

STATEMENT OF WITNESS

STATEMENT OF COLVILLE STEWART

DATED THIS *13th* DAY OF *MAY* 2009

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. 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 was appointed by Sir Ronnie Flanagan on 15 December 2000 as the Senior Investigating Officer on the investigations into the death of Robert Hamill and alleged conspiracy by Reserve Constable Atkinson.
3. I have made previous statements and reports in connection with these investigations.
4. I joined the RUC in 1970 and spent a considerable amount of my service within CID. In December 2000 I was a Detective Superintendent and the Deputy Head of CID for the Northern Region of the Force. I had attended the SIO course Major Serious and Series Crime Course at Bramshill and had been an SIO for some time.
5. I was promoted to the rank of Detective Chief Superintendent in February 2001 upon the retirement of Maynard McBurney. I retired from the PSNI on 6 April 2002 after 32 years service.
6. On 15 December 2000 I met with David Wood and Chris Mahaffey from the Ombudsman Office to discuss the ongoing investigation which was being

supervised by them and Chris Mahaffey later wrote to me, page **14882**, confirming the strategy to be adopted in the Atkinson investigation and the fact that the Ombudsman would be investigating the allegation of mishandling two witnesses. After my meeting with Mr Wood and Mr Mahaffey I briefed ACC [Crime] Mr. White.

7. I spent some time discussing the case with Maynard McBurney and he referred me to DCI **K** who he felt had a very good handle on the investigation and was well placed to brief me. Having spoken with McBurney I spent my time with DCI **K**. During the Christmas period I spent my time reading the files and over the December/January period I was able to give 100% of my time to the investigation. In February 2001 after being promoted to being the Head of CID for the South Region I had responsibility for that area as well as overseeing this investigation.
8. Maynard McBurney had not raised specific problems with me about the investigation. He was obviously aware of the investigation by the Ombudsman and that some people were unhappy with how his investigation had been handled.
9. As part of my familiarisation of the investigation I was aware of the policy files being used by DCI **K** and I took it that these were the files that Maynard McBurney had been using. I did eventually find policy files completed by **P39** between 9 and 30 May 1997 but there were no other policy files between her final entry on 30 May 1997 and **K** starting his policy files on 26 June 2000.
10. The use of policy files and sensitive policy files was standard procedure in the RUC in 1997.
11. On 5 January 2001 I went with DCI **K** to see **P39**. I had known **P39** for years and it was a warm and cordial meeting. **P39**'s memory consisted mainly of hearsay comments and as far as she was concerned she had retired from the Force. The meeting did not advance the investigation.

12. On 10 January 2001 I met with Chris Mahaffey and proposed a time frame of early February 2001 for arrests to be made as the Ombudsman was anxious to move forward as quickly as possible with this phase of the operation. My view was that when we did carry out the arrests we had to make certain we had everything in place and if we did have to wait a few weeks more so be it and that is eventually what happened.
13. On 18 January 2001 I met with the Chief Constable and briefed him on areas of concern that I had with the initial management of the crime scene, the preservation of evidence at the scene and the lack of debriefing of officers which had an accumulative affect on the initial investigation stage. I cannot recall if this meeting was at my own request or that the Chief Constable had asked for a briefing when he appointed me to the role. Normally I would have reported through ACC White but his view was that if it was something the Chief needed to know first hand it should be done by the officer concerned.
14. My report of the 29 January 2001 went to ACC Complaints and Discipline as I had outlined areas which I believed were outside of my remit as the SIO and sat more comfortably within Complaints and Discipline.
15. An investigation was initially started by Superintendent [REDACTED] of Complaints and Discipline but didn't really start until after arrests had been made in the Atkinson investigation as I was concerned that activity may alert the alleged offenders to our intentions. By this time Superintendent [REDACTED] had retired and was replaced by Superintendent Karen Kennedy and she was assisted by Chief Inspector Desmond Jackson.
16. I had identified in my report what were basic policing issues that had not been performed on the night of 27 April 1997. I was sore that after all the years policing the problems with major crime scenes we had not got the initial action right. It was not as if Portadown was not used to major crime scenes. Basic errors had been made which had an effect on the investigation.

