

STATEMENT OF WITNESS

STATEMENT OF K

DATED THIS *5th* DAY OF *APRIL* 2009

I, K, 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. On 26th June 2000 I was appointed Deputy Senior Investigating Officer on the Robert Hamill investigation by Detective Chief Superintendent (DCS) McBurney. On my appointment I commenced an investigation into an alleged conspiracy to pervert the course of justice by Reserve Constable Atkinson and others. The murder investigation was an open investigation at the time of my appointment.
3. I had no involvement in any aspect of the investigations relating to Robert Hamill's murder before June 2000 and I am unable to comment on anything about these investigations prior to this date.
4. I joined the Royal Ulster Constabulary (RUC) in January 1979 and since 1982 I have been in the Criminal Investigation Department (CID). I have attended CID courses in Maidstone, Kent and in Preston, Lancashire. In 1996 I attended the Serial and Serious Crime Course at the Police Staff College at Bramshill, Hampshire. In June 2000, prior to my appointment to the Robert Hamill investigation, I was a Detective Chief Inspector in the Regional Crime Squad (South), based at Gough Barracks.

5. On being appointed I was briefed by DCS McBurney. He told me about the allegations made in 1997 against Reserve Constable Atkinson of which I was previously unaware. My instructions were to revisit the issues surrounding the allegations against Reserve Constable Atkinson and to take forward the investigation into the alleged conspiracy to pervert the course of justice by Reserve Constable Atkinson, as well as by Eleanor Atkinson, Andrea McKee and Michael McKee. DCS McBurney told me that my appointment had been prompted by a change of circumstances, namely that Andrea and Michael McKee had split up. DCS McBurney told me that he had recently been to see Andrea McKee with DI Irwin and that she had provided a witness statement which led to him appointing me to take the investigation forward.
6. I have been asked why the investigation was started in June 2000 when Andrea and Michael McKee had split in September 1999. I do not know why there was a delay.
7. I was made aware by DCS McBurney that he had briefed the Chief Constable at the time that I was appointed but I have no knowledge of what the briefing consisted of.
8. I commenced a policy book on 26 June 2000, the day of my appointment. The use of policy books was the norm in 2000. I compiled four policy books on this investigation in total, numbered 1 to 4. Policy Book 1 contains decisions 1 to 20 dating from the start of the investigation, 26th June 2000 until 9th October 2000, and is at pages **32348** to **32379**. Policy Book 2 contains decisions 21 to 40 dating from 12th October 2000 until 18th December 2000 and is at pages **32320** to **32347**. Policy Book 3 runs from decisions 41 to 60 dated 3rd January 2001 until 23rd April 2001 and is at pages **32296** to **32319**. Finally, Policy Book 4 with decisions 61 to 74 dates from 23rd April 2001 is at pages **33280** to **32294**.
9. I discussed the entries I made in the policy books with DCS McBurney as the investigation progressed. I been asked why DCS McBurney's signature is not on any of the policy book entries. This is because it was me who put the

decisions down in the books. I did discuss the entries with DCS McBurney, however.

10. In 1997 it was the norm for policy books to be used but they were slightly different to those used now. They were called yellow books and at that time they comprised single page entries detailing the decision, the reason for the decision and the person who made the decision.
11. I was in charge of the day to day operational decisions on the investigation and DCS McBurney and I had regular discussions about our progress and next steps. I believe that DCS McBurney briefed the Assistant Chief Constable (ACC) 'Crime' Raymond White, and the Chief Constable, as the investigation progressed. I cannot comment on whether DCS McBurney dealt with the Chief Constable directly or always went via ACC White. I never briefed the Chief Constable during my involvement in the investigation. DCS McBurney would have made me aware that he had spoken to the Chief Constable but I never saw any written reports of the briefings.
12. I have been asked about the number of officers working on the investigation. I did not work on this investigation for 100% of my time but in terms of commitment this investigation was a major priority for me. I was joined in the investigation by Detective Sergeant (DS) **H** and I brought in other officers from the Regional Crime Squad (South) at various times to assist. I deliberately kept the team small to protect a covert strategy to investigate the allegations against Reserve Constable Atkinson. In my experience, a small team can do a lot and can sometimes be more effective than a much larger team. I do not know how many officers were aware of the allegations against Reserve Constable Atkinson.
13. Decision 9 in policy book 1 at page **32361** is that the investigation would be conducted as covertly as possible. I needed to ensure that the enquiries regarding Andrea McKee were confidential. I discussed this decision with DCS McBurney. The practical effect of this decision was that there was limited

access to HOLMES. Only two officers in the HOLMES team had access to the account and it was secured with a password.

