

STATEMENT OF WITNESS

STATEMENT OF SIMON ROGERS

DATED THIS 21 SEPTEMBER 2009

I, SIMON ROGERS, 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 disclosed a number of documents to me on 10/11 September. Where I make specific reference to a document in my statement I have given the number of the relevant page.
2. This is my first witness statement for the Inquiry. In it I shall endeavour to provide such explanation and/or commentary on the documents that have been disclosed to me and referred to me in interview. I will assist the Inquiry to the best of my ability, but have had limited opportunity in the circumstances to consider the material. My recollection has been assisted considerably by the papers provided and I accept that there are gaps in my memory.
3. In 1997 I worked in the Police Division of the Northern Ireland Office which dealt with, amongst other things, complaints which were referred to the NIO about the police. Dealing with such complaints often meant having contact with the Command Secretariat of the RUC/PSNI or the Complaints and Discipline Department as well as contact with

the Independent Commission for Police Complaints (ICPC). I was also involved at this time with the taking forward of the report by [REDACTED] on the setting up of the Police Ombudsman for Northern Ireland. I worked to the Head of Division [REDACTED] and either through her or directly to John Steele the Head of Policing and Security.

4. I have been asked to explain how, and to whom, the Chief Constable of the Royal Ulster Constabulary reported to the Executive. There was a tri-partite arrangement for policing in Northern Ireland comprising the Chief Constable who had operational independence, the Police Authority for Northern Ireland who were to hold the Chief Constable to account on behalf of the community and the Secretary of State (SoS) who was responsible to Parliament for policing and set the legislative framework and therefore policy within which the police (and Police Authority and eg the ICPC) operated. The funding also came through the SoS. There was inevitably some shading around the edges of responsibility.
5. The Secretary of State [Dr. Mo Mowlam] would hold regular meetings at which the Chief Constable [Sir Ronnie Flanagan] and others would be present such as a Security Policy meeting to discuss security matters about Northern Ireland. There would also be ad hoc meetings on specific issues as necessary. They would also have met at functions etc. I assume that if she needed to the SoS would speak to the Chief Constable in the margins of meetings if there was an issue not on the agenda. So far as I am aware there was a good working relationship between the two.

6. I cannot recall precisely when I first became aware of the death of Robert Hamill, but it was very shortly after it had occurred. Document **39250 – 39253** dated 20 May 1997 was prepared by me and was undertaken in order to brief the Secretary of State prior to her meeting the Hamill family on 21 May 1997. I would have relied on information from the Police Complaints and Discipline Dept. and the ICPC when completing the briefing note.
7. I have been asked about the annexed ‘lines to take’ [page **39253**]. These were intended to brief the Secretary of State on issues which she could have been asked about by the family or the media. The latter would frequently ‘doorstep’ a politician on a variety of matters. They could also have been used if there was publicity following the meeting between the family and the SoS.
8. Document **39256** is a note made by me on 11 June 1997 and was intended as a briefing document following a request from the Irish side of the Anglo Irish Secretariat. There would be frequent requests of this type where a press report or questions asked by a family would be routed to us from the Irish side of the Secretariat. I (or my staff on my behalf) would regularly write to the ICPC and the police for information to enable me to answer such enquiries. Both organisations would have an interest from different perspectives and we would ask both for such information as they could give us. Experience showed us that they did not generally give us huge amounts of information, but nonetheless, they would give enough for us to have an understanding that the proper procedures were being followed, bearing in mind that the Government ultimately has stewardship of the overall structure or system. It would appear from this file note that I was aware of ICPC supervision of the case and I was seeking assistance from the Irish side in encouraging witnesses to come forward for interview.

9. The final two paragraphs demonstrate that, where needed, the government role was to facilitate the exchange of information but it would not have been appropriate to disclose operational and prosecutorial information – even if it had such information which most often it did not. Obviously, of course, one would want to be as forthcoming as possible with the family, as opposed to a third party.

