

## Police Ombudsman - Misconduct Investigation

### Officers Concerned

Detective Chief Superintendent Maynard McBurney (retired)

Detective Inspector Michael Irwin.

Detective Constable Edward Honeyford.

Detective Constable John McAteer (retired)

### 1.0 Introduction

- 1.1 The background to this misconduct investigation emanates from the RUC investigation into the murder of Robert Hamill, who following an attack in Portadown Town Centre on 27<sup>th</sup> April 1997, died of his injuries on the 8<sup>th</sup> May 1997.
- 1.2 At that time Detective Chief Superintendent Maynard McBurney, was the Head of CID for South Region and took over the role of Senior Investigating Officer, following Robert Hamill's death.
- 1.3 The murder of Robert Hamill continues to attract widespread publicity and media interest. Criticism has been levelled at both the initial police response to the attack and subsequent failings in the follow-up investigation. It is now one of six cases being considered by Judge Cory.
- 1.4 On 6<sup>th</sup> May 1997, two days before Robert Hamill died of his injuries, Mrs. [REDACTED] (deceased), Solicitor acting on behalf of the Hamill family, lodged an official complaint with the Royal Ulster Constabulary. The basis of the complaint was that a police landrover patrol "**witnessed the assault and did not intervene as promptly as possible**" The resulting RUC investigation into the complaint was supervised by the Independent Commission for Police Complaints (ICPC). It is confirmed that Mr. [REDACTED] (deceased) was the appointed Supervising Member.

1.5 Immediately following Robert Hamill's death, it came to light that one of the landrover crew, namely Reserve Constable Robert Atkinson, recognised one of the suspects during the disturbance and warned him of the police investigation by way of a telephone call the following morning. It is alleged that, in this call, the police officer warned the attacker to destroy his clothing, thereby hindering any subsequent police investigation.

1.6 The ICPC's supervisory role was limited to the public complaint against the landrover crew. Their remit did not include the alleged telephone call made by Reserve Constable Atkinson.

1.7 From our own enquiries it is clear that Detective Chief Superintendent McBurney retained overall control and responsibility of the following linked investigations:

- Murder of Robert Hamill.
- Complaint made against the landrover crew.
- The allegation made against Reserve Constable Atkinson.

He was, for a short time, assisted by the locally based Detective Chief Inspector, P39 (retired) who is recorded as being Deputy to the SIO.

## **2.0 Background**

2.1 Apart from making general reference to each, this report will not deal in detail with the police murder investigation, or the investigation into the complaint made by the family of Robert Hamill. Both are extremely well documented, contained within considerable correspondence generated by police investigators, the ICPC and Director of Public Prosecutions (DPP).

2.2 Suffice to say that upon taking up office in November 2000, the Police Ombudsman effectively took over the supervisory role, previously maintained by the former ICPC.

2.3 An immediate evaluation as to the status of each element of the police investigation was carried out, this indicated the following:

- That the police investigation into the murder of Robert Hamill was somewhat stagnant. Under the on-going direction of Detective Chief Superintendent McBurney, his recently appointed deputy, Detective Chief Inspector K [redacted] was undertaking a review of all available evidence.
- The investigation into the allegations made against the landrover crew was effectively complete. The trial of Marc Hobson and others had concluded with a single conviction for causing an affray.
- During the trial, no new incriminating evidence came to light and the DPP subsequently directed no criminal prosecution against members of the landrover crew.
- The investigation into the telephone call allegedly made by Reserve Constable Atkinson, was being actively progressed by DCI K [redacted] and his team.
- A search and arrest strategy was being developed. This followed new evidence from a witness who had recently retracted her original alibi evidence, previously supplied in support of an account given by Reserve Constable Atkinson.

### 3.0 Complaint Origin – DCI K [redacted]

3.1 On 12<sup>th</sup> December 2000, during a case review between DCI K [redacted] and myself, concerns were raised as to how two particular witnesses, Timothy Jameson and Andrea McKee, had been handled by the then SIO, DCS McBurney and his former Office Manager, DI Michael Irwin.

3.2 In relation to Timothy Jameson; Information had recently come to light from a serving police officer, Constable G [redacted] that he and his colleague had passed information to the original murder investigation team in 1997, concerning admissions made to them

about the assault upon Robert Hamill, by a youth named Timothy Jameson. He expressed concern that nothing appeared to have happened since.

3.3 Far from being treated as a suspect, it was known that Timothy Jameson, having initially completed a negative questionnaire as to what he had seen on the night of the attack (i.e. saying that he had seen nothing), went on to provide crucial witness evidence, naming several persons who had been directly involved in the attack upon Robert Hamill. Indeed it was upon his evidence and that of a second independent witness, which led directly to the arrest and charge of Marc Hobson and others with the offence of murder.

3.4 **In relation to Andrea McKee:** It was apparent that both DCS McBurney and DI Irwin were fully aware at a very early stage during the original murder investigation, of the alleged telephone call made by Reserve Constable Atkinson. Indeed DI Irwin had been informed of this during a late night meeting with a potential witness named Andrea McKee, which took place on the same day that Robert Hamill had died (08/05/03)

3.5 It was therefore somewhat surprising to find that six months later, DI Irwin had personally recorded an alibi statement from Andrea McKee, who now stated her husband Michael had made the telephone call from the home address of Reserve Constable Atkinson.

3.6 Furthermore it seems that acting under the direction of the SIO, DI Irwin had also recorded alibi statements from Michael McKee and Eleanor Atkinson (accused officer's wife)

3.7 Having reviewed the material, the Police Ombudsman's Investigator directed that DCI <sup>K</sup> [REDACTED] take no further action, until such time as he had had the opportunity to assess the concerns that were being raised.

3.8 On 13<sup>th</sup> December 2000, a meeting took place between PONI, Director of Investigations, David Wood and the then RUC Chief

Constable Sir Ronnie Flanagan, when Mr Wood raised the concerns regarding the way the investigation had been handled and it was agreed that Detective Chief Superintendent McBurney would be replaced. It was not necessary to take any immediate action against DI Irwin, as by that time he was no longer a member of the murder investigation team. It was also agreed that under Section 55(6) Police (Northern Ireland) Act 1988, the Police Ombudsman would exercise her "call-in" powers and investigate the claims made by <sup>K</sup> [REDACTED] in relation to the witnesses Andrea McKee and Timothy Jameson.

#### **4.0 Police Ombudsman Investigation**

##### **General Issues**

- 4.1 On 20<sup>th</sup> December 2000, DCS McBurney and DI Irwin were each served with Form OMB3A. This detailed the allegation that they individually failed to properly investigate, or appropriately deal with the apparent criminality of Timothy Jameson and Andrea McKee. Also as the appointed SIO, DCS McBurney failed to properly supervise the police investigation.
- 4.2 On 20<sup>th</sup> June 2001, Detective Constable John McAteer was served with Form OMB3A, his role will become apparent later in this report. This was in connection with the fact that he was present with DI Irwin when they first met with Andrea McKee, late in the evening on 8<sup>th</sup> May 1997.
- 4.3 On 20<sup>th</sup> June 2001, Detective Constable Edward Honeyford was served with Form OMB3A, his role will be expanded upon later in this report. It was this officer who formally recorded a witness statement from the above-mentioned Timothy Jameson.
- 4.4 It should be noted that there is no known link between Timothy Jameson and Andrea McKee.

#### **5.0 Police involvement with Andrea McKee**

- 5.1 At the time of Robert Hamill's murder, Andrea and Michael McKee

ran a small family business, teaching the martial art of Tae Kwon Do. They operated from premises situated in a business park in Craigavon. As well as martial arts instruction, there was a health and fitness suite where members could train.

5.2 Coincidentally, the premises occupied by the McKee's were rented from the father of the above-mentioned Timothy Jameson, who is a well-known property developer in the Craigavon area.

5.3 It should be noted that at that time Reserve Constable Atkinson was also an active member of the Tae Kwon Do Club and held the position of treasurer, hence the relationship between the McKee's and the Atkinson's, the relevance of which will become apparent later in this report.

5.4 Michael McKee's niece Tracy Clarke was a member and regular attendee at the Tae Kwon Do Club. It transpires that she was in the Town Centre and witnessed the attack upon Robert Hamill. On the day he died (which was eight days after the assault), a conversation between Tracey Clarke and other third parties was overheard by an off-duty police officer, training in the gym at the time.