14. One of our initial policy decisions was to apply for itemised telephone billing for all the alleged conspirators: see decision 6 dated 30th June 2000 which is in Policy Book 1 at page **32356**. Initiating these enquiries was an important part of developing our investigative platform and was important for positioning key people at the right time in the right position.
15. I knew that there had been some telephone analysis carried out in 1997. On 5th November 2000 I received a handwritten report from DI Irwin in which a request for telephone call analysis was made on 9th May 1997. My witness statement of 5th November 2000 at page **17550** records my receipt of this report.
16. I am unaware why the name [REDACTED] was included in the original request for itemised billing. I did discuss this with **P39** when I visited her with Chris Mahaffey and [REDACTED] on 28th February 2001, but she was unclear as to why [REDACTED]'s details had been included.
17. I decided to start again with the telephone analysis to ensure that we obtained evidence which the analysis conducted in 1997 had not produced. I prepared a report entitled "Analysis of itemised telephone billings" in which I set out the overall objectives of the analysis and the means and methods we would adopt to undertake it. The report is at pages **2818** to **2825**.
18. There were limitations to the telephone analysis. We did try and focus on places of work as part of the telephone analysis but this was difficult. For example, Eleanor Atkinson worked at NI Electric where there was a central switchboard and open plan offices where anyone could pick up a telephone.
19. I cannot comment on why Robert Atkinson was asked for his telephone account when he was interviewed on 9th September 1997. DCS McBurney did tell me about Robert Atkinson being interviewed and I did see a transcript of that interview.

20. I carried out the telephone analysis myself as it allowed me as an investigator to fully understand what was coming out of the analysis. I was in control of it and able to use it in any subsequent interview strategy.
21. On 12th October 2000 I submitted a report to DCS McBurney regarding a paper entitled "See no evil hear no evil" which is at pages **2856** to **2859**. I examined this paper to see whether any of its contents could prove useful to the investigation. I focused particularly on the part of the paper about anonymous telephone calls to a priest and to [REDACTED] the solicitor acting for the Hamill family. I developed a line of enquiry to identify who made those calls and policy decision 21 made on 12th October 2000 which is at page **32321** records the instigation of these investigations. My personal assessment was that the anonymous caller to the priest may have been a police officer who was intimately involved, or may have been someone who had a close association by being around a police station or around Robert Atkinson. I could not reach a satisfactory conclusion as to the source of the calls. I am not aware that there was any feedback from the Chief Constable about my report on this paper.
22. On 25th October 2000 I interviewed Andrea McKee in Wrexham and took a witness statement from her which is at pages **14908** to **14920**. In preparation I submitted a report to DCS McBurney detailing the areas for questioning which I intended to cover during the interview. This document is at pages **2834** to **2855**.
23. I have been asked why I decided not to interview Andrea McKee under caution on this occasion. Andrea McKee was willing to cooperate and I felt that I should interview her to extract the full story that she was willing to give. I could then build the investigation around that. Had I approached Andrea McKee by cautioning her I may well have cut down a very valuable source of evidence. How to take the statement from Andrea was my decision and the DPP had no involvement in it.
24. After I had taken the statement from Andrea McKee, I updated DCS McBurney and several policy decisions were made on 26th October 2000: see decisions 25

to 28 at pages **32325** to **32330**. Part of policy decision 28 (at page **32330**) was for DCS McBurney to review the HOLMES resources. This was because I wanted to ensure that I had proper HOLMES support behind me as the investigation was developing and therefore that the HOLMES and murder accounts were totally up to date. I wanted to make linkages across the HOLMES account and needed all of the information available. The other part of policy decision 28 (at page **32329**) concerned the suspension of Reserve Constable Atkinson. DCS McBurney advised me that he had discussed the suspension of Reserve Constable Atkinson with the Complaints and Discipline Branch.

