUC, namely the investigation of the inactivity complaint rather than the investigation of the murder. This is not a criticism of the ICPC as that was their role but it reinforces my view that DCS McBurney should not have been appointed to investigate both the complaint and the murder, as it detracted from the murder investigation.

22.22 Furthermore I find it difficult to determine how DCS McBurney could say *"...this aspect was not touched the perverting the course of justice"*. The allegation was openly discussed during that interview on the 9th September 1997 (22830).

22.23 In an undated letter from Mr [REDACTED] agreeing for DCS McBurney to investigate the complaint the letter was originally addressed to Superintendent Anderson Complaints and Discipline and amended to read DCS McBurney, (Appendix 101) (27672). That in my view would have been the correct appointment allowing DCS McBurney to investigate the murder. A further letter dated 13th May 1997 confirmed the appointment of DCS McBurney as the investigating officer, (Appendix 102) (63684).

22.24 Superintendent Anderson would appear to have been appointed as SIO but the appointment was changed to deputy SIO. DCS McBurney was appointed SIO by ACC Complaints and Discipline but the rationale for that appointment is unclear.

22.25 If, as DCS McBurney stated, the issue of attempting to pervert the course of justice was not pursued because Mr [REDACTED] was not supervising that aspect of the enquiry then nothing should have been said about the alleged telephone call.

22.26 DCS McBurney acknowledged that the investigation into the perverting the course of justice had not recommenced by the 9th September 1997. Despite a serious criminal allegation being levelled against a police officer on the 9th May 1997 the only action taken between that date and the 9th September 1997 was to apply for and receive the telephone billing.

22.27 Based upon the papers I have read I do not believe Reserve Constable Atkinson was aware that DCS McBurney knew about the telephone call until his interview by DCS McBurney on 9th September 1997. Had he been aware he could have provided the account he later came up with during the interview on 9th October 1997. Andrea McKee could not recall when the conspiracy was first agreed but she believed it to be after Reserve Constable Atkinson was interviewed on the 9th September 1997.

22.28 During his interview DCS McBurney acknowledged that on the 9th October 1997 he and DI Irwin interviewed Reserve Constable Atkinson a second time and it is during that interview that Reserve Constable Atkinson came out with the account outlined in paragraphs 20.29 and 20.30 of my report. DCS McBurney confirmed it was DI Irwin and himself that took the witness statements from Eleanor Atkinson and Michael McKee.

22.29 Returning to the interview of DCS McBurney (Appendix 89) (22831) Mr Mahaffey asked DCS McBurney:

“Yeah, yeah that’s fine. Can you tell me this Mr McBurney, what your strategy was around the alibi’s being put forward because I am a little unclear around what your intention was, what your strategy was, what your intentions were and what you were hoping to achieve by it, but by the tactic you adopted because you and Michael Irwin had known for several months about the allegation made clearly from the 8th/9th of May you were aware that this allegation that Atkinson had made this phone call was being discussed. Now what was your decision around the investigation of the alibi?”

DCS McBurney replied at length as follows:

“My priority was building evidence against Atkinson and the present these facts under these circumstances, in other words, in the presence of a solicitor was a nightmare scenario. Though it may have appeared tenuous, I was satisfied we had something tangible to work on. Now this is where I start to explain Andrea McKee was interviewed in Sean Hagan’s office on the 29th October 97 by Detective Inspector Irwin, initially the Detective Constable was not happy with the situation and I explained to him, if we were to get Atkinson to court, then the McKee’s held the key. I didn’t explain to the Detective Inspector that he was the man for the job because he was one of the few who had dealt with a prisoner who had turned Queens evidence. At this stage I was keeping all options open, the Detective

Inspector was aware of the full facts and she knew that this aspect in itself made it easier for the Detective Inspector to convey to her that she should tell the truth without he having to disclose him. Try and make her uncomfortable and if she introduces the issue pursue it, if not leave it. I was availing of annual leave but had I been there the situation was such that my presence, may well have jeopardised the intended strategy of a more opportune time to confront her. A one to one situation, was in my opinion, the only way forward. By being prudent we were also protecting Andrea McKee, I also felt that as a team they Andrea McKee, Andrea and Michael would not last, experience or life told me that there was a time coming when we could successfully jump. I was fully briefed on this, on the situation by the Detective Inspector on my return on the 3rd of November 97 he told me that although uncomfortable she was supporting Atkinson and her husband. I explained to the Detective Inspector that we needed the McKee's to prosecute a charge who made the call proves that lies can't prove what was actually said, Tracey Clark's evidence was hearsay to impressed previously or even at this stage would in my opinion have been fruitless, at this time they were all friends, conspirators together. I was waiting for the window of opportunity and I knew it would come with patience and strategy. We had interviewed Reserve Con Atkinson and the party's concerned. Eleanor Atkinson, Michael and Andrea McKee with the anticipated response. I required evidence from the McKee's but how do I obtain it. Nothing of interest had come out of the court case we had to find a mechanism to get at the truth. We recognised that there was a growing tension in the McKee family. I had no one to say what actually happened, I wanted someone to say I lied regardless of what else I had. I had to wait on a scenario developing, she was a vulnerable witness and I wanted her free from the influences of her husband, Atkinson."

