

RECEIVED

05 DEC 2008

STATEMENT OF WITNESS

STATEMENT OF JOHN McATEER

DATED THIS 10<sup>th</sup> DAY OF September 2008

I, JOHN McATEER, 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 documents which have been produced and shown to me in connection with making this witness statement are listed below together with their page numbers in the inquiry materials. Where I refer to a particular page of a document the inquiry page number will be given for ease of reference.
2. 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.
3. I served with the RUC as a Detective Constable (DC) between 18 August 1969 and 31 August 2001. In April 1997, I was attached to CID in Portadown. I have never lived in Portadown.
4. During my 27 years in the CID I attended several training courses. I did the junior initial CID course in Hendon, London in 1978 and I did a refresher course on Merseyside in 1983. I did various refresher courses at Garnerville over the following years. PACE interviews were not covered in any of my training and I have never received any training on the HOLMES system.

80776

5. Both the MIRIAM and HOLMES systems were used in investigations into major incidents. All of the major incidents I was involved in over the course of my career were in Northern Ireland. I would have been involved mostly as an investigator, interviewing suspects or undertaking inquiries, and I certainly would not have been working on the MIRIAM system or any other computer system.
6. Throughout the Robert Hamill investigation my role was as an investigator and member of the CID team. In the initial stages, Detective Chief Inspector (DCI) P39 P39 was in charge of 'J' division. 'J' division comprised Lurgan, Portadown and Craigavon. DCI P39 left Portadown in about May 1997 and did not play any obvious part after that. Detective Inspector (DI) Michael Irwin was also attached to 'J' division and was responsible for Portadown. It was DI Irwin who really took control of the day to day running of the investigation. Detective Chief Superintendent (DCS) McBurney's role was to oversee the whole investigation.
7. My first involvement in the Robert Hamill investigation was on Tuesday 29 April 1997. At this stage it was a GBH investigation. I do not know what the strategy was for the early identification of suspects in that investigation. An account of my involvement is recorded in the copy of my notebook entry for the relevant time containing page numbers 53308 to 53324.
8. I am reminded from looking my notebook that I received a briefing on the morning of 29 April from Detective Sergeant (DS) Bradley. This may have been about the Robert Hamill investigation specifically or it may have been the general morning briefing that we had every day to highlight matters that had happened the previous night or day.
9. My notebook then states "With DI Irwin to the home of Robert Hamill". I went with DI Irwin to speak to Robert Hamill's family. The purpose of such a visit would have been to let the family known about how the investigation was going.

This was routine in such investigations. I think that Robert Hamill's mother and two sisters were there. They were obviously quite annoyed at what had happened but they were quite co-operative. They were interested in the way the investigation was going and we told them exactly what we were doing, within reason. The visit would have taken the form of a general conversation rather than direct questioning.

10. I have been asked whether the issue of what officers did at the scene was discussed at this initial visit to the Hamill family. I am sure that it would have been mentioned during that first visit, but I cannot remember any specific comments. It would have been mentioned because there was a growing feeling in Portadown at that time that the police had sat in the Land Rover doing nothing while Robert Hamill was assaulted. We informed the Hamill family that this was completely incorrect. We explained that the Officers in question had been spoken to and I tried to explain to the Hamills the limitations of what the police could have done on that night. This incident could have sparked off at any time. It was not unusual for a Land Rover to be there in the town centre and it may be that nothing ever happened for 51 out of 52 weeks of the year.
11. We had to have uniformed cover when we visited the Hamill family but this was nothing to do with them personally. The atmosphere in Portadown was particularly hostile around that time as the Drumcree conflict was constantly in the air. Loyalists had turned against the police because of Drumcree and it was a policy to have cover when making any house visits or doing any call-outs. In certain areas of Portadown you could be presented suddenly by a hostile crowd without any warning.
12. I visited the family on a further three occasions with DCI P39. The next visit was on 30 April was to update the family. Conducting routine updates like this was normal practice.

13. We were having difficulty getting Republican witnesses at that stage and we would have asked the family if anyone else had come to them. But my view was that there would not have been many Republican witnesses because the majority of witnesses were from the Loyalist crowd coming up the street. It was only Robert Hamill and the people he was with, and possibly a couple of others, who would have been Republican witnesses. DCI P39 also made visits on 7 May and 10 May 1997. On 10 May we had made a number of arrests and we had to inform them that five persons had been charged with murder.
14. I have been asked if the family's attitude towards the police changed over the course of the visits. I do not think so. I found that we had a reasonable relationship with the family throughout, including after Robert Hamill died. They seemed quite happy to talk to us at that stage. I did not get the impression that DCI P39 had a particular strategy in mind when talking to the Hamill family.
15. I see from my notebook that later on 29 April I picked up Robert Hamill's clothes from [REDACTED] the Hamill family's solicitors. The statement dated 16 July 1997, which deals with this, contains page number 9803. I think the family probably told us at our meeting earlier that day that we could obtain the clothing through their solicitor. I do not know why they had taken the clothing to a solicitor. I was not aware that DCI P39 had tried previously to get the clothing from the family.
16. I see from my notebook entry that I also spoke to Thomas Mallon on 29 April 1997. I have no recollection of this interview now.
17. On 30 April 1997 I visited [REDACTED] the parish priest. This is recorded in my notebook entry contained at page 53312. I am not sure whether this visit resulted from a request to see us or whether we just visited as part of our general enquiries. It was quite common to talk to the clergy in the course of investigations. We would have had a general conversation with [REDACTED] I cannot recall if he

