STATEMENT OF WITNESS

STATEMENT OF GAVIN LAVERY

DATED THIS DAY OF 2008

I, GAVIN LAVERY, 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 have a MD, BCH, BAO Honours degree from Queen's University of Belfast dated 1979. I also have a MD by thesis dated 1986. I am a Fellow of the College of Anaesthetists RCSI. I am currently a Consultant in anesthesia and intensive care at the Royal Hospitals Trust, Belfast and I am Director of Critical Care Services in the Trust.

3. In April 1997 I worked in the same department as I do now at the Royal Victoria Hospital (RVH) and I was a Consultant in intensive care and anaesthesia. Along with my colleagues, I was responsible for providing the senior medical input into the care of patients in the intensive care unit (ICU). I was not directly involved in the care of Robert Hamill until 29 April 1997, the day on which he was transferred from the ICU to the Neurosurgical Unit.

4. The clinical notes contained at page **38599** show that Mr Hamill arrived at the hospital by ambulance at 06:30 on 27 April 1997 having been transferred from Craigavon Area Hospital (CAH). According to the notes contained at pages **38599**

to **38603**, the first doctor who saw Mr Hamill was Dr [redacted] who would have been a Registrar. Dr [redacted] was the intensive care doctor in charge of Mr Hamill's care and the junior doctor who was directly involved in his care and has written on the notes was Dr [redacted]. The notes contained at page **38601** show that the neurosurgeon who saw Mr Hamill on his arrival at RVH was Mr [redacted]

5. The notes show that the Consultant in charge in the ICU on 28 April 2007 was Dr [redacted] He was the Director of intensive care at that time. There is another entry in the notes on that day that I can not decipher and I do not know who wrote it. It may have been a neurosurgeon rather than one of the ICU doctors.

6. I would have become the doctor in charge of Mr Hamill's care in the ICU at around 08:00 to 09:00 on 29 April 1997 and I would have stayed in charge until he was transferred to the Neurosurgical Unit at 13:00 that day. I was only responsible for his care in the ICU. From the notes I can see that the Consultant neurosurgeon in charge of Mr Hamill's care on 29 April 1997 was Mr Tom Fannin. This is confirmed by Mr Fannin's final summary letter, which is contained at pages **38772** to **38773**.

7. The neurosurgeons had major involvement in Mr Hamill's care when he was in the ICU. They would have been responsible for decisions regarding neurosurgical issues and the ICU medical and nursing staff would have been responsible for all other respects of this care. Ultimately it was the Consultant in charge of the ICU at any particular time that had overall responsibility for Mr Hamill's care.

8. I prepared my statement dated 15 September 1997 from the clinical notes. The statement is contained at pages **09203** to **09204**. As far as I can remember I made this statement at the request of the police. I have no idea why it took so long for the statement to be made but I would not particularly question the delay because sometimes it may be months after a patient has left before some legal element is

investigated. I would have prepared my statement only a few days after it was requested by the police.

9. I note that there is a typographical error in the statement. It should read that on the morning of 28 April, not 27 April, 1997 the patient was still agitated. This is clear from the notes of Dr [redacted] contained at page **38603**.

10. Turning to Mr Hamill's injuries, the nursing record contained at page **38651** starts at 06:30 hours and records that "*Patient arrived from Craigavon with a head injury having been hit with a projectile, query bottle. Large grazed area left hand side of head*". There is not anything else recorded in terms of injuries.

11. The clinical notes show that when Mr Hamill arrived at RVH he was sedated, had a tube in his windpipe and had been given drugs to paralyse certain muscles so that he did not breathe against the ventilator. He would therefore have been unconscious as a result of the sedation even if he had not been unconscious through injury.

12. Later on 27 April 1997 the tube was removed and he was able to breathe alone. It could be argued that there was an improvement in Mr Hamill's condition in that he was in the same state with less assistance, but it was a matter of concern that he was not waking up in the true sense of the word. Nothing he was doing was purposeful in any real way. His actions such as pulling at lines and thrashing around were random.

13. A CT scan was undertaken on Mr Hamill's brain and Mr Fannin's comments are recorded in the notes contained at page **38551**: "*CT scan of the brain which shows soft tissue swelling in the scalp over the left temporal parietal region and also over the right temporal occipital region*". In other words, Mr Hamill had very obvious bruising in two separate areas of his head which was outside his skull. It is almost certain that there was a bruise or possibly a haematoma on his left temple parietal (above the left ear) and right temple occipital (behind the right ear). However,

although the scan showed physical injury to his head in terms of bruising and swelling, and probably bleeding under the scalp on both sides, the scan did not show any evidence of any physical injury to the brain.

14. There is evidence of Mr Hamill having airway problems and experiencing of lack of oxygen whilst he was at CAH. The notes contained at page **38677** record "*O2 saturation* " and then "*75%*" which would show a severe lack of oxygen on arrival at CAH making him quite hypoxic. Oxygen levels should be 95 to 100% and anything below mid-80s is dangerous. If oxygen deprivation persists for more than 4 to 5 minutes then it is likely that there will be damage to organs, the most sensitive being the brain. Mr Hamill's oxygen levels would have improved dramatically once the airway tube was inserted. As I have stated, the tube was removed later on 27 April 1997 after he arrived at RVH. A tube was not re-inserted whilst he was in my care.

15. I can not say for certain what happened in Mr Hamill's case but there is evidence that he had airway problems on arrival at CAH and we know that he later had a CT scan at RVH which showed no brain injury. Lack of oxygen to the brain does not show on a CT scan, certainly not in the first few days. Sometimes it is difficult to detect at all but it obviously has devastating effects on the way that the brain functions.

16. Although I did not write a diagnosis at the time I suspected that Mr Hamill had a hypoxic brain injury secondary to an airway problem prior to his arrival at CAH. I arrived at this diagnosis by a process of exclusion. There are no tests for hypoxic brain injury; it is a diagnosis of exclusion. Even if a high blood alcohol level was making Mr Hamill unconscious on the first day, it should not have been doing so two days later. There was nothing visible on the CT scan to explain why he was unconscious. He was not on sufficient sedative drugs to achieve that result. Further, when his level of consciousness improved, he showed evidence of irritability and

agitation that would be associated with something like hypoxic brain injury. Let us say there is a huge amount of circumstantial evidence.

17. My prognosis for Mr Hamill would have been uncertain but relatively pessimistic. I think it is likely that Mr Hamill would have remained in a coma permanently or, if he improved, he would have had severe residual handicaps or intellectual impairments.

18. To my knowledge the ICU would have had no further involvement in Mr Hamill's care between his discharge to the neurosurgical unit on 29 April 1997 and 8 May 1997 when he died. The discharge summary written by Dr [redacted] which is contained at page **38550** is typical of summaries written for discharge to another department. In my view, it is unlikely that the state of Mr Hamill's brain changed during his time in the ICU although the physical state of his body improved.

19. I do not recall having any specific contact with the police at the time Mr Hamill was in the hospital and it was not my practice to note in writing any contact I had with the police. It was usual for the police to ask for information on a patient's status and I recall nothing out of the ordinary in relation to this case.

SIGNED: .....

GAVIN LAVERY

DATED: 31/3/08