22.30 I do not accept this explanation. The strategy is still unclear to me. The only explanation given by DCS McBurney was that he did nothing for three years. That was despite DCS McBurney knowing or suspecting that Andrea McKee and others were lying. Following his explanation a number of questions arose, namely:

1. Why did DI Irwin not challenge Andrea McKee, by pointing out the obvious false account that she was putting forward on the 29th October 1997? DI Irwin could simply have pointed out that she had been with Tracey Clarke when she reported Allister Hanvey receiving a telephone call from Reserve Constable Atkinson on 27th April 1997 and therefore her account now on the 29th October 1997 could not be correct.
2. Why did DCS McBurney and DI Irwin not challenge Michael McKee when they took his statement on 9th October 1997? DCS McBurney described them as "*friends, conspirators together*" which indicated the officers suspected Michael McKee and others of perverting the course of justice.
3. Why could the officers not visit Andrea McKee when she was alone? This question was asked by Mr Mahaffey during the interview of DCS McBurney (Appendix 89) (22833). In my opinion no satisfactory

answer was provided. DCS McBurney suggested Andrea McKee was still under the ‘umbrella’ and ‘influence’ of her husband and it was therefore pointless. My observation is what had the officers got to lose? Allister Hanvey had been asked in interview on the 10th May 1997 “*Have you been speaking to any police about your actions that night?*” As previously stated I believe that question merely alerted Allister Hanvey to what the police suspected. Furthermore, Reserve Constable Atkinson was aware that the RUC had knowledge of the alleged telephone calls as a result of the first interview on 9th September 1997. It seemed that all interested parties were aware of what the police knew about the conspiracy, yet DCS McBurney took no action.

4. Why did DCS McBurney not instruct DI Irwin to arrest Andrea McKee on suspicion of perverting the course of justice if she lied as he suspected she would?
5. DCS McBurney said “*We recognised that there was a growing tension in the McKee family*”. How did he know this? The question then arises if there was such tension was that not an ideal time to confront Andrea McKee?
6. Why did DCS McBurney not apprise others, including the DPP and ICPC that he had allowed DI Irwin to take a false statement from Andrea McKee? DCS McBurney could have explained that it was all part of his grand strategy.
7. Why did DCS McBurney use the statements of Michael and Andrea McKee as statements of truth in order to clear Reserve Constable Atkinson of any wrongdoing when he suspected those statements to be fabricated?
8. Why did DCS McBurney fail to keep any confidential record of his decision making?

22.31 The only explanation offered by DCS McBurney to explain his lack of action is that it was all part of his strategy.

22.32 I find it difficult to believe there was a grand strategy on the part of DCS McBurney. It is my opinion that this was the best explanation DCS McBurney could offer when considering the significant failings and inaction on his part during the investigation into the alleged misconduct of Reserve Constable Atkinson.

22.33 I would find that strategy more credible if there was some written documentation referring to it. There was no written record within a sensitive policy file nor was there any mention in the report of DCS McBurney. I do not accept the lack of record keeping was simply due to possible exposure of that information. In 1997 the RUC would have been dealing with highly sensitive information regularly and there were methods of handling that.

22.34 During the course of the interview DCS McBurney said he became aware that the McKees had split up in September/October 1999 and then he saw an opening. However it was not until June 2000 that DCS McBurney conducted the interviews with the McKees. DCS McBurney explained the delay by stating he had been awaiting the Inquest, although I am unclear what he expected to come from that.

22.35 The purpose of an Inquest is to determine the circumstances surrounding the death of a person. It is not set up to examine miscellaneous areas and the issue of alleged misconduct on the part of Reserve Constable Atkinson would not be subject of scrutiny. My observation is that even if that subject was raised how likely would it have been for the McKees and others to openly admit perverting the course of justice?

22.36 It should be noted that during this same period of time the Hamill family, through their solicitor [REDACTED], made representations at the very highest level of Government for a Public Inquiry. It is the view of Mr [REDACTED] that the flurry of activity generated by DCS McBurney was simply to allow the RUC to say there was an ongoing police investigation which could be compromised in the event of a Public Inquiry.

22.37 Returning to the interview of DCS McBurney, he stated that on the 26th June 2000 he met with Mr Kitson, DPP's office, Mr [REDACTED], ICPC and Mr Mullen PONI when he briefed them about his visit firstly to Michael McKee and then his visit to Andrea McKee when she admitted lying in her statement of 29th October 1997. DCS McBurney said this was the first time he had explained to a third party his grand strategy.

22.38 DCS McBurney acknowledged that it was only in June 2000 that the investigation into the alleged perverting the course of justice by Reserve Constable Atkinson was commencing (Appendix 89) (22836). He stated:

“Well, it was at this stage really that the Investigation only commenced or was commencing because prior to that we had been playing cat and mouse, cat and mouse with a view to determine as I have said we wanted someone to say look these are the facts the telephones had to be pursued. Well we had already knew about that aspect of the telephone but there were many other issues that should be pursued as well”

22.39 That was three years after the allegation against Reserve Constable Atkinson had been made and three years after the telephone billing had been obtained. How was it possible for a senior police officer to do nothing for three years and then justify that inactivity? In my opinion such lack of action cannot be justified.

22.40 DCS McBurney alluded to other issues that needed to be pursued. No indication of those issues was given. Following the allegation being made against Reserve Constable Atkinson, no positive police action was taken.

22.41 DCS McBurney was asked by his legal representative Mr [REDACTED] (22837).

“Well from your point of view, you are saying that that was the first time that you disclosed to third parties, the strategy that you were pursuing?”

DCS McBurney replied

“That’s correct, that’s correct. And I have wrote here, my strategy throughout was to obtain evidence against Robert Atkinson and to ensure that Andrea McKee’s life was not put in jeopardy.”

22.42 DCS McBurney passed off the statement of Andrea McKee, taken by DI Irwin on 29th October 1997, as a statement of truth originally misleading both the DPP and ICPC. If there was a strategy the time to disclose that was in 1997 not 2000.

22.43 Mr Mahaffey continued later in the interview asking:

“Where did you go next?” (This was following the meeting of the 26th June 2000)

“Where did I go, I went to and spoke to Detective Chief Inspector K and I then explained to him the situation and I said to him look from my point of view, from the Detective Inspector’s point of view, the hype pertaining to this particular investigation as such now that I believe that it would be better if you pursued the enquiry’s and took them to a logical conclusion”

22.44 DCS McBurney claimed he had taken no action between May 1997 and June 2000 as he had been awaiting an opportunity to gather evidence against Reserve Constable Atkinson. If that were true DCS McBurney now had a major breakthrough. Having waited three years for that evidence he then chose to re-allocate that enquiry removing both DI Irwin and himself from the investigation. The question I would ask is if he was so determined to prosecute Reserve Constable Atkinson why did he relinquish control? I believe DCS McBurney could not take the enquiry to a “logical conclusion”, to do so in my view would have exposed his own lack of action.

