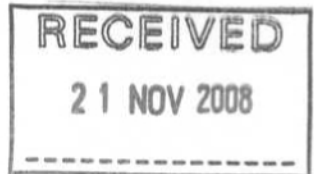


STATEMENT OF WITNESS



STATEMENT OF DESMOND GEORGE JACKSON

DATED THIS 12th DAY OF NOVEMBER 2008

I, DESMOND GEORGE JACKSON, 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 joined the RUC in 1977. In 2001, I was a Detective Chief Inspector Investigations in the Internal Investigation Branch (IIB).
3. On 3 May 2001, DS Karen Kennedy asked me to read some papers on the Robert Hamill murder investigation and to give my opinion on them. From memory I cannot be sure of the exact papers I received, but the papers consisted of a minute from DCS Colville Stewart, dated 29 January 2001; a report from Mr Chris Mahaffey (S10) Police Ombudsman's Officer (PONI) dated 2 February 2001 and a number of statements. The papers identified two police officers, namely DC Keys and Inspector Alan McCrum, who had been served with Form 17/3s. From recollection there were also additional papers/files referring to two completed investigations; one by DI Irwin and one by DCS McBurney. I recall that I had to read the papers quickly as I was involved in another investigation and was preparing to go to America in two days to complete an investigation in person.
4. The reports of DCS Colville Stewart identified "*concerns pertaining to what appears to be inaction on the part of certain officers at the scene of the assault of Robert Hamill on 27 April 1997*" and concluded, "*I believe that had basic*

steps along the lines suggested above been taken by the Duty Inspector or those under his command, the investigation of Robert Hamill's murder and the assault on others including police officers would have been made easier".

5. The report of Mr Chris Mahaffey (S10) PONI identified seven areas to be followed up (reproduced on page 27901 of my provisional report). These areas had been previously identified on 26 January 2001 following a meeting between Chris Mahaffey, Colville Stewart and [REDACTED] (who was Karen Kennedy's predecessor on this case) and were listed as follows:
 - a. The scene was not properly preserved for forensic examination.
 - b. There was no immediate strategy, particularly in relation to Wayne Lunt.
 - c. There was no general arrest strategy of 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.

6. On 4 May 2001 I presented my provisional report, which appears at pages 27901 to 27908. I note in my report that Detective Chief Superintendent McBurney had conducted two investigations into the death of Robert Hamill. The first was the murder investigation, which was handled primarily by Detective Inspector Michael Irwin, who had submitted a prosecution file. The second investigation concerned the complaint of police inactivity at the scene, handled primarily by Detective Chief Superintendent McBurney under the supervision of the ICPC. In my experience that is quite unusual. Normally the SIO would deal with the criminal investigation and be given an assistant from Complaints and Discipline to guide the misconduct allegation. I recommended that the matters outlined in the documents I had read needed to be investigated but we could not interview the two officers already identified and served with

forms 17/3, DC Keys and Inspector Alan McCrum, in isolation. In order to take the investigation forward, additional police officers would need to be interviewed. I also sought additional directions as set out at page 27908.

7. Following on from my provisional report, on 15 May 2001 a meeting took place at Gough Barracks in Armagh. Present at this meeting were Detective Chief Superintendent Colville Stewart, Mr Chris Mahaffey PONI, Superintendent Kennedy, Chief Superintendent [REDACTED] (head of Complaints and Discipline) and myself. We discussed the investigation into Reserve Constable Atkinson led by Mr Stewart and the investigation involving DCS McBurney and DI Irwin's handling of certain witnesses in the initial criminal investigation. This investigation was completely separate from ours and it was agreed at the meeting that Chris Mahaffey would investigate that complaint area. I refer to the report of Chief Superintendent [REDACTED] then Head of Complaints and Discipline, as forwarded to the Deputy Chief Constable dated 18 May 2001 and relevant replies. These reports outline matters discussed on the 15 May 2001 and directions given regarding the investigation to be conducted by Superintendent Karen Kennedy and myself under the supervision of Mr Chris Mahaffey of PONI.
8. On 7 June 2001 I spoke with DCI K gaining enough detail about his investigation to allow me to frame the wording of the 17/3 notice in relation to Reserve Constable Atkinson, who had been arrested on 10 April 2001. Form 17/3 was served on Reserve Constable Atkinson at Lurgan Police Station on 12 June 2001 in the presence of his solicitor.
9. On 12 June 2001, Superintendent Kennedy and I attended a meeting with Mr Mahaffey and Mr [REDACTED] from PONI to discuss all the outstanding issues including the 17/3 notice in respect of Reserve Constable Atkinson. After the meeting I commenced gathering documentation relevant to each officer which was placed in individual files and from these decisions were taken if 17/3 notices needed to be drawn up and whether or not we needed further evidence/information. I had access to the HOLMES system in Armagh.

