

STATEMENT OF WITNESS

STATEMENT OF COLVILLE STEWART

DATED THIS

DAY OF

2008

I, COLVILLE STEWART, 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 I know to be false or do not believe to be true.

1. I joined the RUC in 1970 and in 1972 I served in CID branch. I had received national training for the role of Senior Investigating Officer, including the Major Serious Crime Course at Bramshill. In December 2000 I held the rank of Detective Superintendent and I was the Deputy Head of CID North Region.
2. I was appointed SIO on the Robert Hamill murder investigation in December 2000 and the investigating officer for the complaint. As I recall, it was one week before Christmas and I spent Christmas reading through the files. I was due for promotion at that time and I was promoted in February 2001 when I became head of CID for Southern Region. This was at the time of the retirement of Detective Chief Superintendent McBurney.
3. In terms of the briefing I received from DSC McBurney, we spent some time discussing the investigation. He realised that people were not happy with how the investigation had been handled although he did not highlight things that he felt he should have done differently or better. I cannot recall Maynard McBurney explaining to me the strategy for the investigation and in particular the evidence of witness A and B, namely Tracey Clarke and Timothy Jameson respectively, although it is possible that he did in passing. My appreciation of witness A and B came as a result of my later reading of the papers.

4. Maynard McBurney felt that DCI K had a very good handle on the investigation. Therefore after speaking to Maynard McBurney, I primarily spent time with DCI K who was my Deputy and who had been working the investigation since June 2000.
5. In terms of policy files, I eventually saw the file started by P39 which stopped on 30 May 1997. Maynard McBurney did not initially pass it on to me but I saw it when I read into the investigation. The policy files of DCI K, who had started working for Maynard McBurney in June 2000 were extensive. I do not recall seeing any other files.
6. Clearly when the HOLMES system was adopted by the RUC, although I cannot specifically recall when this was, the policy book took on an importance all of its own. Sensitive policy books would be written in the same style but just on a sensitive or secret policy document. This was standard procedure.
7. From December to January when I had no other responsibility in South region I spent 100% of my time on this investigation but obviously when I was appointed Regional Head of CID I had responsibility then for the region as a whole as well as overseeing this investigation. I had various meetings with the Ombudsman's office and in particular with Chris Mahaffey and we would discuss what was to be done.
8. In terms of staffing of this investigation, as I recall DCI K had DS H working with him. Primarily they were looking at telephone volumes and that type of thing so there was not a lot of man power applied to the investigation. We would have certainly had a telephone analyst at that time but I am not sure if one specifically looked at telephone billing.
9. On the morning of the 15 December David Wood, Chris Mahaffey and I met to discuss the case and I reported thereafter to ACC White, who was ACC Crime.

10. In a letter dated 18 December, at page **14882**, Chris Mahaffey wrote to me and set out the strategy that had been agreed, before I took up my appointment, in relation to Timothy Jameson and Andrea McKee. Prior to my appointment the Ombudsman had insisted that there was a more pro-active strategy to be adopted to include the arrest of Robert Atkinson with which I agreed.

11. I recall that on the 5 January 2001 I went to see **P39**, who had retired at that time. I had known **P39** for many years and she was warm and cordial. We touched on the issue of Reserve Constables **P20** and **G**. Her response though was that she had retired from the force and someone else had taken over the matter. I understand that she was not interviewed by any subsequent investigation.

12. On the 10 January, I met with Chris Mahaffey and proposed a time frame of early February for an arrest. It is fair to say that David Wood and Chris Mahaffey were anxious that we moved the whole thing as quickly as possible. They were under pressure from the ICPC and the family of Robert Hamill. My view was that we were only getting one bite of the cherry. When we carried out an arrest we had to be sure that everything possible was in place. Northern Ireland is a very small place and in a town like Portadown the grapevine works faster again. The people that we were looking at would have known that we were looking at them. My view was that we had to get it as right as humanly possible and if that took a few weeks more then so be it.

13. On the 16 February 2001 **K** and I discussed a proposed meeting with Raymond Kitson from the DPP to discuss the evidential merits of the case. This is recorded at page **16685**. I recall the meeting with Raymond Kitson subsequently taking place and we sought advice in connection with the presentation of evidence, in particular with regards to Andrea and Michael McKee. I have always found Mr Kitson to be helpful and easy to talk to. Our meeting was really just to ask him to comment on the legalities more than anything else.

