

STATEMENT OF WITNESS

STATEMENT OF PAUL DONNELLY

DATED THIS

DAY OF

2009

I, PAUL DONNELLY, 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 was appointed as Chairman to the Independent Commission for Police Complaints [ICPC] in February 1997 until the establishment of the Police Ombudsman's office in November or December 2000.
3. I had a background in academic social work and child protection. I had been involved in the police training for the investigation of crimes against vulnerable adults. I had been an academic involved in external consulting change management. Around the time of my appointment, senior officials were advising me that my primary mandate was to steer the organisation to its own demise and exit strategy. My role was support the new legislative processes in respect of the establishment of the police ombudsman. I was there to revitalise the organisation and make it more robust. The position was part time initially but rapidly became full time.
4. In terms of the referral of complaints to the ICPC. If they had come directly to the organisation they would always have to be channelled back through police sources. All complaints were directed to the police for recording. The commission would then make a decision whether or not to supervise the

complaint. Some thing that came through the front door of the commission would always have to be referred through the back door to the police. The legislation in force was the Police (Northern Ireland) Act 1987. There were also two other circumstances where the police could refer it their own accord. The Chief Constable could refer a matter to the commission by Article 8(1). The Secretary of State could also refer a complaint by invoking Art 8 (2).

5. I did not have a case load and I did not personally supervise cases that came to the ICPC. The organisation has to be looked at in terms of the members individually rather than as a collective. I would liken the organisation to barrister's chambers. Therefore, each member would quite jealously safeguard their territory. They were individually appointed practitioners. The defence of that position was independence. In addition, because of the quirks of disciplinary tribunals, if the case was to go to a disciplinary tribunal two supervising members had to sit with the Chief Constable. By not discussing cases they could preserve their integrity. From recollection I think that there were nine members. I did occasionally have access to papers and I was able to influence or advise on the conduct of a particular case.
6. I have no recollection of a complaint or allegation being referred by the Secretary of State, although we did sometimes have direct referrals from the Chief Constable, particularly after public order incidents. Matters such as deaths in custody were referred automatically. The police were generally astute enough to make referrals themselves.
7. In contrast to the powers of the ICPC colleagues in England and Wales [the former Police Complaints Authority] the statute allowed members to direct as well as supervise investigations. I recall in one case where we directed scientific forensic investigation into the ways that the breathalyser could be "beaten" The commission was provided with the powers to be much more robust in its direction and control of investigations than the concept of supervision allowed.

8. Kevin Murnaghan was one of two the Deputy Chairs. He was part time and [REDACTED] was full time. Kevin was a solicitor in practise in Tyrone and had been appointed and reappointed to the Commission on several occasions since the inception of the organisation.
9. I have been asked about the referral of the complaint by the RUC on 9 May 1997 to the ICPC. The supervising member was Mr Murnaghan assisted by Greg Mullan. To my recollection, I did not discuss the case with Kevin Murnaghan at any point bearing in mind a discussion on a significant case like this would stay in my mind. I do have a clear recollection of discussing the case with Greg Mullan, both when Kevin was supervising the case and afterwards.
10. It has been drawn to my attention that the file notes are mainly completed by Greg Mullan and are not directional in nature. I have been asked if I regard this as being normal. In my view this was far too normal. My first impression of the organisation was that it was deferential to the point of being sycophantic at times toward the RUC. Some newer members were more robust and more assertive. The collective sentiment was one of passivity and it concerned me. The powers of authority that were vested in the organisation were not energetically exercised.
11. I have been told that the allegation against the reserve constable was discussed at the first meeting with the ICPC and investigating officer on 12 May 1997. However, the allegation was not supervised by ICPC until June 2000. Mr Murnaghan did not discuss this matter with me at all and I am not sure how much Greg Mullan would have put on the record. Certainly when it came to my attention my view was that we could and should have pursued this allegation within the complaints context
12. I have been asked if I could have asked the Chief Constable to refer the allegation. I could have asked the Chief Constable in my capacity as Chair and if he had resisted that request I would have been perfectly happy to go to Mo Mowlam. There were other means of us getting our hands on the allegation.