10. Throughout our investigation, we focused on the seven areas that had been agreed previously, which meant our focus was on: the immediate aftermath of the assault; what happened at the scene; why it was not secured for seven hours and the arrest strategy. We drew up proposed interview questions and took these and the draft 17/3 notices to PONI to get the strategy approved. No 17/3s were served without prior approval of PONI. No interviews of serving officers were conducted until such times as PONI had read proposed questions and had given their approval. All serving officers attended interviews. At each interview (of serving police officers) the *Merill* case was raised and the potential abuse of process because of the delay in the service of the 17/3s.
11. All serving officers had pre-disclosure on the day of their interview including their statement and notebook entries. I do not recall that any of the officers other than Inspector McCrum mentioned staffing as an issue with developing a early arrest strategy. However without P39's assistance we were unable to ascertain what strategy there was in place. I recall that papers showed there were going to be arrests, but that these were delayed because there was no custody space. This was because four individuals had been arrested following a large fire.
12. Investigations and inquiries conducted failed to locate a policy book which I am told was started by P39. I recall three occasions when we attempted to find a policy book. At the initial stages of our investigation Mr Chris Mahaffey accompanied, I understand by Detective Chief Inspector K, spoke with P39. They were confident that P39 would come in and assist them therefore initially the policy book and its location would not have been within our remit because of the terms of reference which had been agreed with PONI.
13. With regards to retired members our investigation took the same approach as to serving members. Consultation as to which retired members should be invited to attend for interview took place with Mr Mahaffey (PONI). However we did not have the power to compel the former officers under the 1988 Discipline Regulations and so had to conduct our inquiry without their input.

14. Documents 10731, 10735 and 10736 outline the steps taken with regards to retired Reserve Constable P40. The witness statement of Karen Kennedy (pages 10271-10272) outlines a conversation she had with P40, in which he indicated *"he would not be attending for interview"* for health reasons.
15. The letters at pages 10737 to 10740 outline the steps taken to arrange an interview with the retired Reserve Constable Denise Cornett. The witness statement of Karen Kennedy dated 29 November 2001 (pages 10273 to 10274) refers to a conversation with Ms Cornett in which she explained her concerns about how an interview would affect her health. Superintendent Kennedy asked Ms Cornett to consider her request for an interview, but no further contact was received and Ms Cornett did not attend her scheduled interview.
16. The witness statements of Karen Kennedy (pages 10266 to 10270) and myself (pages 10275 to 10279) both dated 30 October 2001 outline contact and an informal interview with retired member Sergeant P89. Page 10279 of Superintendent Kennedy's witness statement describes a further conversation with Mr P89 on 12 November 2001 as follows: *"Mr P89 stated that he had taken advice from the Police Federation . The advice that he got was that he was no longer part of the organisation, he was not subject to disciplinary regulations, therefore he did not wish to attend. He also wanted to make it clear that had he been a serving member that he would not have been subject to disciplinary charges as he had nothing [sic] out of line"*.
17. I recall that Chris Mahaffey went to see P39 and was confident she would come in and assist him. However, somewhere along the line, she made a complaint about letters sent to her by Mr Mahaffey of PONI. I understand these letters were asking for P39's journal and other matters. As a result, legal advice was sought regarding ex-members' journals, which was provided in a memo dated 17 September 2001 by [REDACTED] (pages 10907 to 10908). In addition, the memos and letters at pages 10721 to 10724 and the witness statement of Superintendent Kennedy dated 29 November 2001 (pages 10264 to 10265) outline the delivery of letters to P39. On 18 November 2001, P39 wrote a letter to Superintendent Kennedy (pages 10725 to 10727), which states, *"I refer to*

your letter dated 4 October 2001. As you will appreciate I am retired from the RUC for years and I no longer have the RUC journals to which you refer. On 23 February 2001 I was interviewed by Chris Mahaffey, another colleague from his office and an RUC Officer. At that time I gave all the information I could recall regarding the investigation. I regret that I cannot help you any further with this matter”.

18. RC Atkinson was not interviewed because he was no longer a serving police officer and he was also subject to a criminal investigation.
19. Our investigations culminated in the ‘Kennedy Report’, which I wrote from the file of interviews, but which was signed by Superintendent Kennedy on 3 January 2002 (pages 10120 to 10174).
20. I have been asked about the appropriateness of A’s decision to release Wayne Lunt from the Land Rover and what she did about the claim that he had been involved in the assault. The circumstances surrounding this decision were considered at page 10162 of the Kennedy Report. I also noted the remarks which had been made with regards to the arrest of Wayne Lunt by Lord Justice McCollum in the Hobson trial on 17 November 1999. Against the backdrop of these remarks, I stated in the report:

This area of supervision is further highlighted with regard to the previous arrest of Wayne Lunt by A. At 5.20am, A made an entry in the Occurrence Book regarding being injured in duty by Wayne Lunt. In addition, A completed the Occurrence Book with regard to the investigation of the road traffic accident. A then completed her witness statement regarding the alleged assault of Mr Hamill/D and the arrest of Wayne Lunt (after 8.00am). All of these entries were countersigned by Sergeant P89 – supervising officer.