5.5 The police officer, Constable David McCaw (retired), realising the significance of what was being said, confirmed the witness's identity with Andrea McKee, before setting off to Portadown Police Station to inform the murder investigating team.

5.6 Both <sup>K</sup> [redacted] and Police Ombudsman Investigators have interviewed former Constable McCaw. He retired from the police service having suffered a serious nervous breakdown. This has considerably impaired his recollection of events.

5.7 He does however recall a conversation with Andrea McKee and believes that the general gist was related to the alleged telephone call made by Reserve Constable Atkinson. Understanding the seriousness of what was being said, Constable McCaw's recollection is that he went directly to Portadown Police Station,

where he imparted this information to either or both, DI Irwin and DC McAteer.

- 5.8 There follows a sequence of events which culminated with Constable McCaw collecting Andrea McKee and taking her to a late night meeting with DI Irwin and DC McAteer, near-to the town of Kernan, situated on the outskirts of Portadown.
- 5.9 Both DI Irwin and Andrea McKee corroborate much of the account given by Constable McCaw. As well as the information in relation to Reserve Constable Atkinson, it is clear that there was conversation concerning vital evidence Tracy Clarke might be able to provide, specifically in relation to the attack upon Robert Hamill.
- 5.10 Apart from the information provided about both the police officer and Robert Hamill's attackers, DI Irwin also sought to secure the assistance of Andrea McKee, in an effort to encourage her husband's niece to come forward and provide a statement to the murder investigating team.
- 5.11 The efforts of both DI Irwin and Andrea McKee were productive. It is known that Tracy Clarke provided a witness statement the following evening, when she attended Portadown Police Station accompanied by Andrea McKee.
- 5.12 Within the statement made by Tracy Clarke, she includes the information in relation to Reserve Constable Atkinson, this having apparently been told to her by the recipient of the telephone call Allister Hanvey. The statement was taken in the presence and hearing of Andrea McKee, who apparently made no comment at the time over what was being alleged.
- 5.13 Enquiries made by the Police Ombudsman's Investigator have established that on the 9<sup>th</sup> May 1997, during the morning immediately following the meeting between DI Irwin and Andrea McKee, DCI P39 instructed urgent subscriber checks/billing enquiries be carried out in relation to the telephone numbers of both Reserve Constable Atkinson and Allister Hanvey.

- 5.14 There is no written record of the meeting between DI Irwin and Andrea McKee, nor is there any documentary account as to what was said during the same (this issue will be dealt with later in this report). However, in light of the statement made by Tracy Clark, coupled with the almost immediate follow up action taken by DCI P39 in requesting telephone billing, it would be inconceivable to believe that both DI Irwin and Andrea McKee did not know precisely what was being alleged against Reserve Constable Atkinson at a very early stage of the investigation.
- 5.15 On 9<sup>th</sup> September 1997, when interviewed under caution by DCS McBurney and DI Irwin, Reserve Constable Atkinson said he had no knowledge of the telephone call made from his address on 27<sup>th</sup> April 1997. It was not until 9<sup>th</sup> October 1997, when DCS McBurney and DI Irwin further interviewed the officer, did Reserve Constable Atkinson mention the involvement of the McKee's.
- 5.16 Immediately following the second interview, both Michael McKee and Eleanor Atkinson presented themselves at Portadown Police Station, where DI Irwin recorded alibi statements.
- 5.17 Effectively the McKee's and Eleanor Atkinson, were jointly attributing the telephone call to Michael McKee. He now stated that he and his wife had stayed overnight at the Atkinsons and following the disturbance the previous night, he had telephoned Alister Hanvey to check on the well being of his niece Tracy Clarke.
- 5.18 On 29<sup>th</sup> October 1997, DI Irwin attended the office of Reserve Constable Atkinson's solicitor, Sean Hagan & Co, where, in the presence of Sean Hagan, the officer recorded the final alibi statement from Andrea McKee.
- 5.19 On 25<sup>th</sup> November 1997, DI Irwin attended the Hanvey's home address. There he spoke to Allister Hanvey's father Kenneth. The ensuing conversation centred upon the telephone call made to the Hanvey's home address. Kenneth Hanvey acknowledged that he had received a telephone call, stating it was from Michael McKee

enquiring as to the whereabouts of his niece Tracy Clarke. Kenneth Hanvey declined to make a formal written statement.

5.20 In December 1997, a Crime File dealing with the allegations made against Reserve Constable Atkinson was submitted to the Director of Public Prosecutions. The subsequent direction was that in the absence of any evidence to substantiate the allegation made by Tracy Clark, other than the phone billing, there was insufficient evidence to support a criminal prosecution.

5.21 The next significant police activity was some 16 months later, during April 1999, when it became known to the SIO that the McKee's had separated. Michael McKee had in fact moved with his new partner to Southern Ireland, whilst Andrea McKee had returned to live in North Wales.

5.22 It was the apparent view of DCS McBurney that the separation of the McKee's presented a window of opportunity. This is expanded upon during the subsequent interview with DCS McBurney and is dealt with later in this report.

5.23 In June 2000, following his return from Southern Ireland, DCS McBurney and DI Irwin met and discussed with Michael McKee the content of his original alibi statement. Michael McKee told the officers that he had nothing further to add and did not wish to change his initial account.

5.24 It is worth noting that during the same period of time, the Hamill family, through their solicitor [REDACTED] made representations at the very highest level of government, including the Prime Minister, President [REDACTED] the Taoiseach and HM Coroner, pressing for a full Public Enquiry into the circumstances surrounding the death of Robert Hamill.

5.25 It is the view of [REDACTED] that the sudden flurry of activity, generated by DCS McBurney in his efforts to re-interview the McKee's, were simply to allow the Chief Constable to say to the British and Irish governments, that there was an ongoing

investigation and that any public enquiry would jeopardise their investigation. [REDACTED] closing comments in correspondence to this office are: ***"Prior to raising this matter at the highest political level, there was simply no ongoing police investigation and the file was more or less closed"***

5.26 On 20<sup>th</sup> June 2000, DCS McBurney and DI Irwin travelled to North Wales where they met with Andrea McKee, during which she admitted that the alibi evidence she had given on behalf of Reserve Constable Atkinson was false.

5.27 Andrea McKee, although admitting her part in a conspiracy to pervert the course of public justice, was asked by the SIO to provide a witness statement retracting her original alibi evidence. This she went on to do.

5.28 In light of this significant development, the SIO commenced what was effectively a new investigation, primarily seeking to corroborate the latest account given by Andrea McKee.

5.29 Whilst DCS McBurney continued in his role as SIO, the final involvement of DI Irwin in his dealings with Andrea McKee was on 20<sup>th</sup> October 2000. DI Irwin travelled with [REDACTED] to North Wales to affect an introduction of the newly appointed IO to Andrea McKee. On that date a further more detailed statement was taken from the witness.

## **6.0 Interview DI Michael Irwin (re Andrea McKee)**

6.1 Following service of Form OMB3A on 20<sup>th</sup> December 2000 (para 4.1 refers) DI Irwin attended New Cathedral Buildings on two separate occasions for interview. The first interview was conducted on 2<sup>nd</sup> March 2001, but it was during the second interview on 13<sup>th</sup> March 2001, that specific questions were asked in relation to the handling of Andrea McKee.

6.2 From the outset DI Irwin was insistent that the OMB3A served identifies him as the Investigating Officer, when in fact he was the

Office Manager, working under the direct supervision of both DCS McBurney and Mr. [REDACTED] (ICPC). He therefore claims that he had no direct responsibility for the conduct of enquiries made in relation to either Timothy Jameson or Andrea McKee.

- 6.3 When considering the opening representation made by DI Irwin, it is accepted that this may have been very much the case “on paper”. However when you examine the actual role performed by this officer, the perception is quite different. DI Irwin is an officer of Inspector rank, whose managerial and supervisory style appears to be very much a “hands-on” type of approach.
- 6.4 Furthermore DI Irwin is the one officer upon whom DCS McBurney relied heavily throughout the investigation. This is reflected in the high number of joint tasks they undertook. He appears to have been involved in most significant developments. His role could hardly be classed as ‘office based’.
- 6.5 DI Irwin describes receipt of the information provided by Constable McCaw (paras 5.4-5.5 refers), which he had overheard at the Tae Kwon Do Club and the subsequent direction given by the SIO to meet with Andrea McKee.
- 6.6 DI Irwin went on to describe the late night meeting at Kernan and what was discussed between him and Andrea McKee. This included the potential impact of Tracy Clarke’s evidence in relation to the attack upon Robert Hamill and the information as to the alleged actions of Reserve Constable Atkinson. DI Irwin also details the lengths he went to in providing reassurance, as to both Andrea McKee and Tracy Clarke’s safety, should Tracy agree to assist the police.
- 6.7 It must be said that the initial actions of DI Irwin did secure the confidence of both Andrea McKee and Tracy Clarke, which ultimately led to a statement being obtained from her the following evening.
- 6.8 Upon de-briefing the SIO and highlighting the concerns voiced by

Andrea McKee, DI Irwin stated that DCS McBurney gave a specific instruction for no notes of the meeting to be made and there should be no reference to the meeting placed on the HOLMES system. The reason being, was his belief that this was necessary to prevent any information getting back to the accused officer, also to afford some level of protection to Andrea McKee and Tracy Clarke within their own communities. This was an extraordinary decision as they are methods of recording sensitive information during the course of major crime investigations.