22.45 Mr Mahaffey asked (22837)

“But can I just ask, going back to the interview on the 9th of October ’97 with Reserve Constable Atkinson. I mean clearly you had maintained a degree of sensitivity around the enquiry up to that stage, but once you had interviewed him your putting the cards on the table, to him?”

“No, that is not right. I didn’t put the cards, that’s not right he was asked about the situation, he didn’t know about, I mean if you think about the whole thing from A to Z ……………”

22.46 In my view, DCS McBurney had ‘put his cards’ on the table. At no point did DCS McBurney satisfactorily explain what his ‘A to Z’ was. I can see no

evidence of any investigative opportunity undertaken by DCS McBurney in relation to the alleged perverting the course of justice.

22.47 He is then, having outlined his strategy, questioned by Mr Ranaghan (22838)

“Just a couple of points to try and take him through the same sort of order. Just to confirm, from the 9th or 10th May when the information regarding telephones comes into your possession, could you tell me what steps you took between that date and the interview of Reserve Constable Atkinson in relation to that evidence?”

A) *“That’s in with regard to telephone calls?”*

Q) *“Yeah”*

A) *“I have already said the action I took, I wanted to confirm number one that the telephone, that the intelligence was correct, it was proved to be correct and we knew there and then, right is an investigation that we must pursue, perverting the course of justice and the rest follows suit”*

Q) *“And can I ask specifically what steps you took? You said you were checking the information was correct, how did you go about that?”*

A) *“I have spent an hour here explaining all that and my rationale for the action I took”*

Q) *“But I am asking you specifically what actions you took? I understand your rationale and that you explained your strategy”*

22.48 In my opinion DCS McBurney could not outline what action he had taken during the period between applying for the itemised billing on 9th May 1997 and 9th September 1997 when Reserve Constable Atkinson was interviewed, because he did not take any action.

Conclusion

22.49 I do not find the account of DCS McBurney credible. I do not believe a senior police officer can justify doing virtually nothing for three years and then claim that that was a strategy. In summary I base this on the following:

1. Upon learning of the telephone call, itemised billing was obtained which showed that two telephone calls had been made from the home address of Reserve Constable Atkinson. Nothing further was done, despite there being significant lines of enquiry that could have been undertaken.
2. The statement of Tracey Clarke was typed onto HOLMES on 11th May 1997 which allowed potentially a wide circle of officers the knowledge

of the telephone call thus increasing the risk of Reserve Constable Atkinson being alerted.

3. DC McCrumlish in the interview of Allister Hanvey on 10th May 1997 asked Allister Hanvey if he had been talking to a policeman since the attack on Robert Hamill. That in my view alerted Allister Hanvey that the police suspected that he had been in conversation with a police officer.
4. On 9th September 1997 DCS McBurney interviewed Reserve Constable Atkinson. Prior to the interview Reserve Constable Atkinson's solicitor was advised of the telephone call. At the start of the interview Reserve Constable Atkinson was cautioned for assisting offenders. During the interview the issue of the billing arose and Reserve Constable Atkinson was allowed to deny making such a call. DCS McBurney had evidence in his possession that could have challenged that assertion yet he chose not to.
5. Reserve Constable Atkinson was further interviewed on 9th October 1997 when he was allowed to put forward his account of how those calls were made. No enquiries were conducted to prove or disprove the account put forward by Reserve Constable Atkinson. The account in my opinion was tacitly accepted.
6. DCS McBurney and DI Irwin took a statement from Michael McKee on 9th October 1997 which I believe they suspected to be false. No issue was raised regarding this in the report of DCS McBurney to the DPP and ICPC.
7. DCS McBurney allowed DI Irwin to take a false statement from Andrea McKee on 29th October 1997. No challenge was made of that account. DCS McBurney failed to disclose in his report to the DPP and ICPC the knowledge and significance of the part played by Andrea McKee.
8. When Andrea McKee admitted giving a false alibi for Reserve Constable Atkinson she was allowed to make a witness statement when she admitted committing a serious crime. The taking of a witness statement from Andrea McKee in those circumstances could have seriously compromised any later prosecution of Reserve Constable Atkinson with regard to the telephone call.
9. If another SIO had taken over the investigation and visited Andrea McKee when she admitted she had given a false alibi in her statement dated 27th October 1997 how could DCS McBurney then have explained his actions? I do not believe he could have done so.
10. I do not believe either DCS McBurney or DI Irwin expected the sudden admission by Andrea McKee. I base that on the lack of preparation prior to the interview i.e. no consultation with the DPP on

how to treat Andrea McKee in the event of an admission, the decision to treat her as a witness when clearly she was a suspect and the poor quality of that statement. If that was correct then it followed that there never was a strategy followed by DCS McBurney. I acknowledge the DPP would often require a file before offering advice but there did not appear to have been a pre planned strategy in dealing with Andrea McKee in the event of her admitting lying in her statement. I base this comment on the fact that DCS McBurney and DI Irwin had to confer privately once Andrea McKee admitted to attempting to pervert the course of justice.

