

STATEMENT OF WITNESS

STATEMENT OF ARCHIBALD OLIVER HAYS

DATED THIS *10th* DAY OF *March* 2009

I, Archibald Oliver Hays declare that this statement is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence at the Inquiry I will be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

1. The Inquiry has disclosed a number of documents to me. Where I make specific reference to a document in my statement I have given the number of the relevant page.
2. I retired from the RUC in May 1998. In April 1997, I was the Assistant Chief Constable responsible for Complaints and Discipline Branch, otherwise known as G Department of the RUC. In fact, I was heading up two departments at that time; one of them being Complaints and Discipline [C&D] and the other being Personnel and Training, known as B Department.
3. B Department looked after everything related to Personnel for a Force of 23,000 men and woman. Under Personnel and Training came anything in relation to the recruitment, appointment, promotion, training of all the personnel, dealing with all their problems, health, welfare and deaths, injuries and all respects of the training - taking them from raw recruits right through to appointment on to the street and thereafter. It also included the assessments procedures carried out in the Force for all of the various ranks.
4. I was also the ACPO representative from the Force to the main ACPO committees and Home Office, the Northern Ireland Office, to the Police Authority in relation to all matters of personnel and in relation to G Department.

5. In addition, I was responsible for the starting of the move towards the implementation of the Patten Report and all of the recommendations made. I looked after equal opportunities for employment and everything relating to that issue, including the implementation of 74 recommendations that were made by the Equal Opportunities Commission of Northern Ireland. These included women's roles in ^{Police} ~~the force~~ and the police and their involvement in front-line policing and riot deployment. Within B Department there were at least upwards of 300-400 people employed.
6. In G Department there were approximately 50 personnel attached to the department, of various ranks, including superintendent, chief inspector and inspector, through to the civilian staff. I was not an investigating officer. My responsibility was the overview and the efficient running of the department and liaison with the DPP, the Crown Solicitor's Office, the Independent Commission for Police Complaints [ICPC], and the Policy Authority in the Northern Ireland Office in matters relating to discipline. To that extent, I was involved with Mr [REDACTED] and the survey carried out within the Force which eventually led to the formation of the new complaints procedure under Mrs [REDACTED]
7. There were, in total three sub-offices of G Department, one in Limavady and one that moved from Enniskillen to Gough Barracks in Armagh. So of those, one covered the south of the province, i.e. around Armagh, Tyrone, Enniskillen, primarily down round the border areas, and the other one in Limavady, covered the Londonderry and North Antrim areas. The third office was the Belfast Ops, which covered the greater Belfast area.
8. Each of the sub-offices had an officer in charge who was under the command of a senior superintendent who had a number of staff under him. The office consisted primarily of chief inspectors or inspectors, because they were they were the only people who had authority to carry out investigations. The rule was that the investigating officer had to be two ranks above the officer being investigated.
9. I would report to the Deputy Chief Constable once a week, at the time it was DCC Wallace who held the post. The meetings covered the issues of the two

departments both personnel and C&D. Technically speaking, he was responsible for the discipline within the Force as the Deputy Constable has delegated authority to act on behalf of the Chief Constable in relation to complaints and internal investigations. Although the Chief Constable was ultimately responsible he had a slightly different role as Chief Constable had a role as judge in discipline matters. This is the same throughout the United Kingdom because of the ACPO Home Office standards.

10. The way Discipline was headed meant that if ultimately the Chief Constable had to be involved in the decision making process, he could do so impartially.
11. The process, in terms of receiving complaints, was reasonably simple and as efficient as we could make it. Every matter reported in the nature of a complaint or internal discipline, was referred to the Superintendent of New Complaints. Then, depending upon the level of the allegation and the type of allegation he would refer it to our internal investigations.
12. Internal discipline related primarily to the codes of conduct that applied in disciplinary matters. For example they would apply where an officer failed to obey orders, abused other officers or matters of sexual harassment and discrimination. All such matters would also be referred to the Superintendent of New Complaints in the same way and then he would determine the process. He would not make the decision on the outcome just in connection with the process.
13. There was an internal investigation branch in G Department which dealt with internal Force discipline. These matters were dealt with internally and never went to CID or to the DPP. G Department would appoint an investigating officer in a non-criminal matter from within the Department, or an investigating officer could be appointed from within the RUC.
14. Public complaints could come in by phone, by telex, or in written papers. They could also come in by letters from solicitors. Complaints could also be made at the local police station and then forwarded to G Department or they could be

made to an MP. In the case of a complaint from an MP, it would generally finish up on my desk.

