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OFFICER'S REPORT RECORD PRINT

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DETECTIVE CHIEF INSPECTOR 13703

TELEPHONE

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REPORT FROM

K

Instructions of the Senior Investigating Officer - DCI K :-

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(If applicable) 05/12/00

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W J McDowell

D/Sgt

02884

RUK

OFFICER'S REPORT – D/CHIEF INSPECTOR K [redacted]

Subject: Directional Meeting with the Police Ombudsman
Date/Time: Tuesday 5.12.00 @ 10 am
Location: Gough Barracks, Armagh
Present: Representing the Police Ombudsman
 Mr Chris Mehaffey (Senior Investigator)
 Mr [redacted] (Investigator)
 Mr [redacted] (Investigator)

Representing the Police Investigation Team
 D/Chief Superintendent McBurney
 D/Chief Inspector K [redacted]
 D/Sergeant H [redacted]
 D/Sergeant McDowell

NOTES:

10 am, meeting commenced with members from the Police Ombudsman's Office, introductions made. At this point, D/Sergeant McDowell then went with Mr [redacted] and Mr [redacted] to HOLMES Room to access and view material on the Hamill Account in relation to the current investigation.

The meeting continued in my office – persons present, Mr Chris Mehaffey, D/Chief Superintendent McBurney, D/Sergeant H [redacted] and myself. Mr Mehaffey opened the meeting by restating the position of the Police Ombudsman in this case which was to take direct and active supervision of the current investigation by the RUC which was focusing on the allegations concerning R/Constable Robert Atkinson conspiring with a number of other named suspects to pervert the course of justice. Mr Mehaffey stated that the Ombudsman's position was that if the current investigation revealed new evidence concerning the murder of Mr Hamill or of the police response to the incident, then this may result in further investigations into those matters.

Detective Chief Superintendent McBurney briefed Mr Mehaffey that a file dealing with the investigation into alleged neglect of duty in respect of the four officers in the landrover, which included R/Constable Atkinson, had been forwarded to the DPP/ICPC and that it was his understanding that this file was currently with a Criminal Barrister to direct on the issue of criminal/discipline proceedings. D/Chief Superintendent McBurney said that a decision on this file will pend the outcome of the current investigation and said that the senior Police Officer dealing with the discipline aspects of the allegations concerning the four officers in the landrover was C/Superintendent [redacted] of 'G' Dept.

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Mr Mehaffey then asked D/Chief Superintendent McBurney a number of questions about the investigation into allegations of misconduct by the officers in the landrover for the purpose of familiarising himself on the wider contextual issues of this case and the circumstances of the incident which led to the murder of Mr Hamill. Mr Mehaffey indicated that he had been to the scene of the incident to familiarise himself with the topography of the

scene. D/Chief Superintendent McBurney stated that there was no prior intelligence in the possession of the police to indicate that there was going to be disorder or violence in Portadown town centre during that night and outlined to Mr Mehaffey that the landrover crew was there to police rowdiness and disorder in the town centre. D/Chief Superintendent McBurney likened this to general policing in many other town centres at the weekends where there are licensed premises and people frequent. D/Chief Superintendent McBurney responded to a number of questions asked by Mr Mehaffey concerning the position of the officers in the landrover, the movement of the landrover and the police actions in responding to the incident and dispersing the crowd that had formed.

The details of R/Constable Atkinsons' sickness record since the incident and the issue of his suspension were discussed at length. D/Chief Superintendent McBurney said that the issue of suspension had been considered on a number of previous occasions and was an issue which was being kept under review. D/Chief Superintendent McBurney said that it was decided not to suspend Atkinson initially because of his concerns that, in his view Atkinson had done what had been alleged against him concerning ringing Hanvey but that if the police could not get enough evidence to prosecute or charge him, this may result in Atkinson claiming compensation against the Police Service. D/Chief Superintendent McBurney said that he did not want this to happen in these circumstances. D/Chief Superintendent McBurney said that R/Constable Atkinson has been on long term sick since April 1999 to the present time. D/Chief Superintendent McBurney said that Atkinson was not currently carrying out operational duties as a Police Constable and was not in a position to frustrate investigations in his position as a serving police officer. D/Chief Superintendent McBurney pointed out that should the circumstances change and he returns off the sick and back to operational duties, the issue of his suspension would be considered with a view to immediate suspension.