- 6.9 DI Irwin confirmed that although not directly involved, he was aware that Andrea McKee had accompanied Tracy Clarke to Portadown Police Station, and that she had subsequently made a written statement, which included the information relating to Reserve Constable Atkinson.
- 6.10 When asked specifically about his next contact with Andrea McKee (29<sup>th</sup> October 1997, Sean Hagan Solicitors), DI Irwin describes this meeting as his ***"big bone of contention"***. It seems that concerns had already been raised by the Hamill family, as to officers from the same police station investigating their fellow colleagues. DI Irwin assured Dianne Hamill (Robert Hamill's sister) that he was not a part of the investigation into the actions of the landrover patrol, nor of the enquiry into Reserve Constable Atkinson.
- 6.11 DI Irwin felt that because of his links with Portadown Police Station, he should distance himself from the parallel misconduct investigation, concentrating solely on the investigation into the murder of Robert Hamill. He stated that during the misconduct interviews, which had been conducted by DCS McBurney and [REDACTED] (ICPC), ***"I strongly voiced my opinion on my involvement, however I was given lawful orders so I conducted those lawful orders"***. DI Irwin was thus present when the misconduct interviews took place.
- 6.12 An examination of ICPC files gives some support to his account and is reflected in correspondence between the ICPC and the

British Irish Watch. It is clear that the ICPC had been somewhat challenging over the role of local police officers and had made some attempt to address the concerns raised.

- 6.13 Despite voicing his concerns, on many occasions, DI Irwin went on to assist DCS McBurney. On 9<sup>th</sup> October 1997, they conducted a final interview with Reserve Constable Atkinson. Later that same day, DI Irwin recorded alibi statements from Eleanor Atkinson and Michael Mckee. The need to obtain an alibi statement from Andrea McKee was discussed with the attending solicitor Sean Hagan, but no firm arrangement was made.
- 6.14 On returning to duty from a short period of annual leave, DI Irwin became aware of the appointment at Sean Hagan's office, set for 29<sup>th</sup> October 1997, during which the final alibi statement from Andrea McKee was to be taken.
- 6.15 Fully expecting DCS McBurney would be attending, DI Irwin was somewhat surprised when he discovered this was not to be. The officer describes feeling isolated and asked DCS McBurney for some guidance on how he could, or indeed should proceed.
- 6.16 DI Irwin went on to explain what he perceived as the investigative strategy, being formulated by DCS McBurney. I do not propose to deal specifically with the strategy at this stage, however in the following paragraphs certain aspects of it will become apparent in the responses made by DI Irwin.
- 6.17 DI Irwin states that he quite specifically asked DCS McBurney how he should conduct the statement taking, in light of the fact that both he and Andrea McKee were aware as to how the initial information in relation to Reserve Constable Atkinson, was passed and received by the murder investigating team.
- 6.18 It is claimed that DCS McBurney's instruction was that DI Irwin should not put to Andrea McKee;
- The fact that she had passed over the initial information

regarding Reserve Constable Atkinson,

- or the fact that Andrea McKee had attended Portadown Police Station with Tracy Clarke, when the allegation against Reserve Constable Atkinson had been repeated in front of her.

6.19 However DCS McBurney further instructed that if Andrea McKee voluntarily raised the issue regarding the initial information regarding Reserve Constable Atkinson, then DI Irwin was to ***“pursue those avenues”***

6.20 Despite the direction given by his supervising officer, DI Irwin claimed that he was determined, during the process, to make things as uncomfortable as he could for Andrea McKee. He describes repeatedly emphasising to the witness the need for her to tell the truth. DI Irwin drew Andrea McKee's attention to the statement declaration and warned her that if she did not tell the truth, she would eventually be caught out. Nevertheless Andrea McKee went on to support the alibi evidence given by her husband and Eleanor Atkinson.

6.21 DI Irwin highlighted the fact that DCS McBurney also considered the danger of him putting the issues directly to Andrea McKee, particularly any reference to the late night meeting at Kernan. The whole proceedings were being conducted in front of Reserve Constable Atkinson's own solicitor and any such revelation would have exposed Andrea McKee, possibly putting her own life in jeopardy.

6.22 There is no written record from either DCS McBurney, or DI Irwin of the instruction/ guidance given; according to DI Irwin this was a verbal instruction only. Indeed the officer accepted that whilst he can't account for DCS McBurney's record keeping, the fact he did not was perhaps his ***“Downfall”***.

6.23 DI Irwin explained that following the trial of Marc Hobson, also the decision by HM Coroner not to hold an inquest, DCS McBurney's

anticipated "window of opportunity", to exploit and expose the alibi evidence supporting Reserve Constable Atkinson, had been somewhat thwarted. Therefore when it became known that the McKees had separated, this was seen as a significant investigative development.

6.24 In relation to the visit on 20<sup>th</sup> June 2000, by DCS McBurney and DI Irwin, to Andrea McKee, who was by then living with her new partner in North Wales. DI Irwin agrees that it was very much a cold call, Andrea McKee was co-operative and that by finally admitting that the alibi evidence had been fabricated, she saw this as a means of bringing to a close the whole sorry episode.

6.25 It was DCS McBurney's decision to deal with Andrea McKee as a witness and not conduct the interview with her under caution. The SIO fully explained the position to Andrea McKee, advising her that others may direct that she be formally interviewed under caution about her alibi evidence.

6.26 DI Irwin denied that Andrea McKee was given any assurances or promises of assistance should she agree to become a prosecution witness. Again apart from notebook and journal entries, DI Irwin is not aware of any official written record being made to record the decision making process, as to how Andrea McKee was to be approached.

6.27 Finally DI Irwin was questioned over his role on 25<sup>th</sup> October 2000, when DCI K [redacted] again interviewed Andrea McKee as a witness. He describes being present solely to effect an introduction only and played no other part in the process.

## **7.0 Interview DCS Maynard McBurney (re Andrea McKee)**

7.1 In early February 2001, Detective Chief Superintendent Maynard McBurney retired from the RUC.

7.2 His attendance at interview on 27<sup>th</sup> March 2001, was therefore entirely voluntary. Albeit the interview was tape-recorded, the

proceedings were not conducted under PACE conditions. Also in attendance was [REDACTED] his solicitor.

- 7.3 DCS McBurney explained that between the date of the assault, up until Robert Hamill's death on 8<sup>th</sup> May 1997, P39 [REDACTED] who was the senior CID officer in charge of J Division (Craigavon, Lurgan, Portadown and Banbridge) was responsible for the investigation. DCS McBurney's function was to ensure the IO had sufficient resources available to deal with the incident.
- 7.4 Following Robert Hamill's death and upon receipt of the complaint from the Hamill family, the role of DCS McBurney shifted. He effectively assumed overall responsibility, with an additional specific remit, to investigate the alleged police misconduct issues.
- 7.5 It is acknowledged that on the day Robert Hamill died, DCS McBurney received notification directly from DI Irwin. DCS McBurney immediately attended Portadown Police Station, where again he was fully briefed by DI Irwin. Arrangements for the meeting with Andrea McKee later that evening were also agreed.
- 7.6 At the time P39 [REDACTED] was on annual leave, she was contacted by telephone at her home address and informed of the development. She returned to duty the following morning.
- 7.7 DCS McBurney confirmed that he remained at Portadown Police Station for the entire evening and was updated by DI Irwin and DC McAteer upon their return from the meeting with Andrea McKee. He was told about both the potential witness Tracy Clarke and about the allegation relating to the telephone call made by Reserve Constable Atkinson.
- 7.8 When asked about how the information might have been recorded, DCS McBurney said that he doubted whether any such records were made. He explained that he considered the information to be far too sensitive to make a written record and went on to sight all the difficulties particularly in the Portadown area.