15. The Superintendent of New Complaints dealt with everything that came through the door and he made the initial decision where the matter went. He was a professionally experienced officer who, I think, one would hold in high esteem for his capability and his honesty and his integrity and his knowledge, both legal and in relation to every aspect of discipline procedures.
16. However, the roles of the DPP and the ICPC need to be considered when looking at discipline. The DPP, certainly in relation to complaints dealing with the public, had a major role to play, as had the ICPC.
17. If it was a complaint that had an involvement of the ICPC, the Superintendent of New Complaints would be responsible for filing the papers with the ICPC and for notification to the ACCs office that the file had been referred. He would also normally appoint the investigating officer. He would refer a complaint, if it was of a criminal nature, to the CID for investigation. For example, if an allegation was made that a policeman had committed a theft, then that was a criminal matter to be investigated before any disciplinary aspect could be considered. In such circumstances, we could not act in relation to discipline in until it was finally disposed of through the criminal procedures.
18. Such a matter would also have been referred to the ICPC which had the option to supervise the investigation. So, the process of the file relating to a criminal offence was CID, DPP, ICPC and then, if necessary, to court. Once the court proceedings had been completed, it was then returned to us for what we called “residual discipline”, that is for any outstanding matters of discipline. That same process applied throughout the country i.e. the United Kingdom.
19. In relation to the power C&D had for suspension of officers that was a matter of consultation with the DCC as to where the case would go.

20. I am aware that on the 7 May 1997, ██████████ made a complaint on behalf of the Hamill family. As a complaint, it would have been dealt with in the usual way and referred then to the ICPC. I have never seen the complaint or the content of the complaint. I was not involved in any way in that particular complaint and I have no hands-on knowledge of it.
21. If the complaint had been referred to the ICPC, the ICPC would appoint an investigating officer. I think, in this particular case, it was Mr ██████████ who was the Commission Member at the ICPC. He had the authority to approve or not to approve the investigating officer appointed by the Force to carry out the investigation. I have known a couple of cases where, if Mr ██████████ was not satisfied with the quality of the investigation officer at any time, he would ask that the investigation be reallocated to a different IO.
22. As far as I can remember, the ICPC could call upon any matter that, where it was in the public interest. For example, they may have picked up something in the newspaper or something like that. However, it was very seldom that this happened because the liaison with the ICPC was extremely good and our standards were high. It is also noteworthy that the Police Authority had a role in supervising the efficiency of the department.
23. There has now been produced and shown to me a memo dated 27 June 1997, signed by me at page 44407. This memo was drafted for my signature by Mr ██████████. Mr ██████████ is now retired, but he was a most punctilious officer in the discharge of his function and the idea of a referral without there being a record of it would have offended him in every way. The memo states at paragraph 2; *"It is believed that this matter was referred to the ICPC under article 8(1) of the Police Northern Ireland Order by the Chief Constable. This referral was made prior to receipt of the formal complaint which was received at Gough Barracks on 7 May 1997, in the format of a letter from ██████████ (solicitor acting on behalf of MS Hamill)"*
24. The purpose of this memo to the Chief Constable's office, as explained in the subsequent paragraphs, is to explain that it would help if G Department had been

advised of this referral. It seems to me obvious that the incident was referred initially by the Chief Constable to the ICPC before a complaint was made. In the penultimate paragraph it says, " *it would also be important in any future article 8 (1) referrals, to indicate to G Department, in writing that this course of action was being/ had been contemplated/taken.* "

25. The very fact that the Chief Constable referred a matter directly to the ICPC without notifying G Department made it unusual. It meant that someone had departed from the process that we had long established and rooted in concrete. Also, it would not be to my mind, a situation that we could tolerate given that we dealt with the ICPC and the ICPC dealt with us. They did have the right to go to the Chief Constable in person and the Chief Constable had the right to go to them, but the procedure was to inform G Department first.
26. Everything had to be recorded so we knew what was being done. It would seem from reading the memo that somebody had telephoned the ICPC, or sent a memo on an informal basis, to refer the matter under article 8(1).
27. In the ordinary course of affairs G Department was the point of referral acting as the point of referral between ICPC and the Force. The incident involving Robert Hamill was clearly a matter that the Chief Constable considered to be important enough to be referred but he did not go through the usual channels. Normally, he should have referred the matter to G Department or sent a memo with a copy to G Department, but obviously that did not happen.
28. The Chief Constable could speak to me about any sensitive matter or speak to the Superintendent dealing with the new complaint if I was not there. He could also speak to the Deputy. The whole system was kept working 24 hours a day so if you did not get person A, you got B, or C, or D or somebody down the line who looked after matters.
29. Superintendent Anderson was nominated as the Assistant Investigating Officer and he was appointed to assist Mr McBurney. I remember that Mr McBurney was a very senior CID officer. He would investigate all of the criminal aspects from

the CID point of view. Mr Anderson would make sure that all the dots were put on the “i’s” and the “t’s” in terms of formality of the investigation procedure. He would ensure that time limits were observed with regards to serving notices. It was slightly different from what Mr McBurney was doing from a criminal point of view.