11. On initial viewing of the papers it was clear to me that significant errors had occurred during the murder investigation. DCS Stewart, on taking over the investigation recognised those same errors and on 29th January 2001 briefed the Chief Constable recommending a discipline enquiry which in turn led to the investigation undertaken by Detective Superintendent Kennedy.
12. It would seem either that DCS McBurney did not recognise those failings (for at no time did he recommend any form of investigation) or, he recognised those failings but chose to do nothing about them.
13. Following the statement of Andrea McKee, when she admitted perverting the course of justice, the allegation of misconduct by Reserve Constable Atkinson was supervised by Mr Mahaffey. Mr Mahaffey maintained a decision log, (Appendix 103) (14867 – 14880). At that time DCS McBurney was still in charge of the police investigation. Mr Mahaffey outlined in his decision log the arrest/search strategy undertaken by DCS McBurney namely (at 14870):

“Arrest and search the home address of Michael McKee. The search being for telephone billing and financial evidence linking Michael McKee to Robert and Eleanor Atkinson”

“Carry out a search of Atkinsons home address. The search being for telephone billing and other financial material linking the Atkinson’s to the McKee’s and Hanvey’s. This includes any documentary evidence identifying the Atkinson’s with any payment made to Sean Hagen (Solicitors) supposedly made by the Atkinson’s to supervise an interview between the RUC and Andrea McKee”.

“To search the home address of the Hanvey family. The search being for the same reason outlined above. Also to search for any photographic evidence identifying Allister Hanvey at a party on the night Robert Hamill was killed. As well as establishing Allister Hanvey’s ownership of a distinctive jacket allegedly worn on the same night”

22.50 That should have been carried out 3 years earlier. On viewing the strategy above DCS McBurney still did not intend to arrest Reserve Constable Atkinson despite Mr Mahaffey believing there was sufficient suspicion to arrest all concerned parties.

22.51 In that same decision log Mr Mahaffey reported

“DCS McBurney explained that Andrea McKee had written a threatening letter to her husband, which in any event would probably preclude her from being put forward as a credible witness.”

22.52 If Andrea McKee had sent a threatening letter, that would not necessarily bar her from being put forward as a credible witness. In my opinion that would be for the Court to decide following representations from Counsel. To put forward the above observation I believe demonstrated the mindset of DCS McBurney in dismissing the evidence of Andrea McKee.

22.53 One further part of the decision log is worth noting. On 13th December 2000 the Chief Constable Sir Ronnie Flanagan was briefed by Mr Mahaffey when it was explained that there were serious flaws into the investigation of Reserve Constable Atkinson and as a consequence the Ombudsman had no confidence in DCS McBurney or DI Irwin. The Chief Constable agreed to remove them (14877).

22.54 It should be noted that at this time there were three separate investigations running:

A) The internal disciplinary investigation being conducted by Superintendent Kennedy under the supervision of Mr Mahaffey on behalf of the Police Ombudsman.

B) An investigation being conducted by Mr Chris Mahaffey on behalf of the Ombudsman into the conduct of DCS McBurney and DI Irwin.

C) The investigation being conducted into the murder of Robert Hamill and the alleged perverting the course of justice by Reserve Constable Atkinson.

Section 23 The Interview of DI Irwin

23.1 There are a number of observations I have in relation to the interview of DI Irwin by Mr Mahaffey. The first interview took place on 2nd March 2001 (Appendix 104) (22715 -22759). The second interview took place on 13th March 2001 (Appendix 105) (22760 – 22810).

23.2 The first interview dealt with the alleged failure to deal with information supplied by Reserve Constables **G** and **P20** who allegedly reported to DI Irwin an admission by Timothy Jameson that he had ‘put the boot in’ at the time of the assault. It was unclear who he had put the boot in to but it was believed to have been either Robert Hamill or **D**.

23.3 The allegation faced by DI Irwin was that he chose to disregard that information, preferring to treat Jameson as a witness. He was the first significant person to provide evidence of named suspects assaulting Robert Hamill.

23.4 DI Irwin denied that and stated that if he had been made aware that somebody was making admissions he would have arrested him and dealt with him as a suspect.

23.5 Putting to one side the alleged admission of putting the boot in, if a person said he was present at the time of an assault then consideration would be given to whether he was a witness or a suspect. If the officer had reason to suspect that the person was involved then he or she should treat that person as a suspect. If no suspicion arose then the person should be treated as a witness.

23.6 The interview of DC Honeyford under caution has in my view a complete ring of truth to it. In my opinion his integrity and ethics stand out in that interview and I believe that DC Honeyford carefully considered Jameson’s position and concluded that he should be treated as a witness (Appendix 106 (27082 – 27098 and 27099 - 27116)).

23.7 The position of the investigation team and that of Constables **G** and **P20** cannot be reconciled. The officers claimed that Timothy Jameson did say he put the boot in and that this information was passed in turn to DI Irwin and DCS McBurney. DCS McBurney and DI Irwin denied that, claiming they had no evidence to believe Timothy Jameson was a suspect and therefore he was treated as a significant witness.

23.8 Why someone would make an unsolicited remark to police officers of his own possible involvement in a murder is hard to understand.

23.9 Equally why officers should make up such a remark is also hard to understand.

23.10 I am aware that Timothy Jameson’s father was a prominent businessman who due to his work for the RUC was subject to police protection.

23.11 There are a number of possible explanations for that situation arising but based on the reports I have considered I am unable to reach a conclusion.

23.12 The second interview of DI Irwin dealt with the alleged mishandling of information provided by Andrea McKee.

23.13 DI Irwin attempted to avoid taking any responsibility for the investigation relying on the policy file entry showing DCS McBurney as SIO, DCI **P39** as deputy SIO, and himself as office manager. As a Detective Inspector of some experience he was an integral part of that investigation. DCS McBurney engaged DI Irwin in a role that could only be described as deputy SIO.

23.14 I do accept that DI Irwin was reluctant to engage in the discipline investigation but the reality is he remained an integral part of that investigation

23.15 When DI Irwin was asked how he came to interview Andrea McKee on 29th October 1997 and take a statement from her which in my view he suspected to be untrue he offered the following explanation (Appendix 105) (22786 in document at 22715 – 22759 and 22760 - 22810).