25. Prior to my involvement, the investigation was being supervised by the Independent Commission for Police Complaints (ICPC) and I had two or three directional meetings with Greg Mullan and [REDACTED] from the ICPC prior to the Police Ombudsman of Northern Ireland (PONI) taking over in November 2000. Policy decision 11 at **32364** (dated 9th August 2000) resulted from the first of these meetings and decision 14 at page **32369** (dated 4th September 2000) followed the second meeting. At these meetings the progress of the investigation was discussed, in particular the proposed re-interviewing of Andrea McKee.
26. On 2nd November 2000 I had a meeting with officers from the Police Ombudsman Northern Ireland (PONI) who were taking over the supervision of the investigation. As a result of that meeting I prepared a progress report which is at page **2860**. I submitted this to DCS McBurney on 6th November 2000 and it was forwarded to the PONI officers. The report was also copied to the Chief Constable's Secretariat by DCS McBurney. Following the submission of that report I discussed with the Ombudsman's officers the arrest and an intrusive surveillance strategy.
27. On 8th November 2000 DS **H** and I went to speak to solicitor Sean Hagan at his offices. We went to talk to Mr Hagan about 29th October 1997 when Andrea McKee attended those offices and gave a false statement. DS **H**'s witness statement recording our enquiries is at page **17439**.

28. On 23rd November 2000 DCS McBurney I attended a directional meeting with Chris Mahaffey, [REDACTED] and [REDACTED] from PONI. My report is at pages 2871 to 2876. In this meeting DCS McBurney outlined his strategy when he dealt with the investigation in 1997. DCS McBurney left the meeting and we discussed an arrest and intrusive surveillance strategy.
29. On 5th December 2000 DCS McBurney and I had a meeting with Chris Mahaffey, [REDACTED] and [REDACTED] from PONI. My report at pages 2884 to 2889 is my record of that meeting.
30. Later, Raymond Kitson from the DPP's office joined the meeting and we discussed how to use Andrea McKee as a Crown Witness. We needed to get evidence from a key player inside the conspiracy and Andrea McKee was that person. At the meeting we looked at legal issues that we needed to consider if Andrea McKee was going to give evidence for the Crown and how we would properly present her as a witness of truth. We decided as a group at that meeting that we would deal with Andrea McKee and her criminality in the same way as the other suspects and then present her as a witness of truth.
31. I have been asked whether Mr Kitson gave any direction at this meeting as to how to deal with Andrea McKee. He did not. The nature of the DPP's office at that time was to offer advice and direction upon receipt of a crime prosecution file and Mr Kitson made this clear at the meeting. The DPP, as an independent prosecution service, did not get intimately involved in investigations and it was for the police to decide how the investigation should proceed. I have been asked why Mr Kitson came to the meeting. Mr Kitson had been previously involved in consultations about the crime files submitted in relation to the incident and my understanding was that Mr Kitson was a helpful source of legal guidance in respect of the current investigation of Andrea McKee, Robert Atkinson and others.
32. During the meeting on 5th December 2000 I was made aware that Michael McKee had received a threatening letter which included a bullet. This is

contained in my report at page **2887**. I requested that contact be made with Michael McKee. Enquiries were made to trace the source of the letter and the bullet but without success.