14. On the 18 January I briefed the Chief Constable on my concerns following a review of the murder investigation. From recollection I think it was something I took upon myself to do. Normally I would have reported to ACC White but obviously if there was something particular that the Chief needed to hear first hand, Ray White would say “go speak to the boss.” I had come to an appreciation of what had taken place and I suppose that I felt it was my duty that he should be briefed on this as much as possible. Although he did not have the in depth knowledge that an investigating officer might have he certainly seemed to have a handle on what was going on. I recall Mr Flanagan saying to me that when I got the Atkinson side of things sorted out to look at the bigger picture. He instructed me to keep him informed.

15. I compiled a report on the 29 January 2001 at page 3107 to ACC Widgers at Complaints & Discipline. I outlined concerns that were outside of my brief and which I felt may have been worthy of investigation by someone from Complaints and Discipline. Those concerns were the first 24 hours of the investigation, the scene management, the preservation of forensic evidence and also briefing and de briefing which were subsequently taken on by I think Mr [REDACTED] and DCI Jackson then ultimately Mrs Kennedy which follow on from a separate investigation. If I remember correctly, that investigation did not really start until after the arrest stage. I recall that I was concerned that might involve arresting those we were going to actively arrest. I recall that we had a meeting at some stage and I recall agreeing that there was nothing to be lost by waiting for another period of time. It had taken four years and another month was not going to make any difference.

16. My concern was that basic policing had not been performed on the night of 26/27 April. It was not as if it was the first time that Portadown had had a major incident. These incidents were commonplace, there were procedures in place and everything should have been done properly. Once an ambulance arrives at a scene then there is a potential for a major investigation. If for example there is a fight and everybody heads off home, then the arrest reports can be followed up in due course in relation to common assault and maybe

even actual bodily harm. However once the ambulance arrives and someone is taken to hospital it takes on a different complexion.

17. I have been asked if I consider that R/Con Atkinson should have been arrested in 1997 for assisting an offender. My own view is that when Andrea McKee came along to the station with Tracey Clarke, I would have considered suspension of Robert Atkinson at that point. However, the other side of that argument is that if you arrest a police officer and you suspend them, you have effectively said to them in very clear terms, “we are investigating you” and he is obviously going to be on his guard, those around him are going to be on their guard and perhaps it might adversely affect potential further information that would lead to us getting a conviction. It is always easy to comment with hindsight. I suspect that it was felt that the witnesses would not stand up and be counted.
18. I recall that Michael McKee had a bullet sent through the post with a threatening letter In April 2001 I put a report together that R/Con Atkinson had 12 rounds of ammunition and a pouch missing. I believe that his locker was searched at Craigavon Police Station. I do not believe that there was anything to link between the bullets that were missing from Robert Atkinson’s locker and what was sent to Michael McKee. I believe that [REDACTED] in the lab examined the bullet and concluded that it was not a Military services type of round.
19. With regards to the prosecution of Andrea and Michael McKee they certainly they made admissions but we did not have anything to charge the other conspirators. Tracey Clarke was still living with Allister Hanvey in April 2001. It was an on/ off relationships but at the end of the day we were faced with the fact that they were living together. Certainly the DPP later issued directions to prosecute the McKees and that was on the 21 August 2001. In November 2001, I wrote to Andrea McKee’s solicitor and put on record the evidence that she provided which had assisted the investigation.

