



STATEMENT OF WITNESS

STATEMENT OF LYNN KAREN KENNEDY

DATED THIS 15TH **DAY OF** APRIL **2008**

I, LYNN KAREN KENNEDY, 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 shall be liable to prosecution if I have wilfully stated in it anything 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 joined the Royal Ulster Constabulary in 1978 and retired from the PSNI in 2007 as a Chief Superintendent.
3. On 12 April 2001, I was appointed to investigate possible breaches of discipline by officers present at the disturbance in Portadown town centre involving Robert Hamill on 27 April 1997.
4. At that time I had recently been posted as a Superintendent to the Complaints and Discipline Department (C & D). I was appointed to investigate concerns which had been raised by Detective Chief Superintendent Colville Stewart when he was SIO on the Robert Hamill murder investigation. In January 2001, Mr Stewart had reported to the Chief Constable those concerns which centred on scene management, a lack of debriefing and an arrest strategy.

5. I took over from Superintendent [REDACTED] who had been the initial investigating officer but was due to retire. The Police Ombudsman of Northern Ireland (PONI) gave their verbal approval of my appointment at that time which was later followed up in writing in May 2001. This was to be a supervised complaint rather than a complaint investigated by PONI.
6. The policy file (pages 72507 – 72525) notes that my investigation commenced on 6 June 2001. However, this is the date the policy file was opened rather than when I took over.
7. On 2 February 2001, PONI confirmed what the investigation, then led by Superintendent [REDACTED] would focus on and pages 10123 – 10124 sets out fully the terms of reference. They were to look at:
 - a. Scene preservation;
 - b. The existence or otherwise of an immediate arrest strategy;
 - c. The absence of a general arrest strategy for those identified at the time as being concerned in the disturbance;
 - d. No consideration was given as to the seizure of suspects clothing for the purpose of forensic examination;
 - e. No attempt was made to gather debris (broken bottles, glass etc) at the scene;
 - f. There was no proper debriefing of officers who had attended the disturbance;
 - g. Valuable forensic and identification evidence was therefore lost.
8. On taking up the investigation I was to examine these areas with reference to the conduct of individual officers. In compiling the report, my team looked at the original crime and investigation files, Mr McBurney's discipline file, the HOLMES account, the RUC Police Manual and Code and General Orders.

9. The Police Manual is issued to all new recruits and covers legislation and relevant legal issues. The RUC Code was a set of policy and procedures in two volumes and General Orders were circulated as means of updating the other two documents.
10. In 1997 and even in 2001 none of these documents were available electronically. Every officer had a Manual and received updates for their personal copy but, in reality, officers did not always get the updates so their Manuals would not always be up to date. The Police Code and General Orders were never a personal issue but available at stations and departments.
11. At the time I took over the investigation there had been no 'Form 17/3s' served on the officers who were identified as being subject of investigation. A Form 17/3 is issued under the 1988 Regulations for Discipline and is used to notify an officer that there is going to be a disciplinary investigation into particular areas of public complaint or internal discipline and that they may be implicated in some way. It is an early warning notification system to officers and it is expected that officers are served with the notice as soon as reasonably practicable.
12. Decisions had previously been made by DCS Stewart and Mr [REDACTED] in consultation with the supervising Police Ombudsman officer, Mr. Mahaffey, that the service of the 17/3 notices would be delayed because of the ongoing criminal investigation being pursued by DCS Stewart involving Reserve Constable Atkinson. Arrests were made in that case on 10 April 2001, and on 12 April 2001 I met with DCS Stewart at the Ombudsman's office and it was agreed that I could serve notices on two officers – Inspector McCrum and DC Keys. I did so on 18 April 2001.
13. Although notices were served on the Inspector and the Detective Constable with the agreement of the Police Ombudsman's office, I realised the conduct of other officers also needed to be looked at. I therefore instructed Chief Inspector Jackson of the Complaints and Discipline Department (C & D) to

review the files and submit a report outlining what was required and which additional officers may have been involved.