10. Document **39267** is a file note prepared by me on 6 November 1997 again to answer a question raised by the Irish side. On this occasion it was regarding the dropping of charges against three of the men charged with Robert Hamill's death. I did speak to someone at the Director of Public Prosecutions' office to confirm that charges had been dropped against three men. It would be rare to contact the DPP who would rightly guard against contact from government. Any contact with the DPP was always done sensitively by me because of the separation of powers so as not to be seen to interfere with any decision. I would simply want factual information. I did not pursue with the DPP the reasons for dropping the charges, which would not have been appropriate for me to ask, but was able to report that the DPP were still considering the evidence against the three remaining persons charged.

11. Document **39273 – 39277** is a briefing note prepared by me on 21 November 1997 for the Secretary of State prior to a further meeting with the Hamill family on 24 November 1997. I think that she had previously met the family on 21 May and on 11 June 1997.

12. After completing the briefing paper a letter was received from Diane Hamill dated 21 November setting out questions which the family wished to raise with the Secretary of State and as a result I hastily prepared possible responses for the Secretary of State [pages

39279 – 39280]. I have been asked about paragraph 5 of the paper under the heading ‘links between officers and defendants’. I provide a suggested response to this for the SoS to use if it is raised. I suggest that she point out that specific allegations are required but that she should offer, with the family’s agreement, to pass the information to the Supervising Member for the ICPC Mr. Kevin Murnaghan. I have no memory of actually contacting Mr. Murnaghan (or more probably the staff in the ICPC) and it is more likely that I did not. As mentioned, however, the line for the SoS said that any contact would take place with the families’ agreement and I have no recollection of such agreement having been forthcoming (it is not in the minutes) or any document to support that I did make contact. There had been situations over the years where complainants would write to the Secretary of State but would not want any of the information they provided passed on hence I suggested that the Secretary of State should seek specific approval.. .In addition the matter was, of course drawn to the attention off the Chie Constable.

13. Document **39281 – 39283** is a record made by the Private Secretary to the Secretary of State of the meeting held with the Hamill family on 24 November 1997, at which I was present with John Steele to support the Secretary of State. The note was addressed to me and the final paragraph asked that I follow up matters upon which the Secretary of State had undertaken to advise the family. There are handwritten notes on the document [page **39282**] which I recognise as my writing and which I would have inserted from my knowledge of the case.

14. With regard to the handwritten note ‘*yet they have been told there was no video evidence*’. There was an evident belief from the Hamill family that there was video evidence of the Land Rover at the scene. I believe that I was noting that we had been

informed that there was no video evidence. This matter is also dealt with in paragraph 7 of the Chief Constable's letter of 23 December [15375].

15. As a result of the meeting with the Hamill family on 24 November 1997, I prepared a note [page 39285 – 39286] and draft letters for the consideration of the Secretary of State. I made it clear in my note that both the Attorney General and the Chief Constable would be uneasy about any detailed response before the criminal investigation process had been completed. The investigation and prosecution of offences is not for the Secretary of State, and I was trying to reinforce that, although we could ask for factual information to inform the family, which is what Dr. Mowlam was seeking to do. Indeed she was sympathetic to the family throughout. I anticipated that the Chief Constable would want very little information released, a position confirmed by subsequent exchanges eg the penultimate paragraph of his letter of 23 December, [15375]. Also the Attorney General indicated that he wanted to reply himself to the family. On page 39286 I make the point that the draft to the Chief Constable asks for a 'report' which chimes with the language of section 15(2) of the Police (NI) Act 1970. This section empowers the Secretary of State to request the Chief Constable to report on any matter the Secretary of State wished to receive a report on. While I drew this power to the attention of Dr. Mowlam the letter which was actually sent to the Chief Constable did not specifically refer to the legislation.