In the statement made by A on 27 April 1997, no mention was made regarding comments made to her by a male person when she was releasing Wayne Lunt from the Land Rover, i.e. that Lunt was the person responsible for the assault on Robert Hamill. The information was only made available by A when she was further interviewed by CID on 24 June 1997. In addition, a further question mark arises as to when A completed her notebook entry for events on 27 April 1997.

During initial inquiries a copy of A's notebook entry, as submitted for the investigation file submitted by ex-DCS McBurney and DI Irwin, was obtained from Armagh. An examination resulted in the original notebook being obtained. An examination of the original notebook showed that the order of events for 27 April 1997 as recorded by A were out of sequence.

Comment with regard to the arrest of Wayne Lunt by A was made by Lord Justice McCollum in his reserved judgment of the Hobson trial on 17 November 1999. It has to be stated that A's actions with regard to the arrest of Wayne Lunt, the completion of important witness statements and the fact that she took no positive action to process or officially report Wayne Lunt at a later date after his arrest are less than professional.

In saying this however, it is clear that on 27 April 1997, Constable A had a very busy duty turn. In the first instance, she reacted to a violent situation in the town centre. Almost immediately the Constable had to deal with a three vehicle injury road traffic accident. Two of the parties had to be processed for the drink driving procedure. Records indicate that at 6.00am A was still actively involved in the accident investigation. Records also indicate (injury on duty report of A in C6 refers. See Folder 3 Part 25) that when A returned to Portadown Station she was injured and limping. In essence, it appears no support by means of supervision was facilitated for the Constable. It would have to be suggested that a hands-on approach by the supervising Inspector and Sergeant could have prevented shortfalls in the completion of statements and notebook entries.

It also has to be pointed out that an examination of ex-Sergeant P89's notebook entry for 27 April 1997 shows that it is also out of sequence with regard to events. An examination of this notebook begs the question of when it was completed and could be best described as less than professional. In fact, it is a shambles. This area cannot fully be covered without an interview with Sergeant P89. Again the duty Inspector is open to criticism with regard to supervision in this regard.

21. In short, although A's decision to release Lunt was not totally right, I consider that, provided she was satisfied of his identity, it might have been a fair judgment call so that she could go and render assistance in the crowd. I note that Constable A made an entry in the occurrence book back at the station after the incident. That book also had a column for a supervisor to sign off on each entry. A's statement (page 63260) records that she had seen Lunt with a scarf around his face and holding a bottle going into the crowd. I do not think A would have had handcuffs with her at the time. In relation to A's failure to mention that someone had said Lunt was involved in the assault after A had released him, this comes back to the problem of debriefing and other leadership issues to which I have referred above.

22. On the issue of Constable A's status as the observer, an observer is normally the person who would deal with an incident such as common assault. However, this was a serious public disorder with officers using batons to protect themselves and life, so I would say it went beyond a common assault. There was a direction to get riot guns which is a direction Constable A could not have given. I hold the view, as outlined at page 10158 of the Kennedy Report, "*A criticism could be directed at Inspector McCrum in that instead of leaving the scene area he should have concentrated on actively debriefing his party, appointing an officer to deal with the assault and considered making arrests. On hindsight, this should have been the action taken, however Inspector McCrum has stated that he had insufficient resources to make arrests*".
23. In terms of PC Neill's actions, he was in charge of the three Reserves but each of the four officers had an obligation to protect themselves. With regards to PC Neill and the three Reserve Constables, I outlined in the Kennedy Report (page 10157) comments made by Lord Justice McCollum in the reserved judgment in the *Hobson* case, "*It appears that once police did intervene, they acted resolutely and were able to keep the Loyalist crowd away from the two men on the ground and to prevent any further serious injury. The Nationalists were heavily outnumbered by the Loyalist crowd and it was only the presence and intervention of the police that could have been responsible for the prevention of further attack upon them*". Having said this, it must be identified that the actions of PC Neill and the three Reserve Constables at the time of the assault were not within the remit of our investigation. I understand PC Neill claimed he was never instructed to secure the scene after the incident and I found no evidence that he was told to do that by a supervising officer.
24. Investigations established that when DC Keys arrived in the town centre there was no-one to tell him the location of the actual scene of the assault. To clarify the point, when DC Keys was first contacted he was asleep at home. In other words he was the duty Detective on call. It was normal practice that on call officers remained at home available for call out. At page 10160 of the Kennedy Report I stated, "*It is a fair comment that at 5.20am DC Keys automatically*


faced an uphill struggle. In essence persons then present were not in a position to fully brief him on all relevant and salient facts surrounding the initial incident". In other words no persons could identify to him the actual assault scene.

