

R v ATKINSON, ATKINSON & HANVEY**SUMMARY OF EVENTS**

1. Early on Sunday 27 April 1997 Robert Hamill was beaten and kicked by a crowd in Portadown causing injuries from which he died some days later. A police landrover and its crew were close to the scene of the incident. A member of the crew was R/Constable Robert Cecil Atkinson.
2. Later on the same morning it is alleged that R/Constable Atkinson made a telephone call from his home to the home of Alister Hanvey who later became a suspect for the murder of Robert Hamill. The purpose of the phone call was to warn Alister Hanvey to get rid of the clothes he was wearing at or about the time of the incident. The source of the information about the telephone call is Andrea McKee (now also known as Andrea [REDACTED]) who had met in conditions of some secrecy with D/Inspector Michael Irwin. She and her husband Michael were friends of Robert Atkinson and his wife Eleanor.
3. Upon the nature of the phone call from the Atkinson house to the Hanvey house being investigated by the police, Robert Atkinson persuaded his wife and Andrea and Michael McKee to enter into a conspiracy with him to falsely state that Andrea and Michael had stayed overnight in the Atkinson home on 26/27 April and that the telephone call under investigation had been made by Michael McKee to enquire about the safety of his niece who was Alister Hanvey's girlfriend at that time.
4. Despite what she had told D/Inspector Irwin at the meeting referred to in paragraph 1 above, Andrea McKee, in furtherance of this conspiracy, at Robert Atkinson's solicitor's office, made a written statement to police confirming that Michael had made the phone call.
5. Although police were aware that the story about Michael McKee making the telephone call was concocted it was not until very much later that they had an opportunity to further interview Andrea McKee who had then separated from her husband and had gone to live in Wales. She admitted that she and her husband had conspired with the Atkinsons to tell a false story to the police. Andrea's estranged husband Michael also admitted that he had lied to the police.
6. As a result of their admissions Andrea and Michael McKee were prosecuted for an offence of doing an act with intent to pervert the course of justice. At Craigavon Crown Court on 7 May 2002 they both pleaded guilty. Andrea McKee was sentenced to 6 months imprisonment suspended for 2 years and Michael McKee was sentenced to 6 months immediate imprisonment.
7. Following her conviction Andrea McKee indicated that she would be prepared to give evidence against Robert and Eleanor Atkinson and Kenneth Hanvey who

is the father of Alister Hanvey and who, it is alleged, obstructed police by giving them false information about the telephone call to his house on the morning of 27 April 1997.

8. It was the police assessment, at that time, with which this department agreed; that Andrea McKee was a willing and credible witness. Consequently directions were issued on 1 April 2003 to prosecute Robert and Eleanor Atkinson for the offence of conspiracy to pervert the course of justice and Kenneth Hanvey for obstructing police.
9. Committal papers including a lengthy statement of Andrea McKee were prepared and served on the 3 defendants. Defence solicitors for all 3 defendants indicated that they wished to have some further editing of the papers prior to the committal and such editing of the transcripts of the interviews of the defendants was carried out co-operatively between DPP and defence representatives.
10. Solicitors for all 3 defendants indicated that they required Andrea McKee to give oral evidence at the proceedings. [REDACTED] for Kenneth Hanvey also required that a substantial number of police officers give oral evidence. A mixed committal was arranged to begin at Craigavon Magistrates' Court on 27 October 2003.
11. On 21 October junior counsel, Christine Smyth BL, [REDACTED] and Ivor Morrison, Assistant Director and Directing Officer in the case, consulted with Andrea McKee at Wrexham Police Station. Andrea, who is originally from the Wrexham area had returned to live there with her partner, a Libyan studying at college in Wales and their son [REDACTED], of about 2 years. She indicated her willingness to attend and give evidence in accordance with her statement. She did indicate that due to family and study commitments (she was studying with the intention of becoming a nurse at Wrexham College) she wished to travel over on the morning of the court and return to Wrexham that night.
12. On 27 October Andrea McKee, having being brought over from Wales that morning by members of the PSNI, was present at Craigavon Courthouse when the committal proceedings were due to begin. The Court Service had therefore arranged for [REDACTED], Deputy Resident Magistrate to sit to hear the proceedings. The defence representatives objected to [REDACTED] handling the proceedings. After careful consideration [REDACTED] agreed to disqualify himself on the grounds put forward by Kenneth Hanvey's solicitor, [REDACTED] namely that this prosecution was of such a high profile and, he asserted, had such political implications that it was not appropriate for it to be dealt with by a deputy resident magistrate.. There was therefore no progress made in the committal proceedings on that date.
13. The selection of a new date for committal proceedings presented problems particularly because, for study and family reasons Andrea was adamant that she did not wish to stay in Northern Ireland for more than one day. It was eventually agreed that arrangements would be made to continue the proceedings on 22, 23, 29 and 30 December 2003. The matter was mentioned in court on a

couple of intermediate dates in order to check that matters were on course for Andrea McKee's evidence to be taken on 22 December.