16. I believe that the letter as sent to the Chief Constable was a more appropriate approach than making the request overtly under section 15(2) of the Police (Northern Ireland) Act 1987. As the person who put up the advice (upon which Mr Steele commented) I wanted to bring to the Secretary of State's attention the legal possibilities open to her to seek a report. In the event it was considered that the appropriate seriousness of the matter

and the need for a report was conveyed without reference to the legislation but nonetheless it was felt that the Chief Constable would be aware of the significance of a report being sought.. If there was a difficulty getting information, then I think we may have gone back and said, "No, we're looking for a report", but that was not necessary, because a detailed response came in. It reflected the fact that Mo Mowlam wished the family to have more information.

17. I cannot think of any occasion when I was working within the Police Division of the NIO when a 'report' was requested of the Chief Constable using the power available to the Secretary of State under section 15(2).

18. I believe that the reply from the Chief Constable of 23 December [15375] was fulsome and covered the issues raised by the Hamill family with the Secretary of State.

19. Document **39324** is a progress note dated 22 December 1997 advising the Secretary of State of the various requests made of the Chief Constable and the Attorney General. The Chief Constable's office had advised me that a reply would be received the following day. The Attorney General had prepared a draft for Dr. Mowlam's information of his intended reply to the Hamill family, thereby retaining his independence from the Northern Ireland Office.

20. Document **15375 – 15377** is a letter signed by Sir Ronnie Flanagan dated 23 December 1997 and although the header is not available on the document I am sure it was addressed to the Secretary of State. I later prepared a draft for the Secretary of State to the Hamill family using the information contained within the Chief Constable's letter.

21. I have been asked about paragraph 5 [page 15376] '*relationship between some officers and some of the defendants*'. This follows from Ms Hamill's reference in her letter of 21 November to press cuttings concerning links between some officers and the defendants and the SoS's request for information on these. The Chief Constable states that the "allegation has been included in the criminal investigation and will be considered by the Director of Public Prosecutions". I had assumed that the ICPC would be supervising this. The Inquiry, however, tell me that that was not the case. I was also told that the specific allegation made against a Reserve Constable was of assisting an offender at that time. I do not recall that at that time.

22. The Northern Ireland Office's role was to ensure that the complaints system was being followed, to ensure the integrity of the system so that public confidence in it was not damaged unnecessarily. The Government had appointed an Independent Commission for Police Complaints to supervise complaints against the police and gave it powers and reviewed its recommendations for additional powers, so that it could fulfil its role. It was not then for Government to intervene in the detail of those investigations.

23. I was not aware that the ICPC had not been supervising that allegation and to my knowledge the Secretary of State was probably also unaware. It is difficult to know now what I would have done 11 years hence, but I think I would have drawn the matter to the Secretary of State's attention, especially in light of the very serious nature of the accusation, and I think I would have set out for her the options for addressing the matter. I would need to know, looking back now, more about the detail about why the Chief

Constable or the investigating team did not pass it to the ICPC and whether there was any good reason for that?

24. The Secretary of State had the power under Article 8(2) of the Police (NI) Act 1987 to refer to the ICPC a serious allegation made against a police officer. I cannot recall an occasion when the Secretary of State used the power but I do recall at least one occasion when she looked at the possibility of using the power in another situation not related to this case. Usually the Chief Constable would have used his own powers of referral under Article 8 (1) and another option would have been for the Secretary of State to have asked the Chief Constable to have referred the matter himself. The SoS also was keeping under review the possibility of a public inquiry into the case.

25. I cannot say when I became aware of the specific allegation against the Reserve Constable but it appears not to have come to light in the Northern Ireland Office until 2000. I had moved from the police complaints section of the Police division towards the end of 1999 to work on the implementation of the Patten Commission report. I think that I would have been advised at the same time as colleagues.

26. I have been asked by the Inquiry whether the Chief Constable had a duty to advise the Secretary of State of the nature of the allegation made against the Reserve Constable in 1997. I do not think there was duty on him to do so. His duty was obviously to operate within the law which required criminal investigations and also under the Police (NI) Order 1987 which required him to refer complaints to the ICPC.

27. If the Chief Constable was aware of the allegation about the Reserve Constable at this time then I think one could reasonably have expected him to inform the SoS, regardless of the correspondence.

Signed Simon Rogers

Dated 21 September 2009