

STATEMENT OF WITNESS

STATEMENT OF JOHN LECKEY

DATED THIS 29th DAY OF February 2008

I, JOHN LECKEY, 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. In April 1997, I was the Coroner for Greater Belfast. I had held this position since 1992. Under the coroner's legislation in force in Northern Ireland, with the exception of prison deaths, all inquests are discretionary rather than mandatory.
3. According to the Police Report Concerning Death at page 00398, Robert Hamill died on 8 May 1997. The case was not directly referred to me. Although today there is a single coroner's district in Northern Ireland, at that time there were a number of coroners' districts. People seriously injured at an incident elsewhere in Northern Ireland were often brought to the specialist units at the major hospitals in Belfast. However, where such a patient died and an inquest was to be held, for the convenience of witnesses, the practice was to ask the coroner for the district where the incident occurred if he or she would be willing to hold the inquest. The incident leading to the death of Robert Hamill occurred in the coroner's district of Armagh and Craigavon, the coroner for which was Mr [REDACTED]. A member of my staff therefore asked Mr [REDACTED] probably by telephone, if he would be willing to take the case on. However, Mr [REDACTED] wrote to me on 18 September 1998 to return the papers intimating that, "there

80646

would be in my estimation difficulties if I were to take this matter on” (page **00394**).

4. Accordingly, the case was eventually referred to me because Robert Hamill died at the Royal Victoria Hospital in Belfast and I had jurisdiction for that area. I assume that the referring consultant was Mr. Patel.
5. On 11 May 1999 I wrote to Mr Alasdair Fraser, the Director of Public Prosecutions, to seek his views as to whether I should proceed with an inquest at that time (page **00391**). Sometimes it is possible that holding an inquest in advance of criminal proceedings may prejudice the criminal proceedings. If so, it is sometimes considered appropriate to defer the inquest until criminal proceedings have been completed. Furthermore, it is often the case that all the facts are likely to be explored in depth at a full criminal trial, rendering the holding of an inquest unnecessary.
6. The decision to hold an inquest was not final at that stage. If I had been told that a full criminal trial was to be held, I would have waited for the outcome. I would not have decided against holding an inquest merely because there was to be a trial. However, occasionally the trial does not uncover all of the facts and the views of the family are then sought. If a number of issues are not dealt with at the trial, the family may want an inquest and I would have to consider their views. In this case I was also interested in waiting to find out what might happen concerning the allegations against certain police officers at the scene of the attack on Robert Hamill. However, it transpired that a criminal trial could not be held, and I am sure I was not alone in considering this to be unfortunate.
7. Leading up to my decision to hold an inquest, it is correct to say that I had a lot of contact with the Royal Ulster Constabulary (RUC). In a letter dated 25 May 1999, containing page **00388**, I wrote to DI Irwin to ask him for the statements, maps and photographs in relation to Robert Hamill. Hence, by this stage DI Irwin had become my point of contact in the RUC for the case. To my recollection, I did not speak to any other police officers in relation to the Hamill case. I do not recall having any contact with DCS McBurney, although I know

his name is mentioned later in the correspondence. For example, there is an attendance note of a meeting between the Hamill family and Ronnie Flanagan, the then Chief Constable, which mentions DCS McBurney. I have met DCS McBurney in relation to other deaths but not, as far as I can recall, in relation to Robert Hamill.

8. My understanding was that DI Irwin had a senior role in investigating the circumstances of Robert Hamill's death. In cases where the death is surrounded by difficult, complex and controversial circumstances, I ask to meet with the Investigating Officer. My experience is that merely to look at the statements and the paperwork provided is not always efficient. Speaking to the Investigating Officer may also enhance what is in the statements because he or she is able to explain nuances and subtleties that are not immediately apparent. Although I cannot remember if DI Irwin was the Investigating Officer in this case, he certainly was a senior officer in the murder investigation team. Therefore communicating with him was completely in accordance with normal procedure.
9. Throughout my dealings with the Robert Hamill case, I also needed to involve counsel considerably. In Northern Ireland counsel play an important role at inquests, particularly if a death is controversial and the police have been criticised. The role of counsel evolved informally from the early 1970s as a result of controversial deaths occurring in the province. In an inquest *not* resulting from intervention by the Security Forces, it was normal for a police inspector to present the evidence to the inquest and read the deposition to each witness. However, where the death occurred in circumstances where either the RUC was involved or were being criticised, it was regarded as inappropriate for a police officer to present the evidence. The answer to this problem was to brief counsel to fill that role. The involvement of counsel then developed into being more than just a reader of the deposition. In a controversial inquest, it expedited matters if the coroner had counsel at the inquest that could neutrally put forward the competing legal submissions.

