

## STATEMENT OF WITNESS

### STATEMENT OF ROGER DAVISON

DATED THIS 16<sup>th</sup> DAY OF January 2009

I, ROGER DAVISON, of the Public Prosecution Service, 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 a qualified solicitor and between 1997 and 2002 I was Senior Legal Assistant to the Director of Public Prosecutions [DPP]. I conducted some prosecutions in the magistrates' court but my main role was as a caseworker; a role which involved examination of police investigation files and taking decisions as to prosecution. If a decision was made to prosecute, it was also my job to prepare the committal papers if the prosecution was to go on indictment to the crown court. As a general rule, the RUC referred a case to the DPP once they had completed their investigation. The file would go from investigating police to more senior police, then to us.
3. When the file was sent to the DPP, it was received in the registry section where administrative staff put the file into a DPP cover, registered it and then sent it to the Assistant Director in charge of the area where the crime was committed. In this particular case Mr Kitson was the Assistant Director for Belfast and Eastern region and therefore registry sent the file to him for onward allocation to a senior legal adviser. Occasionally, there would be a comment from him but given the passage of time I have no recollection if he made a comment in this case.

4. In terms of retention of files by the DPP, generally summary prosecution files would be kept for five years. However, if it was a scheduled indictable only file, for example a murder, it would be kept indefinitely.
5. In the incident involving Robert Hamill there was a number of suspects involved, but in such a case there would be one file and not a file on each suspect.
6. I would expect the file to be divided up into four parts. The first part is essentially a police report which gives a summary of the facts and allegations. It will give details of the suspects and it will give recommendations as to prosecution and other general comments. Part two of the file is usually composed of the witness statements that the police have gathered. Part three relates to exhibits such as interview transcripts; and part four relates to miscellaneous documents such as custody records and other miscellaneous forms.
7. It was the function of the DPP to consider the police file and in particular to determine whether there was sufficient evidence to give a reasonable prospect of conviction of any person reported upon in the file. In 1997 the DPP dealt with indictable only offences as well as a small range of either way offences and a number of summary only offences. There is an appendix to the RUC code which sets out the files that the Director requires to be submitted to him and it includes everything which must be prosecuted on indictment.
8. If, on consideration of the file, the caseworker believed that other information was necessary he would ask the police to make further enquiries or obtain further evidence. Such a request would be made by way of an Interim Direction. This is not a formal court document but a private communication between the Director and the police. If the Interim Direction stated that the DPP's office would like to interview witnesses we would obviously not expect any documents from the police but if we

requested further statements of evidence, I would certainly expect those statements to be provided, accompanied by a covering note.

9. The decision to prosecute or not to prosecute on any case lay ultimately with the DPP and not with the police. Once a decision was made it was communicated to the police by way of a Final Direction. Insofar as I liaised with the police, I would almost always have gone through the most senior investigating officer on the case. I cannot recall who that was in connection with Robert Hamill's death.
10. I have been referred to an Interim Direction dated 12 August 1997 which is produced and shown to me containing the number **18106** which was issued by Mr Kitson. That direction is not familiar to me and I do not know why Mr Kitson, rather than me, would have issued it and requested forensic reports. I am told that Mr Kitson says he transferred the file to me after he had issued this direction. I do not remember that specifically, but it is possible. What may have happened is that Mr Kitson received the file, noticed a glaring omission and issued the direction before allocating it to me, simply to save time.
11. It does not surprise me that forensics were not available at that stage as it often took a long time for forensic, pathology and medical reports to be prepared. It is frequently the case that the police have everything ready to submit to us apart from these documents. It would not have been the job of the DPP to chase them; that was a matter for the police who alone were tasked with obtaining the evidence. It was for the police to liaise with the FSANI because they were the investigators.
12. I would only get involved with the FSANI to discuss a report, not to request one. I have been asked if this delay would have had any effect on the prosecution of any of the suspects in this case. The only possible effect would have been to delay the decision whether or not to prosecute but as far as I am aware the delay did not have any adverse effect on our decisions or the ultimate trial.

13. I have been referred to a note of a conversation I had with Lawrence Marshall on 17 November 1997, which is produced and shown to me containing the number **18040**. The note records:

*"A small spot of blood (identified as Bridgett's blood) was found on Hamill's trouser leg 1 or 2 inches above the bottom of the hem. It was a round spot no bigger than a one pence coin. There was one other spot of blood near to this spot but it was not tested. The blood on the left trouser leg did not come from Bridgett and was smeared and thus different from Bridgett's spot. The fact that the blood was not in an elongated shape means that there is nothing to indicate what direction the blood came from..."*

I do not now recall this conversation and the note means nothing to me. I can say that the correct procedure following such a conversation would have been for me to speak to the senior investigating officer and ask him to request a further statement dealing with the additional information. Whether I did that in this case, I cannot be sure. I may simply have asked Mr Marshall to do a statement while I was on the telephone.