33. On 12th December 2000 DCS McBurney and I had a further meeting with Chris Mahaffey from PONI. My report of this meeting is at pages **2902** to **2905**. DCS McBurney left the meeting part way through. I have been asked why he left. I do not know why DCS McBurney left the meeting. During the course of the meeting Mr Mahaffey was asking questions directed at DCS McBurney about actions carried out during the 1997 investigation in respect of Andrea McKee.
34. Mr Mahaffey then stated that if I had considered the issue of Andrea McKee in the interview of Tracey Clarke as relevant, why didn't DCS McBurney and DI Irwin do more in terms of the alibi that she subsequently provided in 1997. I indicated to Mr Mahaffey that any questions he would have about the investigation that was conducted in 1997 in relation to Robert Atkinson and the McKees would have to be directed to DCS McBurney. I have not been involved in the investigation and had no knowledge of it prior to June 2000.
35. I have been shown part of a document entitled "Chronology of events following the assault of Robert Hamill" which I am told was prepared by PONI. The document is at **26873** to **26883**. I have been directed to an entry at page **26878** for 12th December 2000 which states that I expressed concern as to the way in which the original murder investigation was handled by DCS McBurney and DI Irwin.
36. I take exception to the record on this chronology. It does not reflect totally and accurately what was discussed. I did say to Mr Mahaffey that if he had concerns about how DCS McBurney and DI Irwin were thinking and approaching issues at that time then it was a matter for him as the supervising officer. I believe my report of the meeting reflects more accurately what was said. I did not express concern about the conduct of the investigation and the conduct of DCS McBurney and DI Irwin at any stage.

37. I was aware that DCS McBurney was replaced as the SIO by Detective Superintendent Colville (DCS) Stewart on 14th December 2000. I do not consider that this was as a direct result of the conversation I had with Chris Mahaffey on 12th December. I was unaware that the Director of Investigations at PONI, David Wood, saw the Chief Constable on 13th December 2000, the day after this meeting.
38. On 10th January 2001 I attended a further directional meeting with Chris Mahaffey and Colville Stewart, my report of which is at pages **2906** to **2909**.
39. On the 16th February 2001, Colville Stewart and I met Chris Mahaffey for a further directional meeting, my report of which is at pages **2925** to **2926**. One of the matters discussed at this meeting was Timothy Jameson. It was agreed at that meeting to focus the strategy on the Reserve Constable Atkinson investigation and that Timothy Jameson would be returned to when those investigations were completed. In particular, medical issues surrounding the further interview of Reserve Constable Atkinson were discussed which were relevant to the further investigation of Timothy Jameson.
40. On 23rd February 2001 Colville Stewart and I accompanied Chris Mahaffey and [REDACTED] from PONI to meet **P39** who had retired from the RUC. I made a witness statement recording the visit which is at page **59356** and dated 17th July 2001. We did this because Chris Mahaffey wanted to explore some issues concerning the early days of the investigation in 1997.
41. Notes of the meeting were taken by Mr [REDACTED] page **14622** to **14626** refers, and I made a note in my journal at page **22692** summarising the salient points which were discussed in relation to the Atkinson investigation.
42. **P39** said that she had tried to keep Tracey Clarke on board as a witness and that they tried to obtain employment for her. There is no strategy for looking after her as a witness within the HOLMES account. I am aware of the policy book started by **P39** on 9th May 1997 which ran until 30th May 1997. I found no policy file after that date and no file recording any strategy for dealing with

either of the witnesses 'A' or 'B'. In 1997 there were no guidelines for dealing with vulnerable witnesses as there is now.

43. We did not ask **P39** why Andrea McKee was not asked to make a statement at the same time as Tracey Clarke because anything she would have said would have been hearsay.
44. I have been asked if **P39** was forthcoming during the interview. She answered the questions put to her and it was useful to hear her recollections of how Andrea McKee was dealt with at the time.
45. On 6th March 2001 there was a further directional meeting attended by David Wood and Chris Mahaffey from PONI, myself and DCS Stewart. My report is at pages **2927** to **2929**. At this meeting there was further discussion to agree the investigative and prosecution strategies and it was agreed that intrusive surveillance would be implemented on arrest of the suspects.
46. On 2nd April 2001 I attended a further directional meeting with Chris Mahaffey, [REDACTED] and DCS Stewart. My report at is at pages **2956** to **2957**.
47. On 10th April 2001 the following arrests were made. We arrested Robert and Eleanor Atkinson, Andrea and Michael McKee, and Kenneth, Elizabeth, Alistair and Thomas Hanvey.
48. I travelled to Wrexham on 10th April 2001 with DC **P5** to interview Andrea McKee under caution in the presence of her solicitor, Catherine Jagger. I made two witness statements in relation to this event. The first, dated 13th April 2001 is at page **68652** and simply records the fact the visit and interview took place. The second, dated 9th May 2001, is at pages **17432** to **17435** and gives more detail about what happened and in particular our dealings with Miss Jagger.
49. Andrea and Michael McKee admitted their parts in the conspiracy and Atkinson, Hanvey and others were released on bail.