10. As is recorded in a letter dated 23 June 1999 to [REDACTED], a lawyer with the Northern Ireland Court Service (NICS), in this particular case I anticipated that the inquest would be very controversial (page 71398). There were two reasons: (a) the allegation that the police had stood by and allowed Robert Hamill to be injured to the extent that he later died in hospital and (b) the accusation that a certain police officer at the scene had advised one of the suspects not only to dispose of his clothing, but also what was happening in the police investigation. I had obtained that information both from the file of papers forwarded to me and from DI Irwin in person.

11. I cannot recall whether there is in attendance note to this effect, but I did have a meeting with DI Irwin. The meeting possibly took place on 23 August 1999, the date that I wrote a letter of instruction to [REDACTED] of counsel (page 00380), or a few days beforehand. Sometimes in murder cases, where time has passed after the murder has been committed, I would routinely ask the Investigating Officer whether it was appropriate to hold an inquest at that time. As has happened on two occasions recently, the police may say that they would rather the inquest were not held at a particular time because, for example, they are bringing in some suspects for questioning. Unless there was some compelling reason to the contrary, I would take that concern on board and wait until it had been resolved. However, in the Robert Hamill case, I cannot recall DI Irwin expressing a view as to whether or not to hold an inquest.

12. At this meeting DI Irwin informed me that Tracey Clarke and Timothy Jameson, at that time referred to as Witness A and Witness B respectively, were important witnesses who did not wish to give evidence because of concerns for their own person safety. I cannot remember precisely what I was told, but I was also informed that this refusal or unwillingness to give evidence was the reason the murder proceedings had not progressed. My recollection was that I received the statements of these two witnesses prior to the meeting in response to my request for documents in the letter dated 25 May 1999. However, I have been shown a document dated 7 June 1999 containing pages 59976 to 59980, which lists the statements, photographs and maps touching on the death of Robert Hamill. This document does not refer to the statements of Tracey Clarke and

Timothy Jameson. I am not therefore sure whether I received these statements prior to my meeting with DI Irwin.

13. I also asked DI Irwin to approach any persons named as witnesses in the statements of Tracey Clarke and Timothy Jameson to ascertain whether they would be willing to make a statement and give evidence at the inquest. I made it clear that DI Irwin should approach not only possible suspects, but also a number of people who were mentioned in the statements as potential witnesses to the attack. It should be noted that, unlike England and Wales where there are coroners' officers to liaise between a coroner and a witness, no such coroners' officers have been appointed in Northern Ireland. In default of having such a person, coroners have to rely on the police to fulfil a similar role.
14. On 23 August 1999, I asked Mr Devlin of counsel for advice on how to deal with Tracey Clarke and Timothy Jameson if neither one was willing to be involved in the inquest (page **00380**). I also asked for advice about the compellability of the persons named in the statements of Tracey Clarke and Timothy Jameson. My mental picture of the incident was rather like a brawl or a near riot involving quite a number of different people. Although some of those present may not have kicked or struck the blow that led to the death, I was concerned that some sort of informal joint enterprise had taken place. I could therefore foresee an argument arising that, under rule 9 of the law then in force, no one was a compellable witness because everyone fell within the definition of persons suspected of causing the death.
15. My recollection is that Mr [REDACTED] discussed Tracey Clarke and Timothy Jameson with me but did not provide a formal opinion containing any specific advice.
16. On 16 September 1999, DI Irwin wrote to me to advise that he had contacted Dean Forbes, Stacey Bridgett, Alistair Hanvey, Paul Hobson, Wayne Lunt, Rory Robinson, Andrew Allen and David Woods (page **00373**). However, I was informed that none of those approached were willing to give evidence. I have been asked why DI Irwin does not list a dozen or so other people mentioned in

the statements of Tracey Clarke and Timothy Jameson. DI Irwin may have taken the view that the other persons named in the statements were not involved in as direct a way as those persons listed. It would be left to DI Irwin to make a decision as to which persons mentioned were relevant. I suppose it highlights the point that, if there had been a coroner's officer, this task could have been delegated to that officer to chase up. Since I was working unsupported as a single coroner, it was not a task that I could have done. Obviously DI Irwin thought that there was no need to contact more than the persons named in his letter of 16 September 1999; you would have to ask him for the reasoning behind that decision.

