

STATEMENT OF WITNESS

STATEMENT OF H

DATED THIS 30 DAY OF March 2009

I, H, 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 am presently an Acting Detective Inspector of the Police Service of Northern Ireland (PSNI). In 1997, I was a Detective Sergeant attached to the Regional Crime Squad at Gough Barracks, Armagh. I had been a Detective from May 1984 and a Detective Sergeant from February 1990. I therefore had considerable experience investigating major crime.
3. I was not involved in the investigation of the murder of Robert Hamill (the "murder investigation"). My first involvement in any matter arising from the death of Robert Hamill was the investigation into the alleged conspiracy to pervert the course of justice (the "conspiracy investigation"). The conspiracy investigation was separate and discreet from the murder investigation. I believe other officers were tasked to review the murder investigation, but I did not know who the Senior Investigating Officer ("SIO") was for the murder investigation. The investigations did not overlap in any material way.
4. I believe I became involved in the conspiracy investigation sometime in 2000, perhaps in the summer. It is my recollection that Detective Chief Superintendent

McBurney and Detective Inspector Irwin had visited Andrea McKee in Wrexham around that time. As a result of the statement she made, a team was briefed to continue the investigation into the alleged conspiracy.

5. From the outset, I was briefed by Detective Chief Inspector **K** but I believe he was briefed initially by DCS McBurney. I did not know anything about it at the time but, from looking at the papers subsequently, I now believe that DCS McBurney initially had a notional role as the SIO for the conspiracy investigation. The structure within the police meant that DCS McBurney had a strategic role, making decisions for example as to how many men were needed, whereas DCI **K** was driving the investigation. DCS McBurney was involved in the investigation at the outset, but Detective Chief Superintendent Colville Stewart took over his role at a later date. Detective Inspector Irwin was not part of the investigation team, but he was involved at certain stages. He played that initial role in respect of Andrea McKee, but he never had a role overseeing the investigation. I can confirm that Detective Chief Inspector **P39** played no role in the conspiracy investigation, because she had retired before the end of 1997.
6. I was most closely associated with DCI **K**, Detective Sergeant Wenford McDowell, Detective Constable **J** and Detective Constable **P28**. They were all based at the Regional Crime Squad, Gough. There were many other officers who played a role in the investigation, but were not specifically tasked with the investigation at that time. I reported directly to DCI **K**.
7. I have been asked what role policy books played in our investigation. The maintenance of policy books in any specific inquiry is the responsibility of the Senior Investigating Officer and his Deputy. DCI **K** would have been responsible for that in the conspiracy investigation. As a matter of general practice I can say that policy books record decision-making and strategic moves. They are a record of thought processes throughout an investigation. I believe that there was a policy

book in place for the conspiracy investigation, but I would not have had responsibility for it.

8. The crux of what we were investigating was the allegation that Robert Atkinson, Eleanor Atkinson, Andrea McKee and Michael McKee got together in the McKee's kitchen to plan a conspiracy to pervert the course of justice. There was obviously an aspect of it which also involved the Hanveys, but our main focus was the Atkinsons and the McKees. Some of the original allegations that DCS McBurney had investigated, specifically neglect of duty, were outside of our remit. A directional meeting was held to determine the structure of the investigation. DC J was involved with exhibits and DC P28 and I both carried out various outside inquiries and other wider inquiries, such as into telephone billing. I believe that a coherent strategy was operating at all times in the conspiracy investigation.
9. Having received papers, the first thing that we did was to review what had been done already in the murder investigation and look for evidential lines of inquiry arising from that. These initial steps took quite a bit of work. We re-interviewed witnesses, but this was something we would take on board depending on the length of time that had elapsed since they had been interviewed previously. As time moved on, there were perhaps other avenues that opened up to us to explore. I cannot remember exactly what those were. The Financial Investigation Unit ("FIU") was one line of inquiry; analysing telephone billing was another.
10. The FIU evidence showed that Allister Hanvey's bank account had been used at 8.47am on the Sunday morning, which contradicted the account Allister had given about his movements that morning. I do not think the FIU information had been obtained previously, but I cannot be sure. I cannot account for why this was not done. I am not sure whether the legislation in 1997 permitted inquiries to be made of a person's bank account. I cannot comment on the thought processes of the previous investigators or the tracks they decided to investigate.