“.....so whatever happened the following week then there was the interview for the 29th of the tenth and Mr McBurney was not available and you have to accept that I felt somewhat isolated that he wasn't attending but nevertheless I asked him for guidance and direction because there was obviously a number of matters where they were causing me concern and that was basically the information that we had received originally from Andrea. Do I put it to her or do I not, that was one issue the fact then she'd been back in the witness A at that stage do I put this to her do I not so and what do I do was proceed, so I was given the orders not to put those issues to her”

“Just for the tape Michael could you say who gave you the order?”

“Mr McBurney the SIO and that was in his I think in his strategy”

23.16 DCS McBurney had ordered DI Irwin not to raise the issue of Andrea McKee being present when witness A had made the original allegation about Reserve Constable Atkinson unless she did so herself. She did not raise it and in due course DI Irwin recorded a statement that he suspected was untrue. He said he pointed out the declaration to make Andrea McKee feel uncomfortable.

23.17 In my view DI Irwin assisted Andrea McKee in perverting the course of justice. Furthermore DI Irwin's actions were sanctioned by DCS McBurney. (22787)

23.18 During the interview DI Irwin returned a number of times to the theme of obeying lawful orders. DI Irwin said DCS McBurney had a strategy for dealing with Reserve Constable Atkinson. On reading the interview of DI Irwin I am unclear what that strategy was. DI Irwin stated there was no documentary or written record outlining how Andrea McKee was to be dealt with.

23.19 Whilst there is a rank structure within the Police Service an officer cannot hide behind the cloak of following orders (which must be lawful orders in any event) when engaged in activity which was at best unethical and at worse criminal conduct.

23.20 In my opinion DI Irwin should have refused to follow the course of action as suggested by DCS McBurney. Had DCS McBurney insisted that DI Irwin take a false statement then I believe that matter should have been raised at a higher level.

23.21 DI Irwin is an experienced officer and in my opinion must have known or suspected that what he was doing was wrong and therefore he should not have gone on to take that statement.

23.22 Andrea McKee should have been challenged regarding her account, had she maintained that account she should have been arrested on suspicion of attempting to pervert the course of justice. Had she been confronted with the evidence the police had in their possession I do not believe she could have maintained such a position.

23.23 There are 2 major areas where I would criticise DI Irwin. Firstly he should never have taken the statement from Andrea McKee on the 29th October 1997 when he suspected she was lying. Secondly having taken that statement he should have made it clear that the papers now contained a false statement which was in due course used to clear Reserve Constable Atkinson.

23.24 I note that there was a conspicuous lack of paperwork surrounding decisions taken by DCS McBurney and DI Irwin.

Conclusion.

23.25 Based on the papers I have read, I believe the investigation into the alleged misconduct on the part of Reserve Constable Atkinson was criminally negligent.

23.26 In my opinion DCS McBurney did not conduct a meaningful investigation. Virtually nothing was done to investigate the alleged misconduct.

23.27 The alleged perverting the course of justice should have been run alongside the murder investigation. In my opinion had DCS McBurney been able to show Reserve Constable Atkinson had telephoned Allister Hanvey to advise him to destroy his clothing I believe that would have been compelling evidence in the murder investigation.

23.28 DCS McBurney later claimed that his lack of action was all part of his grand strategy. I have seen nothing within the papers that explains what that strategy was. I do not believe there was a strategy.

23.29 Based on the papers I have read I can only conclude that DCS McBurney protected Reserve Constable Atkinson by failing to investigate a serious allegation of crime. Why DCS McBurney should choose to do so is unclear but I cannot find any justifiable reason within the papers for failing to investigate the serious allegation levelled at Reserve Constable Atkinson.

23.30 DCS McBurney was assisted by Detective Inspector Irwin. It is difficult to determine whether the actions of DI Irwin were as a result of being junior in rank to DCS McBurney or whether he willingly assisted DCS McBurney in protecting Reserve Constable Atkinson.

23.31 There is evidence within the papers that DI Irwin was reluctant to be involved in the investigation of the 4 officers at the scene and the later investigation into Reserve Constable Atkinson. He had raised this as an issue but no account was taken of his views and he found himself involved in that investigation.

23.32 I therefore conclude it is likely that DI Irwin acted as he did as a result of being junior in rank to DCS McBurney and felt compelled to carry out his instructions.

23.33 A statement was taken from Michael McKee on 9th October 1997 and from Andrea McKee on 29th October 1997. I believe DCS McBurney and DI Irwin knew both statements to be untruthful, yet these were used to clear Reserve Constable Atkinson of any wrongdoing. The statements were passed off as statements of truth. In my view there can be no mitigating circumstances which justify taking false statements and then failing to highlight the unreliability of those statements.

23.34 The report of DCS McBurney was in my view part selective and in part misleading. DCS McBurney recommended no further action against Reserve Constable Atkinson based on the statements of Andrea and Michael McKee, the verbal statements of Kenneth and Elizabeth Hanvey, the statement of Eleanor Atkinson, the interview under caution of Allister Hanvey and finally the account of Reserve Constable Atkinson.

23.35 I believe DCS McBurney suspected all of those to be engaged in a conspiracy yet their accounts were put forward as statements of truth. I base that on the fact that at no time did DCS McBurney point out in report form or reveal to a third party at the time his concerns over the content of those accounts. It was not until three years later that he claimed his lack of action was all part of his strategy. As already pointed out I believe he only revealed that when the contradiction in the evidence of Andrea McKee became known. Having recommended no further action I believe DCS McBurney expected that enquiry to conclude at that point

23.36 The investigation into the alleged misconduct of Reserve Constable Atkinson was inextricably linked to the murder investigation. I believe the failure to investigate the alleged misconduct of Reserve Constable Atkinson with due diligence significantly impacted upon the murder investigation.

23.37 In my opinion the investigation into the alleged misconduct of Reserve Constable Atkinson really only commenced in the year 2000 when DCI K took over the enquiry. That investigation was extremely thorough, was conducted professionally and with integrity. That investigation in my view highlighted the serious failings of the enquiry conducted by DCS McBurney.