17. On 9 September 1999, I instructed [REDACTED] QC to advise on the inquest. I have used Mr [REDACTED] a great deal in inquests over the years. He is very up to speed with coronial law and practice and also the sort of issues that arise in controversial inquests. My letter of instruction is at pages 00376 to 00377. I received his advice on 30 September 1999, which is at pages 00369 to 00371.
18. I remember finding myself faced with a dreadful dilemma: whether I should either hold the inquest in a simplified form, concealing the evidence of Tracey Clarke and Timothy Jameson, or, alternatively, whether I should inform the Hamill family's solicitors of the gist of their evidence, knowing that, given both witnesses' fears for their personal safety, this would then inevitably cause great difficulties in the holding of an inquest. The problem concerned transparency of process and decision-making.
19. In respect of Tracey Clarke and Timothy Jameson not being prepared to give evidence, Mr [REDACTED]'s advice effectively says that I should not just accept the opinion of the police officer, but needed to be personally satisfied that the witnesses had grave and genuine fears for their safety. It is correct to say that, in the summary at paragraph 6 of his advice, Mr [REDACTED] advised that I had little choice but to hold an inquest in this case. At the time I agreed and, in the absence of a criminal trial where all the facts were explored, I took the view that an inquest should be held.

20. By a letter dated 6 October 1999 at page **00367**, I requested from DI Irwin a meeting with Tracey Clarke and Timothy Jameson. I am sure that I intended to meet with them separately and without any police presence. My recollection is that there was a suggestion these witnesses would be reluctant to travel to Belfast for a face-to-face meeting with me, but that telephone contact could be engineered. I think I discussed this with DI Irwin either in person or by telephone. I can confirm that at no point did I meet with Tracey Clarke or Timothy Jameson in person.
21. I spoke with Tracey Clarke over the telephone on 9 November 1999. An attendance note recording this conversation appears at page **00270**. It may be that DI Irwin told me that Tracey Clarke would be telephoning me on that particular morning because there is no indication on the file that she had made previous unsuccessful attempts to reach me, but I cannot recall. I did not know from where she was phoning, but I did not get the impression that she had any police officers with her.
22. Having spoken to her, my assessment was that Tracey Clarke was frightened for her personal safety and tearful, but genuine. She did not express any reservations about the accuracy of her witness statement. It seemed to me that were it not for the fears for her personal safety, she would have been prepared to give evidence at an inquest. In fact, speaking to her really strengthened my view as to how compelling her evidence was. I was also satisfied that she did indeed have fears for her personal safety the extent advised by Mr [REDACTED]
23. I have been asked if there was any way that Tracey Clarke could have given evidence limited to what she had seen on the night of 26/27 April, editing parts subsequent to the assault involving police officers. In Northern Ireland a fresh statement is not prepared for an inquest. The statements taken by the police are transcribed into a special deposition form; there may be some editing, but the changes would be merely of a formal nature and not of substance. There are hence dangers to the substance of a statement being edited; if I were to say at the inquest that a statement had been edited, then counsel would immediately ask to access the parts that had been edited out. I would not have excluded

something as important as that, and if I were to have done so without notice it would have been an issue that might have necessitated my resignation.

24. On 11 November 1999, DI Irwin wrote to advise that he had made arrangements for Timothy Jameson to contact me (page **00359**). My recollection is that Timothy Jameson was in Scotland and it was harder for DI Irwin to get hold of him. I eventually spoke with him on 6 January 2000. My attendance note of that conversation appears at page **00358**. I have no idea from where Timothy Jameson was phoning and he seemed to be alone.
25. To my recollection, Timothy Jameson was quite morose and uncooperative. He said that the words in his statement had been put into his mouth by the police. I may have later mentioned this allegation in passing to DI Irwin. I told Jameson that I could arrange for him to make a new statement and I may have added that I would take it from him personally. However, he then said that any new statement would merely record that he was completely unable to remember the incident. I did not believe Jameson's claim that he could not remember, but ultimately he described having fears for his own safety.
26. The wording of my attendance note is interesting: it was inconsistent for Timothy Jameson to say at the start that he could not remember anything, but also to say at the end that he would have fears for his own safety. I considered that Jameson could only have had fears for his safety if he did have some knowledge and the persons he feared knew this to be the case. Obviously if he had said, "*I can remember nothing*", no one would be prejudiced. Accordingly, although Timothy Jameson was not as vocal as Tracey Clarke and I had to draw his concern out of him, on balance, I was satisfied that he had genuine fears for his own safety.
27. I did not specifically discuss with the witnesses what protection could be provided. However, I may have mentioned that, as happens in the Court of Appeal or the Criminal Court, an application could be made for anonymity and to screen the witness from the public gaze while giving evidence. In many of the courts of Northern Ireland, one of the witness boxes has curtains to conceal