ever got back to me or DCI **P39** with any information. On 9 May 1997 I spoke to Father [REDACTED] and Father Dooley, the two parish curates. Again, I cannot remember if either of them came back to us with information.

18. On 6 May 1997, I arrested [REDACTED] outside Portadown Police Station and I interviewed him. My statement of 30 May 1997 deals with the arrest and contains page number **9799** and the summary of that interview is at page numbers **7555** to **7556**. I do not recall why I was tasked to arrest him but from my recollection he gave a complete alibi and he was released accordingly.
19. On 8 May 1997, Reserve Constable **P20** came to me and gave me information about Reserve Constable Atkinson, which he had received from Andrea McKee, who in turn was said to have heard it from Tracey Clarke. Andrea McKee had told him that Reserve Constable Atkinson telephoned Allister Hanvey on 27 April 1997, the morning after the incident, and told him to burn his clothes. I considered that it would be better if Reserve Constable **P20** related this information to one of the senior officers at Portadown Station rather than to me. I understand that he spoke to DI Irwin after telling me, and that is how the information worked its way up. The only three people who were aware of what Reserve Constable **P20** said to me that night were DCS McBurney, DCI **P39** and DI Irwin.
20. I do not know why Reserve Constable **P20** chose to confide in me. I had known him some time but it was probably because I was the first person he knew that he saw when he came in. He had obviously decided he was going to tell someone. From what he told me that night I considered that he had taken a lot on his shoulders to tell someone and I certainly did not doubt what he said.
21. I have been asked why Reserve Constable **P20** had the nickname "Squawker". This was because he talked in a rather high-pitched voice, and it had nothing to do with him passing on information.

22. A pro-forma questionnaire completed in my hand-writing for Tracey Clarke is contained at page 22660 to 22661. The time on the questionnaire is 8pm. I have been asked whether I had interviewed Tracey Clarke before or after Reserve Constable P20 spoke to me that evening. It would have been afterwards. My understanding of the sequence of events is that Reserve Constable P20 spoke to me and then he went to arrange the meeting with Andrea McKee. I would then have gone to Tracey Clarke's house and completed the pro forma used for anyone who had been on the street at the time of the attack. She had not completed one and I wanted to see if she would tell us anything. I questioned her about who she was with and what part she played. She completed the questionnaire and she was reasonably co-operative. Her mother and, I think, her father were present during the interview and they were more than helpful. Because of what Reserve Constable P20 had told me, which I did not doubt, I suspected that Tracey was not telling me the truth. However, at that time I had not spoken to Andrea McKee so I was not in a position to push Tracey Clarke any further.
23. Andrea McKee told Reserve Constable P20 that she did not want to come to the police station in case anyone saw her. DI Irwin told me to make arrangements to see her in another location. Reserve Constable P20 contacted her then rang me back and said would bring Andrea to meet DI Irwin and me at the Kernan playing fields. I have been told that Andrea said in a statement that the meeting was held at Kernan Cemetery. It was not in the cemetery but on the public road adjacent to it. The playing fields run down the right-hand side of the road and the cemetery runs down the left. I would describe the area as Kernan playing fields.
24. DI Irwin and I drove there, Reserve Constable P20 brought Andrea in his car, and she got into the police car to talk to us. She told us about Reserve Constable Atkinson and the alleged telephone call to Allister Hanvey. She also told us that Tracey had told her that she saw Allister jump on Robert Hamill's head. I do not think Andrea was scared whilst she was relating this information to us.