Section 24 The Overall Effectiveness of the Murder Investigation

Conclusion

24.1 The murder investigation proved to be ineffective as evidenced by the failure to bring to justice those responsible for the murder of Robert Hamill. However based upon the papers I have read I believe the RUC attempted to bring to account those people responsible. In my opinion DI Irwin was the driving force behind the investigation with DCS McBurney providing direction. Whilst critical of DI Irwin with regard to his dealings with Andrea McKee I do believe he tried to bring the investigation to a satisfactory conclusion.

24.2 However in my opinion the murder investigation was flawed from the start. There were major fault lines running through the enquiry. The investigation was hampered initially by the failure to secure the crime scene, the failure to debrief the officers who dealt with the disorder and the missed opportunities to make early arrests and the possibility of securing forensic evidence. There were other errors, which I have already dealt with in my report, which in my view impacted upon the investigation.

24.3 It is my view that Inspector McCrum, the senior uniform officer on duty the night Robert Hamill was attacked, failed in his duty for the reasons outlined in my report. Similarly DCI P39, the appointed CID investigator, failed in her duty again for reasons outlined within my report. Their failings in my view had a negative impact upon the murder investigation.

24.4 Criticism has been levelled at DC Keys but in my view I believe he acted professionally and endeavoured to move the early investigation forward. I do not consider DC Keys to have been negligent in failing to secure the crime scene; he was placed in a difficult position and in my view dealt proficiently with the scene and exhibits.

24.5 The failure on the part of DCS McBurney to properly investigate the alleged misconduct by Reserve Constable Atkinson in my view contributed to the failure to bring anyone to justice for the murder of Robert Hamill. The actions of Reserve Constable Atkinson are reported upon in my final conclusions.

24.6 I acknowledge that murder investigations such as this are difficult to resolve and the RUC were hindered by the lack of witnesses willing to provide evidence. I have been critical of certain aspects of the investigation and I do accept that in any murder investigation mistakes will be made. However I do believe certain acts and omissions by officers from the RUC contributed to the failure to successfully prosecute suspects, as outlined in my report.

24.7 Further comment on the murder investigation is made on page 119 of my report.

25 Final Conclusions

25.1 In dealing with my final conclusions I return to my terms of reference.

25.2 Upon appointment as Police Expert my terms of reference were outlined as follows:

To report on the adequacy of resources supplied to the Royal Ulster Constabulary in April 1997.

On reporting on the adequacy of resources specifically indicating:

- What level of risk of violence the RUC should have been prepared for
- What provision was made
- In my expert opinion whether a reasonably diligent Police force could have met that risk of violence with those resources.

25.3 The RUC had no intelligence to believe a sectarian attack was planned on the night of the 26th/27th April 1997. It is my opinion the attack on Robert Hamill was spontaneous and unplanned. Historic intelligence and policing suggested that the RUC were likely to face some degree of drunkenness and public disorder from members of the public, particularly at closing time of clubs and bars.

25.4 The policing arrangement whereby officers were placed within the town barriers for public order duties had generally in the past been sufficient to deal with any disorder. There will always be exceptions where the degree of disorder is such that officers are unable to contain the disorder and urgent police assistance is required in order to deal with the incident. That applies to towns throughout the United Kingdom.

25.5 Deployment of officers can only be based on intelligence and experience of previous incidents. It is my view that the RUC had no intelligence to anticipate the scale of the disorder they would confront that night.

25.6 I therefore conclude that it was reasonable for the RUC to believe the adequacy of resources deployed was sufficient. Tragically that did not prove to be the case.

25.7 My continued terms of reference are:

To give an opinion on whether the police investigation (initially into the Grievous Bodily Harm offence and then murder), was conducted with due diligence.

On reporting on the investigation specifically indicating

- What steps were taken to investigate the GBH and murder of Robert Hamill and to bring the perpetrators to justice?

- In my expert opinion was a reasonably diligent Police force bound to take more or different steps from those taken, indicating what the relevant steps should have been and the reasons for my conclusions.

25.8 I will deal with this aspect of my terms of reference in two parts, namely the GBH investigation and then the murder investigation.

The GBH investigation

25.9 Robert Hamill sustained serious injuries as a result of being assaulted in front of RUC officers. The extent of those injuries was not known at the time but casual debrief of the officers at the scene would have revealed the savage nature of the attack. Later that night it became known that Robert Hamill had sustained serious injuries and from that point on the RUC had an even greater duty to investigate the GBH professionally and expeditiously. In my opinion they failed to do so.

25.10 I believe Inspector McCrum and Sergeant P89 , the two uniform supervisors on duty on the night of the attack on Robert Hamill, were negligent in their duty. I have outlined within the report the areas of concern, principally crime scene management and the failure to debrief officers.

25.11 The failure to debrief officers was in my view a serious failing on the part of Inspector McCrum and Sergeant P89 Had they been proactive in their actions the investigation team would have been presented with productive lines of enquiry to follow. Suspects could have been identified, which could have led to early arrests, thus possibly securing vital forensic evidence.

25.12 The failure to provide leadership continued following the call out of the Senior CID officer, Detective Chief Inspector P39. There were missed opportunities to identify suspects and progress the investigation into the GBH. I believe there were a number of omissions on the part of DCI P39, which I have outlined in my report, which contributed to the failure to investigate the GBH.

25.13 In my opinion no supervisor took hold of the investigation at an early stage and I believe the investigation drifted until the death of Robert Hamill. It would seem that the RUC were surprised at the death of Robert Hamill on the 8th May 1997.

25.14 For the reasons outlined in this report I do not believe the initial investigation into the offence of Grievous Bodily Harm was conducted with due diligence.

The Murder Investigation

25.15 On the 8th May 1997, Robert Hamill died as a result of the injuries sustained during the attack in Portadown town centre on the 26th/27th April 1997. Detective Chief Superintendent McBurney was appointed the Senior

Investigating Officer. On 6th May 1997, a complaint had been made against the police by the family of Robert Hamill alleging inactivity on the part of the 4 officers in initial attendance (8088).