11. Once we obtained evidence, we would have wanted to keep it very tight because the wider the circle of people who can access it, the greater the chance of information leaks occurring. It is important to bear in mind that we had police officers and civilian typists. DCI K may have kept secret policy books for that sort of information and may have decided not to put it onto the HOLMES system. However, I cannot remember how the information was fed into our investigation system. Only a small group of people would have had this knowledge. If the information were entered onto HOLMES it would have been available to whoever needed to see it, including the SIO of the murder investigation. If important information was obtained that also went directly to the murder investigation, I would assume that DCI K would have passed that information on to the person investigating the murder. However, I am only assuming, and I cannot account for K's actions.
12. We knew from what Andrea McKee had told us that a couple named Rodney Smyth and Joy Kitchen may in fact have been at the McKees house on the 26/27 April 1997. Therefore we undertook a line of inquiry, which was in respect of a telephone call from the McKee household to book a taxi at around 01.30. I believe the booking was for a taxi to the town centre for "Smith". We identified this person as Rodney Smyth and he was with Joy Kitchen. We visited them on, I think, 2 occasions and recorded statements from Rodney and Joy, containing pages **17380** to **17381** and **17382** to **17383** respectively, in which they stated that they were friendly with the McKees and they had been at the McKees' house. They said they had been to the McKees house one night playing the guitar and drinking, but they could not say when that was.
13. We then had to tie that down to the night of 26/27 April 1997. Rodney Smyth refers in his statement dated 4 November 2000 at pages **17380** to **17381**, to his shift pattern at work. That was relevant to establish exactly which night it was that they were at the McKees' house. We then checked the telephone records for the McKees' house to back this up. I have therefore been asked whether, given that the

McKees provided the original alibi, I was surprised that their telephone records had not been obtained back in 1997 to verify whether they were in the house at the time the telephone call was made. All I can say is that I do not know why they did not do that in the original investigation.

14. On 8 November 2000, I recall that DCI K and I visited Father Sean Dooley together. I believe Father Dooley had received telephone calls from someone giving information in relation to what had gone on during the night of the attack on Robert Hamill. I cannot remember how we found out about this call; there must have been some documentation somewhere to lead us to it, perhaps from the original investigation. My solicitor informs me that he believes DCI P39 had visited Father Dooley at a fairly early stage in the original inquiry, although Father Dooley does not recall it. However, this is not within my knowledge. To my recollection, we visited Father Dooley in order to try to ascertain further evidence from him, such as the name of the person who had telephoned, whether he could put us in touch with that person, or whether that person had any information or evidence that could assist our inquiry. However, as it transpired, he was unable to help us with the caller's identity.

15. My statement, containing page **17586** records that we took a copy of the notes Father Dooley made on 11 May 1997. I cannot recall, but I am quite sure we asked Father Dooley for the original notes, but the best we were able to secure was a copy. He said he wanted to take advice or consult with someone before passing them on. I visited Father Dooley again on 9 November 2000 and he handed me a copy of the notes, which appears at page numbers **72782** to **72791**. My visits to Father Dooley are recorded in Action Sheets A683 and A690 containing page numbers **2541** to **2542** and **2554** to **2555**. It is possible that I handed the notes onto DC J, but I do not know and I would need to check the exhibit label, which records the flow of who handled the evidence. It was not really the case that I would have needed to report back to DCI K with these notes because we were investigating this aspect together.

16. I can confirm that I am now aware that [REDACTED] had also received an anonymous phone call, but I did not know anything about it at the time.

17. On 29 November 2000, I remember speaking to Reserve Constable G on the telephone because I was identifying telephone numbers for the inquiry, and his number had appeared on telephone billing. My Notebook Entry of the same date which contains page numbers **15944** to **15946** covers that. He agreed to carry out some inquiries regarding the mobile telephone he had shared previously with Reserve Constable P20. I spoke to him again on 7 December 2000, at which time I recorded a statement from him. That statement is now produced containing page numbers **19483** to **19485**. I note that this statement is the first record of his conversation with Timothy Jameson, but I do not think it was a case of him mentioning it for the first time when he made that statement. There must have been some preamble to that statement where I had been speaking to him and we decided to meet to record that statement, but I cannot remember exactly when. Save for taking that statement, I do not recall having any other involvement in the investigation into Timothy Jameson.