17. I continued to have meetings with the Ombudsman's officers and on 16 February 2001, page **16685**; I met Chris Mahaffey with DCI **K** where we decided to seek the views of Raymond Kitson of the DPP. That meeting went ahead on the 28 February 2001 with DCI **K** outlining the facts and what our plan was. We were seeking Mr. Kitson's views on the legalities of what we were proposing. It was agreed that Andrea McKee would be dealt with for her criminality and her potential as a witness would be considered after she had purged her criminal behaviour.
18. Part of the strategy agreed with the Ombudsman was the use of intrusive surveillance. I could see difficulties with this deployment particularly with respect to Robert Atkinson who was already aware that we were interviewing police officers as part of our investigation. I was concerned that he would also be aware of the installation of any technical equipment and would suspect that we would try and use that sort of deployment.
19. Delays were inevitable because of the surveillance stage. We needed to get the equipment and train the staff in its use. The officer charged with that phase was also concerned about the insertion of the equipment taking place after the arrests and house searches. Certainly the PSNI had experience of surveillance in terrorist cases but this was without parallel in an investigation of its type.
20. The arrest phase went ahead on 10 April 2001 and interviews were conducted by police officers with Ombudsman staff sitting in. Andrea and Michael McKee admitted their parts in the conspiracy but the other offenders denied the offence.
21. The surveillance phase did not last very long, a matter of two or three days before it was compromised and certainly my fears about Robert Atkinson being alive to surveillance on him were justified. I cannot say if there were any other reasons why this phase was compromised and could not rule out that there had not been a leak.
22. Robert Atkinson was suspended from duty upon being arrested. I cannot speak for Maynard McBurney but my view was that Mr Atkinson should have been

suspended in May 1997 when the evidence first came available from Tracey Clarke. I realise in doing so it would have put him on notice and those around him and I suspect the reason he was not arrested in 1997 was the fear that witnesses would not come to court.

23. As part of the investigation I looked at the reports that Mr Atkinson had reported the loss of police ammunition from his locker. Similarly I investigated the threatening letter with bullet sent to Michael McKee on 5 December 2000. Forensic investigation proved no link between the two pieces of ammunition and although I cannot be certain that Mr Atkinson was not involved in the threatening letter there was no evidence to link the bullet received by Michael McKee to a police issue piece of ammunition.
24. The DPP on receipt of a prosecution file decided to prosecute Andrea and Michael McKee. At the behest of Andrea McKee's solicitor I wrote to her on 2 November 2001, page **34078**, putting on record Andrea's support for the police in the investigation. On 3 January 2002 I wrote to the presiding judge similarly putting on record Andrea McKee's assistance to the Police, page **14463**.
25. Prior to the trial of Andrea and Michael McKee I did discuss with the DPP on 31 January 2002 the possibility of Andrea after conviction having her sentence suspended to ensure that she returned from Wales to give evidence against the other offenders. This proposal was not accepted by the DPP or Counsel and although I did write to Raymond Kitson, page **22870**, on 11 February 2002 the DPP stood with the advice of Carl Simpson QC that this was not acceptable in Northern Ireland.
26. I retired prior to the conviction of the McKees and obviously had no further input to the case.
27. The other phase of the investigation was the allegation that two Reserve Constables had told Maynard McBurney and **P39** that Timothy Jameson had said he had kicked Robert Hamill on the night of the disturbance. The allegations against the Police Officers were the subject of investigation by Chris

Mahaffey from the Ombudsman's Office. Timothy Jameson on the other hand was a potential suspect for the Hamill murder investigation and within my remit.

28. During the build up to the arrests of Robert Atkinson and others I expressed an opinion, accepted by Mr Mahaffey, that we would deal with Timothy Jameson after the arrests and surveillance had been dealt with. At the back of my mind I was not only thinking of Jameson but the two Reserve Constables. They were aware that Robert Hamill had been kicked and had died and Jameson had allegedly said to them 'I kicked him' or whatever words he used. If that is what he said those two officers should have arrested him and taken him to the Police Station. He would then have been available for interview about the admissions he allegedly made.
29. The preparatory evidence gathering conducted by DCI K indicated as far as I recall that only one officer heard what was said. There was no evidence within the 1997 file to support what G was saying. Neither officer had made any notes or submitted any intelligence and nothing was recorded by Maynard McBurney or P39 of the information passed to them by G and P20.
30. I was therefore of the view that we could deal with this issue later; we had enough to handle with the Atkinson investigation.
31. Although the surveillance phase was unsuccessful the commitment to prosecute Robert Atkinson and his co conspirators was 100% as far as I was concerned, as was the commitment of DCI K.

SIGNED: 
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COLVILLE STEWART

DATED: 13/5/09
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