14. Mr Jackson submitted his report to me on 4 May 2001 (page 27901 – 27908). I then submitted the report to the head of C & D with a recommendation that the investigation be widened and that more officers be dedicated to undertake the work outlined in the report.
15. On 15 May 2001 I had a meeting with the head of C & D where we agreed on staffing levels. I then had the assistance of Chief Inspector Jackson, two Detective Sergeants and a Constable. The inquiry was under my control and direction, with Mr Jackson and the team being responsible for the day to day management of the evidence gathering and file preparation.
16. I was conscious of the need to serve the 17/3s as quickly as possible as the incident had taken place 4 years before. The issue of the delay was raised by Mr [REDACTED] Solicitor for the Police Federation, at each of the interviews conducted by my inquiry with specific reference made to the case for R v MERRILL. This case was concerned with the situation where a delay in notifying an officer could potentially prejudice any future disciplinary conduct hearing.
17. Chief Inspector Jackson and the team opened a file for each officer who was the subject of investigation and placed in those files anything to do with that particular officer, including previous statements. This was used to prepare the questions for the individual officers, which I reviewed and added to as appropriate. Before the interviews took place the questions were passed to Mr Mahaffey at the Police Ombudsman's office for his approval and additions where necessary.
18. All the interviews were recorded on tape. Prior to the interview the officers were allowed to view the contents of their folder. Someone from the Police Ombudsman's office attended for the interviews of key officers. During the investigation we interviewed nine serving police officers. All of the serving

officers co-operated with the investigation. Reserve Constable Atkinson was not interviewed as he was being investigated on criminal matters, and therefore the only 17/3 notice that he was served with was in relation to those matters and not in relation to my investigation.

19. Four officers who were involved had retired at the time of my investigation, two of these were supervisors, DCI P39 and Sergeant P89, both of whom refused to be interviewed or make a statement. As retired officers they were no longer the subject of the disciplinary regulations and therefore under no obligation to assist. We therefore had no powers to insist on their attendance for interview. I think DCI P39 could have been of great assistance. As a result of not seeing her, we did not have a complete picture which made it difficult to draw conclusions.
20. I wrote to P39 on two occasions, and this is covered in my report (page 10144 – 10145). On 4 October 2001 (page 10730), I requested an interview with her and access to her journal. Journals are used by uniform officers of the rank of Inspector and above and CID officers to record their daily activities, meetings and conversations with staff. Ms P39 replied by letter (Page 10726 – 10727) that she no longer had her journal and had already been interviewed by Mr Mahaffey, but in my view that was about something completely different. My second letter (Page 10722) to her on 29 October 2001 was never replied to. I then commissioned a search of Portadown Police station but the journal was not recovered. The lack of control over journals was an issue I raised as part of my recommendations (recommendation G in my report at page 10167 refers).
21. Officers' notebooks and journals are now retained for a fixed period of time and are considered the property of the Chief Constable. At the time of my investigation there were no such controls or organisational policy in relation to journals so there was a tendency for officers who retired to retain possession of them.

22. Ex – Sergeant P89 initially agreed to meet with the investigation team to discuss what our investigation was about, but did not want to make a witness statement. I made a record of our meeting on 17 October 2001 in my journal (Page 72979 –72987) in which he was reluctant to answer questions. I think he could have assisted the investigation because he was an officer who had gone to the hospital to inquire about the injuries to Robert Hamill. Reserve Constable Silcock had attended with Sergeant P89. We were never able to ascertain exactly what he was told, if anything. There appears to have been some sort of aggressive behaviour towards the Sergeant at the hospital and my best assessment is that he left the hospital without perhaps being informed or realising how potentially serious it was. However, we do not know because he did not co-operate.
23. In my report (pages 10146 – 10156) I covered the seven areas which formed part of my terms of reference and made specific recommendations. These recommendations concentrated on policy and procedural issues and identified training needs. Two officers were recommended for disciplinary action – Inspector McCrum and Constable A. I recommended that both receive an admonishment with record under the 1988 Discipline Regulations.
24. There are seven sanctions which are regarded as formal disciplinary action and three that are regarded as informal. An admonishment with record is the highest form of informal disciplinary action. The criterion for this sanction is that there must be sufficient evidence to charge should the member refuse to accept the admonishment. The next sanction below is advice with record and constructive discussion without record below that.
25. Once the report was submitted I had no further role in the disciplinary process or the implementation of my recommendations.
26. In my report (page 10146) I refer to the issue of scene preservation and ultimately whose responsibility it was. General Order 12.1.94 (Cc) Scene of Crime Preservation and Examination covered this area.