25.16 DCS McBurney was appointed the SIO for this complaint, which in my view was wrong. Whilst policy allowed for DCS McBurney to be appointed SIO for both investigations I am of the view that in dealing with the complaint DCS McBurney was not able to remain focused on the murder investigation.

25.17 I believe the murder investigation became consumed by the complaint investigation. Considerable effort went in to the complaint investigation, which in my view impacted upon the effectiveness of the murder enquiry.

25.18 Following the statements of Tracey Clarke and Timothy Jameson a number of suspects were charged with the murder of Robert Hamill. There did not appear to be any strategy to determine how their witness evidence was to be adduced in evidence.

25.19 I do acknowledge that following the death of Robert Hamill the RUC quickly arrested suspects and charged them with murder. The RUC, however, were relying entirely on the evidence of Tracey Clarke and Timothy Jameson and the likelihood of them giving evidence was always remote.

25.20 DCS McBurney failed to maintain a policy file, which should have provided the focus and direction for the murder investigation. As a consequence it is difficult to determine what investigative strategies, if any, were in place.

25.21 Many aspects of the murder investigation were carried out diligently and effectively. When looking at the murder investigation in isolation I believe there was a desire on the part of the majority of officers to establish who was responsible for the death of Robert Hamill.

25.22 However there were some major failings in the investigation, which I believe prevented a successful prosecution. Those failings have been outlined within my report and they started from the initial assault. The GBH enquiry was flawed, which in turn had an impact upon the murder investigation.

25.23 It is not possible to look at the murder investigation in isolation. There are other serious issues outlined below which contributed to the failure to successfully prosecute anyone for the murder of Robert Hamill.

25.24 For the reasons outlined in this report I do not believe the investigation into the murder of Robert Hamill was conducted with due diligence.

25.25 My continued terms of reference are:

In considering the above to also consider

Whether the investigation into the acts and omissions of Reserve Constable Atkinson was conducted with due diligence given that all the investigations relating to the death of Robert Hamill are intimately linked

25.26 As previously outlined in paragraph 23.25 of my report I believe the investigation conducted by DCS McBurney was criminally negligent.

25.27 I cannot understand how DCS McBurney, a senior police officer, can be aware, or at least suspect that a police officer had entered a criminal conspiracy to pervert the course of justice and then, in effect, do nothing for 3 years. DCS McBurney later claimed this to be part of his grand strategy. Based upon the papers I have read I can find nothing which explains what that strategy was. As I have stated previously, I do not believe he had such a strategy.

25.28 I believe the lack of action by DCS McBurney led to the failure to prosecute Reserve Constable Atkinson for attempting to pervert the course of justice.

25.29 I have previously concluded at paragraph 23.29 within my report that I believe DCS McBurney protected Reserve Constable Atkinson. There is nothing within the papers I have read to suggest a determination on the part of DCS McBurney to prosecute Reserve Constable Atkinson. To the contrary I believe there is evidence within the papers I have read to suggest certain information was withheld from the office of the DPP and ICPC. I believe the report compiled by DCS McBurney to the DPP and ICPC was in part selective and in part misleading.

25.30 I believe it was not until the investigation into the alleged misconduct was taken over by DCI K a number of years later that the RUC dealt with the allegation professionally. In my view the investigation conducted by DCI K highlighted the significant failings of the investigation conducted by DCS McBurney.

25.31 When considering how intimately linked the murder investigation and the misconduct investigation were I believe the conduct of DCS McBurney contributed to the failure to bring any person to justice for the murder of Robert Hamill.

25.32 For the reasons outlined in my report I do not believe the investigation into the acts and omissions of Reserve Constable Atkinson was conducted with due diligence.

25.33 My terms of reference were later extended to include:

To inquire into the death of Robert Hamill with a view to determining whether any wrongful act or omission by or within the Royal Ulster Constabulary

facilitated his death or obstructed the investigation of it, or whether attempts were made to do so; whether any such act or omission was intentional or negligent; whether the investigation of his death was carried out with due diligence.

It is my understanding that in respect of this extension to my terms of reference my role as an expert is not to determine but to report in such a way as to assist the Inquiry in reaching its own determination.

25.34 In dealing with this final part of my terms of reference there are a number of points to conclude, some of which have been dealt with in detail in my report.

25.35 From the papers I have read I do not believe the 4 officers in initial attendance at the time of the attack on Robert Hamill deliberately failed to protect him. I can find no evidence to suggest they saw Robert Hamill being attacked and did nothing.

25.36 I believe the warning given by Mr Mallon should have alerted the officers to the danger that disorder could break out.

25.37 The officers' deployment was to prevent or deal with public disorder. The officers knew the location of the attack was a flash point. Having been advised that people were coming along from the direction of St. Patrick's Hall I believe the officers should have anticipated them being members of the Catholic community. They were aware of large numbers of people in the town centre who were from the Loyalist community. As a consequence there was a real danger of public disorder, which proved to be the case.

25.38 I therefore conclude that the failure to protect Robert Hamill was not intentional but I do believe the officers were negligent in their duty.

25.39 Based on my experience and on the evidence I have reviewed I believe it is likely that Reserve Constable Atkinson did telephone the home address of Allister Hanvey in order to advise him to burn or destroy his clothing.

25.40 If Reserve Constable Atkinson did not telephone the home address of Allister Hanvey I can see no logical reason for Andrea and Michael McKee to later plead guilty to perverting the course of justice. In doing so they were acknowledging their part in providing false evidence in relation to the telephone call made from the home address of Reserve Constable Atkinson.

25.41 If Reserve Constable Atkinson did telephone the home address of Allister Hanvey to advise him to destroy his clothing one has to consider why he should do so. One possibility is that Reserve Constable Atkinson suspected there may be forensic evidence on the clothing of Allister Hanvey linking him to the attack on Robert Hamill. If that is correct, then it would seem that Reserve Constable Atkinson had seen, or suspected, Allister Hanvey to have been involved in the attack on Robert Hamill.