the identity of the witness. Although a screened witness would still be seen by myself, the legal representatives and the jury, if any, I doubt whether any other court could have offered greater protection than that available at a coroner's inquest. However, Tracey Clarke and Timothy Jameson were not convinced that such measures would provide them with sufficient protection.

28. I have been asked whether I approached the RUC at any stage to provide Tracey Clarke and Timothy Jameson with protection. As I believe is reflected in my attendance notes, I made enquiries and was told that, even though the witnesses would be identified by a code letter only, their true identities would still be known to those persons of whom they were fearful. Of course, there are witness protection schemes where witnesses may be provided with a home elsewhere in the United Kingdom. I cannot remember if the RUC suggested such a scheme to the witnesses, but I think it is widely known that such an arrangement can be made. However, at the time I remember considering whether that was expecting too much of a witness: to have to leave their family, their familiar environment and to try to start a new life in part of England or Wales.
29. In the light of Mr [REDACTED]'s advice, I did consider whether there would be any value in compelling Tracey Clarke and Timothy Jameson to give evidence. I was fairly certain that a witness summons could be served on each of them, but whether or not they would actually attend was another matter. Moreover, if they were to have attended an inquest there would have been a big problem because they had retracted their detailed statements, which had recounted their knowledge of what happened. If both witnesses claimed to have no memory of what happened and that the police had fed them the statements, I would then have been put in the position of having to cross-examine them on this basis.
30. Without the evidence of Tracey Clarke and Timothy Jameson, my views as to whether any useful purpose could be served by holding an inquest kept changing. Even though the process would be impaired by their lack of contribution, at times I saw an advantage in holding an inquest. There are a number of considerations; one being the needs of Robert Hamill's family. The holding of an inquest would have allowed the family to obtain a death

certificate, which many regard as very important in providing some form of closure; people can become very upset if they do not obtain one. However, in my view, Tracey Clarke and Timothy Jameson were the key players. The police had not put forward any other equally important witnesses. The police constables accused of not intervening at the scene may have been important witnesses; but it is possible that they might have claimed protection under rule 9, as outlined above, by which a person suspected of causing the death was not a compellable witness.

31. Following my telephone attendances with Timothy Jameson, I wrote to DI Irwin on 10 January 2000 to advise him of the outcome (page **00425**). I also informed him that the proper course was for me to discuss the difficulties relating to both witnesses with the Hamill family and their legal representatives. My objective was to inform the family of the serious allegations in the statements of Tracey Clarke and Timothy Jameson; it is important to be honest with the family to ensure transparency of process.
32. I must have telephoned the Hamill family's solicitor, [REDACTED] on 10 January 2000, and he came to see me first thing the following morning. An attendance note of this meeting appears at page **00356**. My main recollection is that the meeting focussed on the alleged involvement of Reserve Constable Atkinson in advising one of the suspects to dispose of his clothing and informing him of the developments in the police investigation. I read out the statements of Tracey Clarke and Timothy Jameson to Mr [REDACTED]. I know that this information came as a great shock to Mr [REDACTED], who told me that he had been totally unaware of the allegation that a serving police officer colluded with one of the alleged perpetrators. I recall informing him I had spoken to both witnesses and felt that they were extremely afraid. I do not recall having discussed my concerns about Tracey Clarke and Timothy Jameson with Mr [REDACTED] prior to meeting with [REDACTED].
33. I have been referred to Mr [REDACTED]'s file note of this meeting, containing pages **41373** to **41374**. At page **41374** Mr [REDACTED] states that I "*expressed real concern for the safety of the witnesses but also felt that an inquest without such*

evidence would not fully represent the circumstances of his death". I also said that I did not have to hold an inquest, and I recall him saying that the family really wanted a public inquiry. I know that the family had seen the Taoiseach or Prime Minister, [REDACTED] so they appeared to be considering a level of inquiry higher up the judicial scale than a coroner's inquest.