27. Constable A was the observer in JD70 which was the main response car attending the scene. In my policing experience the observer in the main response vehicle would normally be the investigating officer who would deal with incidents that the vehicle had to attend. However, in this case it was really never clarified who the initial investigating officer was. Perhaps better supervision and direction would have clarified who was to take the investigation forward.
28. My investigation did not find any evidence of a discussion regarding scene preservation and there was no list of suspects drawn up. Inspector McCrum, when interviewed said that he had asked for one. However, Constable Cooke could not recall being given such an instruction by Inspector McCrum and neither he nor Constable Orr could recall being asked to go to Craigavon Area Hospital to obtain the clothing of the injured parties. I do not believe any of the other officers could remember being asked to put together a list of suspects.
29. It is clear that Constable A had information from a potential witness that the person she had released from the Land Rover, Wayne Lunt, was a possible offender. Constable A made an entry in the occurrence book at Portadown Police station on 27 April 1997 but this was in relation to Lunt and the assault on herself rather than his involvement in the assault of Robert Hamill. It was not until several weeks later that Constable A, when interviewed by CID officers, mentioned what the person had told her about Lunt's involvement. A proper debrief at the time would probably have highlighted this fact much sooner. The decision to release Lunt from the Land Rover was hers to make in the first instance. To have detained him for an assault on police would have involved deploying officers away from the public disturbance.
30. When interviewed Constable Cooke made reference to thinking the scene had been preserved because a police vehicle had been left at the scene to prevent any pedestrian access (page 10138) refers). He recalled it was there when he returned to the scene later with DC keys but this is not what I would regard as true scene preservation.

31. Although Inspector McCrum had called out DC Keys after he contacted the hospital at 04:00, the scene was not taped and secured until 07.27 when DC Keys and D/Chief Inspector P39 visited the scene. Inspector McCrum, in my view, should have sealed the scene at 04:00 when he became aware of the seriousness of the injury to Robert Hamill.
32. Instructions for briefing and debriefing were in place as part of RUC working practices and a period of overtime was built into the end of every tour of duty to allow for debriefing. Lack of communication and debriefing caused a loss of evidence and delay in affecting arrests.
33. I was aware from inquiries that arrests were to be made on 1 May 1997 but this had to be postponed because of a competing demand for resources. The arrests were then made on 6 May 1997. With no written evidence or assistance from P39, there was no evidence of an arrest strategy. I was unaware of a policy file started by P39 on 9 May 1997, however, this would not have covered the timescales of my investigation which did not go further than 6 May 1997 when the initial arrests were made.
34. I submitted my report through the head of Internal Investigations Branch (previously Complaints and Discipline) after discussing the recommendations with Mr. Mahaffey. A copy of the report and appendices was sent to the Police Ombudsman and also to the DPP for their information as they were prosecuting the criminal investigation involving Robert Atkinson.
35. Mr K's ongoing investigation into Reserve Constable Atkinson ran in parallel with mine but we were never privy to all the ins and outs of that investigation. The only contact we had was with regard to the appropriate time to serve a 17/3 notice and the wording of that notice in relation to the criminal investigation. I viewed my investigation as completely separate.
36. The main areas open to criticism were the lack of supervision; the failure to properly and constructively debrief the police on duty; and the failure to

record policy and the decisions which determined the course of the investigation. If a proper debrief had been carried out it is possible some suspects could have been arrested because there was adequate staff at Inspector McCrum's disposal at the time.

37. Throughout my investigation I worked closely with Mr Mahaffey as the supervising representative of the Police Ombudsman's office to discuss the progress of the inquiry. I did not at any stage find any problems in conducting the investigation other than the reluctance of retired officers to assist my investigation.

SIGNED: *L Kennedy*.....

LYNN KAREN KENNEDY

DATED: *15 APRIL 2008.*.....