14. At the beginning of December 2003 Andrea was contacted by Detective Constable Patricia Murphy, in order to make arrangements for her to travel to Northern Ireland on 22 December. Andrea gave no indication of any problems.
15. On the morning of 19 December 2003 Andrea McKee was again contacted by Detective Constable Murphy to confirm final travel arrangements for Monday 22 December 2003. Andrea appeared happy with the arrangements and at no time during the conversation did she mention the fact that her son, [REDACTED] was sick.
16. On Sunday morning 21 December 2003 Andrea Jones contacted PSNI and told them that she would be unable to attend court on Monday 22 because her son was ill. At about 10.30 am Detective Constable Murphy contacted her. She stated that he son [REDACTED] had mumps and swollen testicles and that there was a fear that the child could have a fit due to his high temperature
17. On 22 December all legal representatives gathered at Craigavon Magistrates' Court where [REDACTED] was due to sit for the committal proceedings. The information about the child's illness was given verbally to the court by prosecuting counsel, Christine Smyth. It was agreed by the defence that if it was the case that Andrea McKee was unable to travel because of her child's sickness the court should grant an adjournment, but as it was not possible at that time for the prosecution to provide any documentary confirmation of the child's condition the adjournment should be conditional upon the Crown producing satisfactory medical evidence at a later date. The case was then fixed to be mentioned again in early January 2004 and if all was in order it was agreed that the 8 March would be fixed for the resumption of the committal proper.
18. On 23 December 2003 Andrea Jones contacted police to say that she had received a threatening letter posted to her exact home address. This letter which purported to have been sent by the Loyalist Volunteer Force in Portadown, threatened her home if she went ahead to give evidence in the case. It indicated that she was in no danger if she remained in Wales. This letter was recovered by the local police and was returned to the PSNI for investigation.
19. Enquiries made at the Northern Ireland Mail Centre at Mallusk identified that the letter was first processed by the Royal Mail between 00.30 hrs and 00.59 hrs on the 20 December 2003. The automation performance engineer concluded from this information that it was probable that the letter was posted in Northern Ireland on 19 December. It is not possible to state where exactly in Northern Ireland the letter would have been posted. The letter has been scientifically examined. A number of fingerprints have been recovered from the letter and from the inside and outside of the envelope. These have all recently been identified as Andrea's. There is no basis upon which a firm conclusion can be drawn as to whether the letter represents a genuine and effective threat.

20. By the time the case was mentioned in early January police had been unable to obtain medical evidence which fully supported Andrea McKee's assertion that her child was suffering from mumps and had been brought to the doctor and diagnosed with mumps during the weekend of 19, 20 and 21 December. Medical evidence was obtained which showed that she had visited her own doctor with her son [REDACTED] on 1 December 2003 when he was diagnosed as having an ear infection and the *possibility* of mumps. Further enquiries showed that her own doctor had visited her home on 11 December 2003 when Sammy was again found to be suffering from an ear infection and the *possibility* of mumps as well. She again visited her own doctor on 22 December 2003, the day when she should have been in Craigavon Court, when [REDACTED] was diagnosed again as having an ear infection in both ears.
21. While police were seeking proof of the child's condition, Andrea informed them that on the evening of Friday 19 December 2003 because of the child's high temperature she had visited the Pendine Park out of hours clinic in Wrexham where they saw a lady doctor.
22. At the request of PSNI, Wrexham CID checked records at Pendine Park and could find no record of Andrea [REDACTED] contacting or attending the clinic over the week-end commencing 19 December.
23. Police expressed the opinion that they still believed that Andrea was genuine, that the letter posed a real threat. Consequently on 9 January Christine Smyth, Ivor Morrison again interviewed Andrea in Wrexham. During this consultation, Andrea asserted that she had in fact visited Pendine Surgery on 19 December. She had spoken to a female who may have been a receptionist and the child was seen by a grey haired doctor. When asked whether as a consequence of the threatening letter she was still prepared to give evidence she indicated that she would give evidence if she was moved from her current address which was now known but she did not wish to move from the Wrexham area.
24. J [REDACTED] and D/Sergeant John Munn, Crime Department, spoke to Andrea Jones and her partner Adel [REDACTED] in their home in relation to the threatening letter and the Witness Protection Scheme. She stated that she was still willing to give evidence so long as she moved house although she emphasised that she would not move away from the Wrexham area.
25. Statements were recorded from the three doctors on duty for Pendine Park out of hours surgery for the period 6.00 pm on the 19 December 2003 – 8.00 am on 20 December 2003. They have no recollection of Andrea Jones, her son or partner having attending the surgery. The receptionist on duty for this period has no recollection of anyone by these names or description having been treated at Pendine during that period.
26. The doctors and receptionist on duty the next night similarly have no recollection of them.