50. The intrusive surveillance strategy was implemented after the arrests occurred, as planned. The surveillance was carried out with new equipment and the arrest phase was delayed whilst we were awaiting this equipment. There were operational difficulties in implementing the intrusive surveillance strategy i.e. getting covertly into the properties and covertly obtaining good evidential product. We did not get any usable evidential product but I do believe that the surveillance was dealt with professionally throughout. I have no doubt the intrusive surveillance was compromised by no other reason than Reserve Constable Atkinson being paranoid about surveillance being conducted on him following his release. Upon his release, Reserve Constable Atkinson made enquiries of his family regarding who had attended his house, the number of officers and vehicles present. He became paranoid and in almost every sentence he warned those he was speaking with to be careful because someone might be listening in. He also started searching for devices.
51. A prosecution file was prepared for the McKees and submitted to the DPP. The file on Robert and Eleanor Atkinson, Kenneth, Elizabeth and Thomas Hanvey was submitted on 28th Nov 2001 and is at pages **17135** to **17202**. I have been asked why a single prosecution file for all the suspects was not prepared. It was because we needed to progress in the McKees' case and in furtherance of our strategy to utilise Andrea McKee as a prosecution witness in due course.
52. On 6th April 2002 I was appointed SIO on the murder investigation following the retirement of DCS Stewart.
53. On 7th May 2002 Andrea McKee was convicted at Craigavon County Court. She gave a further statement on that date after her conviction which I recorded and is at page **19988**.
54. I have been asked about various other matters relating to the investigations into Reserve Constable Atkinson which I will now address.
55. Reserve Constable Atkinson reported the loss of RUC issue ammunition from his police station locker and this was referred to me for separate investigation.

On 2nd May 2001 I searched his locker and recovered property from it. My statement dated 27th July 2001 at page **59359** records this. The ammunition was not recovered and the items found in Reserve Constable Atkinson's locker were not the subject of a disciplinary hearing.

56. Enquiries were made regarding an overtime form which had been altered by Reserve Constable Atkinson. My statement dated 6th October 2000 regarding this is at page **59331**. The explanation came forward that Atkinson had changed his form to claim the hours he was entitled to under the recall of duty, following a query from the finance officer. I had to let the matter rest at that.
57. I was asked by Chris Mahaffey and other PONI staff on several occasions why Robert Atkinson was not suspended in 1997. It was not a question I could answer because I was not involved with the investigation at that time.
58. From my investigation I do not think I was able to positively establish when Reserve Constable Atkinson became aware that the police had information about the telephone call to the Hanvey house on 27th April 1997. However, I believe Andrea told us that she had spoken to Michael McKee about what Tracey had said, that Michael had rung Atkinson and told him what he had heard, and that Michael said to Andrea when he came off the phone 'if he did that he's a bloody idiot', or something to that effect. That would have been in May 1997 and this may have been the time that Atkinson first became aware of the police's knowledge of the telephone call.
59. The telephone enquiries and analysis I did on Allister Hanvey led me to believe that he did go home on the night of 26th/27th April 1997. This is based on what witnesses said and his use of an ATM machine. However, we were not able to positively establish where he was during the course of the night after the incident or at the time when the phone call was made from the Atkinsons to the Hanveys.
60. I did conduct enquiries to try and trace the jacket referred to by Tracey Clarke and described by police officers and witnesses. We made enquiries at Paranoid

clothing store and tried to get records of the transaction but they had since been destroyed. We also made enquiries with suppliers without success. We discussed the jacket with Irene Clarke and a statement was obtained from her. As a result of these enquiries we were not able to positively say the make and type of jacket but we had the description of a grey puffer jacket with orange stripes. Tracey Clarke was by this time co-habiting with Allister Hanvey, and had a baby to Allister Hanvey, and it was therefore impossible to get her co-operation.