- 7.9 In dealing with any written personal record he may have kept, DCS McBurney's response was: ***"For me to keep a personal log of what was happening from A to Z, I would have been writing 24 hours a day and everyone would have known what was going on and I did not do it"***
- 7.10 DCS McBurney stated that he was deeply concerned that if any of the information provided by Andrea McKee were to get out, this would seriously jeopardise not only his investigation, but also the personal safety of Andrea McKee and Tracy Clarke.
- 7.11 DCS McBurney gave specific instruction as to how he wanted the subsequent telephone enquiries handled. He did not want this to be a routine line of enquiry, but wanted it dealt with "surreptitiously".
- 7.12 The following morning (09/05/97) DCS McBurney met with P39 and DI Irwin to discuss all developments. It is clear that throughout that day, DCS McBurney retained personal control of the investigation. By his account he directed the efforts made to secure the evidence of Tracy Clarke. He remained at Portadown Police Station, until late in the evening and until such time as a full witness statement had been taken from her.
- 7.13 Also that evening DCS McBurney directed that P39 make all the necessary operational arrangements for the arrest of the suspects named in the statement of this vital prosecution witness.
- 7.14 An interesting comment from DCS McBurney, when asked if it was himself, DI Irwin and P39 who decided upon the final list of suspects to be arrested, he replied: ***"Yes. I think that would be, more so the Detective Inspector. For whatever reason, but yes essentially that's correct"***. The inference being that the decision taken as to whom should be arrested, was between himself and DI Irwin as opposed to DCI P39. This highlights the close working relationship between DCS McBurney and DI Irwin.

- 7.15 Dealing with the interviews of Reserve Constable Atkinson. The first was on 9<sup>th</sup> September 1997. DCS McBurney confirmed that this interview was primarily concerned with Reserve Constable Atkinson's role as a member of the landrover crew, also present was [REDACTED] (ICPC). During this process Reserve Constable Atkinson was asked to identify the relevant telephone billing for his home address, but no further questions were put to him about the alleged telephone call.
- 7.16 DCS McBurney's explanation as to why he did this was that he wanted to provoke some kind of a response or reaction, from the officer. He wanted him to ***"move one way or the other"*** and in any event DCS McBurney believed that by that stage, Reserve Constable Atkinson would probably have known about the allegation being made against him.
- 7.17 One month later, on 9<sup>th</sup> October 1997, DCS McBurney and DI Irwin re-interviewed the officer. On this occasion the full allegation made by Tracy Clark was put to him. As the investigation into the alleged telephone call was outside the remit of the ICPC, no independent representative was present.
- 7.18 It was during this second interview, Reserve Constable Atkinson categorically denied the allegation and went on to put forward the details of his alibi. DCS McBurney confirmed that immediately following the interview, it was DI Irwin who recorded alibi statements from Eleanor Atkinson and Michael McKee, supporting the account of the officer. Both it seems had attended the police station at the same time as Reserve Constable Atkinson.
- 7.19 At this stage of the interview DCS McBurney started to reveal his own thoughts and opinion on how, by pursuing a particular long-term course of action, he might be able to progress the investigation. He states his on-going priority, at all times, was to gather direct and admissible evidence against Atkinson

- 7.20 Up until the 9<sup>th</sup> October 1997, the evidence available to DCS McBurney was limited to itemised telephone billing and the hearsay evidence of Tracy Clarke. The prospect of mounting a successful prosecution against Reserve Constable Atkinson, for the offence of attempting to pervert the course of justice, based upon the evidence available at that time, was extremely low.
- 7.21 The SIO's view was that he had no direct evidence as to who made the telephone call, the content of the conversation, nor of the recipient.
- 7.22 DCS McBurney considered this latest development to be highly significant. He believed the putting forward of alibi witnesses would be Reserve Constable Atkinson's "**Achilles heel**". He may however have to wait for the most appropriate time, "***I was waiting for the window of opportunity and I knew it would come with patience and strategy***".
- 7.23 The SIO believed that there was growing tension between the McKee's and that if things came to a head he would be able to exploit their failing domestic circumstances.
- 7.24 DCS McBurney described how he had been on annual leave when it came to interview Andrea McKee. He believed that DI Irwin was the best man for the job. Andrea McKee would be aware that DI Irwin knew she was telling lies and that this alone would put her under pressure to tell the truth. He confirmed that he personally instructed DI Irwin to deal with Andrea McKee and that he should try and make her uncomfortable and that if she made any admissions DI Irwin should take appropriate action. If she didn't then he should leave it and carry on with recording the statement.
- 7.25 It was also his view that there was a need to afford Andrea McKee some degree of protection. If her previous conversation with DI Irwin were put directly to her, in front of Reserve Constable Atkinson's solicitor, such exposure might increase the level of threat toward her.

- 7.26 Following the taking of the statement from Andrea McKee, DCS McBurney had hoped that an opportunity to fully exploit the alibi evidence might arise either during the trial of Marc Hobson, or the impending inquest. This would afford him the opportunity to make a legitimate approach to Andrea McKee, when she was away from the influence of either her husband or the Atkinson's.
- 7.27 This did not materialise, nothing of note came out of the trial and HM Coroner John Leckey, declined to hold an inquest. Enquiries confirm that prior to the final decision, DI Irwin met with the Coroner on behalf of the SIO, to discuss the likelihood of there being a formal inquest hearing.
- 7.28 Initially the response was positive and all the signs were that a hearing was going to go ahead. However under pressure from [REDACTED] Solicitor, and the Hamill family, John Leckey acquiesced to their demands, deciding against holding an inquest into the death of Robert Hamill.
- 7.29 A point made by DCS McBurney in interview was that he could of gone ahead and openly investigated the alibi evidence. This in his opinion would have proved fruitless, the Atkinson's and McKee's would have stuck to their stories. He had very little independent evidence to challenge their accounts and the matter would have been closed. By adopting his approach of ***"patience and prudence"*** the opportunity to prove the lies being told, might well present itself ***"we could have had the enquiry sorted out in days and there would have been no end product and that is my honest opinion"***.
- 7.30 During September/ October 1999, when negotiations were on-going on with HM Coroner, DI Irwin, whilst confirming the availability of witnesses, discovered that the McKee's had separated. Michael McKee had moved temporarily to Southern Ireland with his new partner. DCS McBurney states that the information was that he wouldn't be there long, so the SIO's

decision was to wait.

- 7.31 On 14<sup>th</sup> June 2000, following Michael McKee's return to Northern Ireland. DCS McBurney describes going with DI Irwin to meet him and the response he got was that Michael McKee did not wish to change or alter any part of his original statement.
- 7.32 DCS McBurney confirmed that on 20<sup>th</sup> June 2000, he and DI Irwin travelled to North Wales, where they met with Andrea McKee. It was DCS McBurney's decision to treat Andrea McKee as a witness. Prior to the trip he had not sought any level of advice or direction from the DPP, as to the course of action he proposed to take.
- 7.33 On 26<sup>th</sup> June 2000, having returned from North Wales, a meeting was held at the DPP's office, attended by representatives from the ICPC and DCS McBurney. It was at this meeting the SIO fully briefed those present on the action he had taken and the resulting outcome.
- 7.34 Now in possession of evidence provided by Andrea McKee, DCS McBurney's stated intention was to re-interview her husband Michael McKee. Raymond Kitson from the DPP, directed that any such interview should be conducted under PACE conditions. The issue of immunity was also discussed but not considered as a viable option.
- 7.35 Despite this being some 3 years 2 months, after the death of Robert Hamill, DCS McBurney described the outcome of the meeting with the DPP, as signalling the beginning of the investigation into the allegation made against Reserve Constable Atkinson. When challenged during interview DCS McBurney was insistent that this was all part of his strategy. Indeed he confirmed ***"it was only at this time that to those present that I felt secure in disclosing the full facts my rationale and strategy"***.
- 7.36 Clearly DCS McBurney viewed the latest statement from Andrea McKee, as the breakthrough he had been waiting some

considerable time for. It was following this meeting that DCS McBurney appointed DCI <sup>K</sup> [redacted] to investigate (re-investigate) the allegation made against Reserve Constable Atkinson.