Mr Mehaffey asked about Atkinson's medical supervision by the Force's Occupational Health Unit and about his 'fitness' for interview. We indicated to Mr Mehaffey that we were of the opinion that he was 'fit' for interview despite him suffering from a stress related illness. We indicated that we would treat him as a 'fit' person for the purposes of interview unless Atkinson or his legal representative made representation to the contrary. We said that if this should happen, then we would deal with the issue at that time by seeking further independent medical/psychological assessment of Atkinson.

We then had a lengthy discussion on the legal issues surrounding the use of Andrea McKee as a Crown Witness and the relevance/importance of her evidence to the Crown case against Atkinson and the other conspirators. D/Chief Superintendent McBurney outlined his reasons for taking a witness statement from Andrea McKee. We discussed the minor role which she appears to have played in the conspiracy between the Atkinsons and McKee's and the importance that her evidence has been in helping to drive this investigation forward. The public interest factor in collecting evidence which can be placed before a court and which will be beneficial in prosecuting Robert Atkinson and the leading actors in these conspiracies was discussed. It was decided at this

point to contact and arrange for a meeting with Mr Kitson of the DPP to discuss the legal issues concerning the evidence of Andrea McKee.

At 11 am, during the course of the meeting, D/Inspector Irwin contacted me and briefed me as to a report from Michael McKee concerning a threatening letter containing a bullet which Michael McKee had received through the post. D/Chief Superintendent McBurney spoke to D/Inspector Irwin and directed him to contact Michael McKee and speak to him about the threatening letter and to note his responses. D/Inspector Irwin was directed not to get into any conversation about the current investigation unless McKee initiates conversation about it – if this happens, D/Inspector Irwin to note whatever he may say if he raises it and to contact us immediately. Arrangements made for D/Sergeant H to accompany D/Inspector Irwin to speak to Michael McKee about the threatening letter and to ask him questions about why he has received it. This information will assist in the investigation to determine who sent the letter and why it was sent.

In response to questions from Mr Mehaffey, D/Chief Superintendent McBurney explained the reasons why he approached Michael McKee and Andrea McKee in June of this year. The separation of Michael and Andrea McKee was discussed.

We then discussed the Arrest strategy. Mr Mehaffey said that it was the view of the Police Ombudsman that Michael McKee should be arrested at the same time as the Atkinson's and Hanvey's. We then discussed our reasons as set out in the previous meeting concerning the early arrest of Michael McKee. We then discussed an Intrusive Surveillance Strategy post-arrest and involving evidential probes. We indicated that this strategy had been considered at the initial stages of the current investigation. It was agreed that the feasibility of a technical strategy be discussed with D/Chief Superintendent [REDACTED] at FHQ tomorrow morning. We agreed that, unless the circumstances dictated otherwise, we would delay the arrest of Michael McKee until enquiries had been completed and we were in the strongest evidential position possible to arrest and interview all suspects together. We indicated to Mr Mehaffey that should the circumstances dictate that Michael McKee should be arrested and interviewed at short notice, this course of action will be discussed with Mr Mehaffey as the circumstances dictate and prior to any arrest decision.

At this point in the meeting (12 30 pm), D/Chief Superintendent McBurney left the meeting.

Mr Mehaffey and myself then had a lengthy discussion on all lines of enquiry being pursued and the progress being made on associated investigative actions which are recorded on the HOLMES system. I briefed Mr Mehaffey as to the potential evidence which I hoped to gather as a result of these lines of enquiry. I briefed Mr Mehaffey as to the recent interviews which I conducted with Constable Neill and R/Constable McCaw (retired).

At 1.55 pm, D/Chief Superintendent McBurney returned to the meeting.