61. As part of my investigation I re-visited the forensic evidence involved in the original murder investigation, in particular the outstanding DNA profiles found on Robert Hamill's clothing. We did try and obtain a DNA sample from **D**, the other injured party to try and eliminate the outstanding stain samples, but without success. We gave **D** and his solicitor assurances but we could not get his cooperation. I asked for the outstanding DNA samples to be checked against the DNA database in England and Wales.
62. Turning to the investigation of Timothy Jameson, on 19th November 2002 Timothy Jameson was arrested and interviewed under caution. This followed enquiries I made in 2001 with Reserve Constables **G** and McCaw. The record of my interview with Reserve Constable **G** is at page **22670**. Reserve Constables **G** and McCaw heard Timothy Jameson make a comment when they were at his father's house as protection officers, as a result of which they returned to Portadown police station to pass on the information. In my interviews with Reserve Constables **G** and McCaw I did not explore with them why they did not make any notes. My understanding is if an officer came into the station with such information, a message form would be completed put onto the HOLMES account. I did not find anything on HOLMES about these two officers and until I interviewed them there was no evidence about their particular part in the investigation. I also found no policy documents about Timothy Jameson.
63. There was no evidence to show Timothy Jameson was an offender except for the account of Reserve Constables **G** and McCaw. Further, when I saw these officers, Reserve Constable McCaw was undergoing electro convulsive therapy


for a mental illness. The evidence against Timothy Jameson was therefore limited and no proceedings were instituted against him.

64. Andrea McKee attended the first court hearing in 2003 as a Crown Witness against Reserve Constable Atkinson and others but the case was adjourned because of various issues raised at Court. There then followed a number of adjournments at the behest of the defence. In December 2003 we were ready for committal but, on the morning before the hearing, Andrea contacted one of my officers saying that she could not attend because her child was ill. We tried to sort out care facilities to support Andrea but it was evident that she did not want to leave the child. An adjournment was sought on the basis of what Andrea had told us.
65. On 23rd December 2003 I recorded a journal entry that Andrea had received a threatening letter purporting to come from the LVF. Later enquiries failed to trace the source of the letter. The letter arrived at her home on the day she should have given evidence at the committal hearing.
66. The defence wanted to know more about why she had not appeared and our enquiries in Wrexham revealed that what she had said about the health of the child and seeking medical assistance for the child were incorrect.
67. On 9th January 2004, I travelled to Wales to interview Andrea McKee at Wrexham police station. I was accompanied by DS H, Ivor Morrison of the DPP and [REDACTED] Counsel for the prosecution. My journal at page **59863** refers.
68. One of the objectives of the visit and interview was to determine possible witness protection measures for Andrea McKee. I did discuss a witness protection programme with Andrea but ultimately she was not prepared to relocate. We carried out a risk assessment with the local police and she was given a local contact if that was necessary. We tried to structure support for her but she had maintained contact with two friends in Portadown and her address

was quoted in the press at various stages. It was also reported in the press that she had received a threatening letter.

69. On 12th January 2004 I attended a meeting with Ivor Morrison and Mr Simpson QC to discuss our enquiries in Wrexham. DS H and DC J were also present. My journal entry at page 59876 records what was discussed, in particular whether Andrea McKee had visited the surgery or contacted the surgery. We explored the medical enquiries as far as possible. There was no record at the out of hours surgery or on her own GP's record. Further, the description Andrea McKee had given of the doctor she saw also did not fit any of the doctors at that surgery. The decision was made by Counsel and the DPP not to use her as a witness of truth.

70. I had no further involvement with the Robert Hamill investigation after March 2004 when I returned to other duties. I did discuss the case in 2004 with DCS Wright of the PSNI and the investigation was transferred to him for further investigation as the murder investigation at that stage was still open. There remain issues around the two outstanding forensic samples from the crime scene which have not been identified.

SIGNED:
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DATED: 8-4-09