7.37 The SIO again pointed to the fact that he could have just gone ahead and openly investigated the alibi put forward, which in his view would not have resulted in any prosecution. Adding that in hindsight that would have been the easier option and one perhaps he should have taken, for it would of caused him less of a problem than the course of action he did pursue.

7.38 DCS McBurney denied that he had given a specific instruction that Constable McCaw should not make a notebook entry, or statement about the information first provided by Andrea McKee. However he re-emphasised that in dealing with DCI <sup>P39</sup> [redacted] and DI Irwin, his instruction in relation to keeping everything strictly confidential, may well have been interpreted as including notebook entries and statements.

7.39 Finally DCS McBurney agreed that he had kept no personal record or log of decisions made during the progress of the investigation.

## **8.0 Other Information (re Andrea McKee)**

8.1 As outlined within paras 3.0–3.8 above, on 12<sup>th</sup> December 2000, following the concerns raised by <sup>K</sup> [redacted], DCS McBurney was effectively removed from the investigation. The newly appointed SIO was Detective Chief Superintendent Colville Stewart. <sup>K</sup> [redacted] was his appointed deputy.

8.2 On 10th April 2001, the Atkinson's, Michael McKee and members of the Hanvey family (recipients of telephone call) were arrested for the offence of perverting the course of public justice. Simultaneously Andrea McKee was interviewed under caution at Wrexham Police Station.

8.3 During interview both Andrea and Michael McKee admitted the alibi evidence they had previously provided was false and that they had

conspired with the Atkinson's, concocting a story in support of the police officer's denials.

8.4 On 7<sup>th</sup> May 2002, both appeared at Craigavon Crown Court, where they pleaded guilty to an offence of conspiracy to pervert the course of public justice. Both were sentenced to a 6 month term of imprisonment, Andrea McKee's sentence was suspended for 2 years.

8.5 Immediately following conviction, K [REDACTED] correctly obtained a witness statement from Andrea McKee, providing direct evidence against Robert and Eleanor Atkinson, of their involvement in the conspiracy to pervert the course of justice.

8.6 On 25<sup>th</sup> June 2002, Police Ombudsman investigators [REDACTED] and [REDACTED] travelled to North Wales and interviewed Andrea McKee. Her account is very much in accord with what has been previously documented. She outlines her initial contact with Michael Irwin, the information that she provided and the subsequent meeting when she provided a false alibi statement.

8.7 She describes feeling particularly uncomfortable during the statement taking at Sean Hagan Solicitor's office. Stating that there was little conversation, other than confirmation that she was there to provide a statement to the police.

8.8 Andrea McKee states that she had no further contact with DI Irwin until June 2000, when he and DCS McBurney travelled to North Wales to meet with her. It was on this occasion that Andrea made her first admissions over her role in providing false alibi evidence on behalf of Robert Atkinson.

8.9 On 18<sup>th</sup> October 2002, it was confirmed that that the decision had been taken to prosecute Robert Atkinson, Eleanor Atkinson and Kenneth Hanvey, for their part in the conspiracy with the McKee's to pervert the course of justice. It is anticipated that full committal proceedings will take place during October 2003.

- 8.10 Mention has been made of Detective Constable John McAteer, it is known that he was present with DI Irwin, late in the evening on 8<sup>th</sup> May 1997, when they first met Andrea McKee. This followed information provided to both officers by Constable McCaw (para 5.7-5.8 refers)
- 8.11 Furthermore it is known that DC McAteer went on to record the vital witness evidence from Tracey Clarke. This was carried out in the presence of Andrea McKee, at Portadown Police Station on 9<sup>th</sup> May 1997.
- 8.12 On 20<sup>th</sup> June 2001, an OMB3A, notifying DC McAteer of the PONI investigation was served. Between the date of service and September 2001, DC McAteer retired from the then RUC.
- 8.13 Whilst no longer subject to the RUC Discipline Code and despite several written assurances, DC McAteer has refused to assist this enquiry. His explanation to these events is thus not known.
- 8.14 DCS McBurney in interview describes the role of P39 as being that of Investigating Officer, responsible for the investigation into the assault upon Robert Hamill. However upon his death some 11 days later, DCS McBurney assumed the role of Senior Investigating Officer. DCI P39 was appointed the Deputy Investigating Officer.
- 8.15 This is reflected in a Policy File maintained by P39 which also records DI Irwin as the appointed Office Manager. P39 continued as the Deputy IO, up until 30<sup>th</sup> May 1997, when the Policy File was handed to DI Irwin (entry 25 refers) There are no further entries in the Policy File after this date.
- 8.16 On 28<sup>th</sup> February 2001, I met with P39 at her home address. She confirmed her role as Deputy to DCS McBurney. She detailed her initial action following the death of Robert Hamill. Acknowledging her sanctioning the request for urgent telephone subscriber checks at both Reserve Constable Atkinson and Allister

Hanvey's home addresses.

- 8.17 P39 outlined her dealings with the witness Tracey Clarke and Andrea McKee. She supports both the accounts of Andrea McKee and DI Irwin, in as much as Andrea McKee was present throughout the statement taking. She stated she played no active part and certainly would have been party to the allegations made at the time against Reserve Constable Atkinson.
- 8.18 P39 did not believe she had any further dealings with Andrea McKee after that date (08/05/97). The remainder of our discussion focussed upon Timothy Jameson, which will be dealt with in the next section of this report.
- 8.19 It is known that P39 transferred from J Division during August 1997 and indeed appears to have had very little input into the investigation after Marc Hobson and others were formally charged with the murder of Robert Hamill.
- 8.20 At the conclusion of the meeting with P39 the Police Ombudsman's Investigator explained that he would need to discuss a number of issues in more detail and would wish a formal written statement from her in due course.
- 8.21 However, following that meeting, P39 has consistently declined to assist any further with the PONI investigation.
- 8.22 On 21<sup>st</sup> March 2001, the Police Ombudsman's Investigator met with former Constable David McCaw at his home address. His recollection of events in 1997 is vague. As previously outlined, he has suffered from a severe stress related illness, this affects his ability to remember clearly the relevant period of time.
- 8.23 He acknowledged being a regular attendee at the gymnasium operated by Andrea and Michael McKee. He recalls overhearing conversations at the premises, which were in relation to the murder of Robert Hamill, the precise detail he is unable to recollect.
- 8.24 As a result of what he heard, he recalls going to Portadown Police

Station, but does not remember whom he spoke to. He remembers the late night meeting with DI Irwin and believes that DC McAteer was also involved. He has no recollection as to what took place or of the content of any discussion.

8.25 Coincidentally, former Constable David McCaw also had direct involvement with Timothy Jameson, the detail of which is outlined in the sections that follow.

8.26 The preceding paragraphs have sought to outline the level of interaction between Andrea McKee and those police officers tasked with both the investigation into the murder of Robert Hamill, as well as the allegations made against Reserve Constable Atkinson.

## **9.0 Police involvement with Timothy Jameson**

9.1 The question asked in relation to the handling of Timothy Jameson, is how he progressed from being a suspect, believed to have been involved with the attack upon Robert Hamill, to the stage where he became one of only two independent witnesses to the incident, apparently able to provide direct evidence which ultimately lead to the charging of several persons with the murder of Robert Hamill.

9.2 At the time of Robert Hamill's murder, Timothy Jameson, then aged 19 years, was a student residing with his parents in the Portadown area. At an early stage of the murder investigation, he was identified as being in Portadown Town Centre on the night of the attack.

9.2 He was never considered a suspect and as such when interviewed a witness questionnaire was obtained, in which he claimed not to have witnessed anything.

9.3 At the time of the incident Timothy Jameson's father was receiving some form of protection from the RUC. This being due to construction work he was contracted by the police to carry out on their behalf. In turn this created a risk of attack to himself and his family, from a number of paramilitary groups.

- 9.4 The appointed protection officers were former RUC Constable's David McCaw (outlined above) and G [REDACTED]
- 9.5 On 9<sup>th</sup> May 1997, the day following the late night meeting between DI Irwin and Andrea McKee, Constable McCaw again returned to Portadown Police Station, on this occasion accompanied by his colleague Constable G [REDACTED]
- 9.6 There follows two conflicting accounts as to what then took place:
- The murder investigating team including DCS McBurney, P39 [REDACTED] and DI Irwin, are adamant that Constable McCaw informed them that Timothy Jameson had witnessed the assault upon Robert Hamill and therefore might be able to provide vital information to the murder investigating team.
  - Constable G [REDACTED] on the other hand gives a very different version. He alleges that Timothy Jameson admitted to himself and Constable McCaw, that he had actually been involved in the fight in Portadown Town Centre and that he had "put the boot in". Constable G [REDACTED] states it was this information he and his colleague passed to the murder investigating team.
- 9.7 This apparent "conflict" as to just how Timothy Jameson was handled by the officers investigating the murder of Robert Hamill, only came to light in November 2000. It seems that Detective Sergeant [REDACTED] H [REDACTED] on behalf of DCI K [REDACTED], was making routine enquiries with Constable G [REDACTED] in respect of telephone billings from the Tae Kwon Do Club (para 5.3 refers)
- 9.8 Constable G [REDACTED] provided a statement to DS H [REDACTED] detailing how he and Constable McCaw were on protection duties and present in the utility room at Timothy Jameson's home address. It seems that Timothy Jameson described to both officer's how he had seen the crowd fighting and that he had run down the street and "put the boot in". Timothy Jameson did not say whether his boot had actually connected with any person.

- 9.9 Whilst unable to recall precisely when the conversation took place, Constable G [redacted] remembered that he and Constable McCaw had gone straight to Portadown Police Station. There they had met with DI Irwin. Unfortunately Constable G [redacted] was not party to the conversation and has no recollection as to exactly what his colleague said to DI Irwin.
- 9.10 He goes on to describe them both being taken by DI Irwin to another office, where they met with a man who he thought was the Detective Superintendent. Again it was Constable McCaw who did all the talking and yet again Constable G [redacted] is unable to recall any part of the conversation, which took place.
- 9.11 It was immediately following this revelation the Police Ombudsman's Investigator was contacted by K [redacted] who voiced his concern over the apparent disparity between the two accounts. This led to my meeting with him on 12<sup>th</sup> December 2000, followed by a meeting the next day with the then Chief Constable, Sir Ronnie Flanagan and the subsequent removal of DCS McBurney from the enquiry (para 3.0-3.8 refers).
- 9.12 Whichever of the accounts is the more accurate, what has been established is that following the attendance of Constable's McCaw and G [redacted] at Portadown Police Station, DCS McBurney directed Timothy Jameson be re-interviewed.
- 9.13 Detective Constable Edward Honeyford was tasked with carrying out the above action and made immediate arrangements for Timothy Jameson to attend Portadown Police Station that same day (09/05/97).
- 9.14 It appears that from the outset, Timothy Jameson was never treated as a suspect. DC Honeyford made arrangements for his voluntary attendance at the police station, through his mother. At 8pm the same evening Timothy Jameson arrived on his own to meet with DC Honeyford.
- 9.15 Over a period of several hours DC Honeyford alone, interviewed

Timothy Jameson. The outcome being that he went on to provide vital independent evidence in the form of a signed witness statement, naming several individuals involved in the Town Centre disturbance.

9.16 The position thus arrived where, at Portadown Police Station, during the evening of the 9<sup>th</sup> May 1997 (the day after Robert Hamill died) Tracey Clarke is being interviewed in the company of Andrea McKee by DC McAteer, whilst simultaneously in another part of the building, Timothy Jameson is being interviewed by DC Honeyford. In the background DCS McBurney, DI Irwin and DCI P39 are overseeing both processes.

9.17 To provide some degree on anonymity, neither witness was referred to by name, each becoming witness "A" and witness "B" respectively.

9.18 As previously outlined, resulting directly from the evidence of the two witnesses, several persons were arrested and charged with the murder of Robert Hamill.

9.19 Portadown is a close-knit deeply divided community. There are frequent outbreaks of hostility between the Loyalist and Nationalist factions. The attack on Robert Hamill has always been viewed as "sectarian" and sadly such violent attacks are not particularly unusual for the town. Death, thankfully, is not the usual outcome.

9.20 Within this environment the Investigating Officer's were fully aware that co-operation from any member of the community was highly unusual. It is clear from the account of DCS McBurney, that he gave due consideration to the pressures which would now be upon both witnesses. More so in the case of Tracey Clarke, the pressure upon her to retract or withdraw her evidence would be greater, due mainly to her close association with the parties concerned.

9.21 Whilst full witness protection was not a viable option, DCS McBurney and P39 did make every effort to afford some support / protection to their witness. This included assisting in

finding employment away from Portadown and consideration as to her joining one of the armed services.

9.22 Neither was acceptable to the witness who continued to work and live in Portadown. Furthermore, from the accounts given by Constable McCaw and Andrea McKee, Tracey Clarke made little secret of the assistance she had provided to the police and was in fact in an on-off relationship, with one of the persons she named as being concerned in the attack upon Robert Hamill.

9.23 In respect of Timothy Jameson the position was somewhat different. He was not particularly close to those whom he named in his statement. He was still at college and was therefore less visible on a day-to-day basis within Portadown. Also his family continued to receive a high level of close protection from the RUC.

9.24 It came as little surprise to the investigating team, when during the autumn of 1997, both witnesses made it known they wished to retract their evidence.

9.25 The retraction process involved several meetings with the DPP and Senior Counsel. I will not deal with the process in relation to Tracey Clarke.

9.26 On 21<sup>st</sup> October 1997, Timothy Jameson accompanied by his father attended the DPP's office. There, Senior Counsel Mr. Kerr QC, interviewed him at some length. Timothy Jameson told Counsel that he was too drunk to recall the events of the evening. He claimed that the line in his statement which read "***I wasn't drunk***" was false and that he had been told to insert this by police. He went on to say that the content of his statement was gleaned from gossip and talk around the town and he agreed that he had been wasting police time.

9.27 Not surprisingly at the conclusion of the interview, Mr. Kerr's overall assessment was that Timothy Jameson could not be considered as a reliable witness. His evidence was therefore withdrawn.

## **10.0 Interview DI Michael Irwin (re Timothy Jameson)**

- 10.1 From the outset it is clear that DI Irwin had very little direct involvement with Timothy Jameson. In interview on 2<sup>nd</sup> March 2000, DI Irwin states that on 9<sup>th</sup> May 1997, he recalled Constable McCaw arriving at his office. He states that he was just preparing to leave to go to a pre-arranged appointment at Maghaberry Prison.
- 10.2 DI Irwin's recollection is that the exact terminology used by Constable McCaw: was that he had information regarding Timothy Jameson witnessing an incident. DI Irwin is emphatic that the comment from the officer referred to Timothy Jameson being a witness as opposed to a suspect.
- 10.3 DI Irwin apparently escorted Constable McCaw the short distance to P39 office. There he introduced the officer explaining to P39 that he was in a hurry to get to his appointment. DCS McBurney was also present in the office when DI Irwin arrived.
- 10.4 Returning to Portadown Police Station after 3pm, it was then that DI Irwin was informed as to the full extent of the information provided by Constable McCaw. He believes that either P39 or DCS McBurney told him of this development.
- 10.5 From DI Irwin's account, there was never any question of Timothy Jameson being treated as anything other than a witness. He also agrees that he may have given instruction to DC Honeyford, to get Timothy Jameson into the police station.
- 10.6 Although unable to recollect fully, DI Irwin believes that either P39 P39, or DCS McBurney might also have provided some form of briefing to DC Honeyford, as they had received the information directly from Constable McCaw.
- 10.7 DI Irwin does not recall speaking to Timothy Jameson when he came to Portadown Police Station on the evening of 9<sup>th</sup> May 1997. He does accept being made aware at some stage, of the statement and of the account Timothy Jameson was now providing.

10.8 During interview the account given by Constable <sup>G</sup> [redacted] was put to DI Irwin. His response was that if the information provided was as described by Constable <sup>G</sup> [redacted] they would have immediately sought to arrest Timothy Jameson. The question of whether he should be treated as a witness would not have been a consideration.

#### **11.0 Interview DCS Maynard McBurney (re Timothy Jameson)**

11.1 During the interview on 21<sup>st</sup> March 2001, DCS McBurney agrees that he was in <sup>P39</sup> [redacted] office on 9<sup>th</sup> May 1997, when DI Irwin entered and introduced Constable McCaw. Whilst not entirely certain, DCS McBurney believes there may have been another officer present who was standing just inside the doorway.

11.2 In any event it was Constable McCaw who did the talking. Initially DCS McBurney thanked the officer for the effort he was putting into the enquiry (referring to the previous nights meeting between DI Irwin and Andrea McKee). Constable McCaw then went on to describe a conversation with Timothy Jameson, which apparently took place whilst at the Jameson home.