14. The Robert Hamill file would have been allocated exclusively to me. There was a culture within the office of discussing matters with colleagues and Mr Kitson was always willing to discuss an issue if the need arose. In my view, there was no delay between the murder investigation and the file being submitted to the DPP.
15. There is now produced and shown to me a file note containing page **18096**. I see that I spoke to Detective Inspector Irwin on 10 October 1997 and that he informed me of potential difficulties with the eye witnesses. He said that since Drumreece 1997 the attitude of Protestants in Portadown had hardened against the police with the result that witnesses A & B, Tracey Clarke and Timothy Jameson, may not give evidence. Furthermore, he said that Colin Prunty could only be contacted via [REDACTED], solicitor, who had failed to respond to correspondence.

16. I cannot recall what my view was in terms of difficulties in getting witnesses to cooperate. I would certainly have respected Detective Inspector Irwin's view. He was someone with whom I have had dealings over many years. He was a very conscientious, very hardworking, capable police officer. I would have certainly valued his view and relied upon it.
  
17. I have been shown a document addressed to me from the RUC on the 26 November 1997 containing page **28396**. It is a six page fax, including the cover sheet from Detective Sergeant Bradley which states "*Statement and 2 pages of interview after caution.*" There are actually five pages of handwritten notes. They do not appear to be an interview after caution but look rather like Ronnie McCarey's scribbled notes, although I am not a handwriting expert. I cannot now recall why I would have received this document, given that the report was submitted to the DPP initially in August 1997. I do not recall a consultation that may have given rise to this fax.
  
18. The first Direction which I issued is dated 14 October 1997 and is now produced and shown to me containing the number **18092**. I advised that a Final Direction would await receipt of the matters referred to in the interim direction of 12 August 1997, i.e. forensics, and consultations to be held between Senior Counsel and witnesses Tracey Clarke, Timothy Jameson, Colin Prunty and Jonathan Wright.
  
19. I have been referred to a note of consultation signed by me and dated 24 October 1997 containing the page numbers **17591 to 17592**. This note refers to consultations with Jonathan Wright, Tracey Clarke and Timothy Jameson. I cannot recall those consultations but accept that is my note and that it records me being present. I can only speculate that the consultations were arranged with Senior Counsel because the decision to prosecute hung on the credibility of the witnesses, which we needed to test.

20. In preparation for such consultations, I would have read the witness's statement and anything the witness was supposed to have said. I would also have read any other eye witness accounts. Part of assessing credibility involves asking the question "well why did you say this when someone else said something different?" The purpose of consultations was to establish the credibility of the witnesses, their ability to give evidence and their willingness to give evidence.
21. It is common practice in high profile cases in Northern Ireland to ask Senior Counsel to consult with witnesses in this way. Usually we would send counsel a copy of the file and a covering letter which requests counsel to consult with one or more witnesses and to give their opinion whether or not there is a reasonable prospect of conviction. We would normally expect to be provided with written opinions following the consultation.
22. It is then open to the DPP to take counsel's opinion into account, although occasionally we did reject it. Looking at that note I assume that I attended the consultation as a note-taker and also to make my own assessment of the credibility of the witnesses. If my assessment had differed from counsel's view, that would have been important. I also note that the consultation was attended by Detective Sergeant Bradley, who was one of the officers involved in the investigation. His role would have been to bring the witnesses to the consultation. Detective Superintendent Cooke from Crime Branch also attended. I assume he attended to represent the interests of the Chief Constable because it was a high profile case; it was quite rare for a member of Crime Branch to attend consultations. It was a matter for Crime Branch whether they attended and usually only did so if they had an interest in a case and wanted to keep a close watching brief.
23. I cannot recall what my assessment was of Jonathan Wright. I cannot recall what he looked like and I am unable to go beyond the note.

24. I have been asked to consider what I would do if a witness alleged that the police 'put words in his mouth', as alleged by Timothy Jameson in consultation. I cannot recall what I or anyone else did in respect of that particular suggestion but if I had believed Timothy Jameson to be telling the truth I would most likely have reported back to the Director. He would have probably directed an investigation by the police. If I did not report back to the Director on this occasion it must have been because I thought that Timothy Jameson was being untruthful.
25. I see from my file note dated 21 October 1997 at 4pm containing page **17591** that once again Detective Superintendent Cooke, Detective Inspector Irwin and Detective Constable Honeyford were present at Timothy Jameson's consultation. I suspect that Detective Inspector Irwin and Constable Honeyford were present because they had brought the witness and presumably they wanted to know how the consultation would go.
26. I have been asked about the consultation on 17 October 1997 at 3.30pm. I attended a consultation with Gordon Kerr QC and Tracey Clarke who was witness A. Detective Chief Superintendent Cooke, Detective Sergeant Bradley and Detective Constable McAteer also attended. I cannot now recall this conference but I assume that it was to assess the credibility of Tracey Clarke to give evidence. In terms of the roles, I imagine that DS Bradley and DC McAteer brought the witness from the Portadown area and that DC McAteer must have sat with the witness and her parents whilst we were consulting with Jonathan Wright. Superintendent Cooke was there as a representative of the Chief Constable.
27. I do not recall speaking to the parents of Tracey Clarke and I do not recall any concerns that may have been raised at this consultation. In terms of what I would have read prior to the consultation, I imagine that I would have read her statement and the statement of others who had allegedly seen what she had seen. As a general rule, I would have been well briefed about the case and the various eye witness accounts. I cannot now remember what I thought of Tracey Clarke as a witness.