25. We knew that what Andrea was saying to us only pointed us in a certain direction, and she was pointing us towards somebody who we probably already knew was involved anyway. My objective at that stage was to try and talk to Tracey Clarke and we would have told Andrea that we needed to speak to Tracey directly.
26. When we returned to the station, DI Irwin briefed DCS McBurney and DCI **P39** and I would have been present at that meeting. DI Irwin and I agreed that the next step was to interview Tracey Clarke but I do not know whether we discussed this between ourselves before briefing the senior officers. I do not think I had any further conversations with Reserve Constable **P20** about the matter.
27. I clearly recall making a record of the meeting with Andrea McKee in my notebook. My notebook contained at page **53320** states “returned to CID office. Inquiries in Portadown re death of Robert Hamill. Interviewed witness as detailed, 7.26”. 7.26 is a reference to subsistence for the day. I do not believe that “interviewed witness as detailed” is the correct note I made in relation to the meeting with Andrea McKee. I recall that my entry for that meeting read “With DI Irwin, interviewed witness re Hamill murder investigation”. That was enough for me to remember exactly that I was referring to Andrea McKee. I did not use Andrea’s name because I wanted to protect her identity. The notebook entry at page **53320** which has no reference to the meeting is a printed copy which I am told was prepared for DCI **K**’s investigation. I have not seen an original copy of my notebook entry.
28. The journal entry of DCI **K** contained at page **53302** states “DC McAteer states that no notes were recorded by DI Irwin or himself about what Andrea McKee had told them in the car...” I accept that I did not make notes about the content of the meeting but I was under no obligation to make any note of anything because I was with a senior officer, DI Irwin. I believe that I did record that the meeting had taken place in my notebook.

29. My notebook entry for 9 May 1997 at page **53320** states “Attended conference re the murder of Robert Hamill”. I cannot remember who gave the briefings at that conference but DCI **P39** and DI Irwin would have been there. I do recall that the events of the previous evening regarding Reserve Constable **P20** and Andrea McKee were not mentioned. My notebook goes on to say at 4:30pm “Attended conference, further inquiries murder of Robert Hamill”. It was normal to have two conferences on one day. This would have been an update but I did not mention anything regarding Tracey Clarke because it was sensitive.
30. In the evening of 9 May DCI **P39** and I interviewed Tracey Clarke. It was late because Tracey had been working during the day. I did not receive any briefing for the interview because I had attended the meetings on the previous day and I knew what the issue was. I probably asked most of the questions during the interview because I recorded the statement. It was not the case that DCI **P39** had asked me to lead the interview. A copy of Tracey Clarke’s statement contains pages numbers **262** to **265**.
31. Before we started we explained the procedure to Tracey and from the outset we recorded the statement with the name “Witness A”. We had to drag the information out of Tracey in bits and pieces. The words did not flow but once she got talking about she explained the whole thing. She was quite upset and she could not believe that Allister had done it. Tracey said that as long as her name did not come out, she was happy to talk about it and she would give evidence in court.
32. From what I recollect, Tracey gave us a description of what Allister Hanvey had been wearing on the night but I accept that this does not appear in the statement.
33. Tracey said that she had talked to a few people about what she knew but she did not give details about who that was, apart from Andrea. She said that she had told Allister Hanvey that she had told the police about what had happened before we had ever spoken to her.

34. As far as I can recall, Andrea remained in the interview room while she made her statement. She said things to support Tracey like “don’t worry about it”. She may have talked a bit when we were running through the facts but she did not say anything during the recording of the statement. Tracey did not appear to be scared.
35. I was not concerned about Tracey’s motivation for telling this information about her boyfriend. What she was saying to us seemed very genuine. I do not think that she could have made this situation up.
36. I have no doubt that I would have assured Tracey that we could have arranged protection for herself and her family. She was really the only person we had as a witness and she was able to give a very detailed description of what had occurred which was consistent with the injuries that Robert Hamill had received.
37. I asked her during the interview about the inconsistent questionnaire she had filled in previously. She said she was aware she had not been telling the truth but at that time did not want to get involved.
38. The interview lasted until the early hours of 10 May. Afterwards, DCI P39 and I drove Tracey and Andrea home. I think Andrea lived close to Tracey at that time. I know I spoke to Tracey’s mother shortly after the interview but I cannot remember whether it was when we dropped Tracey off that night or within the next few days.
39. Some time on 9 May 1997, I submitted an application for itemised telephone billings in respect of the Atkinson and Hanvey households. The request contains page numbers 17591 to 17592. The application was handwritten so it did not have to go through the typing pool. We wanted to obtain the telephone numbers without anybody being aware of it. I would have discussed the application with DI Irwin and DCI P39. DCI P39 signed it and DCS McBurney approved it. I also

completed a BT liaison form and faxed a copy of it to the BT liaison unit at Headquarters. Again, this report was handwritten. I was not aware of other applications for telephone billing being made at that time but it is possible that they were.