From my personal perspective I was hemmed in a political agenda given that we were at an important point of political transition.

13. Had I applied any pressure in respect of the this case I am certain that the Chief Constable would have “jumped” rather than have to be “pushed”. At that time Sir Ronnie Flanagan was not long in the post and he had previously held the post of Assistant Chief Constable in Complaints and Discipline Department.
14. I have been referred to a note of Greg Mullan at page **27209** which states at the third paragraph down, “*I advised that this aspect was outside the Commissions remit.*” All I can say is that I was not aware of this. I do not wish to be unduly critical but the question to be asked is why? Mr Murnaghan was a professional, a solicitor of standing and to me the failure to supervise that allegation is symptomatic of how the whole organisation worked.
15. I have been informed that DSC McBurney referred the complaint file to the ICPC and the ICPC statement of satisfaction accompanied the file to the DPP. He did not draw to the attention of the DPP the fact that the allegation against Atkinson had not been supervised. Throughout the history of the ICPC it always had the power to withhold statement of satisfaction but it only refused to issue a statement in one case during its existence.
16. The DPP was not notified as a matter of course that the ICPC was supervising a case. It would have appeared at the DPP’s office with the crime file. Of course in complex cases meetings with DPP officials and IO took place, not weekly or monthly, but often enough. Certainly in the case of Robert Hamill there were not those weekly or monthly meetings.
17. I have been referred to a document authored by Mr Langdon at page **39692** which is a note dated 21 July 2000. Scanning the document does trigger a dull recollection of this meeting. At page **39693** at paragraph 10, meeting with chair ICPC. The views I expressed to Anthony Langdon would have been

formed on the basis upon my reading of the file before the meeting. There should have been more done.

18. Prior to this meeting, a meeting between the ICPC, the DPP and DSC McBurney took place on the 22 June 2000. That is the type of meeting that I would have expected to emerge from an allegation like this. This was then a supervised case.
19. By that time the ICPC was in exit mode as an organisation. I do not recall any conversations with any colleagues in the Robert Hamill case specifically. I do remember advising officials from time to time to tread water so that the ombudsman could exercise a more robust intervention. No recollection of such in this case. I don't recall a conversation with the Chief Constable. If Mr McLellan had been told I would have known.
20. I have been asked for my understanding as to why the case was re investigated in June 2000. My understanding for the reinvestigation in June 2000 because more corroborative evidence began to emerge.
21. My belief is that Robert Hamill's sister Diane Hamill was skilled at keeping the matter to the fore. I have spoken to Chris Pattern about this case in the past and there such a ring of injustice to this set of circumstances. I suspect that there was political leverage in which I wasn't fully engaged. By that time I had become part time. My belief, it is not knowledge, was that the alibi evidence had started to unravel.
22. I have been asked if the case reopened because a Public Inquiry was on the horizon. I certainly think that the efforts of Diane Hamill had a major impact as did that of Mo Mowlam. The fact that she was so measured made her arguments more convincing to those who encountered her. She was an impressive young woman, and there were several factors coming together around the same time.

23. The Investigating officer would have had a fair amount of opportunity throughout the process to widen the terms of the investigation. There is a degree of autonomy. It is conceivable that he was under pressure not to do so. The atmosphere in Portadown at that time was poisonous.

24. It was not just about protecting one of their own. It is also about their neighbours. RC Atkinson was a community activist and quite influential within his community. There are hints in some of the records. I have got some speculative views but they are not evidentially based.

25. My view of the ICPC was that it was an organisation lacking in moral fibre. The ICPC supervision was ineffective in relation to the supervision of Atkinson. It lacked all of the qualities that an oversight body ought to expect.

SIGNED

DATED