28. As a result of these consultations the decision was made not to call Tracey Clarke, Timothy Jameson and Jonathan Wright to give evidence at the trial of Marc Hobson. The direction to prosecute would have been my decision and I would also make the decision as to those witnesses to be called and to be disclosed to the defence. When it comes to the trial it may be that counsel would then direct additional proofs of evidence to be taken. I do not now recall if I discussed the matter with Mr Kitson following the consultations.
29. I have been shown a file note signed by Mr Raymond Kitson, dated 28 October 1997 which contains the page numbers **18342 to 18344**. That note raises an issue about compelling Tracey Clarke to give evidence. A compellable witness is one that we can summons to court and if they fail to attend, the court can punish them. I do not remember any discussion about that in this specific case but in general terms the factors we would have looked at when deciding whether a witness should be compelled included degree of fear, risk of danger, and whether she would be hostile if summoned. The final decision as to compelling a witness was for the DPP, not the police.
30. As I recall, there was an option for us to put the statement of a witness on paper and then make an application to have her statement read on the basis that she would not give evidence otherwise through fear. I think it was referred to as an Article 3 statement under the 1988 Order. I know that there have been cases where the police have established that not only is the witness in fear but they have also been satisfied that the witness's life is in danger or would be in danger even with an Article 3 statement because their identity would become known. In those sorts of situations risk assessments would be needed. We would have to take a view on as to whether the witness was genuinely in fear or whether they were not willing to give evidence for some other reason. I know of cases where the police have been satisfied that not only is the witness in fear but also that the witness's life is in danger if we went

ahead, even with an Article 3, because the identity of the witness could become known. I cannot recall what happened in this case.

31. I have been asked if I have any recollection of Colin Prunty as a witness. I did not attend the consultation with this witness which was attended by my colleague Mr McCarey and Gordon Kerr on the 30 October 1997.
32. I have been shown a file note by Raymond Kitson, dated 20 November 1997 which is now produced containing the page numbers **18041 to 18043**. That note records a consultation with Raymond Kitson, Gordon Kerr Q.C. and I on 18 November 1997. I have no recollection of that consultation but see that we discussed the case against Wayne Lunt, Stacey Bridgett and Marc Hobson and concluded there was no reasonable prospect of a conviction against Wayne Lunt and Stacey Bridgett. It also appears that we discussed the evidence of Stacey Bridgett's blood being on Robert Hamill's jeans but discounted it as insufficient to prove that he had been involved in the commission of any offence. There is certain information in the note which tends to indicate that Stacey Bridgett had been lying but there may have been other matters that I knew at the time which I do not now recall. Sometimes these matters can lead to a further police interview and sometimes they do not.
33. On 20 January 1998 I issued a Direction to prosecute. That Direction, which is now produced and shown to me is in two parts, and contains page numbers **18192 to 18193 & 18191**.
34. I recall going to Craigavon Magistrates' Court to attend [REDACTED] who was the prosecuting barrister at the committal hearing. I can remember speaking to some members of the Hamill family before and after the committal hearing but I cannot recall what was said. My vague memory is that we were aware that the Hamill family were very concerned and that is why I attended court on that date. We wanted to make sure that they had the opportunity to ask us questions.

35. In terms of my view towards the RUC's approach to this murder, it is very hard to remember. The only people that I can think of who were involved were Michael Irwin and Derek Bradley; both of whom I recall were anxious to do as good a job as they could possibly do. My vague memory is that there was public concern about the activity or non-activity of the uniformed officers who had been close to the scene of the attack. There had already been a lot of criticism of the RUC and my recollection is that the investigating police were anxious to do the best they could because, in the back of their mind, there was this sense that the police were already under criticism.

36. Save for what is set out above, I had no other involvement or recollection of this case or any other investigation, including the investigation into Reserve Constable Atkinson. I also have no recollection of being involved in any investigation conducted by the Police Ombudsman of Northern Ireland. Further, in respect of the matters set out above, I have no independent recollection of this case and have relied entirely on the documents shown to me.

**SIGNED:** ..... *R. Davison* .....  
**ROGER DAVISON**

**DATED:** ..... *16/1/07* .....