20. There was never any question of her getting immunity from prosecution. We did discuss however the best way of dealing with it and whether or not she would be convicted and sentenced. I recall making a recommendation that we should defer sentence which would have kept some element of control over her. As far as I was concerned if we did not have some control she was going to walk away. She was living in another country and we had no immediate access to her. She had absolutely no loyalty to us or the investigation. My honest fear was that if she went to court, got a suspended sentence and went back to her child she could simply say to us, "Get stuffed."
21. I recall the DPP felt that she should be dealt with by the book as it were. Mr Carl Simpson, who was counsel, gave advice that it was not the way we dealt with things in Northern Ireland and her conviction would follow sentence and we would hope that she would do as she had indicated and give evidence for the Crown. I followed up the meeting with a letter at page **22870** asking them to reconsider.
22. She did appear for one committal hearing but whether or not she would have stood up and given evidence and given good enough evidence is unclear. She switched backwards and forwards and had severe difficulty with the truth.
23. Timothy Jameson was the son of Bobby Jameson. I discussed the involvement of Timothy Jameson at my meeting with **K** and Chris Mahaffey in January 2001 and again in February 2001. As I recall Timothy Jameson had suggested to two officers Reserve Constables **G** and **P20** that he had kicked Robert Hamill or words to that effect. I had a serious problem with the fact that two officers who were aware that Robert Hamill had died had not arrested Jameson and issued a caution. They should have ferried him to the nearest police station. As I recall one of the officers, Reserve Constable **G**, said that he did not hear Jameson and then there was the added difficulty that Jameson said that he never made the remark. There was no pressure on me to look at Jameson at that particular time, albeit I felt that that aspect of the investigation had not been handled as well as it might have been. Even if Reserve Constable **G** had not heard the comment, let us suppose he was reading the newspaper or

was making a cup of coffee, Reserve Constable P20 should have made an arrest and brought him to the station.

24. In any event this aspect of the investigation was covered by the PONI investigation into Maynard McBurney and Michael Irwin and the handling of witness B.
25. I did not find any evidence to support the fact that a comment was made by Timothy Jameson. There were no notebook entries and nothing was recorded by Maynard McBurney or P39 of the information passed to them
26. With specific regards to note book entries every officer went through a basic training course and at the end of the course they would have been marked as fitted for general police duties or security duties only. Individuals who were considered for general police duties may well have been those who had all the potential to be a regular police officer but they may have been under height or may not have made it for the regular force and then applied for full-time reserve. The training would have been brief but notebook entries were certainly dealt with, if only to keep a record of what was done on a day-to-day basis. I would have expected them to be conversant with the use of a notebook.
27. So far as this part of the investigation is concerned from 1997 there was a lack of record keeping but I found nothing to suggest that evidence in any shape or form was being suppressed in any way. In terms of the prosecution of Robert Atkinson I detected nothing to suggest that in 1997 there was any intention other than to carry out a proper investigation.
28. As far as sensitive information is concerned and the handling of witness A and B, if officer X was looking after a witness you would expect to find a policy book but sometimes it was officer Y who was looking after the investigation and the witnesses. I would not be surprised not to find a sensitive policy book. Sometimes rules were not always adhered to as strictly as the rule may be expected to be adhered to. But as far as the RUC was concerned if you had

secret or sensitive information then it should have been recorded by the SIO and it would be subject to a Public Interest Immunity application when it came to trial. It is also correct that the HOLMES system could be restricted to a small number of officers.

29. In relation to whether or not Andrea McKee should have been allowed to make a statement to Michael Irwin on the 29 October 1997, it is difficult to answer. I do not know what was going through Michael Irwin's or Maynard McBurney's mind as to how they felt they could best nail those who were responsible for Robert Hamill's murder. It may be that there was something in Michael Irwin's mind that prompted him to go down the route he went down.
30. In terms of witness protection programmes in existence at the RUC there were longstanding arrangements in place. If for example I had a witness that I wanted looked after, then I would go to headquarters and they would put things in motion. They would supply the safe house, most probably in Scotland or Wales and their liaison officers. So as far as a CID is concerned once I made an approach and it was approved at headquarters level, then it was over to the witness protection unit to take that witness and look after them and ensure that they were available for court dates or available where necessary.
31. As far as the former RUC was concerned there was considerable experience acquired in relation to witness protection because of the terrorist activities over the years. As far as Tracey Clarke is concerned the question of witness protection, it would have depended on the way that the case was presented to headquarters. The difficulty though was often not caused by the witness themselves but by the extended family. A witness taken across the water would be fine for a couple of weeks but when a family member calls, they would throw the towel in. Given that Tracey Clarke was only seventeen years old at the time and had not been away from home may have been a difficulty.
32. Overall I felt that the scene had been badly preserved, which I have put in writing but it has to be remembered that no two people are going to approach

an investigation in exactly the same way. In terms of the actual investigation that followed, that is not within my remit.

33. I read the papers in relation to Marc Hobson and company. I can only assume that the file was presented to the DPP and he concluded that there was not sufficient evidence against the others otherwise they would have been prosecuted.

SIGNED:
COLVILLE STEWART

DATED: