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Title: MINUTES BY N490 ^K [REDACTED] MEETING PONI & DPP

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Meeting with the Police Ombudsman and Mr Kitson of the DPP's Office
at Centre House, Belfast on Wednesday 28 February 2001

Present: Detective Chief Superintendent Stewart (Police)

Detective Chief Inspector ^K [REDACTED] (Police)

Mr Raymond Kitson (DPP)

Mr Chris Mehaffey (PONI)

Mr [REDACTED] (PONI)

11 am - Meeting opened

DCS Stewart opened the meeting by outlining his reasons for calling
the meeting at this time;

- (1) in considering that investigations were now at an advanced stage
with the majority of investigative actions now finalised, to
assess the evidential merits of the evidence currently available
at this stage of the investigation;
- (2) to assess the evidence of Tracy Clarke (statement made to Police
on 10 5 97) and to consider:
 - (a) whether that evidence can be relied upon by the prosecution
and;
 - (b) how that evidence can be utilised by the prosecution.

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(3) within the context of the overall evidence currently available, to assess the evidence of Andrea McKee (statements to Police dated 20 6 00 and 251000) which, in these circumstances represented evidence from an accomplice, for the purpose of determining:

- (a) the extent to which her evidence is an important and necessary part of the evidence which will help to secure a reasonable prospect of conviction against Robert Atkinson and the other conspirators;
- (b) how her evidence can be relied upon and utilised by the prosecution in these circumstances.

DCS Stewart pointed out that this evidential assessment will assist him to consider the strength of the case against each of the suspects at this time and to make further decisions as to what way the investigation should now proceed from this point in order that a sustainable case can be presented in any subsequent court proceedings.

Mr Kitson pointed out that, at this stage, this case was still in the hands of the Police and he would therefore not be in a position to give any definitive directions in this case until the investigative file had been formally submitted to the DPP. He also pointed out that operational decisions were a matter for the Police at this stage of the investigation. Mr Kitson said that he would, where possible, provide guidance on any legal issues arising from the evidence which is presented in this case. The discussion proceeded on this basis.

To assist Mr Kitson's understanding and appreciation of the facts of this case as they currently stand and the issues emerging from it, there was a detailed discussion on the circumstances leading to the

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investigation of the original allegation. These discussions included:

- (a) details of the original allegation that Robert Atkinson had telephoned the Hanvey's home on 27 4 97 for the purpose of telling Alistair Hanvey to burn his clothes (and by inference, destroying forensic evidence that may connect him to the murder of Robert Hamill)
- (b) details of the original investigation that was conducted into the allegation in 1997 and the after caution interviews of Robert Atkinson which were conducted in 1997
- (c) details of the alibi statements which were later given to support Robert Atkinson's account and provide a legitimate reason for the phone call in question
- (d) details of the admission by Andrea McKee on 20 6 00 that the alibi statement that she had given to Police on 29 10 97 was false.

There followed a lengthy and detailed discussion on the evidence gathered to date. An Appraisal of Evidence, which had been prepared prior to the meeting, was used as a source of reference to assist in the discussions. Andrea McKee's involvement and assistance to the Police in the presentation of Tracy Clarke as a witness to the murder during the initial stages of the murder investigation was discussed.

The evidence of Tracy Clarke and the later retraction of her evidence was discussed. It was acknowledged that at no time did Clarke indicate that her statement, or any part of it, was inaccurate or untruthful. In proving the taking of the statement, it was agreed that it was possible to present that statement in evidence and, if necessary, summon her as a witness to give evidence about the

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statement.

From the information currently available, it was agreed that there are two conspiracies existing within this set of circumstances. Mr Kitson was informed that it was our view that the first conspiracy between Robert Atkinson and Alistair Hanvey (advising Hanvey to burn his clothes), which possibly involved Hanvey's parents in passing the message, would have resulted in frustrating police investigations during the initial stages of the murder investigation. Mr Kitson was also informed that it was our view that the second conspiracy involving the Atkinson's and McKee's, which resulted in them telling lies about the phone call, frustrated police investigations into the allegation that Robert Atkinson had tipped off Alistair Hanvey after the murder of Robert Hamill.

We discussed the contention that both of the conspiracies were inextricably linked and inseparable in a sense that the second conspiracy occurred as a direct consequence of the first conspiracy. It was pointed out that it was our view that the second conspiracy (the false alibi) would not have occurred if the first set of circumstances (the phone call which was made to tip off Hanvey) had itself not occurred. The fact that the prosecution did not have to prove the burning of the clothes but that the action by Atkinson (making the phone call) had a tendency to pervert the course of justice was discussed.

In considering the nature of the evidence currently available, the fact that the evidence of Andrea McKee (who is an accomplice at the meeting in Robert Atkinson's house to discuss the false alibi) was

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evidentially relevant in linking both conspiracies and providing the evidence of intent regarding the phone call, was discussed. Placing her evidence aside and dealing with the evidence discussed today, Mr Kitson was of the view that the case was a circumstantial one but was not in a position to give any further informed opinion as to the likelihood of conviction. In considering her evidence with the other evidence discussed today, Mr Kitson was of the view that there was a reasonable prospect of conviction.

In considering the nature of Andrea McKee's evidence and the likelihood that this would be attacked by the Defence case, there was a discussion on the legal implications of presenting Andrea McKee as a prosecution witness. In order to strengthen the credibility of her evidence before a court, it was agreed that Andrea McKee should be dealt with for her part in the conspiracy. Prosecution and Immunity options were discussed. Mr Kitson pointed out any decisions about Andrea McKee's status and how she should be treated were a matter for the Police at this stage.

DCS Stewart stated that he would be examine further the legal implications around the evidence of Andrea McKee and he would also have to consider the circumstances in which Andrea McKee made her statement to DCS McBurney on 20 6 00. Having examined and considered these issues, DCS Stewart said that he would then make decisions about how Andrea McKee should be dealt with. DCS Stewart said that he would be considering the issue of interviewing Andrea McKee after caution.

In considering (a) the timing and structure of the interviews of the other suspects and, (b) Andrea McKee's willingness to give evidence

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against the other conspirators, DCS Stewart stated that he would be intending to refer to the witness statement of Andrea McKee in the interviews. The impact of her evidence and the usefulness of it in the subsequent interviews were discussed. In acknowledging that we were now in a position to interview these suspects, there was a discussion on how quickly Andrea McKee could be legally processed for her part in the conspiracy in the circumstances in which she would give evidence for the prosecution against the others. DCS Stewart pointed out that he did not want to delay these interviews unnecessarily or for too long should a course of action be taken in which Andrea McKee's evidence could be used. DCS Stewart pointed out that he did not know if she would give evidence against the other conspirators. DCS Stewart also pointed out that there was no complete guarantee that she would give evidence at a later court but at this stage she had admitted her part and provided police with her account of what had gone on within the conspiracy.

1 15 pm - Meeting ended.

K

Detective Chief Inspector

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