At 2 00 pm, Raymond Kitson of the DPP entered the meeting. Mr Mehaffey briefed Mr Kitson about the evidence of Andrea McKee and, in acknowledging the importance and relevance of her evidence in supporting the Crown Case against Atkinson and other leading central conspirators, Mr Mehaffey explained to Mr Kitson that it would be helpful at this point of the investigation, as we make decisions on further actions at this stage, to seek legal opinion on the best way in which the evidence of Andrea McKee should be used if the Crown Case is to rely on her evidence at any subsequent proceedings. Mr Kitson explained the independent and impartial position of the DPP and indicated that the DPP would not be in a position to make any direction in this case until the investigation file in his entirety, which he would expect would outline the evidence against each of the conspirators including Andrea McKee who played some part in the conspiracy to pervert the course of justice, was presented to the DPP. Mr Kitson explained that if the police, in presenting the evidence, believed that as a result of their investigation Andrea McKee was a person who was prevailed upon by others and that the prosecution of Robert Atkinson and other leading conspirators may have to rely in part on the evidence of Andrea McKee as an important component of the Crown Case, the police could recommend that Andrea McKee be granted immunity from prosecution. Mr Kitson explained that this decision would not be taken at this stage and that the question of immunity was one to be considered by the Director of Public Prosecutions and is carried out in a reflective mood when the wider public interest factors in the case can be considered with the evidence presented by the Police. Mr Kitson explained that the DPP would not be in a position to direct or advise on the position of Andrea McKee at this stage of the investigation, but that the DPP would make directions on completion of the investigation and submission of a prosecution file. Mr Kitson stated that he was aware of D/Chief Superintendent McBurney's decision to record Andrea McKee's evidence in a witness statement, in which he understands that she has admitted to her part in the conspiracy to pervert the course of justice. Mr Kitson explained that the decision of whether Andrea McKee was to be subsequently used as a Crown Witness or was to be proceeded against criminally for her part in the conspiracy would be directed by the DPP on receipt of the investigation file. In acknowledging D/Chief Superintendent McBurney's decision as to how he has dealt with her evidence at that stage, Mr Kitson said that, in his view from listening to our discussions on this case, Andrea McKee was still potentially a suspect even though in the circumstances in which D/Chief Superintendent McBurney was operating, he had made the operational decision to record her evidence in witness form for the reasons of progressing his investigation at that time. Mr Kitson explained that irrespective of what future decisions are to be taken concerning Andrea McKee, the witness statements of Andrea McKee did represent evidence in the hands of the police which the police can use to assist them in the course of their investigations and subsequent interviews of other suspects. 2 45 pm Mr Kitson left the meeting.

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In consequence of our discussions, it was decided that we would (1) proceed with our investigations as discussed earlier in order to gather further evidence which will add further evidential weight to the evidence currently gathered against the suspects, (2) arrest Michael McKee at the same time as the other suspects unless circumstances dictate otherwise in the interim period. It was explained to Mr Mehaffey that priority was being given to lines of enquiry which are particularly and evidentially relevant to the conspiracy between the Atkinsons and Hanveys although this evidence will be circumstantially relevant to the case against Michael

McKee when the case is viewed in the round and, (3) not arrest Andrea McKee or interview her after caution at this stage. Andrea McKee will be included in the investigation file which is subsequently submitted to the DPP and which outlines the evidence against all suspects. A DPP direction will be sought on the position of Andrea McKee after the file is submitted to the DPP.

We discussed time frames for completing the outstanding enquiries and the structure of the Interview strategy which I intended to put in place when we had reached the stage where arrests and searches would be carried out.

D/Inspector Irwin and D/Sergeant H [redacted] returned to Gough and de-briefed D/Chief Superintendent McBurney on their interview with Michael McKee concerning the threatening letter containing the bullet which he had received through the post today. D/Sergeant H [redacted] directed (1) to have envelope, letter and bullet forensically examined as a matter of priority - Handwriting, ESDA, Fingerprinting, DNA (stamp) examinations to be carried out, (2) to seek an opinion from WERC on whether this type of bullet can attributed to any particular paramilitary grouping and, (3) full details of the incident and the interview with Michael McKee about receiving the letter to be entered on the HOLMES system by D/Sergeant H [redacted].

At 4 pm the meeting with Mr Mehaffey ended. Mr [redacted] and Mr [redacted] returned from the HOLMES incident Room and the Ombudsman's team left the building.

K [redacted]
[redacted]
K [redacted]

D/Chief Inspector
Regional Crime Squad
7.12.00