34. At this stage, I think that I was questioning what purpose an inquest would serve without the involvement of Tracey Clarke and Timothy Jameson. But I can confirm that when I met with Mr [REDACTED] I had not made up my mind whether or not to hold an inquest. The fact that the RUC had not produced other witnesses did not have much impact on my thinking; I was focussing on Tracey Clarke and Timothy Jameson. If I were in the same position now, I would be wondering about the same issues. In such circumstances, you would have to announce at the inquest that, for reasons of personal security, you had decided not to receive the evidence of the two best witnesses. Inevitably everyone, particularly the family, would say that the inquest was not serving much purpose without hearing the evidence of the two key witnesses and without the opportunity for the legal representatives to question them.
35. However, I wanted Mr [REDACTED] to have the chance to consider the situation and to pass the information on to the family, so that they could cogitate on the ramifications. To my recollection, Mr [REDACTED] did not make representations to me during this meeting. My distinct recollection is that he also wanted to mull things over, speak to the family and then come back to me. It is important to note that during this meeting he stated his intention to consult counsel and mentioned either [REDACTED] QC or [REDACTED] QC. I believe that this shows he would not have committed to a view at that stage because he plainly wanted to discuss the matter with counsel first. I concluded the meeting by stating that I would leave matters in abeyance for one month to take instructions and to consider the matter further.
36. Mr [REDACTED] and I met again on 24 January 2000, the note of which is at page **00346**. I can remember nothing about this meeting beyond the contents of my attendance note. The note reflects the fact that the family wanted a public

inquiry to examine all the issues, rather than use the medium of a coroner's inquest. At the time there may well have been an argument that the inquest should have a very narrow focus. In the case of *R (Middleton) v HM Coroner for the Western District of Somerset* [2004] 2 AC 182 the House of Lords broadened the scope of inquests, in accordance with the Human Rights Act 1998 ("HRA"). It was held that where an inquest is the means by which a state discharges its procedural obligation under Article 2 of the European Convention on Human Rights to investigate a death involving, or possibly involving, a breach of Article 2, the inquest should find "by what means and in what circumstances" the deceased came by his or her death, rather than just "by what means". However, Robert Hamill's death occurred prior to the implementation in 2 October 2000 of the HRA. Accordingly, there might have been an argument that the inquest should be confined to the very narrow focus of finding out the means of death. I am sure that this is one of the reasons why the Hamill family felt that a public inquiry would be better placed to look at the broad picture.

37. I spoke to Mr [REDACTED] on 27 January 2000. One of the good things about instructing counsel is that you can bounce ideas off them and hear their views. My strong recollection is that Mr [REDACTED] did not view the decision of whether or not to hold an inquest in black and white terms. There were pros and cons on both sides.

38. On 1 February 2000 I consulted with Mr [REDACTED] again to consider the wording of a letter to Mr [REDACTED]. I forwarded the proposed draft letter to Mr [REDACTED] for his comments on 3 February 2000 (page 00352). On 8 February 2000, I wrote to Mr [REDACTED] to tell him that, "*[H]aving given due consideration to your representations that I should not hold an inquest I have decided it is in the wider public interest that an inquest should be held*" (pages 41375 to 41376). I also advised that I would not be calling the two witnesses who had genuine safety concerns. Mr [REDACTED] responded in two letters: the first on 10 February 2000 at page 15292, in which he expressed his disappointment and the second, in fuller terms, on 29 February 2000 at pages 41377 to 41378.