25. Investigation established that DC Keys ensured the barriers in the town were closed and no access by vehicles into the town centre could be gained. He also told council workers not to sweep the streets. The scene was not secured with tape but police were there to prevent people from entering. The investigation was unable to establish which police vehicle was at the scene, although Constable Cooke said that he was there. Investigations also established DC Keys actively sought to establish the actual scene area. I recall also that the DC was dealing with another assault that occurred in Banbridge at the time. We also asked DC Keys about CCTV, but he has always maintained that there was no CCTV footage and the decision to return the tapes was taken by the Senior Investigating Officer and the deputy.
26. In respect of Inspector McCrum, there are two areas of conflict. According to his journal, he indicates that he directed Constables Cooke and Orr to go to the hospital to seize the clothing of the injured parties. Constable Cooke said he was not given this direction. Inspector McCrum also said he had told Constable Cooke to draw up a list of persons identified at the scene. Again, Constable Orr said he did not receive any instruction to go to the hospital and inquiries we made established that Constable Orr was dealing with a road traffic accident and so was not with Constable Cooke.
27. Witness statements from Superintendent Kennedy (10266) and myself (10275) from the informal interview of Sgt P89 show that Sergeant P89 went to the hospital and that this was corroborated by Reserve Constable Silcock. I do not know what he learned upon going to the hospital that morning as I did not have the benefit of interviewing him. There is some indication in Sergeant P89's informal interview that he did find out the injuries to Robert Hamill were serious, although I could not find anything to indicate this information was relayed to Inspector McCrum by Sergeant P89. However, it would appear

that Inspector McCrum was aware that the injuries were serious and on page **10159** of the Kennedy Report it is stated: *“At or about 4am Inspector McCrum was informed by a doctor in the Intensive Care at Craigavon Area Hospital that Robert Hamill had sustained serious head injuries which may be life threatening and he was being transferred to the Neurological Department of the Royal Victoria Hospital, Belfast. Inspector McCrum has no recorded note of the doctor to whom he spoke nor any other specific details of this conversation”* (Also from Inspector McCrum’s journal entry at page **12365**).

28. Our inquiries indicated Inspector McCrum must have left the scene at around 2:30am when DC Keys, as the CID officer, was called on duty. Inspector McCrum remained the officer in charge until DCI **P39** came in. DC Keys could have made the phone call to recall the Land Rover crew, but he could not have ordered them back on duty – that was a command decision. As far as the other aspects of our inquiries regarding Inspector McCrum’s involvement, I can only rely on the transcript of his interview.
29. From reading the papers again the facts point to an assault in the midst of rival factions but that the police did intervene. As identified in page **10157** of my report, Lord Justice McCollum described events as a *“violent incident”* and deemed *“police did intervene, they acted resolutely”*. Again I point out that police intervention/action at the time of the assault was not within our investigation remit. What came out of our investigation was that initially people did not realise the extent of the injuries to Robert Hamill. However and according to Inspector McCrum’s journal entry at or about 4.30am he established from Craigavon Area Hospital that Robert Hamill had *“sustained serious head injuries which may be life threatening”*.
30. The first real point of concern I identified was the delay before the scene was secured. Furthermore, we found no evidence of any debrief. There were also identifiable leadership and management issues which affected who took control of the investigation. During my time in IIB, I had not come across other complaints of failing to be brief or complaints of failure to carry out early arrests, so I would not say it was a force-wide problem at the time.

31. Having reviewed the papers for the purposes of this interview, I still believe it is a fair report done to the best of our abilities. As I have stated on page 10166 of the report, *"In saying this it has to be recognised that this internal disciplinary investigation commenced four years after the date of the alleged incident. The Inquiry team therefore had the benefit of hindsight"*. I believe this also to be a fair comment. I would also say our investigation was not completely comprehensive as we did not have the input of Sergeant **P89** and DCI **P39** which may have raised further questions of others. I identified at page 10165 the four main areas of the initial investigation which were open to criticism and which can be summarised as follows: the lack of supervision; the failure to properly and constructively debrief police personnel on duty; the failure to maintain recorded decisions, and the failure to complete proper records i.e. notebooks and statements.
32. I made recommendations in the Kennedy Report, some of which were approved by the Deputy Chief Constable. In respect of the recommendations that he would not accept, the Deputy Chief Constable created follow-up papers. The approved recommendations were highlighted in force orders which were sent round to everyone.
33. I retired from the Police Service of Northern Ireland on 5 June 2005.

SIGNED: 

DESMOND GEORGE JACKSON

DATED: 12/11/2008