25.42 If the allegation levelled against Reserve Constable Atkinson was true, that he telephoned Allister Hanvey to advise him to destroy his clothing, then I believe the actions of the officer may have subverted the investigation from the start.

25.43 I have already reported on the investigation into the alleged misconduct of Reserve Constable Atkinson. In my opinion DCS McBurney failed to investigate what was a serious crime allegation against a police officer. When considering the nature of the allegation made I would have expected every effort to be made to prove or disprove that.

25.44 Nothing within the papers I have read leads me to believe a determined effort was made by DCS McBurney to investigate that allegation. On the contrary, I believe the investigation undertaken by DCS McBurney was conducted passively with a willing acceptance of the account put forward by Reserve Constable Atkinson.

25.45 I have already reported on the conduct of Inspector McCrum, Sergeant P89 and DCI P39 and concluded they were negligent in their duty. However on the material I have read I do not believe the omissions on their part were intentional.

25.46 In my opinion the failure of Constable A to bring to the attention of the investigation team the dealings with Wayne Lunt was negligent. Had Constable A provided the information in full concerning Wayne Lunt then the investigation team would have had early opportunity to arrest him for assault.

25.47 My final observation is that the RUC were tasked with investigating the murder of Robert Hamill. The family of Robert Hamill had the right to expect that investigation to be conducted both professionally and with integrity. For the reasons outlined in my report, I do not believe the investigation was conducted professionally and with integrity.

DECLARATION

The facts as stated in this report are true to the best of my knowledge and belief. I understand that this report and any oral testimony may be used in the proceedings at the Inquiry into the death of Robert Hamill. I make it knowing that I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or that I do not believe to be true.

I understand that as an expert witness I have a duty to assist the Inquiry with matters within my expertise and to advise independently of whoever has instructed me. In compiling this report I believe I have complied with that duty.

COLIN MURRAY

INDEPENDENT POLICE EXPERT

Date: 8th September 2006.

APPENDIX A

CURRICULUM VITAE

Employment History

1972 – 1974 Police Cadet Kent Police

4th March 1974 Police Officer Kent Police.

I joined Kent Police and embarked on a career of operational policing transferring into CID (Criminal Investigation Department) in 1978.

22nd February 1993. Appointed Detective Inspector Dartford CID

I was in command of all aspects of Crime Investigation. As the area Detective Inspector I was appointed Senior Investigating Officer for a number of serious crimes including homicide. I had experience of undercover police work during this time.

26th September 1994. Detective Inspector Kent police Training.

I was placed in charge of all aspects of crime training with the mandate to influence National police training. This included the creation of the first nationally recognised Informant Handling Course which was subsequently adopted by Police Forces throughout the country.

24th March 1996. Detective Chief Inspector Professional Standards.

I was responsible for the investigation of both external and internal investigations. This included some very sensitive and covert enquiries.

12th May 1997. Detective Chief Inspector Maidstone

I was responsible for all aspects of crime investigations including both reported crime and proactive investigations. This included the management of the Intelligence Unit which was responsible for the handling of Covert Human Intelligence Sources, (CHIS). I had responsibility for the management of approximately 80 police officers plus additional civilian support staff.

12th March 2000 Senior Investigating Officer – Major Crime Department.

I was one of three Senior Investigating Officers dealing with the investigation of homicides and other serious crimes. I have undertaken a large number of investigations of homicides and other serious crimes including

- The investigation into the Kent Police officer who murdered his wife and family.
- The gangland execution of a man in Kent. This involved extensive enquiries in the East End of London.
- The drug related murder of a man who was shot and killed and found in the river Medway
- The abduction and murder of a 13 year old girl from South London. This involved extensive travel to Northern Ireland and working closely with the Police Service of Northern Ireland. The suspect was believed responsible for the abduction and murder of a young girl from Castlederg, Northern Ireland. The suspect was also believed to have been involved in the abduction and disappearance of a number of young girls in the Republic of Ireland. The offender was convicted in Kent for the murder of the South London girl. In due course he was charged with the murder of the Northern Ireland girl but later acquitted.
- I was the SIO for the abduction and rape of a 10 year old girl in Kent. The offender went on to rape multiple victims, both young girls and woman throughout the South East of England. At one time six Police Forces were engaged on the enquiry and the series was acknowledged to be the biggest series since the 'Yorkshire Ripper' enquiry back in the 1970's. The offender was convicted on 4th March 2004 and sentenced to life imprisonment.

I have also dealt with a large number of less complex murders and other enquiries including rape and kidnapping.

In April 2003 I was appointed as SIO for an outside police enquiry into the shooting by Sussex police officers of a man in Brighton. This involved reviewing police actions and reporting to the then ICPC

April 2003 – 7th March 2004. Detective Superintendent – Senior Investigating Officers Training.

This involved the training of Senior Police Officers throughout the United Kingdom in the investigation of murder. (The SIO Development Programme) This also involved training of officers overseas. During this time I was also mentor to a number of less experienced SIOs. This involved being on call and if necessary attending the scene of a murder in order to support the SIO.

7th March 2004. Retired from Kent Police.

7th April 2004 – 31st July 2005. Civilian SIO Trainer Kent Police College.

This was a continuation of the above SIO training but in a civilian capacity. I was still involved in the on call and acting as advisor to the less experienced SIOs.

On 31st July 2005 I resigned from Kent police and am currently acting as a police consultant.

As a police consultant I currently run the South Wales Police SIO development programme and continue to deliver training to Kent Police for various crime investigation modules.

During the past year my main role has been acting as the Independent Police Expert on the Robert Hamill Public Inquiry. My work has involved reviewing the murder investigation and the preparation of a report in line with my terms of reference.

Colin Murray