11.3 According to DCS McBurney, Constable McCaw told himself and <sup>P39</sup> [redacted] that Timothy Jameson had told them, that he had been in Portadown on the night of the fight. He had apparently seen what had happened and the officer believed that Timothy Jameson should know the identities of those persons involved.

11.4 DCS McBurney's recollection is that he asked Constable McCaw if Timothy Jameson had been involved in the fight. The response from Constable McCaw was that he could have been. DCS McBurney is adamant that the officer did not tell them that Timothy Jameson was involved in the fight.

11.5 DCS McBurney has no recollection of Constable <sup>G</sup> [redacted]. He accepts that a second officer may have been present, but if he was he played no part in the conversation. Toward the end of the meeting DCS McBurney recalls instructing Constable McCaw, that if he got

another opportunity he should engage Timothy Jameson in further conversation, in an attempt to discretely ascertain who was involved in the fight.

11.6 Following the departure of the officer(s) from P39 office, DCS McBurney believes they may have discussed what they should do next. DCS McBurney believing ***“you make your own luck”*** decided that they should try and get Timothy Jameson into the police station to talk to him.

11.7 DCS McBurney went on to brief DC Honeyford to make the necessary arrangements for Timothy Jameson’s attendance at the police station. He believes that DC Honeyford would have been told that Timothy Jameson, may have been involved in the attack upon Robert Hamill. He does not think he gave DC Honeyford all the most recent information provided by Constable McCaw. He did not think DC Honeyford needed to know every detail, particularly in relation to how the information had come to DCS McBurney’s attention, or who the source was (Constable McCaw).

11.8 The rationale behind DCS McBurney’s decision not to tell DC Honeyford, the identity of the information source, is explained as being the need to allow Constable McCaw the opportunity to continue to engage Timothy Jameson and hopefully obtain more information. Also it would prevent any compromise of Constable McCaw’s position within the Jameson household.

11.9 DCS McBurney describes telling DC Honeyford: ***“there is talk that Timothy Jameson was at the scene, there is no doubt about him being at that scene, he at least had something to tell us, he has a story to tell us, he knows who was there, if he was involved we take it from there”***. Throughout the interview, this comment from DCS McBurney is perhaps as near as the SIO gets, to considering Timothy Jameson as a suspect as opposed to a witness.

11.10 When asked about the retraction process conducted at the DPP’s

office on 21<sup>st</sup> October 1997, DCS McBurney stated that he was not present at the process but that Superintendent Cook, RUC Crime Branch, did attend on behalf of the Chief Constable, this being normal practise in matters of this kind.

11.11 In relation to the comment from Timothy Jameson that DC Honeyford put the words "I wasn't drunk" into his statement, DCS McBurney explained that the DPP should report to the Chief Constable, any allegations of misconduct, which might arise during the process. Clearly the comments from Timothy Jameson were not treated as such by either the DPP or Senior Counsel.

11.12 DCS McBurney stated that if there had been any indication that Timothy Jameson had made the comments alleged by Constable G then Timothy Jameson would have been arrested. DCS McBurney acknowledged that he did not make any record of the meeting with Constable McCaw, neither did he ask that a statement be taken from him.

## **12.0 Interview DC Honeyford (re Timothy Jameson)**

12.1 Following service of Form OMB3A on 20<sup>th</sup> June 2001, DC Honeyford, in the presence of his solicitor, was interviewed by Investigating Officer [REDACTED] at [REDACTED] [REDACTED] on 5<sup>th</sup> December 2001.

12.2 DC Honeyford recalls meeting with DCS McBurney and P39 in DI Irwins office at about 4.30pm on 9<sup>th</sup> May 1997. DI Irwin was not present. DCS McBurney took the lead and briefed DC Honeyford as to what he wanted him to do in relation to Timothy Jameson.

12.3 DCS McBurney instructed DC Honeyford to re-interview Timothy Jameson. He was told this was a priority and that it should be done without delay. DC Honeyford was told by DCS McBurney that there was recent information indicating the Timothy Jameson had not told the truth and that he had now confided to a third party that he had witnessed the assault and could assist police.

- 12.4 It was also suggested to DC Honeyford that it would be better to get him into Portadown Police Station, as opposed to carrying out the interview at his home address.
- 12.5 DC Honeyford went to Timothy Jameson's home address and there spoke to his mother. He informed Mrs. Jameson that he needed to speak to her son and asked that he make contact with him at Portadown Police Station. DC Honeyford also told Mrs. Jameson that she, or her husband would be welcome to accompany their son if they so wished.
- 12.6 Timothy Jameson arrived at the police station at about 8pm, DC Honeyford informed DCS McBurney and then took Timothy Jameson to an interview room. DC Honeyford adds that part of his brief was to assess Jameson as a witness and also to consider the possibility he may have been concerned in the assault.
- 12.7 Apparently a colleague named as Detective Constable Edwards should have assisted DC Honeyford, however for some reason this officer was unable to attend. DC Honeyford therefore continued with the interview alone.
- 12.8 DC Honeyford described how the interview progressed, in that he made every effort to impress upon Timothy Jameson the need to tell the truth, particularly in light of the negative questionnaire he had already completed. DC Honeyford presumes that he was chosen to interview Timothy Jameson, because it was he who had initially recorded the questionnaire from Timothy Jameson.
- 12.9 Timothy Jameson from the outset appeared most concerned about his anonymity and was insistent that before he provided any statement, he be given some level of assurance over the disclosure of his identity. DC Honeyford immediately sought further guidance from DCS McBurney. Despite the interviewing officer's best efforts to establish the genuineness of his account, he confirmed to the SIO that Timothy Jameson had said nothing, which might indicate he had been involved in the attack.

- 12.10 DCS McBurney who was accompanied by DI Irwin, agreed that if Timothy Jameson made a statement, his name would not be recorded and that he should be referred to as "Witness B" only.
- 12.11 Timothy Jameson went on to record a detailed witness statement. DC Honeyford is insistent that continually during the process, he tested Timothy Jameson's truthfulness, warning him that others may start to come forward and name him as a culprit. Timothy Jameson maintained his own position by saying he had only witnessed the incident.
- 12.12 As with both DCS McBurney and DI Irwin, DC Honeyford insists that if he knew or believed Timothy Jameson had been involved in the assault upon Robert Hamill, he would have immediately arrested him.
- 12.13 DC Honeyford denied that the words used in the statement were his. He acknowledged that he was a part of the retraction process and was party to the proceedings when Timothy Jameson passed comment about the entry in the statement relating to him not being drunk.
- 12.14 DC Honeyford does not accept that there was any justified criticism of him in how he conducted the interview or obtained the statement. This was quite simply a comment from an individual who did not under any circumstances want to go ahead as a prosecution witnesses and this was a way out.
- 12.15 In short, no one present at the process believed DC Honeyford to have done anything wrong, any formal investigation into the comment made by Timothy Jameson was therefore not even a consideration.

### **13.0 Other Information (Timothy Jameson)**

- 13.1 On 23<sup>rd</sup> March 2001, Investigating Officer's [REDACTED] and [REDACTED] interviewed Constable <sup>G</sup>[REDACTED]. A statement was obtained in which he confirms being present with Constable McCaw when they

attended Portadown Police Station. He recalls meeting with DI Irwin and then with DCS McBurney and P39

13.2 He does not recall the precise conversation, but states that Constable McCaw did all the talking and he believes that his colleague would have told those present about the admissions made by Timothy Jameson.

13.3 It should be noted that following the original revelation made by Constable G to DS H on 29<sup>th</sup> November 2000 (para 9.7-9.8 refers) Timothy Jameson was re-interviewed as a suspect, a Case File with the new evidence from Constable G submitted to the DPP, who directed no prosecution of Timothy Jameson.

13.4 At my meeting on 21<sup>st</sup> March 2001, with Constable McCaw he had no recollection whatsoever of any conversation with Timothy Jameson (para 8.22 refers).

13.5 When the issues concerning Timothy Jameson were discussed with P39 at our meeting on 28<sup>th</sup> February 2001, she supports the accounts given by DCS McBurney and DI Irwin.

13.6 P39 believes that when Constable McCaw came to her office he was alone and that the information he imparted was to the effect that Timothy Jameson might have information about the attack in Portadown Town Centre.

13.7 Efforts have been made to interview Timothy Jameson, both through his solicitor [REDACTED] and by way of correspondence to his home address. He has failed to respond to the requests from this office.

13.8 On 21<sup>st</sup> November 2001, Superintendent Cook (retired) was interviewed who was attached to RUC Crime Branch (para 11.10 refers) and present during the retraction process. Referring to the file retained in Crime Branch, he has made no entry in relation to comments made by Timothy Jameson. Superintendent Cook can only presume that there was little significance afforded to what was

said by the witness. He stated that if a complaint or allegation against the police had been made, then this would have been recorded and forwarded to the Chief Constable for investigation.

#### **14.0 Summary/ Conclusions – Andrea McKee & Timothy Jameson**

14.1 This complaint is not a public complaint. The Police Ombudsman for Northern Ireland, exercising powers under Section 55(6) Police (Northern Ireland) Act 1998, decided that it was in the public interest to fully investigate the concerns raised by K [redacted] to this office on 12<sup>th</sup> December 2000. The specific allegations indicated that a member of the police service may have committed a criminal offence, or behaved in a manner, which would justify disciplinary proceedings.

14.2 The ensuing PONI investigation has focussed upon how RUC/ PSNI officers, tasked with the investigation into the murder of Robert Hamill and other related issues, dealt with two witnesses namely Andrea McKee and Timothy Jameson.

14.3 In the days that immediately followed Robert Hamill's death there does appear to be some clarity as to who performed which investigative role;

- DCS McBurney retained overall responsibility for the murder investigation.
- The direction of the ICPC was that he should personally undertake the investigation into the allegations made against the landrover crew.
- The Chief Constable instructed DCS McBurney to investigate the claims being made against Reserve Constable Atkinson.
- P39 [redacted] was identified as DCS McBurney's deputy, whose primary function was to investigate the murder.

14.4 In the only Policy File maintained, P39 [redacted] confirms the role of

DI Irwin as being that of Office Manager.

14.5 It is clear from our interview with DI Irwin, he understood the perception of the Hamill family in relation to local officers being used for the investigation into the allegations made against the landrover crew and Reserve Constable Atkinson, yet despite querying this with the SIO and the ICPC, no positive action appears to have been taken by his supervisors to address this concern. For whatever reason, DCS McBurney was determined to retain the services of DI Irwin.

14.6 DCS McBurney's explanation as to why he tasked DI Irwin to take the alibi statements is nebulous. He describes DI Irwin as being the right man for the job and that his attendance might shock Andrea McKee into admitting the truth behind the alibi put forward by Reserve Constable Atkinson. Again the SIO has made no record of this decision, or the rationale in support of it.

14.7 There then followed a period of some 2 years 7 months, during which time Andrea McKee had separated from her husband and returned to her hometown in North Wales. DCS McBurney, without seeking any form of legal opinion or direction from the DPP, decided to visit Andrea McKee in North Wales. The decision to treat her as a witness only, effectively ignoring Andrea McKee's criminality was a mistake, which might yet jeopardise the impending prosecution of Reserve Constable Atkinson and others.

14.8 There is a record of the SIO's decision contained within notebook entries made by both officers'. It was only after commencing the interview with Andrea McKee at Wrexham Police Station, on 20<sup>th</sup> June 2000, when SIO McBurney halted the process and went to an outer office, did any discussion take place as to whether or not the interview should proceed after formal caution. This highlights a gross lack of foresight and knowledge of fundamental PACE requirements.

14.9 However, despite the questions raised around this particular issue,

it should be remembered that the whole process has been the subject of full disclosure at the trial of the McKee's, both of whom entered plea of guilty when they appeared at Craigavon Crown Court on 7<sup>th</sup> May 2002.

14.10 As highlighted in the correspondence from [REDACTED] he remains extremely critical and somewhat cynical, over the length of time it had taken for the police to take action against Reserve Constable Atkinson and others. It is his, and the Hamill family's belief that the effort made by DCS McBurney, some years after the event was simply a political manoeuvre to prevent a full public enquiry.

14.11 Former Chief Constable Sir Ronnie Flanagan, from whom we sought clarification, recalls that during the summer of 2000, he was personally briefed by DCS McBurney, who informed him of the development following the separation of the McKees and his intention to travel to North Wales to re-interview her.

14.12 In respect of Timothy Jameson the issues are less complicated. The apparent mishandling of this subject only came to light by chance in November 2000, when K [REDACTED] was conducting research into itemised telephone billings, from the Tae Kwon Do club operated by the McKee's.

14.13 The apparent disparity between what Constable G [REDACTED] was alleging and the actions of the murder investigating team is documented above.

14.14 Constable G [REDACTED] did not hear and does not recall any part of what his colleague Constable McCaw said on the 9<sup>th</sup> May 1997, to DCS McBurney, P39 [REDACTED] and DI Irwin. Constable G [REDACTED] is clear that the sole reason why they went to Portadown Police Station, was because of what had been said by Timothy Jameson.

14.15 Constable G [REDACTED] can only go as far as saying that Constable McCaw **"would have told"** the murder investigators what they had heard. Unfortunately due to illness Constable McCaw has no

recollection whatsoever, as to what he may have said to the officers.

14.16 When you consider the fact that at that early stage of the investigation, some 24 hours after Robert Hamill had died, there does appear to be little merit or advantage, in treating Timothy Jameson as a witness as opposed to a suspect. All the investigating officer's interviewed are adamant that if the information passed by Constable's McCaw and G [redacted] was as described, they would have sought to arrest Timothy Jameson immediately. This is a factor, which has some merit.

14.17 Timothy Jameson has refused to co-operate with this office. The revelation made by Constable G [redacted] resulted in the arrest and re-interview of Timothy Jameson. Following submission of a Crime File, by K [redacted] the DPP directed that there was insufficient evidence to prosecute.

14.18 It is unfortunate that neither former P39 [redacted] nor DC McAteer agreed to assist further with the PONI investigation.

## **15.0 Misconduct Recommendations**

15.01 The murder of Robert Hamill raised wide scale community concern from the start. There was early speculation that the police sat by and 'watched' the attack take place and did not intervene. That particular allegation is not dealt with in this report but is relevant in that the SIO should have realised that he was conducting an investigation in the glare of media and public scrutiny. It makes the failures identified all the more significant.

15.02 In relation to DI Irwin, it is accepted that he found himself placed in a very difficult position, particularly after the departure of his immediate line manager DCI P39 [redacted]. During interview it is clear that he at least understood the perception within the community that "local police were investigating local police". The evidence indicates that he made every effort to bring this to the attention of both his supervisors and the ICPC.

- 15.03 Furthermore DI Irwin's primary concern was to gather evidence from potential key witnesses, against those responsible for the murder of Robert Hamill.
- 15.04 The strategy designed by DCS McBurney and carried out by DI Irwin was foolhardy to say the least. It involved the recording of lies, without challenge and without any recorded policy decision. These were persons reasonably suspected of criminal offences but not dealt with as such. The actions were capable of malign interpretation and should not have been taken. Given the acceptance of responsibility for this by DCS McBurney when interviewed in retirement by Investigators of the Police Ombudsman, DI Irwin cannot be held accountable for these actions.
- 15.05 Despite this DI Irwin remained supportive to his supervising officer and carried on with what was asked of him, without comment or question.
- 15.06 DI Irwin by his own admission deeply regrets not keeping a more comprehensive written record of both the instruction he was given, or of the action he subsequently took. Despite the woeful example set by DCS McBurney, who maintained no written record of any policy decision, this is the one area to which the officer is open to criticism. As a supervisor DI Irwin should have made a far more comprehensive written account, of at the very least his own actions. This he has failed to do.
- 15.07 There is little doubt that DI Irwin, has learned a valuable lesson. He has apparently recently successfully completed, PSNI Senior Investigator training, one of the core themes being the need for supervisors to maintain a comprehensive and accountable record of all decisions taken.
- 15.08 Mr McBurney has now retired from the PSNI and is thus beyond the scope of the misconduct regulations. His failure to record any policy decisions is worthy of serious criticism. Policy decisions had

been recorded by P39 until Mr McBurney took command.  
Not a single decision was recorded thereafter.

15.09 There is no evidence to support disciplinary action against DC Honeyford. By all versions of events he was told to see Timothy Jameson as a witness, which is what he did. He was not present at the earlier meeting when Constable McCaw spoke to DCS McBurney and others.

15.08 Finally I have reviewed all material in relation to the handling of both Timothy Jameson and Andrea McKee, there is no evidence of any impropriety on the part of either DC Honeyford or DI Irwin, during their dealings with the witnesses named above.

Chris Mahaffey

Senior Investigating Officer

Nov 2003.