40. I think the result came back to me because someone rang me from the BT liaison unit and told me that they were about to fax it. I think we got the result within about a week. Because of the delicate situation I had to stand by the fax machine to receive it. These billing requests are usually delicate but this was particularly sensitive because Reserve Constable Atkinson was a local man attached to Portadown police station and would have had a lot of friends there.
41. I was not involved in turning the itemised billing into evidence but I think somebody else may have done. Before that, it was just information to connect Reserve Constable Atkinson and Allister Hanvey and it obviously backed up Tracey's story.
42. I do not know why Reserve Constable Atkinson was not treated as a suspect at that stage. I have been asked if I was surprised that he was not suspended either. All I can say is that I had very little further to do with him or the investigation into his actions and those decisions would have been taken by somebody else. I have also been asked if there was gossip about Reserve Constable Atkinson being under investigation. My view is that information came back to him through Tracey Clarke and Allister Hanvey.
43. On 10 May 1997, I attended a briefing about the arrest of suspects for the murder of Robert Hamill. This is in my notebook entry contained at page **53321**. I did not need to be briefed because I had taken Tracey Clarke's statement the night before and so I was aware of exactly what occurred. I do not know who took that briefing but I think DCI **P39** and DI Irwin were there. My job was to go with the uniform search team to Allister Hanvey's house and on completion of the search I

was to arrest Allister Hanvey for the murder of Robert Hamill and convey him to Lurgan police station. As CID I would not have received a search pack because it was the uniform search team who were to carry out the search. The search team would have been briefed on roughly what they were looking for. As I said, Tracey Clarke gave us a description of what Allister Hanvey was wearing on the night.

44. As briefed, I attended the search of Allister Hanvey's home. The back of the house was searched. We found no weapons or anything like that. We looked for footwear such as boots with blood on but we found nothing. There was no evidence of any fires or anything having been disposed of. I arrested Allister Hanvey when the search was finished. My statement of 30 May 1997 containing page number **794** deals with his arrest.
45. I had no further contact with Allister Hanvey after I arrested him. I also did not have any involvement in the search of Thomas Hanvey's house. I had no further involvement in the investigation of Reserve Constable Atkinson.
46. On 17 October 1997 I escorted Tracey Clarke and her parents to a consultation with Gordon Kerr Q.C. and the DPP in Belfast. I think DS Bradley also came with us in the car to Belfast. I cannot remember there being any discussion on the way to the consultation about Tracey's evidence or whether she was concerned during the journey. However, I probably had the feeling that she was not going to go through with giving evidence because she was still living at home in Portadown and had not relocated.
47. I sat in the room during the consultation but I played no part in it. I received no briefing before the consultation and I did not know the strategy that was being applied to Tracey Clarke and how she was going to be used in evidence. Escorting Tracey on 17 October was the first contact I had had with her since taking the statement on 9 May.

48. It was at that consultation that Tracey withdrew her evidence and there is a note of the consultation containing page numbers **18959** to **18060**. I cannot remember what Tracey's demeanour was like during the consultation.
49. On 3 November 2000, DCI **K** interviewed me during his review of the murder investigation. That interview is referred to in his notebook entry containing page numbers **53298** to **53307**. That is a fair summary of the interview as far as I can recall it.
50. In 2001 I was served with a notice of report, containing page number **14527**, alleging that I had failed to keep a proper record of the meeting with Andrea McKee. I do not accept the allegation. It is just complete and utter rubbish and complete incompetence by the Police Ombudsman's office. As I have already stated, I did not need to make a note of the meeting with Andrea McKee because I was with a senior officer, DI Irwin. I acted within the police regulations.
51. I was a serving officer when I received the notice but I then retired. I was not interviewed about the allegation before the finding was made.
52. I have been asked whether I have a view on the fact the scene was not preserved straight after the incident on the night of 26-27 April 1997. My view from speaking to people is that it was difficult to know where the scene actually was. It was very difficult to know what area it comprised because there was a large crowd stretched out over quite a large area. I had never had problems in the past with officers preserving the scene of incidents. Uniformed officers are highly trained for securing the scene and they would have usually done it to the best of their ability.
53. The thing I did find very strange was the delay in calling out CID to the scene. I believe it was about 05.00 which was some time after the incident. I would have thought that CID should have been called earlier if the assault was of such a

serious nature. However, I do not think that people realised initially that it was so serious. Sadly, assaults are not unusual in Portadown on a Saturday night and it is possible that this one was viewed initially as just one of those Saturday night assaults. It was not until later on in the early hours of the morning that someone rang to say that Robert Hamill had been transferred from the Craighavon Area Hospital to the Royal Victoria Hospital which indicated that his injuries were more serious.

54. I have been asked how I think the GBH and murder investigation were handled generally. In my view DI Irwin, DCS McBurney and DCI P39 handled it in a normal manner. I have worked with all three officers for many years and as far as I am concerned they acted beyond reproach. I do not think that the complaint from the Hamill family put extra pressure on the police. There may have been more pressure on the police at a later stage but not during the initial investigation when the suspects were charged.

SIGNED: John McAteer  
JOHN MCATEER

DATED: 10 September 2008