30. Superintendent Anderson would not report to me. The file would be prepared and I would not be approached unless there was some major problem arising out of the investigation or something had to be referred elsewhere. I would not, in my role, have discussed this case with the supervising member.
31. I now understand that fairly early on in May 1997 in the course of Mr McBurney’s investigation that an allegation was made against a Reserve Constable who had allegedly informed one of the suspects to dispose of his clothing. This was never referred to me but I would see that as being entirely a matter for Mr McBurney. That was a criminal action involved within the investigation into the criminal activity or alleged criminal activity at the time.
32. Because it was potentially an alleged criminal offence, it would eventually come to G Department, but only after completion of Mr McBurney’s investigations and preparation of the files and any criminal acts or allegations would be disposed of through the criminal and judicial process. The allegation of perverting the course of justice was a serious CID matter. At the end of the investigation into that matter, or perhaps the whole matter, with all of the supporting evidence, if there was any, would be the time when G Department would have an opportunity to look at the file after disposal of criminal and judicial process.
33. Mr McBurney’s file would eventually go to the DPP, given it was a criminal file and we dealt with residual discipline, meaning any matter where disciplinary action is enforced internally and not criminal in nature. G Department would only have dealt with the file at the point after the Director of Public Prosecutions had directed no prosecution in respect of the criminal matters or the courts had dealt with in prosecution.

34. The allegation of perverting the course of justice would be a matter for CID under the leadership of CID and direct with DPP and the supervision of that was tied up with ICPC. So this was a matter, for a different department and a different a process, a CID process.
35. G Department had a liaison officer there at CID watching to make sure that any residual discipline was dealt with because the situation is we didn't want people coming back afterwards and saying to us "*You didn't do this, you didn't that.*"
36. I have no knowledge of the matters involving the Reserve Constable and the allegation to pervert the course of justice. I do not know whether that matter was referred to the ICPC. The whole issue is out of my range of knowledge.
37. In terms of who would make the ultimate decision to suspend an officer it would depend on the nature of the allegation. Internal discipline primarily fell to me. It was always the province of the Chief Constable but that was delegated to me with the approval of Secretary of State. The Deputy Chief Constable would have the ultimate say on suspension and would probably have had consultations with the Chief, I am not sure.
38. The Chief Constable did not take the decision to suspend in a vacuum as it was necessary to go over everything. The decision was based on the file submitted to him by Complaints and Discipline and a recommendation. The Deputy Chief Constable would review the matter, make a decision as to whether or not should be suspended, but clearly he would take into account the Complaints and Discipline as well, and also liaise with the Chief Constable. I can not be sure as to what his role would be in relation to the Chief Constable, bearing in mind the Chief Constable would sit in judgment as I have explained.
39. The fact that somebody had been accused of a serious assault and had not been suspended was not really indicative of anything until inquiries had been made. The system had to be flexible enough to cope with a range of circumstances.

40. For example if an allegation was made against an officer involved in a motor accident that he was drunk blood samples would be taken. The blood samples would be sent away to the lab which would take seven days for a report to come back on the level of alcohol in the blood. If it came back to say that the officer was twice over the limit, he would have been suspended.
41. In relation to internal discipline, I would discuss with my officers if there was a drunken driving charge. There would also have possibly been a discussion with my senior officers who were involved in the complaint. In relation to CID matters or serious incidents that would have been referred up the DCC. The Deputy could consult whoever he wished and he may act on the basis of the facts presented before him. Every case may have been different.
42. I cannot confirm that I would or would not necessarily expect Mr McBurney to refer to the Deputy Chief Constable the allegation of perverting the course of justice during his criminal investigation because I do not know the particular circumstances of that case. Mr McBurney may have felt with his experience and knowledge of the facts of the case that (a) it was something he should have done or (b) he should not i.e. discussed it with his senior officers, the ACC and his Deputy.

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ARCHIBALD OLIVER HAYS

DATED: *10th March 2009*
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