18. I cannot give a definite answer as to what extent the previous investigations had pursued phone records. I knew that in 1997 the officers had the record of Atkinson calling, but I cannot remember whether the collateral billing around that had been investigated. I really do not know what they had or had not done. There are certain ACPO guidelines in relation to telephone calling, but I am not sure what was in place for us in 2000 was likewise in 1997. I cannot recall whether anything was lost between 1997 and 2000.

19. I recall attending a meeting at Gough Barracks with, I think, Mr Mahaffey from the Police Ombudsman for Northern Ireland (“PONI”), DCS McBurney, DI Irwin and DCI K at which we were told that Michael McKee had received a threatening letter containing a bullet. The Independent Complaints Police Commission (“ICPC”),

and then from November 2000 PONI, were working in partnership with us on the entire investigation from the word go.

20. On 5 December 2000, I visited Michael and took possession of a threatening letter that he had been sent, the envelope which it was in and the bullet which the envelope contained. My receipt of these items is recorded in my statement of 24 September 2001 containing page number **17379**. They were submitted to the forensic science laboratory for testing. They would have checked for finger prints, DNA and ESDA and checked the origin of the bullet, to see whether it was attributable to a particular paramilitary group. We received a report from [REDACTED] which I think is on the HOLMES system. I believe this report said the bullet was a reloaded 9 mm round, or something similar. Mr [REDACTED] would be best placed to explain the reloading system. I have spoken to Mr [REDACTED] since I received papers from the Robert Hamill Inquiry, because I wanted to establish the background to the bullet. All I can add is that it would not have been a security force issue round. When the bullet was checked for fingerprints I believe that it would have been tested for RC Atkinson's fingerprints. However, there were a number of suspects and no one person was singled out. It could have been the Hanveys, or anyone associated with them who had knowledge. No significant leads were offered as a result of the forensic examination.
21. On 10 April 2001, I arrested Michael McKee and interviewed him. I was accompanied by Detective Constable **J**. A transcript of that interview is now produced containing page numbers **20998** to **21075**. On the same day the other alleged conspirators were arrested but I did not play any part in their arrest or interview. During that interview Michael McKee made an open, free admission to the charges. Michael and Andrea McKee were charged. The Atkinsons and the Hanveys were not charged.
22. I cannot recall how many times I visited Michael McKee during the investigation, other than when I went to investigate the threatening letter and, later, to arrest him.

23. I am asked why the Atkinsons and Hanveys were not charged together with the McKees. We had 2 strong admissions from the McKees, but not from the others. I cannot really comment much on why we did not run with charges against the others. In any event, there were 2 conspiracies to pervert the course of justice. There was the 'kitchen table' conspiracy when the two McKees and the two Atkinsons sat down together to decide what to do and there was the other conspiracy involving the telephone call to Allister Hanvey. The evidence we had on one did not necessarily prove the other. Ultimately, however, the decision as to whom to prosecute was a decision for the DPP. It was the DPP who decided what to do in that case. There were numerous consultations with the DPP and I am sure that was thrashed out in fine detail. I believe Chris Mahaffey was at some of those consultations also and Queen's Counsel was involved too. Obviously a decision was made by someone to proceed in the manner in which we did.
24. In May 2002, we received a letter from [REDACTED], solicitor for Rodney Smyth and Joy Kitchen. It said they no longer wished to give evidence. I had spoken to Rodney Smyth on 11 April 2002. Rodney Smyth said he heard his name had been mentioned in pubs in Portadown in relation to his involvement in the case and he wanted nothing more to do with it. I visited Joy Kitchen on 15 May 2002. She said that she wanted nothing more to do with the case because her name and Rodney's name had been mentioned in connection with the case. She said she had not been threatened and was not frightened. My statement, dated 16 May 2002 refers to my dealings with Rodney Smyth and Joy Kitchen and contains page numbers **19959** to **19960**. On 16 May 2002, I submitted a report to the DPP containing page numbers **3038** to **3040**. Thereafter, any decision to compel those witnesses would have been taken in conjunction with the DPP and senior police officers. I did not give any thought to whether Rodney Smyth and Joy Kitchen should be pressured any further, because it was not a matter for me. Witnesses have withdrawn many times before in Northern Ireland.

25. I am reminded that the McKees entered guilty pleas to their charges and were convicted of perverting the course of public justice on 7 May 2002. The 2 strands to the conspiracy investigation were not being dealt with separately; it was all together as 1 investigation. During the period between the arrest of the McKees and their convictions, the inquiry into Reserve Constable Atkinson and the Hanveys was ongoing; it was not put on the shelf. DCI K was still running the investigation at this stage. There may have been other evidence that we were waiting for, but I cannot say specifically.
26. I was involved in dealing with another potential witness named P42. There was an anonymous letter, which is produced containing page **1038**, in the papers held by the original investigation team. I believe the original investigation had the letter in 1997, and I think it was available to our investigation. My role was to identify the writer. When an anonymous document is received, the receiving officer would automatically chase the identity. Any other names contained in the document would also be investigated. Any detail would be automatically moved to the HOLMES system, where action sheets would be generated. That action sheet would then go to an individual officer, who would then be responsible for taking statements and other steps to identify the anonymous person. Then we would have daily or weekly briefings with some senior police officers to monitor progress and to give further directions.
27. I cannot be specific about how exactly my inquiries identified P42 as the writer. I think, but I am not certain, that I first traced the letter to Maurice Hewitt because he had handed in the letter to the police. I visited Maurice Hewitt, who was the father-in-law of P42. I think we also identified an address at which P42 had lived on Thomas Street, which was by that stage empty. Then we approached people who had rented the property to see if we could obtain any rent books or property letting books. I cannot remember when I became aware of the identity of the writer but, out of all of these lines of inquiry, we identified P42 and where he was living.

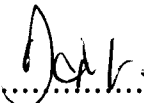
28. I recall speaking to P42 at his home, with his girlfriend or wife present. My Notebook Entry of 27 November 2002, containing page numbers **72308** to **72314** records this visit and is an accurate summary of what went on. The copy Message Forms containing page numbers **1802** to **1803 & 1805** also record my meeting. My recollection is that P42 got his girlfriend or wife to type the letter. He refused to give a statement to us, and, to my recollection, would not even agree that he had been living at the address in Thomas Street.
29. As a result of Judge Cory's team visiting us in Portadown, I later spoke to P42 again and asked him to meet Judge Cory's team at the police station for an interview. I think that the Judge Cory's team wanted to meet him in order to record a statement from him, because he was very hesitant. P42 agreed to do that and came into Gough Barracks where I introduced him to Detective Inspector [REDACTED] whom I believe interviewed him. I think the interview was at about 8.00pm. I was not present at the interview and do not know what happened at it or as a result of it. I am informed that P41, P42's then girlfriend and now wife, in her statement for this Inquiry recalls P42 being dropped off at the police station and leaving, very shaken, after a 2 hour meeting. P41 might have been referring to the meeting with DI [REDACTED], but I do not have any knowledge of what happened.
30. On 19 November 2002, Timothy Jameson was interviewed by Detective Sergeant McDowell. I did not sit in on that interview. I am informed that Detective Sergeant McDowell subsequently submitted a prosecution file to the DPP, which recommended waiting for the results of forensic tests to see whether unidentified blood found on Robert Hamill matched Timothy Jameson. That report is dated 27 January 2003 and is now produced to me containing page numbers **15868** to **15975**. I assume that the tests were negative, but this event does not ring a bell with me. However, I can confirm that, in my view, Reserve Constable G's remarks in respect of Timothy Jameson were properly and thoroughly investigated.

31. In late 2003, proceedings were issued against Reserve Constable Atkinson, Eleanor Atkinson and Kenneth Hanvey. In summary, the evidence we had gathered was as follows: first and foremost, we had the telephone call going from Reserve Constable Atkinson to the Hanveys. We also had quite a considerable amount of other circumstantial evidence in relation to what went on in the street on the night of the incident: who saw whom; who did not see whom. This information is contained in an interview strategy that we drew-up in relation to the interviews of the Atkinsons, the Hanveys and the McKees. Obviously Andrea McKee's evidence as a witness was crucial. I cannot remember any new or significant evidence having come up in the 12 months prior to the original committal date.
32. The proceedings were listed for committal on 27 October 2003. On that occasion the case adjourned to 22 December 2003 after defence representations. Andrea McKee had attended to give evidence at the hearing.
33. The weekend prior to 22 December 2003, Andrea McKee telephoned to advise us that her son was ill and she could not travel from Wrexham. We were therefore not surprised at her non-attendance on 22 December 2003. I had met Andrea on at least 2 occasions before that date and believed that she was willing to give evidence. At that time we were not sceptical about the reason she was giving for not being able to attend. The Magistrate was told of her reason for not attending and required some evidence on the next occasion to support her reason as genuine. I was part of a team which then investigated that quite fully. We sent police officers to Wrexham to interview doctors and reception staff. We also obtained telephone billing to check whether Andrea had telephoned the doctors' surgery. I recall that we confirmed that she had attended the doctor with her son on 1 December 2003, 11 December 2003 and 22 December 2003. The only visit that was not verified was the trip to the Pendine Park out of hours' surgery on the night of 19 December 2003; the GPs on duty that night had no recollection of her call, and no record of it on their logs.

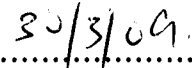
34. On 9 January 2004, a meeting was held at Wrexham Police Station, attended by Christine Smith of counsel, Ivor Morrison of the DPP, DCI K and myself. The notes of that meeting contain pages **33991** to **33997**. My recollection is that this meeting was an opportunity for the DPP prosecutors, Christine Smith and Ivor Morrison, to assess Andrea McKee's credibility. At that stage I think she was still willing to give evidence, but page **33996** of the notes reminds me that she wished to remain in the Wrexham area. She told us that she had received a threatening letter and was very alarmed by that.
35. I cannot remember exactly how we heard about the threatening letter. Andrea McKee had obviously phoned our office to tell us, and then we got in contact with Wrexham CID. We obtained the threatening letter from Wrexham CID at the meeting on 9 January 2004 and I believe it was submitted to the forensic science laboratory for forensic examination. Senior police officers would have been responsible for considering in all the circumstances what tests were necessary. I do not recall which tests were carried out, but I would have expected them to include DNA, ESDA and fingerprinting. I do not remember what came back from the laboratory but do not recall there being anything to identify the source of the letter.
36. At about this time there were many meetings between the DPP and senior police officers. I could not give you an estimate of how many, because I did not attend all of them. I think we had some discussion about putting Andrea McKee into a witness protection programme but the success or otherwise of such a scheme was very difficult to assess. Unfortunately Andrea maintained contact with people in Northern Ireland, for example Glynis Finnegan, who may well have been speaking to people in the Portadown area. Andrea's new address could have been leaked into the public domain that way. I felt unable to make any reliable assessment of the risk faced by her. Andrea McKee was not willing to move too far away from her mother or from Wrexham. I cannot remember what I concluded, other than our witness protection unit would not have considered it ideal for her to stay in Wrexham.

37. I have been asked whether I was surprised at the DPP decision to offer no evidence against Reserve Constable Atkinson and the others. I was not necessarily surprised by it, taking into account the fact that Andrea McKee told lies in 1997 then decided to tell the truth in 2000. There were already issues around her credibility, but then there was also the fact that we could not prove that she had been to a doctor on call out when she said she had been on 19 December 2003. I do not feel that the issue about Andrea McKee's credibility was overplayed. The very fact that Ivor Morrison and Christine Smith went to Wrexham to assess her shows Andrea McKee's level of importance in this case. The final decision was taken by the DPP in consultation with senior police officers. Once the papers were with the DPP, it was no longer a matter for us.

38. I can confirm that I knew Reserve Constable Atkinson from seeing him around Portadown and various police stations. He did not have any involvement with our conspiracy investigation, nor did he ever attempt to influence it. I can confirm that at absolutely no point did I sense any reluctance on the part of anyone at the PSNI to pursue Reserve Constable Atkinson or any of the conspirators. In fact, it was full steam ahead. There were avenues open to us that would not have been open to us in an ordinary investigation into conspiracy to pervert the course of justice, but I cannot go into those here.

SIGNED:.....

H

DATED:.....