27. Copies of the Call Log Sheets of each of these Doctors have been obtained. These do not show any record of Andrea [REDACTED] or her son having attended Pendine during this period. Records for the whole month of December were checked without any reference to Andrea or her family being found.
28. The procedure at Pendine for patients attending the surgery out of hours is to forward a copy of a log sheet which contains the patient's name, address, date of birth, telephone number, patient's GP and symptoms to that patient's own GP following treatment. Records at [REDACTED] and Andrea [REDACTED] medical practice [REDACTED] have been checked for such a copy but these have proved negative.
29. Telephone billing in respect of landline and mobile phone numbers associated with Andrea [REDACTED] and her partner Adel [REDACTED] have been obtained and analysed. There is nothing to indicate any calls to or from Pendine out of hours surgery during the week-end of 19/20 December 2003. Two calls from her mobile to Pendine were recorded on 26 November 2003.
30. Meetings with police including K [REDACTED], Gerry Simpson QC, Christine Smyth BL and I Morrison to monitor the ongoing situation and consider further action took place on 17 February and 25 February when strong concerns about the perception of Andrea McKee's credibility as a witness were aired. On being advised of these concerns the Director, [REDACTED] and I Morrison met with Gerry Simpson QC on Thursday 26 February 2004.
31. As a result of this meeting on Friday 27 February 2004 before [REDACTED] RM at Craigavon Magistrates' Court, Ivor Morrison appeared to request the court to adjourn consideration of the validity of the conditional adjournment granted on 22 December 2003 and take the case out of the list for 8 March 2004 when the committal proceedings proper had been due to begin if all was in order. The basis of the application was that extensive enquiries had not yet yielded completely satisfactory proof of all the circumstances upon which *the* prosecution had relied in seeking the adjournment on 22 December 2003. For the Atkinsons, [REDACTED] objected to the application on the basis that on 22 December the defence and the court had been told that Andrea McKee's child was seriously ill with testicular mumps [sic]. This, he said, was simply not true as the only proof presented so far was that the child had an ear infection. He said that the court might have taken a different view if it had been told only that the child had an ear infection. He rehearsed some of the history of the case and the difficulties for his clients.
32. [REDACTED] on behalf of Kenneth Hanvey said it was even worse than Mr [REDACTED] described in that Mr Morrison and Ms Smyth had been told what was a "blatant lie", an "utter lie". He also rehearsed some of the history of the case and the difficulties which taking it out of the list on 8 March would cause. The Resident Magistrate indicated that he considered the situation most unsatisfactory. That it appeared that the court had previously been misled. He referred to the amount of time which had passed since committal proceedings had started and the consequences which might follow from that. With

reluctance he adjourned the case until 19 March but required that there should then be some form of finality.

33. On Tuesday 2 March 2004 Gerry Simpson QC consulted with Andrea McKee at DPP Headquarters. Also present were Ivor Morrison, D/Con Patricia McKee and [REDACTED] from PSNI Southern Region Crime Squad. They each took notes of the consultation. The relevant contents of the consultation are set out in Mr Simpson's advices to the Director of 16th March. Mr Simpson's conclusions are set out in the final 3 paragraphs of his advices.
34. In a minute to the Director of 16 March, Mr Morrison has indicated that he concurs with Mr Simpson's views.
35. The case is due to be mentioned again in Craigavon Court to-morrow 19th March 2004 before [REDACTED]. In the absence of satisfactory evidence supporting the information given to the court on 22 December 2003 about the nature and seriousness of Andrea's son's illness, it is probable that [REDACTED] would be unwilling to allow the proceedings to proceed further. If the views expressed in Mr Simpson's advices are accepted there is no basis upon which the prosecution might seek to persuade him that further proceedings would be viable.

Ivor Morrison
Assistant Director
18 March 2004