39. I note that Mr [REDACTED]'s letter of 29 February 2000 states that, in my letter of 8 February 2000, I had misrepresented the circumstances in which he had suggested not holding an inquest. Mr [REDACTED]'s letter refers to the meeting of 24 January 2000 and states that I had given no indication that I was contemplating choosing this course, adding, "*We even discussed how you might announce the fact that no inquest would take place*". Mr [REDACTED] also says that I indicated I might travel to London to seek the advice of the Lord Chancellor on this aspect.
40. I cannot recall stating at the meeting that I would communicate to Mr [REDACTED] a decision not to hold an inquest; I think that if I had done so, it would have been in my attendance note. I honestly cannot recall discussing with him how I would announce a negative decision, nor would I have gone to the Lord Chancellor or the government for advice. The NICS is a department of the Lord Chancellor with legal advisors in Belfast. It would not have been uncommon over the years for coroners to go to one of these legal advisors. However, I do not seek advice beyond going to counsel. The Lord Chancellor might have been mentioned at the meeting in the sense that I am responsible to him, but I just cannot remember making the suggestion to ask for his legal advice; I have never done it in any case.
41. Mr [REDACTED]'s letter dated 29 February 2000 also invited me to rescind my decision to hold an inquest and to afford him the opportunity to make representations. Following this I wrote to Mr [REDACTED] on 1 March 2000 (page 71346), enclosing Mr [REDACTED]'s letter of 29 February 2000, and sought his advice on how to respond. Note where I state that I believed the content of my dated 8 February 2000 was accurate. Mr [REDACTED] was the only person I have ever consulted on this issue.
42. I cannot remember the advice that Mr [REDACTED] gave me, and it is not recorded in the papers. However, it would be unlike him not to respond to a request for advice and, given the sensitivities surrounding the death of Robert Hamill, unlike me not to follow it up. Further, I am absolutely convinced that my response was made upon the basis of advice from counsel because 23 March

2000 I wrote to Mr [REDACTED] stating, *"I have decided that you should be afforded the opportunity to make representations and, therefore, I will not proceed to list the inquest for hearing"*. This letter appears at page **42896**. I am sure that this response was on the advice of Mr [REDACTED]; it would be logical for counsel to advise me not to rush to make a final decision and to afford another opportunity for representations.

43. In spite of my letter of 8 February 2000, by 23 March 2000 I think that I was minded not to hold an inquest. However, I accept that on 20 April 2000 I wrote to Mr [REDACTED] mentioning that I had had contact with a reporter for the Sunday Times. I had advised the reporter that I hoped to hold an inquest in the autumn and that the delay was due to procedural discussions with Mr [REDACTED]. This letter reflected the last formal decision made. I did this because, throughout, I was fearful that the gist of what Tracey Clarke and Timothy Jameson had said might get into the public domain. Mr [REDACTED] had treated all the information regarding the alleged involvement of the police officer confidentially; I could not have forgiven myself if that information became known publicly and something happened as a result.
44. I received further written representations from Mr [REDACTED] on 26 April 2000. This letter appears at pages **40727** to **40728**. I found it to be a thoughtful, well-drafted letter. The representations amplified themes that had been flagged-up earlier, namely that there was no public interest in holding an inquest without the evidence of Tracey Clarke and Timothy Jameson.
45. At page **40728**, Mr [REDACTED] wrote regarding the safety fears: *"While I understand your concerns, I respectfully submit that such considerations should be secondary to the overriding public interest and that all relevant information concerning a death in disputed circumstances should be fully and publicly examined"*. Mr [REDACTED] referred to the Broderick Committee report, stating it had concluded that a full and public examination of all relevant information concerning a death in disputed circumstances was particularly important where rumours or suspicion abound following a controversial death. I consider that everyone would subscribe to the principle that as much information as possible

about a death should go into the public domain and that there should be proper scrutiny of that evidence. However, if you balance such a principle against the fears for the personal security of the witnesses, I think it is important to look long and hard before concluding that the public interest outweighs the personal safety of the individuals concerned; it would have been difficult to justify if Tracey Clarke and Timothy Jamesone had ended up dead.

46. Having read Mr [REDACTED]'s letter I think that, on balance, I then considered that there was probably no public interest in holding an inquest without the input of Tracey Clarke and Timothy Jamesone. An inquest would have been of some value because it would have put into the public domain the flavour of the dreadful events of the night in question and, as I have already indicated, it would have allowed the family to obtain a death certificate. However, from the family's point of view, a death certificate must have been unimportant compared to the wish for the allegations to be arbitrated in court and for the truth to come out.
47. My next step was to write to Mr [REDACTED] on 28 April 2000 asking for his advice in the light of Mr [REDACTED]'s most recent letter. This letter appears at pages 00470 to 00471. I set out the dilemma I was facing in terms of balancing witness safety against exploring the circumstances of death in the normal way. In the final paragraph I also refer to "*a major political dimension*". By "political dimension" I meant that, at this point, calls for a public inquiry were gaining momentum. One only had to read the newspapers and watch the television reports to realise this fact. The death of Robert Hamill was a headline case, in which [REDACTED] and [REDACTED] were in direct consultation with Mr [REDACTED] on behalf of the Hamill family. Mr [REDACTED] most ably represented the family and he put their case for a public inquiry very well indeed. I was aware that the in-depth exploration of facts at an inquiry can remove the need for an inquest. However I did not assume that a public inquiry would be announced in the future, and the probability that an inquiry might take place did not affect my decision making.

48. There appears on the file a draft reply to Mr [REDACTED] dated "May 2000" at pages 00466 to 00467. This is because I asked for some guidance from Mr Hanna as to the form such a letter would take. I must stress that Mr [REDACTED] did not tell me *how* to write the letter, but I sought to formulate the letter in conjunction with counsel. Throughout the lengthy procedure relating to the Robert Hamill case, I was anticipating the potential risk of judicial review. In such circumstances, where I am writing important letters concerning my approach and my decision, I always think it best to obtain the advice of counsel.
49. On 15 May 2000, I wrote to Mr [REDACTED] with a full response to his letter of 26 April 2000. A copy of this letter appears at pages 00464 to 00465. After discussing the difficulties of introducing the evidence of Tracey Clarke and Timothy Jameson under Rule 17, I offered Mr [REDACTED] the opportunity to make proposals as to how to introduce the evidence of Tracey Clarke and Timothy Jameson, without exposing them to real safety risks. One reason for taking this approach was that I vividly remember discussions with counsel at the time concerning the practical problems of how to introduce the evidence safely. Such procedural issues are considered in any court, and also at a public inquiry. My reason for posing the question to Mr [REDACTED] was to check whether or not there was a mechanism for achieving the required result that had not occurred to us.
50. Mr [REDACTED] responded in writing on 18 May 2000 (page 00463) to the effect that he did not feel he was in a position to make suggestions as to risk-minimising measures. I was not surprised at this response because I had been considering the issue for months and could not see a solution. To my recollection, Mr [REDACTED] had said at one of our face-to-face meetings that a public inquiry might have disposal devices available to enable evidence to be given to witnesses safely. However, he did not specify these devices, nor do I know what they might have been.
51. I can confirm that I did not reconsider witness protection programmes at this stage. I thought that it was something the DPP should have considered when it

was faced with deciding to whether to proceed with a very serious criminal trial involving a serving police officer.

52. I advised DI Irwin on 1 June 2000 that I had reached a definite decision not to hold an inquest. My attendance note of that discussion is at page **00454**. I thought that it was important to ensure that Tracey Clarke and Timothy Jameson would be informed of my decision, as a matter of courtesy. My conversation with DI Irwin was very brief and I do not recall his reaction. Later that day I sent a letter to DI Irwin to confirm the content of the conversation, which appears at page **00453**. I indicated that my reasons related to: (1) concerns for the safety of Tracey Clarke and Timothy Jameson and (2) the risk that excluding their evidence would result in a misleading inquest. I also confirmed that I would arrange for the death to be registered; forward the press release ,when finalised, and inform Mr [REDACTED] of the decision.
53. The press release to announce my decision was processed by NICS. I am reminded from a fax at page **00449** dated 6 June 2000 and marked for the attention of [REDACTED] at NICS that I drafted the press release in conjunction with senior counsel. I would have instructed Mr [REDACTED] to assist in this task. [REDACTED] at NICS was also consulted. The press release was then published on 7 June 2000, a copy of which appears at page **39592**.
54. In summary, I had been preoccupied with the Hamill issues for months and I found it very difficult to determine the correct decision. At first, I decided that an inquest not including Tracey Clarke and Timothy Jameson would undoubtedly be preferable to not opening an inquest at all. On reflection, having considered the representations of Mr [REDACTED] I changed my mind and decided that an inquest should not be held. Had my final decision been subjected to judicial review, it may have been that a higher court would have told me to reconsider and a different view might have been taken. However, I remain of the view that, on balance, the correct or better decision was not to hold an inquest, rather than to hold an inquest that was flawed.

SIGNED: John L. Leckey

JOHN LECKEY

DATED: 29th February 2008.